



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION I
 5 POST OFFICE SQUARE, SUITE 100
 BOSTON, MASSACHUSETTS 02109-3912

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U.S. EPA REGION 1
 HEARING CLERK

In the Matter of SPS New England, Inc.
 Docket No. CWA-01-2024-0031

SPS New England, Inc. (Respondent) is an owner and/or operator of an infrastructure construction business operating at 95 Behen Street in Everett, Massachusetts and 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. EPA finds that Respondent discharged "pollutants" (i.e. paint chips) within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362(6) during power washing operations between Aug. 14, and Aug. 16, 2023, into Island End River, without authorization of a National Pollutant Discharge Elimination System (NPDES) permit, in violation of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a).

EPA finds, and Respondent admits, that Respondent is subject to Section 301 of the Act, 33 U.S.C. § 1311, and that EPA has jurisdiction over any "person" who "discharges pollutants" from a "point source" to "waters of the United States." Respondent neither admits nor denies the specific alleged violations specified above.

EPA is authorized to enter into this Consent Agreement and Final Order (CAFO) under Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), and 40 CFR § 22.13(b). In consideration of the statutory penalty factors listed in Section 309(g) of the Act, and applicable EPA penalty policy, the parties enter into this CAFO to settle the alleged civil violations described above for a penalty of \$9,743. Respondent consents to the assessment of this penalty and waives the right to: (1) contest the findings specified in the Settlement Form; (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 the Respondent has ceased the unauthorized discharges described above. Furthermore, Respondent agrees that consistent with section 162(f)(1) of the Internal Revenue Code, 26 U.S.C. § 162(f)(1), Respondent will not deduct penalties paid under this Agreement for federal tax purposes.

Additionally, Respondent agrees that it shall submit payment of the penalty in the form of a bank, cashiers, or certified check in the amount of \$9,743, payable to the "Treasurer, United States of America" via certified mail to: U.S. EPA, Fines and Penalties, Cincinnati Finance Center, P.O. Box 979078, St. Louis, MO 63197-9000 (and indicate: "In the Matter of SPS New England, Inc.") and the docket number (Docket No. CWA-01-2024-0031). on the check) within 10 days after this Agreement becomes final. Respondent shall email a copy of the check to Jeff Kopf, EPA Region 1, at: kopf.jeff@epa.gov, and to the Regional Hearing Clerk, EPA Region 1 at: R1_Hearing_Clerk_Filings@epa.gov.

This CAFO settles EPA's civil penalty claims against Respondent for the alleged Clean Water Act violations specified above. 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 alleged violations.

Respondent agrees to acceptance of the Complainant's: i. digital or an original signature on this CAFO; and ii. service of the fully

executed Agreement on the Respondent by mail or electronically by e-mail at the email address provided under Respondent's signature. Respondent understands that the mailing or e-mail address may be made public when the CAFO and Certificate of Service are filed and uploaded to a searchable database. Complainant agrees to acceptance of the Respondent's digital or an original signature on this CAFO.

Prior to requesting that an EPA Regional Judicial Officer issue the Final Order, the EPA will provide public notice of this CAFO and a reasonable opportunity for the public to comment on it. The EPA will address any comments on this CAFO in accordance with section 309(g)(4) of the Act, 33 U.S.C. § 1319(g)(4), and 40 C.F.R. § 22.45.

This CAFO is binding on the parties signing below and becomes final 30 days from the date that a signed copy of the Final Order is transmitted from the Regional Judicial Officer to the Regional Hearing Clerk unless a petition to set aside this Agreement is filed by a commenter pursuant to Section 309(g)(5) of the Act, 33 U.S.C. § 1319(g)(5), following public noticing of this Agreement.

APPROVED BY EPA:

 Date: _____
 Carol Tucker, Acting Director
 Enforcement and Compliance Assurance Division

APPROVED BY RESPONDENT:

Name (print): PHILIP J CAPOLUPO
 Title (print): President
 Signature:
 Date: 3/20/2024

Provide email address below for Service to Respondent:
 pcapolupo@spsnewengland.com

At least 10 days have elapsed since expiration of the public notice and comment period required by Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), and EPA did not receive any public comments or petitions to set aside this CAFO.

IT IS SO ORDERED:

 Date: _____
 LeAnn Jensen
 Regional Judicial Officer