

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Jeffrey Norcross 9/21/12
Name of Case Attorney Date

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

Case Docket Number CWA-01-2011-0118

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 Braintree, MA
One JFK Memorial Drive
Braintree, MA 02184

Total Dollar Amount of Receivable \$ 1,500 Due Date: 9/30/12

SEP due? Yes No Date Due _____

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
SEP 21 2012
EPA ORC WS
Office of Regional Hearing Clerk

BY HAND

September 21, 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 Braintree, MA
Docket No. CWA-01-2011-0118

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: Carolyn M. Murray, Town Solicitor, Town of Braintree



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

RECEIVED
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Docket Number: CWA-01-2011-0118

The Town of Braintree, 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 an annual report on its MS4 program due on 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 **\$1,500**. 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 noted ("Town of Braintree, Massachusetts - Docket No. CWA 01-2011-0118"), 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 shall submit a copy of the check to: Regional Hearing Clerk, U.S. EPA-Region 1, 5 Post Office Square, Suite 100 (ORA 18-1), Boston, MA 02109. 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 BRAINTREE,
 MASSACHUSETTS:

Name(print): Joseph C. Sullivan
 Title(print): Mayor
 Signature: [Signature] Date: 7-18-12

APPROVED BY EPA:

[Signature] Date: 7/30/12
 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: 9/20/12
 LeAnn Jensen
 Acting Regional Judicial Officer

RECEIVED
SEP 21 2012
EPA ORC WS
Office of Regional Hearing Clerk

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

Attachment to Expedited Settlement Agreement
Braintree, Massachusetts
Docket No. CWA 01-2011-0118
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 install and maintain a rain garden located at the Braintree Municipal Golf Course in accordance with the attached Scope of Work (Exhibit A). Respondent agrees to spend, at a minimum, \$5,625 on such SEP and to complete the SEP no later than September 30, 2012.

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. Respondent specifically certifies as follows:

It is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. To the best of Respondent's knowledge and belief after reasonable inquiry, there is no such open federal transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not yet expired.

SEP Completion Report

By October 31, 2012, Respondent shall submit a SEP Completion Report to Jeffrey Norcross, Paralegal, U.S. EPA-Region 1, 5 Post Office Square, Suite 100 (OES04-4), Boston, MA 02109. 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 description of the environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible).

Failure to Complete SEP

In the event that Respondent fails to complete the SEP as outlined above, Respondent shall pay \$5,625.

To the extent that Respondent's expenditures do not equal or exceed the \$5,625 minimum cost of the SEP, Respondent shall be liable for paying the difference between the \$5,625 amount Respondent agreed to spend and Respondent's actual SEP expenses.

The determination of whether the Respondent has satisfactorily completed the SEP shall be in the sole discretion of EPA.

Public Statements Regarding the SEP

Any public statement, oral or written, in print, film, or other media, made by Respondent referring to the SEP shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for a violation of Section 301 of the Clean Water Act, 33 U.S.C. § 1311(a)."

SCOPE OF WORK – TOWN OF BRAINTREE, MA

In accordance with the foregoing Expedited Settlement Agreement and Supplemental Environmental Project (SEP) Attachment, Respondent Town of Braintree (the “Town”) shall complete the SEP as follows:

The Town will oversee a five-phase project to install and maintain a rain garden located at the Braintree Municipal Golf Course. The rain garden will allow for the capture of runoff water from the adjacent parking lot and therefore prevent polluted storm water from going down the storm drain. Instead, the runoff water that is captured in the rain garden will be naturally filtered as it seeps through the ground thereby reducing pollutant transport and the amount of chemicals needed to treat the water.

SCHEDULE AND ESTIMATED COSTS

Phase I: Design and Planning

The Town will utilize the guidelines and design considerations set out in *A Community Guide to Growing Greener* published by the Massachusetts Watershed Coalition to create an effective and appropriate design plan for the rain garden. The Town will then determine which trees, plants, grasses, shrubs and the like will be used for the rain garden. The Town will reference the lists of recommended plantings in *A Community Guide to Growing Greener* in making these determinations to ensure that the vegetation selected is suitable for the climate in which it will be located. Also, the Town will design the layout of where the vegetation will be placed in the rain garden so as to maximize effectiveness and aesthetic appeal.

The Town will construct a rain garden on the grounds of the Braintree Municipal Golf Course on a 10 foot by 120 foot area located at the corner of Jefferson Street and the entrance to the parking lot for the golf course. The topography of the proposed area is sloped from an elevation of approximately 112 feet to 108 feet in the direction of the catch basin. Currently, irrigation from the golf course drains towards the parking lot and pools in a swale that drains to the Monatiquot River. The Town will take advantage of this swale in the design of the rain garden by incorporating terraces at different tiers consistent with the natural slope. The Town will excavate the area to an appropriate trench depth to create a flat base with a sufficient slope for drainage. The Town will install two perforated pipes at the base of the rain garden, which will connect to form a “T” to disburse any overflow discharge to adjacent turf grass for further filtration. A layer of gravel will be poured over and level to this pipe. The Town will fill the basin with a compost/sand/topsoil mix as follows: 40% sandy soil per ASTM D422, 20-30% topsoil and 30-40% compost. Thereafter, the Town will plant suitable plants for this location.

Phase I Net Cost: \$0 as design and planning done in-house by the Town Engineer, Golf Course Superintendent, and Conservation Agent

Phase II: Purchase

The Town will fund the purchase of the vegetation, mulch and other related materials that are necessary for the rain garden. The Town will purchase the vegetation from a vendor to be determined through the appropriate procurement process under Massachusetts law.

Phase II Net Cost: \$6,600

Phase III: Installation

The Town will receive and plant the vegetation, mulch and other related materials with the intent of installing them in a timely manner to minimize storage needs and to accelerate completion of the rain garden. To the extent practical, the Town will utilize employees of the Department of Public Works to complete the installation.

The Town will install a permanent sign in the rain garden to educate the public on the purpose and benefits of the garden. Possible text: "This rain garden is designed to capture rain water and let it soak into the ground. It will reduce flooding, replenish groundwater and remove pollutants that would otherwise flow to Monatiquot River."

Phase III Net Cost: \$0 as Town employees will provide the labor during normal work hours

Phase IV: Verification

By September 30, 2012, the Town shall verify that the rain garden has been installed through submission of a certificate and photos of the site to the EPA. Additionally, the Town will welcome the EPA to come inspect the site.

Phase IV Net Cost: \$0

Phase V: Maintenance

The Town shall provide for regular and annual maintenance of the rain garden including but not limited to: regular watering, trimming, cleaning and tending to the rain garden as well as annually re-mulching and replacing vegetation when necessary. The Town will provide training on rain garden maintenance and utilize employees of the Department of Public Works to perform the maintenance. The Town will purchase replacement mulch and vegetation from a vendor to be determined through the appropriate procurement process under Massachusetts law.

Phase V Net Cost: Undetermined but maintenance will be performed by Golf Course employees

Itemized Summary of Costs

Phase I: \$0

Phase II: \$6,600

Phase III: \$0

Phase IV: \$0

Total Minimum Net Cost for Project: \$6,600

ANTICIPATED ENVIRONMENTAL BENEFITS

The Town anticipates that the rain garden will have numerous environmental benefits. Rain gardens capture runoff and therefore prevent polluted storm water from going down the storm drain and out in natural bodies of water. The runoff captured in rain gardens is naturally filtered as it seeps down through the ground. This natural filtration reduces the amount of chemicals that are needed to treat the runoff. Rain gardens also help replenish aquifers and groundwater-fed rivers and ponds by recharging rainwater into the ground rather than down the storm drains. Additional benefits of rain gardens are that they provide local flood control, improve the quality of local surface waterways, provide a habitat for wildlife, return water to the water table, reduce soil erosion and enhance the beauty of the areas in which they are located.

In the Matter of: the Town of Braintree, MA
EPA Docket No. CWA-01-2011-0118

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:

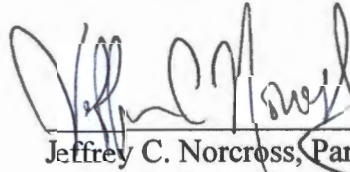
Original and one copy
hand-delivered:

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:

Carolyn M. Murray
Town Solicitor
Town of Braintree
One JFK Memorial Drive
Braintree, MA 02184

Dated: 9/21/2012



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



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

BY HAND

September 17, 2012

LeAnn Jensen
Regional Judicial Officer
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 Braintree, Massachusetts,
Docket No. CWA-01-2011-0118

Dear Ms. Jensen:

In accordance with 40 C.F.R. § 22.18(b), enclosed please find a Clean Water Act (“CWA”) Consent Agreement and Final Order (in the form of an Expedited Settlement Agreement) that has been signed by the parties and is now being submitted to you for approval. Consistent with 40 C.F.R. §§ 22.13(b) and 22.18(b), this Consent Agreement and Final Order both commences and concludes the matter referenced above.

The proposed penalty is consistent with the statutory penalty factors set forth in Section 309(g) of the CWA, 33 U.S.C. § 1319(g), as well as EPA’s settlement penalty policy for these types of violations. The settlement complies with EPA’s Supplemental Environmental Projects Policy.

Pursuant to 40 C.F.R. § 22.45, EPA was required to notify the public before assessing a civil penalty in any proceeding under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g). Accordingly, EPA has provided the public the opportunity to comment on this matter and received no comments on this proposed action. In accordance with § 22.45(c)(3), the Final Order is being submitted to you at least 10 days after the close of the public comment period.

Once the Final Order has been signed, EPA will file the fully executed CAFO with the Regional Hearing Clerk thereby resolving this matter.

Respectfully submitted,

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

Jeffrey C. Norcross
Paralegal

Enclosure

cc: Carolyn M. Murray, Town Solicitor, Town of Braintree
Wanda Santiago, Regional Hearing Clerk (w/o enclosure)