



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

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

Received by
EPA Region 1
Hearing Clerk

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-01-2022-0022, NPDES Permit No. MAR10010J

The undersigned representatives of the United States Environmental Protection Agency (EPA) and Martelli Construction Co., Inc., a Massachusetts corporation (Respondent), enter into this Expedited Settlement Agreement (Agreement) to resolve Respondent's civil penalty liability for alleged violations of the National Pollutant Discharge Elimination System stormwater permit cited above (Permit).

The EPA finds that: (1) Respondent failed to comply with the Permit, and the Permit was issued pursuant to section 402 of the Clean Water Act (Act), 33 U.S.C. § 1342; (2) Respondent is a "person" as defined in section 502(5) of the Act, 33 U.S.C. § 1362(5); and (3) Respondent is responsible for the alleged violations specified in the attached Expedited Settlement Offer Worksheet – Findings and Alleged Violations (Deficiencies Form). The Deficiencies Form is incorporated into this Agreement by reference.

The EPA also finds, and Respondent admits, that the EPA has jurisdiction over this matter pursuant to section 309(g) of the Act, 33 U.S.C. § 1319(g), and 40 C.F.R. part 22. Respondent neither admits nor denies the violations alleged in the Deficiencies Form.

Respondent agrees to pay a civil penalty of \$10,500 consistent with the attached Expedited Settlement Agreement Payment Instructions (Payment Instructions). Respondent waives the rights (1) to contest the allegations in the Deficiencies Form and (2) to appeal any final order an EPA Regional Judicial Officer may issue to ratify this Agreement (Final Order). The civil penalty will be due no later than 10 days after the issuance of the Final Order and shall be made in accordance with the attached Payment Instructions.

By signing this Agreement, Respondent certifies that: (1) the alleged violations listed in the Deficiencies Form have been corrected, and Respondent has submitted true and accurate documentation to the EPA of such correction; and (2) consistent with section 162(f)(1) of the Internal Revenue Code, 26 U.S.C. § 162(f)(1), Respondent will not deduct penalties paid under this Agreement for federal tax purposes.

This Agreement, upon incorporation into the Final Order and full satisfaction by the parties, shall be a complete and full resolution of Respondent's liability for federal civil penalties for the violations of the Permit and section 301(a) of the Clean Water Act alleged in the Deficiencies Form. This Agreement does not affect the right of the EPA or the United States to pursue

appropriate injunctive or other equitable relief or criminal sanctions for any violations of law or to issue an administrative compliance order, e.g., for any uncorrected violations listed in the Deficiencies Form. Nothing in this Agreement shall relieve Respondent of the duty to comply with the Act and any regulation, order, or permit issued pursuant to the Act.

Respondent agrees to acceptance of the Complainant's: i. digital or an original signature on this Agreement; ii. service of the fully executed Agreement on the Respondent by mail or electronically by e-mail. Respondent understands that the mailing or e-mail address may be made public when the Agreement and Certificate of Service are filed and uploaded to a searchable database. Complainant agrees to acceptance of the Respondent's digital or an original signature on this Agreement.

Prior to requesting that an EPA Regional Judicial Officer issue the Final Order, the EPA will provide public notice of this Agreement and a reasonable opportunity for the public to comment on it. The EPA will address any comments on this Agreement in accordance with section 309(g)(4) of the Act, 33 U.S.C. § 1319(g)(4), and 40 C.F.R. § 22.45.

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 Act, 33 U.S.C. § 1319(g)(5), following public noticing of this Agreement.

Attachments:

1. Deficiencies Form; 2. Payment Instructions

APPROVED BY THE EPA:

James Chow for Karen McGuire
Director, Enforcement and Compliance Assurance Division

APPROVED BY RESPONDENT:

Name (print): Clealand B. Blair, Jr.

Title (print): President

Signature:



Date: February 15, 2022

FINAL ORDER: More than 40 days have elapsed since the issuance of public notice pursuant to section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), and the EPA has received no comments concerning this matter.

Having determined that this Agreement is authorized by law,
IT IS SO ORDERED:

Date: _____

Hon. LeAnn Jensen
Regional Judicial Officer
US EPA REGION 1 - New England