

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Andrew Spejowski 11/23/18  
Name of Case Attorney Date

in the ORC (RAA) at 918-1115  
Office & Mail Code Phone number

Case Docket Number CWA-D1-2018-0060

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:

Gene LeBlanc  
Lead The Way Development  
36 Laurelwood Drive  
Westminster, MA 01473

Total Dollar Amount of Receivable \$ 4,800 Due Date: 12/23/18

SEP due? Yes \_\_\_\_\_ No  Date Due \_\_\_\_\_

Installment Method (if applicable)

INSTALLMENTS OF:

1<sup>st</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
2<sup>nd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
3<sup>rd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
4<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
5<sup>th</sup> \$ \_\_\_\_\_ 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 1

5 Post Office Square, Suite 100  
Boston, Massachusetts 02109-3912

VIA HAND DELIVERY

23 November 2018

Wanda I. Santiago  
Regional Hearing Clerk  
U.S. EPA, Region 1  
5 Post Office Square - Suite 100  
Mail Code: ORC04-6  
Boston, MA 02109-3912

RECEIVED

NOV 23 2018  
EPA ORC  
Office of Regional Hearing Clerk *WS*

Re: In the Matter of: Lead The Way Development  
CWA-01-2018-0060

Dear Ms. Santiago:

Enclosed please find the original and one copy of an Expedited Settlement Agreement (the "Agreement") settling the above-captioned case. The Agreement has been signed by the parties and approved by the Regional Judicial Officer.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Spejewski".

Andrew Spejewski  
Environmental Engineer

Enclosure

cc: Gene LeBlanc

In the Matter of: Lead The Way Development  
CWA-01-2018-0060

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Expedited Settlement Agreement was sent to the following persons, in the manner specified, on the date below:

Original and one copy,  
By Hand Delivery to:

Wanda I. Santiago  
Regional Hearing Clerk  
U.S. EPA, Region 1  
5 Post Office Square - Suite 100  
Mail Code: ORC04-6  
Boston, MA 02109-3912

Copy by Certified Mail,  
Return Receipt Requested, to:

Gene LeBlanc  
Lead The Way Development  
36 Laurelwood Drive  
Westminster, MA 01473

Copy by First Class Mail to:

Elizabeth Kotowski  
MA DEP  
627 Main St.  
Worcester MA 01608

Dated: 23 Nov 18

  
Andrew Spejewski  
U.S. EPA, Region 1  
5 Post Office Square - Suite 100  
Boston, MA 02109-3912  
617-918-1014



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

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-01-2018-0060

Lead The Way Development ("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 Offer Deficiencies Form" ("Form"), which is incorporated by reference into this Expedited Settlement Agreement ("Agreement"). By its signature, Complainant ("EPA") finds that Respondent is responsible for the deficiencies specified in the Form.

Respondent had an unauthorized discharge of storm water in violation of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311, and/or failed to comply with its National Pollutant Discharge Elimination System ("NPDES") storm water permit issued under Section 402 of the Act, 33 U.S.C. § 1342.

EPA finds, and Respondent admits, that Respondent is subject to Section 301(a) 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 deficiencies specified in the Form.

EPA is authorized to enter into this 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 in order to settle the civil violation(s) alleged in this Agreement for a penalty of \$4,800. Respondent consents to the assessment of this penalty, and waives the right to: (1) contest the finding(s) specified in the 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 any deficiencies identified in the Form have been corrected. Respondent has submitted a written report detailing the specific actions taken to correct the deficiencies cited herein with its signature to this Agreement

Within 10 days after this Agreement becomes final, Respondent shall submit a bank, cashiers, or certified check, with case name and docket number noted, for the amount specified above, payable to the "Treasurer, United States of America," via certified mail, to: U.S. EPA, Fines and Penalties, In the Matter of: Lead The Way Development, Docket No. CWA-01-2018-0060, Cincinnati Finance Center, P.O. Box 979077, St. Louis, MO 63197-9000. A copy of this check shall also be sent to Regional Hearing Clerk, U.S. EPA, Region 1, 5 Post Office Square - Suite 100, Mail Code: ORC04-6, Boston, MA 02109-3912.

Pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), failure by Respondent to pay in full the civil penalty amount as set forth in this Agreement shall subject Respondent to a civil action to collect the assessed penalty, plus interest and other charges from the date that this Agreement becomes final.

This Agreement settles EPA's civil penalty claims against Respondent for the Clean Water Act violation(s) 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 deficiencies or violation(s) described in the Form. EPA has determined this Agreement to be appropriate.

This Agreement is binding on the parties signing below and becomes final thirty (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 CWA, 33 U.S.C. § 1319(g)(5), following public noticing of this settlement.

APPROVED BY EPA:

Signature: Joanna Jerrison Date: 9/26/18
Joanna Jerrison
Legal Enforcement Manager, OES

APPROVED BY RESPONDENT:

Name (print): Eugene LeBlanc
Title (print): Pres. + Treas.
Signature: [Signature] Date: 9/15/18

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 Agreement.

IT IS SO ORDERED:

Signature: LeAnn Jensen Date: 11/14/18
LeAnn Jensen
Regional Judicial Officer

RECEIVED

NOV 23 2018

EPA ORC WS
Office of Regional Hearing Clerk



	D	A description and projected schedule for each portion of the site for the following: (i) commencement of construction activities including clearing/grubbing, mass grading, demolition activities, site preparation, final grading, and creation of soil and vegetation stockpiles requiring stabilization; (ii) temporary or permanent cessation of construction activities; (iii) temporary or final stabilization; (iv) removal of temporary stormwater controls, construction equipment, and vehicles, and cessation of construction-related pollutant-generating activities. (Count each omitted category as one violation.)	7.2.3.f			X	\$300.00
	E	A list and description of all pollutant-generating activities.	7.2.3.g				\$300.00
	F	Business days and hours for the project.	7.2.3.h				\$60.00
	G	Required information for public emergency situations (cause of the public emergency, substantiating information, description of construction necessary to reestablish affected public services).	7.2.3.i & 1.4				\$300.00
11	A	Site map not included in SWPPP.	7.2.4				\$600.00
	B	Site map does not show (a) property boundaries; (b) locations of earth-disturbing activities; slopes before and after grading activities; locations of stockpiles; water of U.S. crossings; designated vehicle exits onto paved roads; locations of structures & other impervious surfaces upon completion of construction; locations of onsite/off site construction support activities; (c) locations of all waters of U.S. and identification of any impaired or Tier 2, 2.5 or 3 waters; (d) areas of federally listed critical habitat; (e) type and extent of pre-construction cover; (f) before and after drainage patterns; (g) authorized discharge locations (storm drain inlets and directly to waters); (h) locations of potential pollutant generating activities; (i) locations of stormwater controls; or (j) locations of chemical usage and storage. (Count each omission as one violation up to \$600.)	7.2.4.a-j			X	\$60.00
12		SWPPP does not:					
	A	Identify all authorized non-storm water discharges listed in Part 1.2.2 of the CGP that will or may occur	7.2.5				\$600.00
	B	Describe the specific controls to be implemented to meet the effluent limits in CGP Parts 2.2, 2.3 and 2.4 (erosion/sediment control, pollution prevention and dewatering) where applicable.	7.2.6.a.i				\$900.00
	C	Include any applicable design specifications and routine maintenance specifications for each of the specific controls implemented to meet the CGP Parts 2.2, 2.3 and 2.4 effluent limits.	7.2.6.a.ii - iii				\$300.00
	D	Include the projected schedule for installation/implementation of stormwater controls	7.2.6.a.iv				\$300.00
	E	Include, if applicable, required additional information for Natural Buffers and/or equivalent sediment controls (e.g., identify the compliance alternative to be implemented).	7.2.6.b.i; 2.2.1				\$600.00
	F	Include, if applicable, required additional information where Perimeter Controls for a Linear Construction Project are infeasible.	7.2.6.b.ii; 2.2.3				\$600.00
	G	Document specific controls for Sediment Track-out to remove sediment prior to vehicle exit.	7.2.6.b.iii; 2.2.4.b-c				\$600.00
	H	Document, if applicable, any determination that use of outlet structures that withdraw water from the surface of Sediment Basins is infeasible.	7.2.6.b.iv; 2.2.12				\$600.00
	I	Include, if applicable, the required information for any Treatment Chemicals that will be used.	7.2.6.b.v; 2.2.13				\$600.00
	J	Include for Stabilization Measures: (a) specific vegetative and/or nonvegetative practices that will be used; (b) stabilization deadline that will be met; and (c) for sites in arid, semi-arid or drought areas, the beginning and end dates of seasonally dry period and schedule for initiating and completing vegetative stabilization. (Count each omission as one violation.)	7.2.6.b.vi (a)- (c); 2.2.14			X	\$300.00
	K	Document for sites affected by unforeseen circumstances that delay initiation and/or completion of Vegetative Stabilization: the circumstances and the schedule for initiating and completing stabilization.	7.2.6.b.vi (d); 2.2.14				\$300.00
	L	Include required procedures for Spill Prevention and Response	7.2.6.b.vii; 1.3.5; 2.3				\$300.00
	M	Describe procedures for Waste Management (handling, storing and disposing of all waste generated at the site).	7.2.6.b.viii; 2.3.3				\$300.00
	N	Document, if applicable, any departure from manufacturer specifications regarding Application of Fertilizers.	7.2.6.b.ix; 2.3.5				\$300.00
13	A	SWPPP does not describe the procedures for Inspection, Maintenance and Corrective Action.	7.2.7; 2.1.4; 4; 5				\$300.00
	B	SWPPP includes procedures for Inspection, Maintenance and Corrective Action but does not include (1) the inspection schedule, or, where applicable, (2) the location of rain gauge or weather station for rainfall data, or, (3) beginning and ending dates of seasonal arid period, valid drought period or frozen conditions for reduced inspections. (Count each applicable omission as one violation.)	7.2.7.a-d			X	\$120.00

14	SWPPP does not include documentation that required personnel were, or will be, trained in accordance with CGP Part 6.	7.2.8; 6			\$300.00
15	Threatened and Endangered Species Act documentation is not included in SWPPP.	7.2.9.a			\$600.00
16	Historic Properties documentation is not included in SWPPP.	7.2.9.b			\$600.00
17	SWPPP does not document contacts, where applicable, with UIC regulatory authority regarding compliance with SDWA UIC Requirements for Certain Subsurface Stormwater Controls (e.g., infiltration trenches; commercially manufactured subsurface detention vaults, chambers or other such devices; drywells, seepage pits or improved sinkholes).	7.2.9.c			\$600.00
18	SWPPP not signed/dated/certified.	7.2.10			\$600.00
19	Copy of NOI and relevant correspondence, acknowledgement letter received from NeT, or Permit (can be electronic) not included as part of SWPPP. (Count each omission as one violation.)	7.2.11 a-c		X	\$300.00
20	Copy of SWPPP is not retained on site or otherwise easily accessible.	7.3			\$600.00
21	SWPPP (including site map) has not been updated/modified within 7 days to reflect the following: (a) new operators became active, or changes were made to construction plans, stormwater controls, or other activities; (b) changes to site map where operation control has been transferred; (c) EPA determines SWPPP modifications are necessary; (d) EPA determines installation/implementation of additional controls are necessary; (e) revisions to applicable federal state, tribal or local requirements that affect stormwater controls; or (f) changes in chemical treatment systems or chemically enhanced stormwater control. (Count each omission as one violation.)	7.4.1		X	\$60.00
	Records showing dates of SWPPP modifications not maintained including name of appropriate person authorizing each change; changes not authorized by appropriate person; or failure to provide notification where required to any operators who may be impacted by the change. (Count each omission as 1 violation.)	7.4.2; 7.4.3; 7.4.4		X	\$60.00
	<b>INSPECTIONS</b>				
22	Number of Inspections required if performed every 7 days:				
	Number of Inspections required if performed every 14 days:				
	If known, and if applicable, number of days of rainfall of > 0.25" :				
	Number of inspections required under a reduced frequency				
	TOTAL number of required inspections				
	<b>TOTAL number of inspections conducted/documented</b>				
23	A All required inspections were not conducted and timely documented. (If no inspections were conducted and documented, then leave elements 24-28 blank)				True or False
	B Inspections not performed and timely documented either once every 7 days, or once every 14 days and within 24 hours after a storm event of 0.25 inches or greater. Where an increase or reduction in inspection frequency applies (per Parts 4.3 or 4.4), inspections not performed/documented in accordance with applicable frequency. (Count each failure to inspect and document as one violation.)	4.2 - 4.4; 4.7.1		X	\$300.00
24	Inspections not conducted by qualified personnel	4.1			\$60.00
25	The following areas were not inspected:				\$60.00
	A All areas that have been cleared, graded, or excavated and not yet stabilized.	4.5.1			\$60.00
	B All stormwater controls (including pollution prevention controls) installed at the site. Check whether they are properly installed, operational and working as intended.	4.5.2; 4.6.1			\$60.00
	C Material, waste, borrow and equipment storage and maintenance areas that are covered by this Permit.	4.5.3			\$60.00
	D Areas where stormwater typically flows within the site.	4.5.4			\$60.00
	E All points of discharge from the site.	4.5.5			\$60.00
	F All locations where stabilization measures have been implemented.	4.5.6			\$60.00
26	If a discharge is occurring, identify all discharge points and observe/document the visual quality of the discharge.	4.6.6		X	\$60.00
27	Site inspection report does not include: (a) date, (b) name and title of inspector, (c) summary of inspection findings in accordance with Part 4.6 and any necessary maintenance or corrective actions, (d) rainfall data (where required), (e) if unsafe to inspect a portion of the site, a description of the reason. (Count each omission as 1 violation.)	4.6; 4.7.1.a -e		X	\$60.00
28	Inspection reports not properly signed/certified. (Count each failure to sign/certify as one violation.)	4.7.2			\$60.00
	Copies of inspection reports have not been retained onsite or at easily accessible location, or have not been retained for at least 3 years from date permit coverage expires or is terminated.	4.7.3; 4.7.4			\$600.00
29	<b>BEST MANAGEMENT PRACTICES</b>				
	<b>General Maintenance Requirements:</b>				

	A	Routine maintenance not performed by close of next business day, or, if stormwater control needs significant repair or replacement, not repaired/installed and operational within 7 calendar days (unless infeasible and in compliance with Part 5.2.3). (Count each failure to timely maintain each BMP as one violation. Do not double count if addressed under Section 30 or 31 below.)	2.1.4; 5.2.1; 5.2.2; 5.2.3			X	\$300.00
	B	Failure to complete a Corrective Action report when and as required (document date identified and condition within 24 hours; document actions taken to address within 24 hours of completion; sign as required; maintain copies onsite or at easily accessible location).	5.4				\$300.00
	C	Copies of Corrective Action reports have not been retained for at least 3 years from date permit coverages expires or is terminated.	5.4.5				\$600.00
30	A	<b>Control measures are not properly selected, installed or maintained:</b>					
	A	Failure to provide a natural buffer (or equivalent control), when required.	2.2.1				\$600.00
	B	Failure to direct stormwater to vegetated areas to maximize infiltration and filtering (unless infeasible).	2.2.2				\$600.00
	C	Failure to install sediment controls along all perimeter areas of the site that will receive pollutant discharges (or, for linear construction sites where such controls are infeasible, to implement other appropriate practices) where:	2.2.3				
		Common Drainage is 10+ acres					\$1,200.00
		Common Drainage is less than 10 acres					\$600.00
	D	Failure to remove sediment before accumulating to one-half of the above-ground height of any perimeter control	2.2.3.a				\$300.00
	E	Failure to minimize sediment trackout by (a) restricting vehicle use to properly designated exit points, (b) installing/implementing appropriate stabilization techniques at all points that exit onto paved roads, and/or (c) implementing any other necessary track-out controls.	2.2.4.a-c				\$600.00
	F	When sediment has been tracked out, failure to remove it as required by end of the same business day (or next business day if track out occurred on a non-business day).	2.2.4.d				\$300.00
	G	Failure to properly manage stockpiles or land clearing debris piles composed of sediment and/or soil.	2.2.5.a-d				\$600.00
	H	Failure to minimize dust through appropriate application of water or other dust suppression techniques.	2.2.6				\$600.00
	I	Failure to minimize disturbances of steep slopes.	2.2.7				\$600.00
	J	Failure to preserve native topsoil (unless infeasible).	2.2.8				\$600.00
	K	Failure to minimize soil compaction in areas where final vegetative stabilization will occur or where infiltration practices will be installed.	2.2.9				\$600.00
	L	Failure to protect storm drain inlets (provided there is authority) including:					
		Failure to implement appropriate controls.	2.2.10.a				\$600.00
		Failure to clean, remove or replace inlet controls as required, and/or failure to remove sediment accumulation adjacent to inlet controls by the end of the same business day (or, if not feasible, by the end of the following business day).	2.2.10.b				\$300.00
	M	Failure to use erosion controls and velocity dissipation devices within and along the length of any stormwater conveyance channel and at any outlet to slow down runoff to minimize erosion	2.2.11				\$600.00
	N	Improperly designed or situated sediment basin or similar impoundment that is not located outside a water of the U.S. or natural buffers; is not designed to avoid collecting water from wetlands; does not provide storage for the 2 year, 24 hour storm, or 3600 cubic ft. storage per acre drained; does not utilize outlet structures that withdraw water from the surface; and/or does not use erosion controls and velocity dissipation to prevent erosion of inlets and outlets.	2.2.12.a-e				\$1,200.00
	O	Failure to remove sediment from sediment basin or traps when design capacity reduced by 50% or more.	2.2.12.f				\$600.00
	P	If using treatment chemicals, failure to comply with any of the following: direct treated stormwater to a sediment control; select appropriate chemicals; minimize risk of discharge from stored chemicals; state/local requirements; good engineering practices and chemical provider/supplier's specifications; and/or any additional measure specified by EPA.	2.2.13.a-g				\$1,200.00
	Q	Installation of stabilization measures are not initiated immediately where construction activities have permanently ceased or will be temporarily inactive for 14 or more calendar days, and/or installation of stabilization measures are not completed within 14 calendar day (where five acres or less) or 7 days (where more than five acres) after stabilization has been initiated, or (where applicable) stabilization not in compliance with appropriate timeframes for exceptions below.	2.2.14.a				\$600.00
		*Exceptions:					
		(a) Arid, semi-arid areas and drought-stricken areas (0 to 10 inches average annual rainfall)					

	(b) Unforeseen circumstances						
	(c) Discharges to a sediment- or nutrient-impaired water, or to a water that is Tier 2, 2.5 or 3 for antidegradation purposes.						
	R Final Stabilization Criteria not achieved as required.	2.2.14.b				\$1,200.00	
	S Other needed control measures not properly selected or installed. (Each omission is 1 violation.)	2.1				\$600.00	
31	<b>Pollution Prevention Requirements</b>						
	A Failure to provide effective controls for equipment and vehicle fueling and maintenance activities.	2.3.1.a-f				\$600.00	
	B Failure to effectively minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water and other types of wash waters. (Q: ADDING THIS FOR NOW, BUT THIS VIOLATION MAY NOT BE ELIGIBLE FOR ESO. THOUGHTS?)	2.3.2.a-c				\$600.00	
	C Failure to implement appropriate controls to prevent/minimize the discharge of pollutants from any of the following: building materials/products; landscaping chemicals and materials; petroleum products and other chemicals; hazardous and toxic waste; construction and domestic wastes; and/or sanitary wastes. (Q: ANY THING WE SHOULD TAKE OUT AS NON-ALLOWABLE, NON-SW DISCHARGE?)	2.3.3.a-f				\$600.00	
	D Failure to provide effective controls for washing applicators/containers for stucco, paint, concrete, form release oils, curing compounds or other materials. (Q: ADDING THIS FOR NOW, BUT THIS VIOLATION MAY NOT BE ELIGIBLE FOR ESO IF NON-ALLOWABLE, NON-SW DISCHARGE. THOUGHTS?)	2.3.4.a-c				\$600.00	
	E Failure to comply with requirements for application of fertilizers (appropriate application rate and time of year; avoid applying before heavy rains; never apply to frozen ground or conveyance channels; follow all applicable federal/state/tribal/local requirements).	2.3.5.a-f				\$600.00	
	F Failure to comply with any requirements for construction dewatering: appropriate treatment; no visible floating solids or foam; use of oil-water separator or suitable filtration device when required; use of vegetated upland areas for infiltration; compliance with velocity dissipation requirements (Part 2.2.11); haul away or return backwash water to the beginning of the treatment process; and/or replace/clean filter media when required.	2.4				\$600.00	
31	<b>SMALL BUSINESS EVALUATION</b>					Yes or No	
	Is the Owner/Operator a Small Business?						
	A <i>small business</i> is defined by EPA's Small Business Compliance Policy as: "a person, corporation, partnership, or other entity that employs 100 or fewer individuals (across all facilities and operations owned by the small business)." The number of employees should be considered as full-time equivalents on an annual basis, including contract employees (see 40 CFR 372.3). A full time employee unit is 2000 hours worked per year.						
						<b>Total Expedited Settlement:</b>	<b>\$4,800</b>