

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

This form was originated by: Nina Rivera 6/22/11
Name of Contact person *Date*

in the ORC Reg 3 at 215-814-2667
Office *Phone number*

Non-SF Jud. Order/Consent Decree. DOJ COLLECTS Administrative Order/Consent Agreement FMD COLLECTS PAYMENT

SF Jud. Order/Consent Decree. FMD COLLECTS

This is an original debt This is a modification

Name of Company making payment: Dominion Boulevard Partners LLC

The Total Dollar Amount of Receivable: \$51,000
(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number CWA-03-2011-0089

The Site-Specific Superfund Acct. Number n/a

The Designated Regional/HQ Program Office WPD

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
Name of Contact *Date*

in the Financial Management Office, phone number: _____

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

- | | |
|--|------------------------------|
| 1. Rosemarie Pacheco
Environmental Enforcement Section
Lands Division, Room 130044
1425 New York Avenue, N.W.
Washington, D.C. 20005 | 2. Originating Office (ORC) |
| | 3. Designated Program Office |

ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:

- | | |
|---------------------------|------------------------------|
| 1. Originating Office | 2. Designated Program Office |
| 3. Regional Hearing Clerk | |

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

IN THE MATTER OF:) Docket No. CWA-03-2011-0089
)
)
Dominion Boulevard Partners, LLC) CONSENT AGREEMENT
5299 Greenwich Road)
Virginia Beach, VA 23462) Proceedings under Section 309(g)
of the Clean Water Act

2011 SEP -9 AM 9:28
EPA REGION III PHILA. PA

RECEIVED

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This administrative proceeding for the assessment of civil penalties was initiated pursuant to Section 309(g) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(g). The action was instituted by issuance of an Amended Administrative Complaint and Notice of Opportunity to Request a Hearing ("Amended Complaint"), dated August 4, 2011. The Amended Complaint, which is incorporated herein by reference, alleges that Dominion Boulevard Partners, LLC ("Respondent") violated section 301 of the CWA, 33 U.S.C. § 1311, because it did not comply with certain requirements of its National Pollutant Discharge Elimination System ("NPDES") permit for discharges of stormwater from its construction site at Equestrian Estates North. The Complainant is the Director of the Water Protection Division, United States Environmental Protection Agency ("EPA"), Region III.

2. Respondent admits the jurisdictional allegations set forth in the Amended Complaint for the purpose of these proceedings.

3. Respondent hereby expressly waives its right to a hearing on any issue of fact or law set forth herein and consents to the issuance of the Consent Agreement and Final Order (jointly "CAFO") without adjudication.

4. Respondent waives any defenses it might have as to jurisdiction and venue. Respondent agrees not to contest EPA's jurisdiction to issue this CAFO and to enforce the terms of this CAFO.

5. Each party to this action shall pay its own costs and attorney fees.

6. The parties agree that settlement of this matter without further litigation is in the public interest and that entry of a CAFO is the most appropriate means of resolving this matter.

7. The provisions of this CAFO shall be binding upon the Complainant and the Respondent, its principals, officers, directors, successors and assigns.

II. FINDINGS OF FACT

8. EPA adopts the allegations contained in Paragraphs 2 through 37 of Section II. Factual Allegations, of the Amended Complaint, filed at Docket No. CWA-03-2011-0089, as the Findings of Fact herein. Respondent neither admits nor denies these Findings of Fact.

III. CONCLUSION OF LAW

9. Based on the Findings of Fact, EPA concludes that Respondent has violated its NPDES permit, and is therefore liable to the United States for a civil penalty in accordance with Section 309(g) of the Act, 33 U.S.C. § 1319(g). Respondent neither admits nor denies this Conclusion of Law.

IV. CONSENT AGREEMENT

10. Based on the foregoing and having taken into account the statutory factors enumerated in section 309(g)(3) of the Act, 33 U.S.C. § 1319(g)(3), EPA and Respondent hereby agree that Respondent will pay a penalty of fifty-one thousand dollars (\$51,000.00) in full and final settlement of EPA's claims for civil penalties for the violations alleged herein.

11. Within thirty (30) days of the effective date of this Order, Respondent shall pay the civil penalty of fifty-one thousand dollars (\$51,000) in the following manner:

A. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, CWA-03-2011-0089;

B. All checks shall be made payable to "United States Treasury";

C. All payments made by check and sent by regular mail shall be addressed

to:

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

Contact: Bryson Lehman 513 487 2123

D. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station SL MO C2 GL
St. Louis, MO 63101

Contact: 314 418 1028

E. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS NWD
26 W. M.L. King Drive
Cincinnati, OH 45268 0001

F. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account No. = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:

“D 68010727 Environmental Protection Agency”

G. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737
Contact: Jesse White 301 887 6548 or REX, 1 866 234 5681

H. On Line Payment Option:

WWW.PAY.GOV/PAYGOV

Enter sfo 1.1 in the search field. Open and complete the form.

I. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment.htm

J. A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to the following:

U.S. Environmental Protection Agency
Regional Hearing Clerk (3RC00)
1650 Arch Street
Philadelphia, Pennsylvania 19103 2029;

Mr. Mark Zolandz
U.S. Environmental Protection Agency
Region III (Mail Code 3WP42)
1650 Arch Street
Philadelphia, PA 19103 2029;

and

Nina Rivera
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC20)
1650 Arch Street
Philadelphia, PA 19103 2029

12. The penalty specified in paragraph 11 above shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.

13. Failure by Respondent to pay in full the penalty assessed by this CAFO by the due date may subject Respondent to a civil action to collect the assessed penalty.

14. The following notice concerns interest and late penalty charges that will accrue in the event that any portion of the civil penalty is not paid as directed:

Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this Consent Agreement and Final Order shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

Interest will begin to accrue on the civil penalty on the effective date of the Order. However, EPA will not seek to recover interest for individual installments where the debt is paid within the specified time period contained herein. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should

assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

15. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit. Nor does this CAFO constitute a waiver, suspension or modification of the requirements of the CWA, 33 U.S.C. §§ 1251, *et seq.*, or any regulations promulgated thereunder.

16. This Consent Agreement and the accompanying Final Order resolve only the civil claims for the specific violations alleged in the Amended Complaint issued in the above-captioned action. EPA reserves the right to commence action against any person, including Respondent, in response to any other condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules. Further, EPA reserves any rights and remedies available to it under the CWA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO.

17. Nothing in this CAFO shall be construed as prohibiting, altering or in any way eliminating the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violations of this CAFO or of the statutes and regulations upon which this CAFO is based or for Respondent's violation of any applicable provision of law.

18. EPA shall have the right to institute a new and separate action to recover additional civil penalties if EPA obtains evidence that the information and/or representations of Respondent made in connection with this settlement are false, or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action, civil or criminal, that EPA may have under law or equity in such event.

19. The undersigned representative of Respondent certifies that he is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

20. This CAFO may be executed in any number of counterpart originals, each of which shall be deemed to constitute an original agreement, and all of which shall constitute one agreement. The execution of one counterpart by any party shall have the same force and effect as if that party had signed all other counterparts.

21. All of the terms and conditions of this CAFO together comprise one agreement, and each of the terms and conditions is in consideration of all of the other terms and conditions. In the event that this CAFO, or one or more of its terms and conditions, is held invalid, or is not executed by all of the signatories in identical form, or is not approved in such identical form by the Regional Administrator or his designee, then the entire CAFO shall be null and void.

V. EFFECTIVE DATE

22. This CAFO will become final 30 days after it is filed, pursuant to 33 U.S.C. § 1319(g)(5).

FOR RESPONDENT DOMINION BOULEVARD PARTNERS, LLC:

By: 

Date: 8-9-11

Name: Eric C. Anderson

Title: Manager

FOR COMPLAINANT, THE U.S. ENVIRONMENTAL PROTECTION AGENCY

By:



Jon Capacasa
Director, Water Protection Division
U.S. EPA Region III

Date: SEP 01 2011

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1650 Arch Street
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IN THE MATTER OF:) Docket No. CWA-03-2011-0089
)
) CONSENT AGREEMENT
Dominion Boulevard Partners, LLC)
5299 Greenwich Road) Proceedings under Section 309(g)
Virginia Beach, VA 23462) of the Clean Water Act

FINAL ORDER


Complainant, the Director of the Water Protection Division, U.S. Environmental Protection Agency - Region III, and Respondent, Dominion Boulevard Partners, LLC, have executed a document entitled "Consent Agreement" which I hereby ratify as a Consent Agreement in accordance with the 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 ("Consolidated Rules of Practice"). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

NOW, THEREFORE, PURSUANT TO Section 309 of the Clean Water Act, *as amended*, 33 U.S.C. § 1319 ("CWA"), and the Consolidated Rules of Practice, and having determined that the penalty agreed to in the Consent Agreement is based on a consideration of the factors set forth in Section 309(g)(3) of the CWA, IT IS HEREBY ORDERED that Respondent pay a penalty of fifty-one thousand dollars (\$51,000.00) in the manner specified in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The foregoing Consent Agreement and this Final Order shall become final 30 days after they are filed with the Regional Hearing Clerk, pursuant to section 309(g)(5) of the Act, 33 U.S.C. § 1319(g)(5).

SEP 01 2011

Date


Shawn Garvin
Regional Administrator
U.S. Environmental Protection Agency, Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION III

CERTIFICATE OF SERVICE

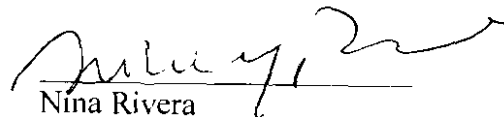
I certify that on the date noted below, I filed with the Regional Hearing Clerk, USEPA Region III (2 copies) and sent by first class mail, a copy of the Consent Agreement and Final Order to the following:

Hon. Barbara Gunning
Office of Administrative Law Judges
U.S. Environmental Protection Agency
Mail Code 1900L
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460-2001

Marina Liacouras Phillips
Kaufman & Canoles
P.O. Box 3037
Norfolk, Virginia 23514

Date:

9/9/11



Nina Rivera
USEPA, Region III
1650 Arch Street
Philadelphia, PA 19103