

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-01-2011-0095

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:

James A. Kern
Town of Swansea, MA

Total Dollar Amount of Receivable \$ 1,500 Due Date: 10/21/12

SEP due? Yes No Date Due 5/31/13

Instalment 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

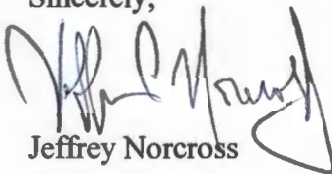
Re: In the Matter of: the Town of Swansea, MA
Docket No. CWA-01-2011-0095

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,


Jeffrey Norcross

Enclosures

cc: James A. Kern, Town Administrator, Town of Swansea



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).
Docket Number: CWA-01-2011-0095

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SEP 21 2012

EPA ORC WS
Office of Regional Hearing Clerk

The Town of Swansea, 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 two other 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 **\$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 ("In the Matter of the Town of Swansea, MA Docket No. CWA-01-2011-0095"), 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: (i)

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 SWANSEA, MASSACHUSETTS:

Name(print): JAMES A. KERIN
 Title(print): Town Administrator
 Signature: [Signature] Date: 7-26-12

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
Swansea, Massachusetts
Docket No. CWA 01-2011-0095
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 implement an unwanted/expired medicine collection program 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 May 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. 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 May 31, 2013, Respondent shall submit a SEP Completion Report to Jeffrey Norcross, Paralegal, at the addresses 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 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)."

TOWN OF SWANSEA
SEP SCOPE OF WORK

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

The Respondent will oversee a medication collection program designed to reduce the possibility that drinking water wells and surface waters will be polluted by medication flushed into septic systems. As detailed below, the SEP will fund a medicine collection event as well as the purchase of a locked medication receptacle and the transportation of medicines for disposal through incineration. Publicity is intended to maximize public participation in the Project.

SCHEDULE AND ESTIMATED COSTS

Phase I: Publicity About Medicine Collection Event

Beginning no later than 30 days following the date of the Regional Judicial Officer’s signature on the Expedited Settlement Agreement the respondent will undertake a publicity and public education campaign to promote awareness of the risk of flushing medicine into septic systems and to encourage Town residents to participate in the Town’s medicine collection program. Residents will be told to remove all personal information from the bottles but not the information identifying the drug. Under the Massachusetts Department of Environmental Protection (“DEP”) regulations, the program would be for residents only, no businesses, and proper record keeping must be maintained.

- Herald News and Spectator advertisements: \$1,000
- Flyers distributed through schools and posters: \$300

Phase I Net Cost \$1,300

Phase II: Medicine Collection Day

The Town will organize, publicize and staff a medicine collection event on a Saturday or similar convenient time prior to October 31, 2012. The town will measure, by weight, the quantity of medicines received and keep all records required by state and federal law.

- Four police officers, 5 hours: \$800
- Support personnel for traffic control: \$300
- Creation of posters advertising reasons for collection and collection site information: \$100

Phase II Net Cost \$1,200

Phase III: Transport for Disposal

Medicines will be transported via police cruiser with a police officer to the Haverhill, Mass Covanta facility to be incinerated. There is no cost for disposal.

Phase III Net Cost \$200

Phase IV: Long Term Collection

The Town will purchase a unit such as the “Medication Drug Collection Unit” for approximately \$900.00 and place the unit in the lobby of the police station. The collection unit functions similarly to a mailbox. The cover is opened and the item is placed on the back of the cover and slides into the container at the bottom of the box. The box can only be opened with a key and the cover is shaped such that it will prohibit retrieval of the item through the cover. When the box is full, the Town will weigh the contents and transport the medicine for disposal.

- Advertising : \$900
- Collection box in lobby of police station: \$900
- Five additional trips to Haverhill: \$1,025

Phase IV Net Cost..... \$2,825

Phase V: Reporting

By May 31, 2013, the Town shall report to EPA the pounds of medicine collected at the Medicine Collection Day and will verify the installation of the Medication Drug Collection Unit.

Phase V Net Cost..... \$100

Minimum Total Cost for Project..... **\$5,625**

ESTIMATED ENVIRONMENTAL BENEFITS

Prescription and over-the-counter drugs are chemicals which are foreign to the environment. In the past, there have been two recommended ways to dispose of unwanted drugs. The first was to remove the drug from its bottle and flush it down the toilet. This placed the drug into the septic system which function to return the water back into the groundwater and eventually into our ponds, streams, and rivers and aquifers, polluting our water supply and wells. The second method was to place the drugs into a sealed container and “hide” them in the trash. For trash which goes to landfills, the container can be broken or damaged or removed and dumped, which again allows the chemicals to mix with stormwater and slowly percolate into the ground polluting the groundwater and surface waters.

The population of the Town of Swansea, over the course of a few years, could generate thousands of pounds of unwanted prescription and over-the-counter drugs. The prescription drug recovery program will prevent those thousands of pounds of drugs from entering and polluting our environment by safely removing them to a facility where they would be incinerated or disposed of properly. Drugs cannot be collected at a traditional hazardous waste day program as only law enforcement officers may handle or transport prescription medications, under federal law.

In the Matter of: the Town of Swansea, MA
EPA Docket No. CWA-01-2011-0095

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:

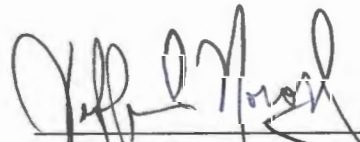
Original and one copy
hand-delivered:

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:

James A. Kern
Town Administrator
Town of Swansea
81 Main Street
Swansea, MA 02777

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
Acting 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 Swansea, MA, Docket No. CWA-01-2011-0095

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) (“CAFO”) 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 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 is 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: James A. Kern, Town Administrator, Town of Swansea
Wanda Santiago, Regional Hearing Clerk (w/o enclosure)