

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II
2009 JUN 30 PM 4:35
REGIONAL HEARING
CLERK

IN THE MATTER OF:

Landmark at Rahway, LLC
1200 Sunnyview Oval
Keasbey, New Jersey 08832

Park Square, Rahway, New Jersey
NPDES Tracking No. NJU002030

Respondent

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

**PROCEEDING TO ASSESS A
CLASS II CIVIL PENALTY**

DOCKET NO. CWA-02-2009-3405

**ADMINISTRATIVE COMPLAINT
FINDINGS OF VIOLATION, NOTICE OF PROPOSED
ASSESSMENT OF AN ADMINISTRATIVE PENALTY, AND
NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

I. STATUTORY AND REGULATORY AUTHORITIES

1. This Administrative Complaint, Findings of Violation, Notice of Proposed Assessment of an Administrative Penalty, and Notice of Opportunity to Request a Hearing (“Complaint”) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 309(g)(2)(B) of the Clean Water Act (“Act” or “CWA”), 33 U.S.C. §1319(g)(2)(B). The Administrator has delegated this authority to the Regional Administrator of EPA, Region 2, who in turn has delegated it to the Director, Division of Enforcement and Compliance Assistance (“DECA”) of EPA, Region 2 (“Complainant”).
2. Pursuant to Section 309(g)(2)(B) of the Act, and in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (“CROP”), 40 CFR Part 22 (2001), a copy of which is attached, Complainant hereby proposes to assess a civil penalty against Landmark at Rahway, LLC (“Respondent”), as a result of Complainant’s determination that the Respondent is in violation of Sections 301 and 402 of the Act, 33 U.S.C. §§1311 and 1342, respectively, for failure to comply with the terms of the New Jersey Pollutant Discharge Elimination System (“NJPDES”) Construction Activity Stormwater General Permit.

II. DEFINITIONS AND STATUTORY PROVISIONS

3. Section 301(a) of the CWA, 33 U.S.C. §1311(a), provides, in relevant part, that "Except as in compliance with [33 U.S.C. §1312], the discharge of any pollutant by any person shall be unlawful."
4. The term "pollutant" includes, among other things, solid waste, dredged spoil, rock, sand, cellar dirt, sewage, sewage sludge and industrial, municipal and agricultural waste discharged into water, pursuant to Section 502(6) of the CWA, 33 U.S.C. §1362(6).
5. The term "person" includes an individual, corporation, partnership, association or municipality, pursuant to Section 502(5) of the CWA, 33 U.S.C. §1362(5).
6. The term "discharge of a pollutant" means any addition of any pollutant to navigable waters from any point source, pursuant to Section 502(12) of the CWA, 33 U.S.C. §1362(12).
7. The term "navigable waters" includes the waters of the United States pursuant to Section 502(7) of the CWA, 33 U.S.C. §1362(7).
8. Section 402 of the CWA, 33 U.S.C. §1342, authorizes the Administrator of EPA to grant a National Pollutant Discharge Elimination System ("NPDES") permit authorizing the discharge of storm water to waters of the United States, under certain conditions. A NPDES permit is required for storm water discharges associated with construction activity that results in the disturbance of land equal to or greater than one acre, or construction activity that results in the disturbance of less than one acre, but which is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than one acre. 40 C.F.R. §§122.26(b)(14)(x) and (b)(15)(i). The Section 402 permit program has been delegated to the State of New Jersey, so that proponents of construction storm water discharges may comply with the Act by obtaining a State Pollutant Discharge Elimination System ("SPDES") permit from the New Jersey Department of Environmental Protection ("NJDEP"). 33 U.S.C. §1342(b).
9. The term "construction general permit" or "CGP" means the New Jersey Pollutant Discharge Elimination System ("NJPDES") Construction Activity Storm Water General Permit No. NJG0088323 (5G3). This CGP was modified in March 3, 2004 and renewed on February 28, 2007.
10. Persons regulated under 40 CFR §122.26(b)(14)(x) or 40 CFR §122.26(b)(15)(i) may comply with the permit requirement of Section 402 of the CWA by obtaining coverage under New Jersey's CGP.
11. Pursuant to 40 C.F.R. §122.41(a), permittees are required to comply with all conditions of their permit, and any permit noncompliance constitutes a violation of the CWA and is grounds for enforcement action.
12. Section 308(a) of the CWA 33 U.S.C. §1318(a), provides that whenever it is necessary to carry out the objectives of the CWA, including determining whether or not a person/agency is in violation of Section 301 of the CWA, 33 U.S.C. §1311, the EPA shall

require the submission of any information reasonably necessary to make such a determination. Under the authority of Section 308 of the Act, EPA may require the submission of information necessary to assess the compliance status of any facility and its related appurtenances.

13. Sections 309(a) of the CWA, 33 U.S.C. §1319(a) authorizes the Administrator to commence an administrative action for violations of Section 308 of the CWA, 33 U.S.C. §1318, and for each violation of Section 301 of the CWA, 33 U.S.C. §1311, or any permit condition or limitation implementing, inter alia, Section 301 of the CWA, 33 U.S.C. §1311, and contained in a permit issued under Section 402 of the CWA, 33 U.S.C. §1342.

III. FINDINGS OF VIOLATION

14. Landmark at Rahway, LLC (“Landmark” or “Respondent”) is a person within the meaning of Section 502(5) of the CWA, 33 U.S.C. §1362(5).
15. Respondent owns/operates a 3.08 acre Park Square construction site (“Site” or “Facility”) at West Main Street and Elizabeth Avenue in Rahway, New Jersey.
16. Respondent has conducted, among other things, clearing, grading and excavation activities at the site, resulting in the disturbance of greater than one acre of land.
17. Storm water runoff from Respondent’s site discharges to a Municipal Separate Storm Sewer System (MS4), which in turn discharges to the Rahway River, a navigable water of the United States within the meaning of Section 502(7) of the CWA, 33 U.S.C. §1362(7).
18. Respondent obtained coverage under the CGP effective on January 5, 2005. That coverage was renewed on June 25, 2008, and will expire on December 25, 2011.

Compliance with the CGP requires the preparation of a Stormwater Pollution Prevention Plan (“SPPP”) that consists of an erosion and sediment control component and a construction site waste control component. The SPPP requires, among other things, the implementation of stormwater best management practices (“BMPs”), weekly inspections, the preparation and maintenance of weekly inspection reports, the maintenance of spill kits on site, and the preparation and maintenance of annual reports and certifications.

19. According to Landmark at Rahway, LLC officials, construction at the Park Square mixed-use site began on or about January 1, 2007, and is scheduled to be completed on or about May 1, 2010.

On December 3, 2008, and again on March 11, 2009, EPA inspectors conducted a Compliance Evaluation Inspection (“CEI”) (see enclosed CEI Reports) at the facility. At the time of the CEIs, the EPA inspectors observed that construction activity resulting in the disturbance of greater than one acre of land was ongoing at the site, and found the following violations of the NJCGP:

- a. Part D of the CGP requires that a completed, signed, and certified Request for Authorization (RFA) for the project be available. The RFA was not available at the time of the December 3, 2008 CEI.
- b. Part E.1 of the CGP requires that a certified and executed SPPP be available, and that a copy of the SPPP be retained by the permittee for a period of at least 5 years after the completion of construction. A valid copy of the SPPP was not available at the time of the December 3, 2008 CEI.
- c. Part E.1 of the CGP requires the permittee to designate a concrete truck washout area under the SPPP construction site waste control component. At the time of the December 3, 2008 CEI, a designated concrete truck washout area was not identified on the Erosion and Sediment Control Plan.
- d. Part E.1 of the CGP requires the permittee to designate one or more waste, borrow or equipment storage areas under the SPPP construction site waste control component. At the time of the December 3, 2008 CEI, waste and storage areas were not identified on the Erosion and Sediment Control Plan.
- e. Part E.3 of the CGP requires that site inspections be conducted at a minimum of once per week. At the time of the December 3, 2008 CEI, site representatives informed EPA inspectors that weekly inspections had not been conducted at the site.
- f. Part E.4 of the CGP requires that the permittee prepare an annual report summarizing the weekly site inspections as well as a certification that the facility is in compliance with the SPPP and the permit. At the December 3, 2008 CEI, Respondent failed to provide EPA inspectors with annual reports and certifications for 2007 or 2008.
- g. Part J.4 of the CGP requires that spill kits be available onsite or adjacent to the site. Spill kits were not available during the December 3, 2008 or March 11, 2009 CEIs.
- h. Part K. of the CGP requires compliance with IHCSPP (Individual Home Construction Stabilization Plan) minimum soil erosion and sediment control standards for sediment barriers. During the December 3, 2008 and March 11, 2009 CEIs, EPA inspectors observed a lack of adequate silt fencing along the perimeter, poor maintenance of the existing filter fence, and areas where the sediment loading was excessive.
- i. Part K. of the CGP requires that IHCSPP erosion and sediment controls and other protective measures identified in the SPPP be maintained in effective operating condition. The December 3, 2008 and March 11, 2009 CEIs identified that inlet protection had not been maintained in accordance with K.2.ii of the permit.
- j. Part K. of the CGP requires IHCSPP erosion and sediment controls for stockpiles. During the CEI on December 3, 2008, EPA inspectors observed that temporary

BMP's within the interior portion of the site ("drive-thru area") were inadequate. Specifically, the soil erosion and sediment control plan called for a materials stockpile area, however, EPA inspectors observed unprotected material storage piles outside the designated area specified in the plan.

- k. Part K. of the CGP requires IHCSPP standards for construction entrance stabilization and installation of a stone driveway. During the December 3, 2008 CEI, EPA inspectors observed that no stone driveways were installed at either construction entrance.
 - l. Part K. of the CGP requires IHCSPP standards for immediate removal of soil tracked onto public rights-of-way. During the December 3, 2008 CEI, EPA inspectors observed significant offsite tracking of sediment on Elizabeth Avenue and Elm Avenue.
- 20. On December 9, 2008, pursuant to Sections 308 and 309 of the CWA, EPA issued an Administrative Order ("AO") and Request for Information ("RFI") (CWA-02-2009-3040) to Respondent.
 - 21. The AO required Respondent to remedy certain violations based on the findings made during the December 3, 2008 EPA inspection, and to file an Answer within thirty (30) calendar days of receipt. The AO/RFI was received by Respondent on December 12, 2008. Thus, Respondent's Answer was due no later than January 11, 2009. Respondent's Answer was received by EPA on March 3, 2009.
 - 22. The AO/RFI required Respondent to submit two standard certifications (see page 5 of the AO) to EPA with any Answer filed in response to the AO/RFI. Respondent failed to submit these certifications with its Answer.
 - 23. Respondent's Answer to the AO/RFI stated that "all required silt fence has been established/re-established and is now being properly maintained" and "the approved entrance/access at Elizabeth Avenue is now stabilized via asphalt paving." During the March 11, 2009 CEI, EPA inspectors observed continued lack of silt fencing along the perimeter, poor maintenance of the existing filter fence, and areas where the sediment loading was excessive. Inspectors again observed significant off-site tracking of sediment along Elizabeth Avenue and Elm Avenue.
 - 24. Respondent's Answer to the AO/RFI stated that "spill kits were ordered and are now at the site." Spill kits were not available on site during the March 11, 2009 CEI.
 - 25. Based on the Findings above, Respondent violated Sections 301 and 402 of the Act, 33 U.S.C. §§1311 and 1342, by failing to comply with the terms of the Construction General Permit.

IV. NOTICE OF PROPOSED ORDER ASSESSING A CIVIL PENALTY

Based on the foregoing Findings of Violation, and pursuant to the authority of Section 309(g) of the Act, 33 U.S.C. §1319(g), and the Debt Collection Improvement Act of 1996, EPA, Region 2

hereby proposes to issue a Final Order Assessing Administrative Penalties (Final Order) to Respondent assessing a penalty of **\$130,000**. EPA determined the proposed penalty after taking into account the applicable factors identified at Section 309(g)(3) of the Act, 33 U.S.C. §1319(g)(3). EPA has taken account of the nature, circumstances, extent and gravity of the violation (or violations), and Respondent's prior compliance history, degree of culpability, economic benefit or savings accruing to Respondent by virtue of the violations, and Respondent's ability to pay the proposed penalty. Based on the Findings set forth above, the Respondent is liable for **twelve (12) distinct violations of the Act, some of which have continued for at least seven hundred and eighty-two (782) days**. EPA may issue the Final Order Assessing Administrative Penalties thirty (30) days after Respondent's receipt of this Notice, unless Respondent files an Answer to the Complaint within that time and requests a Hearing on this Notice pursuant to the following section.

V. PROCEDURES GOVERNING THIS ADMINISTRATIVE ACTION

The rules of procedure governing this civil administrative litigation have been set forth in the CROP, 40 CFR Part 22. A copy of these rules accompanies this Complaint.

A. Answering The Complaint

Where Respondent intends to contest any material fact upon which the Complaint is based, to contend that the proposed penalty is inappropriate or to contend that Respondent is entitled to judgment as a matter of law, Respondent must file with the Regional Hearing Clerk of EPA, Region 2, both an original and one copy of a written Answer to the Complaint, and such Answer must be filed within thirty (30) days after service of the Complaint. 40 CFR § 22.15(a). The address of the Regional Hearing Clerk of EPA, Region 2, is:

**Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866**

Respondent shall also then serve one copy of the Answer to the Complaint upon Complainant and any other party to the action. 40 CFR §22.15(a). Respondent's Answer to the Complaint must clearly and directly admit, deny, or explain each of the factual allegations that are contained in the Complaint and with regard to which the Respondent has any knowledge. 40 CFR §22.15(b). Where Respondent lacks knowledge of a particular factual allegation and so states in the Answer, the allegation is deemed denied. 40 CFR §22.15(b). The Answer shall also set forth: (1) the circumstances or arguments that are alleged to constitute the grounds of defense, (2) the facts that Respondent disputes (and thus intends to place at issue in the proceeding), (3) the basis for opposing the proposed relief and (4) whether Respondent requests a Hearing. 40 CFR §22.15(b).

Respondent's failure to affirmatively raise in the Answer facts that constitute, or that might constitute, the grounds of a defense may preclude Respondent, at a subsequent stage in this proceeding, from raising such facts and/or from having such facts admitted into evidence at a Hearing.

B. Opportunity To Request A Hearing

If requested by Respondent in its Answer, a Hearing upon the issues raised by the Complaint and Answer may be held. 40 CFR §22.15(c). However, even if Respondent does not request a Hearing, the Presiding Officer (as defined in 40 CFR §22.3) may hold a Hearing if the Answer raises issues appropriate for adjudication. 40 CFR §22.15(c).

Any Hearing in this proceeding will be held at a location determined in accordance with 40 CFR §22.21(d). A Hearing of this matter will be conducted in accordance with the applicable provisions of the Administrative Procedure Act, 5 U.S.C. §§551-59, and the procedures set forth in Subpart D of 40 CFR Part 22.

Should Respondent request a Hearing on this proposed penalty assessment, members of the public, to whom EPA is obligated to give notice of this proposed action, will have a right under Section 309(g)(4)(B) of the Act, 33 U.S.C. §1319(g)(4)(B), to be heard and to present evidence on the appropriateness of the penalty assessment. Should Respondent not request a Hearing, EPA will issue a Final Order, and only members of the public who submit timely comment on this proposal will have an additional thirty (30) days to petition EPA to set aside the Final Order and to hold a Hearing thereon. EPA will grant the petition and will hold a Hearing only if the petitioner's evidence is material and was not considered by EPA in the issuance of the Final Order.

C. Failure To Answer

If Respondent fails in any Answer to admit, deny, or explain any material factual allegation contained in the Complaint, such failure constitutes an admission of the allegation. 40 CFR §22.15(d). If Respondent fails to file a timely [i.e. in accordance with the thirty (30)-day period set forth in 40 CFR §22.15(a)] Answer to the Complaint, Respondent may be found in default upon motion by the Complainant. 40 CFR §22.17(a). Default by Respondent constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations. 40 CFR §22.17(a). Following a default by Respondent for a failure to timely file an Answer to the Complaint, any order issued therefore shall be issued pursuant to 40 CFR §22.17(c).

Any penalty assessed in the default order shall become due and payable by Respondent without further proceedings thirty (30) days after the Default Order becomes final pursuant to 40 CFR §22.27(c). 40 CFR §22.17(d). If necessary, EPA may then seek to enforce such Final Order of Default against Respondent, and to collect the assessed penalty amount, in Federal court.

VI. INFORMAL SETTLEMENT CONFERENCE

Whether or not Respondent requests a formal Hearing, EPA encourages settlement of this proceeding consistent with the provisions of the Act and its applicable regulations. 40 CFR §22.18(b). At an informal conference with a representative(s) of Complainant, Respondent may comment on the charges made in this Complaint and Respondent may also provide whatever additional information is believed to be relevant to the disposition of this matter, including: (1) actions Respondent has taken to correct any or all of the violations herein alleged, (2) any information relevant to Complainant's calculation of the proposed penalty, (3) the effect the

proposed penalty would have on Respondent's ability to continue in business and/or (4) any other special facts or circumstances Respondent wishes to raise.

Complainant has the authority to modify the amount of the proposed penalty, where appropriate, to reflect any settlement agreement reached with Respondent, to reflect any relevant information previously not known to Complainant or to dismiss any or all of the charges, if Respondent can demonstrate that the relevant allegations are without merit and that no cause of action as herein alleged exists. Respondent is referred to 40 CFR §22.18.

Any request for an informal conference or any questions that Respondent may have regarding this Complaint should be directed to:

Chris Saporita, Esq.
Assistant Regional Counsel
Water and General Law Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
Telephone (212) 637-3203

The parties may engage in settlement discussions regardless of whether Respondent has requested a Hearing. 40 CFR §22.18(b)(1). Respondent's request for a formal Hearing does not prevent Respondent from also requesting an informal settlement conference; the informal conference procedure may be pursued simultaneously with the formal adjudicatory hearing procedure. A request for an informal settlement conference constitutes neither an admission nor a denial of any of the matters alleged in the Complaint. Complainant does not deem a request for an informal settlement conference as a request for a Hearing as specified in 40 CFR §22.15(c).

A request for an informal settlement conference does not affect Respondent's obligation to file a timely Answer to the Complaint pursuant to 40 CFR §22.15. No penalty reduction, however, will be made simply because an informal settlement conference is held.

Any settlement that may be reached as a result of an informal settlement conference shall be embodied in a written Consent Agreement. 40 CFR §22.18(b)(2). And, in order to conclude the proceeding, a Final Order ratifying the parties' agreement to settle will be executed. 40 CFR §22.18(b)(3). In accepting a Consent Agreement, Respondent waives its right to contest the allegations in the Complaint and waives its right to appeal the Final Order that is to accompany the Consent Agreement. 40 CFR §22.18(b)(2).

Entering into a settlement through the signing of such Consent Agreement and complying with the terms and conditions set forth in such Consent Agreement and Final Order terminates this administrative litigation and these civil proceedings against Respondent (note that a new enforcement action may be initiated based on continued non-compliance). Entering into a settlement agreement does not extinguish, waive, satisfy or otherwise affect Respondent's obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

**VII. RESOLUTION OF THIS PROCEEDING WITHOUT HEARING OR
CONFERENCE**

Instead of filing an Answer, Respondent may choose to pay the total amount of the proposed penalty (\$130,000) within thirty (30) days after receipt of the Complaint, provided that Respondent files with the Regional Hearing Clerk, Region 2 (at the address noted below), a copy of the check or other instrument of payment. 40 CFR §22.18(a). A copy of the check or other instrument of payment should be provided to the EPA Attorney identified in Section VI above. Payment of the penalty assessed should be made by sending a cashier's or certified check payable to the "Treasurer, United States of America", in the full amount of the penalty assessed in this complaint to the following addressee:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000
Docket No. CWA-02-2008-3405

Wire transfers should be directed to the Federal Reserve Bank of New York

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

Pursuant to 40 CFR §22.18(a)(3), if Respondent elects to pay the full amount of the penalty proposed in the Complaint within thirty (30) days of receiving the Complaint, then, upon EPA's receipt of such payment, the Regional Administrator of EPA, Region 2 (or, if designated, the Regional Judicial Officer), shall issue a Final Order in accordance with 40 CFR §22.18(a)(3). In accordance with 40 CFR §22.45(c)(3), no Final Order shall issue until at least ten (10) days after the close of the comment period on this Complaint. Issuance of a Final Order terminates this administrative litigation and the civil proceedings arising out of the allegations made in the Complaint (note that a new enforcement action may be initiated based on continued non-compliance). Further, pursuant to 40 CFR §22.18(a)(3), the making of such payment by Respondent shall constitute a waiver of Respondent's right both to contest the allegations made in the Complaint and to appeal said Final Order to Federal court. Such payment does not extinguish, waive, satisfy or otherwise affect Respondent's obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

VII. FILING OF DOCUMENTS

The Answer and any Hearing Request and all subsequent documents filed in this action should be sent to:

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

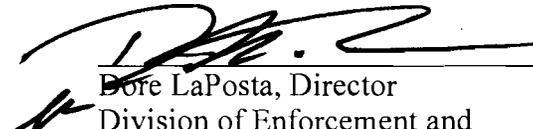
A copy of the Answer, any Hearing Request and all subsequent documents filed in this action shall be sent to:

Chris Saporita, Esq.
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
Telephone (212) 637-3203
Fax: (212) 637-3199

VIII. GENERAL PROVISIONS

1. Respondent has a right to be represented by an attorney at any stage of these proceedings.
2. This Complaint does not constitute a waiver, suspension or modification of the requirements of the Act, regulations promulgated there under, or any applicable permit.
3. Neither assessment nor payment of an administrative civil penalty pursuant to Section 309(g) of the Act will affect Respondent's continuing obligation to comply with the Act, and with any separate Compliance Order issued under Section 309(a) of the Act, 33 U.S.C. §1319(a), for the violations alleged herein.

ISSUED THIS 29th DAY OF June, 2009.



Dore LaPosta, Director
Division of Enforcement and
Compliance Assistance
U. S. Environmental Protection Agency - Region 2
290 Broadway
New York, New York 10007

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

Landmark at Rahway, LLC
1200 Sunnyview Oval
Keasbey, New Jersey 08832

Park Square, Rahway, New Jersey
NPDES Tracking No. NJU002030

Respondent

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

**PROCEEDING TO ASSESS A
CLASS II CIVIL PENALTY**

**DOCKET NO.
CWA-02-2009-3405**

JUN 29 2009

I certify that on _____, I served the foregoing fully executed Administrative Complaint, Findings of Violation, Notice of Proposed Assessment of an Administrative Penalty, and Notice of Opportunity to Request a Hearing, bearing the above referenced docket number, on the persons listed below, in the following manner:

Original and One Copy
By Hand:

Office of Regional Hearing Clerk
U.S. Environmental Protection Agency - Region 2
290 Broadway, 16th floor
New York, New York 10007-1866

Copy by Certified Mail
Return Receipt Requested:

Landmark of Rahway, LLC
1200 Sunnyview Oval
Keasbey, NJ 08832

Copy by Certified Mail
Return Receipt Requested:

James Hamilton, Administrator
Water Compliance and Enforcement
New Jersey Department of Environmental Protection
P.O. Box 422
401 East State Street, 4th Floor East
Trenton, NJ 08625

Dated: 6/29/09

Marie St. Germon
Secretary
New York, New York



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

JUN 29 2009

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Article Number: 7005 3110 0000 5929 9432

James Hamilton, Administrator
Water Compliance and Enforcement
New Jersey Department Environmental Protection
P.O. Box 422
401 East State Street, 4th floor East
Trenton, NJ 08625-0422

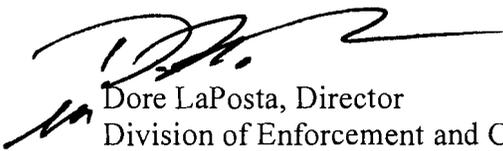
Re: Notice of Complaint and Proposed Assessment of a Civil Penalty
Park Square, Rahway, New Jersey
NPDES Tracking No. NJU002030
Docket No. CWA-02-2009-3405

Dear Mr. Hamilton:

Enclosed is a copy of the Complaint and Proposed Assessment of a Civil Penalty, which the United States Environmental Protection Agency ("EPA") has issued to Landmark at Rahway, LLC pursuant to §309(g) of the Clean Water Act ("Act"), 33 U.S.C. §1319(g). EPA has issued the Complaint to begin the process to administratively assess a civil penalty of \$130,000 against Respondent for violations of the Act. Since the violations have occurred in the State of New Jersey, EPA is offering an opportunity for you to confer with us regarding the proposed assessment.

You may confer with me at (212) 637-4000. A copy of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (40 C.F.R. Part 22), is enclosed for your reference.

Sincerely,



Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

Enclosures

1. Complaint
2. CROP

cc: Karen Maples, Regional Hearing Clerk (w/Complaint only)

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
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REGIONAL HEARING
CLERK