



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1 – 5 Post Office Square, Boston MA 02109
EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-01-2023-0051

Received by
 EPA Region 1
 Hearing Clerk

Captain Joseph J. O’Connell Co., Inc. (“Captain Joseph”) of Fall River, MA (“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 Worksheet” (“Settlement Form”), which is incorporated by reference. By its signature, Complainant (“EPA”) finds that Respondent is responsible for violating Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311, by failing to fully comply with the terms and conditions of the 2021 Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity, during the time frame described in the Settlement Form.

EPA finds, and Respondent admits, that EPA has jurisdiction over this matter pursuant to section 309(g) of the Act, 33 U.S.C. § 1319)(g), and 40 C.F.R. part 22. Respondent neither admits nor denies the specific factual allegations in the first two paragraphs of this Expedited Settlement Agreement (“Agreement”).

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 to settle the civil violations alleged in this Agreement for a penalty of **\$16,875**. 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 addressed the alleged violations identified in the Settlement Form. 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 \$16,875, payable to the “Treasurer, United States of America” via certified mail to: U.S. EPA, Fines and Penalties, Cincinnati Finance Center, P.O. Box 979077, St. Louis, MO

63197-9000 (and indicate: *In the Matter of: Captain Joseph Docket No.: CWA-01-2023-0051, on the check) within 10 days after this Agreement becomes final.* Respondent shall email a copy of the check to Cristeen Schena EPA Region 1, at: schena.cristeen@epa.gov, and to the Regional Hearing Clerk, EPA Region 1 at: R1_Hearing_Clerk_Filings@epa.gov.

This Agreement settles EPA’s civil penalty claims against Respondent for the alleged Clean Water Act violations specified in this Agreement. 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 described in the Settlement Form. EPA has determined this Agreement to be appropriate.

Respondent agrees to acceptance of the Complainant’s: i. digital or an original signature on this Agreement; ii. service of the fully executed Agreement on the Respondent by mail or electronically by e-mail. Respondent understands that the mailing or e-mail address may be made public when the Agreement 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 Agreement.

Prior to requesting that an EPA Regional Judicial Officer issue the Final Order, the EPA will provide public notice of this Agreement and a reasonable opportunity for the public to comment on it. The EPA will address any comments on this Agreement 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 Agreement is binding on the parties signing below and becomes final 30 days from the date it is signed by the Regional Judicial Officer 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: _____
James Chow, Acting Deputy Director
Enforcement and Compliance Assurance Division

APPROVED BY RESPONDENT:

Name
(print): CAPT JOSEPH J O'CONNELL CO. INC

Title
(print): PRESIDENT

Signature: Joseph J O'Connell Date: 4-19-23

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 Agreement is authorized by law,
IT IS SO ORDERED:

_____ Date: _____
LeAnn Jensen
Regional Judicial Officer

In the Matter of: Captain Joseph J. O'Connell Co., Inc. Docket Number: CWA-01-2023-0051
Expedited Settlement Agreement

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1 - 5 Post Office Square, Boston MA 02109
EXPEDITED SETTLEMENT Worksheet
Docket No. CWA-01-2023-0051

Docket Number: CWA-01-2023-0051				
		Site Factors		
Site Name: Captain Joseph O'Connell		Acres of Exposure	3.5	
Site Address: 180 River St Fall River, MA 02720		Full Time Employees	4	
Lat/Long: 41.751°N, 71.1313°W		Environmental Harm	Med	
NPDES Permit ID: MAR05J05S		Sector	Sector Q Water Transportation	
Inspection Date: December 16, 2022		Receiving Water Quality	Med	
Permit Section Violation		Magnitude	Penalty Amount	Length of Violation
Site Operations	2.1.1 Control Measures Selection and Design Consideration (Failed to implement adequate control measures)	Significant or > 25%	\$2,813	11/15/2021–3/20/2023
	2.1.2 Non-Numeric Technology-Based Effluent Limits (Failed to maintain exposure minimization practices and failed to eliminate non-stormwater discharges)	Significant or > 25%	\$2,813	11/15/2021–3/20/2023
	5.1 Corrective Actions			
Monitoring & Recordkeeping	3.1 Routine Facility Inspections (Failed to conduct inspections)	25% < 50%	\$1,406	3/31/2022–3/20/2023
	3.2 Quarterly Visual Assessment of Stormwater Discharges			
	4.1 Monitoring (Failed to monitor from all outfalls)	Significant or > 25%	\$2,109	3/31/2022–3/20/2023
	4.2.1 Benchmark Monitoring (Failed to conduct benchmark monitoring)	≥ 50%	\$7,031	3/31/2021–3/20/2023
	4.2.2 Effluent Limitation Monitoring			
	4.2.4 Impaired Waters Monitoring			
	5.2 Additional Implementation Measures			
6 Stormwater Pollution Prevention Plan (SWPPP does not accurately describe all site conditions)	Minimal or < 5%	\$703	11/15/2021–3/20/2023	
7 Reporting and Recordkeeping				
		Total	\$16,875	

*The "Magnitude" column reflects the severity and/or length of time of the violations observed and documented by the Inspector at the time of the inspection and/or based on additional information.