



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I  
ONE CONGRESS STREET SUITE 1100  
BOSTON, MASSACHUSETTS 02114-2023

RECEIVED

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August 7, 2008

Wanda Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency - Region I  
One Congress Street  
Suite 1100, Mail Code RAA  
Boston, MA 02114-2023

EPA ORC  
OFFICE OF  
REGIONAL  
**BY HAND** CLERK

Re: In the Matter of: Revane Development Company, Inc., Docket No.  
CWA-01-2008-0027

Dear Ms. Santiago,

Enclosed for filing, please find a Consent Agreement and Final Order (CAFO) settling the matter referenced above.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey Kopf".

Jeffrey Kopf  
Senior Enforcement Counsel  
EPA Region 1

Enclosure

cc: Thomas Revane, President, Revane Development Company, Inc.

RECEIVED

2008 AUG -7 A 10: 26

EPA ORC  
OFFICE OF  
TRAINING CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1

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 ) )  
**In the Matter of:** ) )  
 ) )  
**Revane Development Company, Inc.** ) )  
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**Docket No. CWA-01-2008-0027**

**CONSENT AGREEMENT  
AND FINAL ORDER**

This Consent Agreement and Final Order (“CAFO”) is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Section 309(g) of the Clean Water Act (“CWA” or “Act”), 33 U.S.C. § 1319(g), in accordance with 40 C.F.R. § 22.18(b) of EPA’s “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits,” 40 C.F.R. Part 22.

## **I. PRELIMINARY STATEMENT**

1. EPA initiated this proceeding against the Revane Development Co., Inc., (“Respondent”) pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), by filing an administrative Complaint (“Complaint”), Docket No. CWA-01-2008-0027, on December 31, 2007.
2. The complete factual and jurisdictional basis for proposing the assessment of a civil penalty is set forth in the Complaint and is incorporated herein by reference.
3. Pursuant to Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), and in accordance with 40 C.F.R. § 22.38(b), the Commonwealth of Massachusetts has been given an opportunity to consult with EPA regarding the assessment of the administrative penalty for CWA violations against Respondent.
4. Section 309(g)(4)(A) of the CWA, 33 U.S.C. 1319(g)(4)(A), provides that, prior to issuing an order assessing a penalty under Section 309(g) of the CWA, 33 U.S.C. § 1319(g), EPA must provide public notice of, and reasonable opportunity to comment on, the proposed issuance of such order. EPA has satisfied this requirement by providing public notice and opportunity to comment on the proposed penalty from January 3, 2008, through February 1, 2008.

## **II. CONSENT AGREEMENT**

5. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint.

6. Respondent waives any defenses it might have as to jurisdiction and venue, and, without admitting or denying the facts and violations alleged in the Complaint, consents to the terms of this CAFO:

**Waiver of Rights**

7. Respondent hereby waives its right to request a judicial or administrative hearing on any issue of law or fact set forth in the Complaint, and consents to the issuance of the Final Order included with this Consent Agreement without further adjudication.

**Respondent's Certification of Compliance**

8. By its signature on this Consent Agreement, Respondent certifies that it has corrected the alleged violations cited in the Complaint described in Paragraph 1 above, and will continue to operate the Site (as described in the Complaint) in compliance with the CWA, the federal regulations promulgated to implement the CWA, the terms and conditions of the NPDES General Permit for Storm Water Discharges From Construction Activities, and its Storm Water Pollution Prevention Plan (dated Jan. 30, 2008, prepared by EcoTec, Inc.) (the "SWPPP").
9. As part of implementing its SWPPP, Respondent is required to conduct inspection of erosion and sedimentation control measures at the Site "at least once every two weeks during construction and after rainfall events exceeding one-half inch in a 24-hour period (at least once a month while the ground is frozen or snow covered)." See Section 2.2 of SWPPP. Such inspections must be documented on the Stormwater Construction Site Inspection Form included in Section 5.3 of the SWPPP.

10. Pursuant to Section 308(a) of the CWA, 33 U.S.C. § 1318(a), for one year following the effective date of this CAFO, Respondent shall within two weeks of the end of each calendar quarter (i.e. by January 15th, April 15th, July 15th, and October 15th), submit copies of its completed Stormwater Construction Site Inspection Forms for that quarter to Andrew Spejewski, EPA Region 1, at the following address:

Andrew Spejewski, Environmental Engineer  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency, Region I  
One Congress Street, Suite 1100, SEW  
Boston, MA 02114-2023

#### **Penalty**

11. Complainant proposes, and Respondent consents to, the assessment of a civil penalty of FIVE THOUSAND DOLLARS (\$5,000) pursuant to the following schedule:

- a. \$2,500 shall be due within 30 calendar days of the effective date of this CAFO (as described in Paragraph 24 below);
- b. \$2,500 shall be due by December 31, 2008.
- c. Acceleration Clause: if Respondent fails to make any payment as described above, all remaining installments shall become immediately due and payable as of the missed payment date. Interest on such unpaid penalty amounts shall accrue from the missed payment date.

#### **Payment Terms**

12. The parties have agreed to a settlement on the following terms. In agreeing to the penalty described in Paragraph 11, EPA has taken into account the statutory

penalty factors described in Section 309(g)(3) of the CWA, 33 U.S.C.

§ 1319(g)(3), particularly Respondent's "ability to pay" the proposed penalty.

13. Respondent shall make payment by a cashier's or certified check, payable to the order of "Treasurer, United States of America" and referencing the title and docket number of the action ("In the Matter of Revane Development Co., Inc. CWA-01-2008-0027"), to:

US Environmental Protection Agency Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

14. Respondent shall simultaneously submit copies of the penalty payment check to:

Wanda Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region I  
One Congress Street, Suite 1100, RAA  
Boston, MA 02114-2023

and

Jeffrey Kopf, Senior Enforcement Counsel  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency, Region I  
One Congress Street, Suite 1100, SEL  
Boston, MA 02114-2023

#### **General Provisions**

15. Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), a failure by Respondent to pay the penalty assessed by this CAFO in full by the payment due dates shall subject Respondent to a civil action to collect the assessed penalty, plus interest at current prevailing rates from the date of this CAFO. The rate of interest assessed shall be at the rate set forth in 31 C.F.R. § 901.9(d), promulgated

under 31 U.S.C. § 3717. Any person who fails to pay on a timely basis the amount of an assessed penalty shall be required to pay in addition to such amount and interest, attorney's fees, costs for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter. In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

16. The penalty specified in Paragraph 11 above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.
17. The provisions of this CAFO shall apply to and bind Respondent and its officers, directors, officials, agents, and representatives.
18. Except as described in Paragraph 15 above, each party shall bear its own costs and attorneys fees in this proceeding.
19. Issuance of this CAFO constitutes a full and complete settlement by EPA of all claims for judicial or administrative civil penalties pursuant to Sections 309(d) or (g) of the CWA, 33 U.S.C. §§ 1319(d) or (g), for all past violations of the CWA alleged in the Complaint referenced in Paragraph 1.
20. This Consent Agreement shall not constitute a waiver, suspension, or modification of the requirements of the Act of any regulation promulgated thereunder, shall not relieve Respondent of its obligation to comply with all applicable provisions of Federal, state, and local law, and shall not be a defense to any actions subsequently commenced pursuant to such laws.

21. This Consent Agreement shall not limit the authority of the United States to enforce the underlying legal requirements of this administrative penalty assessment, whether administratively or judicially, pursuant to Sections 309(a), (b), and (c) of the Act, 33 U.S.C. §§ 1319(a), (b), and (c), or Section 504 of the Act, 33 U.S.C. § 1364.
22. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of, and legally bind that party to, this Consent Agreement.

STIPULATED AND AGREED:

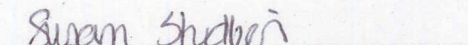
For RESPONDENT



Thomas Revane, President  
Revane Development Co., Inc.

Date: 8-1-08

For U.S. ENVIRONMENTAL PROTECTION AGENCY

  
Susan Studlien, Director  
Office of Environmental Stewardship  
U.S. EPA, Region 1

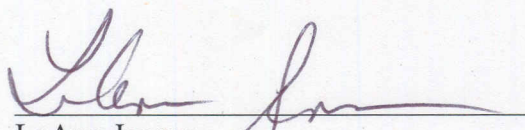
Date: 08/04/08



**FINAL ORDER**

23. In accordance with 40 C.F.R. § 22.18(b), the forgoing Consent Agreement is hereby approved and incorporated by reference into this Final Order.
24. Respondent is ordered to comply with the terms of the referenced Consent Agreement. This Final Order shall become effective 30 days from today pursuant to Section 309(g)(5) of the CWA, 33 U.S.C. § 1319(g)(5).

U.S. ENVIRONMENTAL PROTECTION AGENCY

  
LeAnn Jensen  
Acting Regional Judicial Officer  
U.S. EPA, Region 1

Date: 8-5-08

**In the Matter of: Revane Development Company, Inc.**  
**Docket No. CWA-01-2008-0027**

**CERTIFICATE OF SERVICE**

I certify that the foregoing CONSENT AGREEMENT AND FINAL ORDER was sent to the following persons, in the manner specified on the date below:

Original and one copy  
hand delivered:

Regional Hearing Clerk (RAA)  
U.S. EPA, Region I  
One Congress Street, Suite 1100  
Boston, MA 02114-2023

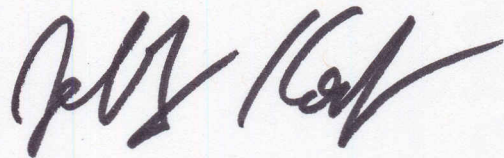
Copy via Certified Mail,  
Return Receipt Requested

Thomas Revane, President  
Revane Development Company, Inc.  
342 Greenwood Street  
Worcester, MA 01607

Copy via Pouch Mail

The Honorable Susan L. Biro,  
Chief Administrative Law Judge  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
Mail Code 1900L  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Date: August 7, 2008



Jeffrey Kopf, Senior Enforcement Counsel  
Office of Environmental Stewardship (SEL)  
U.S. Environmental Protection Agency  
Region I  
One Congress Street, Suite 1100  
Boston, MA 02114-2023  
tel: (617) 918-1796  
fax: (617) 918-1809  
email: kopf.jeff@epa.gov