

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Jeffrey Novcross 6/18/12
Name of Case Attorney Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number CWA-01-2011-0087

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Town of Mattapoisett, MA
16 Main Street
Mattapoisett, MA 02739

Total Dollar Amount of Receivable \$ 750.00 Due Date: 6/25/12

SEP due? Yes No Date Due 1/31/13

Installment Method (if applicable)

INSTALLMENTS OF:

- 1ST \$ _____ on _____
- 2nd \$ _____ on _____
- 3rd \$ _____ on _____
- 4th \$ _____ on _____
- 5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office

Phone Number



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

RECEIVED

JUN 15 2012

EPA ORC WS
Office of Regional Hearing Clerk

BY HAND

June 15, 2012

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency - Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Re: In the Matter of: the Town of Mattapoisett, MA
Docket No. CWA-01-2011-0087

Dear Ms. Santiago:

In accordance with 40 C.F.R. §§ 22.13(b), 22.18(b)(2), and 22.45(c)(3), enclosed please find the original and one copy of the fully executed Consent Agreement and Final Order (in the form of an Expedited Settlement Agreement) resolving the above-referenced case.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeffrey Norcross".

Jeffrey Norcross

Enclosures

cc: Michael J. Gagne, Chief Administrative Officer, Town of Mattapoisett



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 1
5 Post Office Square, Suite 100, Boston, Massachusetts 02109-3912

RECEIVED
JUN 15 2012
EPA ORC WS
Office of Regional Hearing Clerk

EXPEDITED SETTLEMENT AGREEMENT

Issued under Section 309(g)(2)(A) of the Clean Water Act, 33 U.S.C. § 1319(g)(2)(A) and 40 C.F.R. § 22.13(b).

Docket Number: CWA-01-2011-0087

The Town of Mattapoissett, Massachusetts ("Respondent") is a "municipality" and a "person" discharging "pollutants" from "point sources" to "navigable waters," as those terms are defined in Section 502 of the Clean Water Act ("Act"), 33 U.S.C. § 1362. Respondent is an owner and operator of a regulated small Municipal Separate Storm Sewer System ("MS4") as defined at 40 C.F.R. §§ 122.26(b)(16) and 122.32(a), which is covered by the National Pollutant Discharge Elimination System ("NPDES") General Permit for Storm Water Discharges from Small Municipal Separate Sewer Systems ("Permit") issued under Section 402 of the Act, 33 U.S.C. § 1342, dated May 1, 2003, and continued in effect pursuant to 40 C.F.R. § 122.6.

EPA finds, and Respondent admits, that pursuant to Part III, F.1. of the Permit, Respondent was required to submit an Annual Report on May 1, 2011 and Respondent failed to submit this Annual Report in violation of the Permit. Respondent also failed to submit annual reports on its MS4 program due on May 1, 2009 and May 1, 2010 in a timely manner. By violating the terms and conditions of the Permit issued pursuant to Section 402 of the Act, Respondent has violated Section 301(a) of the Act, 33 U.S.C. § 1311(a).

For purposes of this proceeding, Respondent admits it is subject to the Permit and Section 402 of the Act and the regulations promulgated thereunder, and that EPA has jurisdiction over Respondent and Respondent's conduct as described above. Respondent admits to the facts and finding of violation stated above, and waives any objections it may have to EPA's jurisdiction in this matter.

The parties enter into this Expedited Settlement Agreement ("Agreement") in order to settle the civil violation alleged above. Pursuant to the Act, based on the nature of the violations, Respondent's agreement to perform a Supplemental Environmental Project ("SEP"), and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is in the amount of \$750. Respondent consents to the issuance of this Agreement and consents to the payment of such penalty and to the performance of the SEP as outlined in the attachments to this Agreement.

Respondent agrees that, within 10 days of the final date of this Agreement, Respondent shall submit a check, with case name and docket number ("Town of Mattapoissett, Massachusetts - Docket No. CWA 01-2011-0087"), for the amount specified above, 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. Respondent further agrees to complete the SEP within the time frame set out in the attachments to this Agreement

Respondent consents to the assessment of the penalty and performance of the SEP stated herein, and waives its right to: (1) contest the findings of violation specified in this Agreement; (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 U. S. Government, that all required Annual Reports have been submitted to EPA, or will be submitted to EPA within 10 days of the final date of this Agreement (or an alternative time frame agreed to by EPA in writing).

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

If Respondent does not sign and return this Agreement within 14 days of the date of its receipt, the proposed Expedited Settlement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violation(s) identified herein.

This Agreement is binding on the parties signing below and final 30 days from the date it is signed by the Regional Judicial Officer 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), following public noticing of this settlement.

APPROVED BY THE TOWN OF MATTAPOISETT, MASSACHUSETTS:

Name(print): Michael J. Gagne
Title(print): Chief Adm. Officer
Signature: [Signature] Date: 3-1-12

APPROVED BY EPA:

[Signature] Date: 4/24/12
Joanna Jerison, Legal Enforcement Manager
Office of Environmental Stewardship

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

IT IS SO ORDERED:

[Signature] Date: 6/7/12
Leann Jensen
Acting Regional Judicial Officer



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 1
5 Post Office Square, Suite 100, Boston, Massachusetts 02109-3912

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and 40 C.F.R. § 22.13(b).

Docket Number: CWA-01-2011-0087

APR 26 2012
RECEIVED
JUN 15 2012
EPA ORC WS
Office of Regional Hearing Clerk

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This Agreement is binding on the parties signing below and final 30 days from the date it is signed by the Regional Judicial Officer 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), following public noticing of this settlement.

APPROVED BY THE TOWN OF MATTAPOISETT,
MASSACHUSETTS:

Name(print): Michael J. Gagne
Title(print): CRO Town of Mattapoisett
Signature: [Signature] Date: 4-2-12

APPROVED BY EPA:

Date: _____
Joanna Jerison, Legal Enforcement Manager
Office of Environmental Stewardship

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

IT IS SO ORDERED:

Date: _____
Leann Jensen
Acting Regional Judicial Officer

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

Attachment to Expedited Settlement Agreement
Mattapoisett, Massachusetts
Docket No. CWA-01-2011-0087
Supplemental Environmental Project to be completed by Respondent

Description of the SEP

Respondent shall complete a supplemental environmental project ("SEP"), which the parties agree is intended to secure significant environmental or public health protection and improvements, and which requires the Respondent to complete groundwater monitoring in accordance with the attached Scope of Work (Exhibit A). Respondent agrees to spend, at a minimum, \$2,813 on such SEP and to complete the SEP no later than January 31, 2013.

Respondent hereby certifies that, as of the date of this Expedited Settlement Agreement ("Agreement"), Respondent is not required to perform or develop the SEP by any federal, state or local law or regulation, nor is Respondent required to perform or develop the SEP under any grant or agreement with any governmental or private entity, as injunctive relief in this or any other case, or in compliance with state or local requirements. Respondent further certifies that Respondent has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.

SEP Completion Report

By January 31, 2013, Respondent shall submit a SEP Completion Report to Jeffrey Norcross, Paralegal, at the address in the Agreement. The SEP Completion Report shall contain the following information:

- (i) A detailed description of the SEP as implemented;
- (ii) A description of any operating problems encountered and the solutions thereto;
- (iii) Itemized costs, documented by copies of purchase orders and receipts, canceled checks, or wire transfer records;
- (iv) Certification that the SEP has been fully implemented pursuant to the provisions of this Agreement; and
- (v) A final report as described in the attached Scope of Work (Exhibit A).

Failure to Complete SEP

In the event that Respondent fails to complete the SEP as outlined above, Respondent shall pay \$2,813. The determination of whether the Respondent has satisfactorily completed the SEP shall be in the sole discretion of EPA.

SCOPE OF WORK

In accordance with the foregoing Consent Agreement and Final Order, Respondent shall complete the SEP as follows:

The Town of Mattapoisett Department of Public Works (DPW) will oversee a comprehensive assessment project to evaluate water quality entering Hiller’s Cove from groundwater within its upland watershed. This Project is intended to identify and assess the types and source of pollutants that may be entering Hiller’s Cove via groundwater pathways. Development in portions of the upland watershed pre-dates Massachusetts Title 5 regulations by many years and is an area of town identified in the Town’s Comprehensive Wastewater Management Plan.

The Project is located in a rural portion of eastern Mattapoisett and is **not regulated** under the Town’s NPDES permit. The Town anticipates working closely with the Buzzards Bay National Estuaries Project and similar local and state entities but will be **financed solely through the use of local resources**.

SCHEDULE AND ESTIMATED COSTS

Phase I: Survey and Design

No later than May 1, 2012, the Town will retain the services of a Consultant to perform the services detailed in this SEP. By June 1, 2012, the Consultant to the Town will furnish and install push point groundwater sampling devices for use in collecting samples of groundwater for laboratory analysis.

Phase I Net Cost \$1200.00

Phase II: Groundwater Monitoring and Assessment

During the summer, of 2012, the Consultant to the Town will perform a round of sample collection at each of the groundwater sampling devices. Sampling will occur utilizing the low-flow sampling methodology. Analyses performed on the groundwater samples collected will include: Nitrate/Nitrite, ammonia, TKN, surfactants, and e coli. Groundwater/surface water levels will be measured during sampling activities.

Phase II Net Cost \$1200.00

Phase III: Assessment Report

After completion of monitoring, the Consultant to the Town will produce a report which assesses the contribution of groundwater pollution to Hillyer Cove’s beach and shellfish bed closures. The report shall specifically discuss the effect and contribution of septic systems on groundwater. The report shall include sampling data and maps of sampling locations.

Phase III Net Cost \$41300

Minimum Net Cost for Project **\$2813.00**

ESTIMATED ENVIRONMENTAL BENEFITS

Hiller's Cove is an important recreational and shellfish resource in the small community of Mattapoisett. Currently, the cove experiences numerous beach and shellfish closures for reasons that have not been clearly established. Through site specific monitoring of groundwater that may be entering the cove, the Town may finally have sufficient data on which to evaluate strategies for long-term improvement. The goal of this project is to identify the cause of impairment with the expectation that this data will inform action to achieve substantial improvements to the quality of Hiller's Cove, resulting in a corresponding decrease in the number of shellfish closure days.

In the Matter of: the Town of Mattapoisett, MA
EPA Docket No. CWA-01-2011-0087

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order (in the form of an Expedited Settlement Agreement) was transmitted to the following persons, in the manner specified, on the date below:

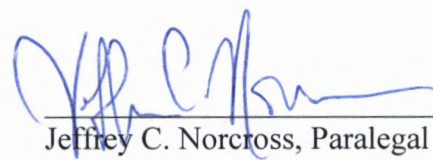
Original and one copy
hand-delivered:

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Copy by certified mail,
return receipt requested:

Michael J. Gagne
Chief Administrative Officer
Town of Mattapoisett
16 Main Street
Mattapoisett, MA 02739

Dated: 6/15/2012



Jeffrey C. Norcross, Paralegal
Office of Environmental Stewardship
U.S. EPA, Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3912
Phone: (617) 918-1839
Fax: (617) 918-0839