



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

DEC 08 2010

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Article Number: 7005 3110 0000 5950 0248

Thomas Simone
Simone Builders
17 Thomas Maria Circle
Webster, NY 14580

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.11
2010 DEC -9 P 2:48
REGIONAL HEARING
CLERK

RE: Final Expedited Settlement Agreement/Consent Agreement and Final Order
Graceland – Phase 5, Gracemarie Drive, Penfield, NY
Docket No. CWA-02-2011-3305
NPDES Permit No. NYR10N983

Dear Mr. Simone:

Enclosed is a copy of the signed Expedited Settlement Offer (“ESO”) Agreement entered into as part of the Consent Agreement and Final Order (“CAFO”).

As you agreed to in this Expedited Storm Water Settlement Agreement, you must pay the settlement penalty amount (\$4,500) within ten (10) days from the date of receipt of this letter, which contains the agreement which has been “So Ordered” and is effective. You must send your payment and a copy of the Agreement, via certified mail, to:

Regional Hearing Clerk
U.S. EPA, Region 2
In the Matter of: Graceland – Phase 5,
Gracemarie Drive, Penfield, NY
Docket No. CWA-02-2011-3305
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

The payment for the penalty amount must be in the form of a bank, cashiers or certified check payable to the "Treasurer, United States of America" with EPA and the Docket Number of the Expedited Settlement Agreement written on the check.

Internet Address (URL) • <http://www.epa.gov>

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 50% Postconsumer content)

A copy of the check payment of the penalty amount must also be sent via certified mail, express mail or equivalent to Chief, Compliance Section, Water Compliance Branch, 290 Broadway, 20th Floor, New York, NY 10007 for our records.

Please note that once full payment is made this settles all civil penalties claims against you only for the Clean Water Act violations described in the Expedited Settlement Offer and/or CAFO. If you have any questions concerning the above, please contact Ms. Justine Modigliani, Team Leader, NPDES Team at (212) 637-4268.

Sincerely,



 Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

Enclosure

cc: Joseph DiMura, P.E., Director, Bureau of Water Compliance Programs, NYSDEC



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY – REGION 2
Division of Enforcement and Compliance Assistance
290 Broadway
New York, New York 10007-1866

U.S. ENVIRONMENTAL
 PROTECTION AGENCY-REG. II
 2008 DEC -9 P 2-118
 REGIONAL HEARING
 CLERK

EXPEDITED STORM WATER SETTLEMENT AGREEMENT
Simone Builders, Docket Number: CWA-02-2011-3305, NPDES No. NYR10N983

Simone Builders ("Respondent") is a "person," within the meaning of Section 502(5) of the Clean Water Act ("Act"), 33 U.S.C. §1362(5), and 40 C.F.R. §122.2.

Attached is an "Expedited Settlement Offer Deficiencies Form" (herein the "Form"), which is incorporated by reference. By its signature, Complainant ("EPA") finds that Respondent is responsible for the deficiencies specified in the Form.

Respondent failed to comply with its Permit in violation of Sections 301(a) and 402 of the Clean Water Act, 33 U.S.C. §1311 and §1342, as described in the attached table.

EPA finds, and Respondent admits, that Respondent is subject to Section 301(a) of the Act, 33 U.S.C. §1311, and that EPA has jurisdiction over the allegations and any "person" who "discharges pollutants" from a "point source" to "waters of the United States." Respondent neither admits nor denies the allegation(s) specified in the Form.

EPA is authorized to enter into this Consent Agreement and Final Order ("Agreement") under the authority vested in the Administrator of EPA by Section 309(g)(2)(A) of the Act, 33 U.S.C. §1319(g)(2)(A), and by 40 C.F.R. §22.13(b). The parties enter into this Agreement in order to settle the civil violation(s) alleged in this Agreement for a penalty of \$4,500. Respondent consents to the assessment of this penalty, and waives the right to: (1) contest the finding(s); (2) a hearing pursuant to Section 309(g)(2) of the Act, 33 U.S.C. §1319(g)(2); and (3) appeal pursuant to Section 309(g)(8), 33 U.S.C. §1319(g)(8).

Additionally, Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that it has corrected any deficiencies identified in the Form, and to the best of its knowledge, is in compliance with the NPDES permitting program.

Respondent certifies that, within ten (10) days of receiving notice from EPA that the Agreement is effective ("So Ordered") it will send a bank, cashiers or certified check for the amount specified above payable to the "Treasurer, United States of America," via certified mail, to:

Regional Hearing Clerk
 U.S. EPA, Region 2

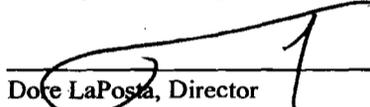
In the Matter of Simone Builders, Graceland – Phase 5
 Docket No.: CWA-02-2011-3305
 Cincinnati Finance Center
 PO Box 979077
 St. Louis, MO 63197-9000

This Agreement settles EPA's civil penalty claims against Respondent for the CWA violation(s) specified in this Agreement. However, EPA does not waive its rights to take any enforcement action against Respondent for any other past, present, or future civil or

criminal violation of the Act or of any other federal statute or regulation. EPA does not waive its right to issue a compliance order for any uncorrected deficiencies or violation(s) described in the Form. EPA has determined this Agreement to be appropriate.

This Agreement is binding on the parties signing below and effective thirty (30) days from the date it is signed ("Approved") by the Director of the Division of Enforcement and Compliance Assistance unless a petition to set aside the Order is filed by a commenter pursuant to Section 309(g)(4)(C) of the Act, 33 U.S.C. §1319(g)(4)(C), and Part 22.

APPROVED BY EPA:

 Date: 9/23/10
 Dore LaPosta, Director
 Division of Enforcement and Compliance Assistance

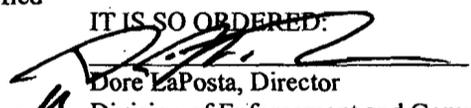
APPROVED BY RESPONDENT in accordance with 40 C.F.R. §122.22:

Name: Thomas Simone
 Title: Simone Builders (Owner/Operator) of
 Graceland – Phase 5

Signature:  Date: 9/12/10

More than 40 days have elapsed since the issuance of public notice pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. 1319(g)(4)(A), and EPA has received no comments concerning this matter.

Having determined that this CAFO is authorized by law and is in the public interest,

IT IS SO ORDERED:
 Date: 12/8/10
 Dore LaPosta, Director
 Division of Enforcement and Compliance Assistance

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

IN THE MATTER OF:

Thomas Simone
Simone Builders
17 Thomas Maria Circle
Webster, NY 14580

Docket No. CWA-02-2011-3305

NPDES Tracking No. NYR10N983

Respondent

Proceeding to Assess Civil Penalty Pursuant to
Section § 309 (g) of the Clean Water Act, 33
U.S.C. § 1319 (g)

CERTIFICATE OF SERVICE

I certify that, on the date noted below, I caused to be mailed a copy of this "CONSENT AGREEMENT AND FINAL ORDER" to the following person at the address listed below:

Thomas Simone
Simone Builders
17 Thomas Maria Circle
Webster, NY 14580

I [hand carried/mailed] the original and a copy of this "CONSENT AGREEMENT AND FINAL ORDER" to the following person at the address listed below:

U.S. Environmental Protection Agency
Regional Hearing Clerk
290 Broadway, 16th Floor
New York, N.Y. 10007-1866

Date: 12/08/10
New York, New York


[Signature of Sender]