



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

DEC 14 2010

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Article Number: 7005 3110 0000 5939 4328

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2010 DEC 16 P 2:53
REGIONAL HEARING
CLERK

Marcedius T. Jameson, Administrator
Water and Land Use
New Jersey Department of Environmental Protection
P.O. Box 422
401 East State Street, 4th floor East
Trenton, NJ 08625-0422

Re: Notice of Complaint and Proposed Assessment of a Civil Penalty
Docket No. CWA-02-2011-3402
The Grande at Hanover, Whippany, New Jersey
NPDES Tracking No. NJU000792
The Grande at Springville, Mount Laurel, New Jersey
NPDES Tracking No. NJU000908

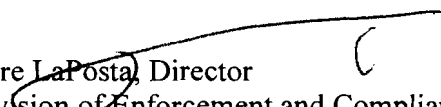
Dear Mr. Jameson:

Enclosed is a copy of the Complaint and Proposed Assessment of a Civil Penalty, which the United States Environmental Protection Agency ("EPA") has issued to D.R. Horton, LLC pursuant to §309(g) of the Clean Water Act ("Act"), 33 U.S.C. §1319(g). EPA has issued the Complaint to begin the process to administratively assess a civil penalty of \$170,814 against Respondent for ongoing violations of the Act.

Since the violations have occurred, and are occurring, in the State of New Jersey, EPA is offering you an opportunity to confer with us regarding the proposed assessment. You may confer with me at (212) 637-4000.

A copy of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (40 C.F.R. Part 22), is enclosed for your reference.

Sincerely,


Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

- Enclosures
1. Complaint
 2. CROP

cc: Karen Maples, Regional Hearing Clerk (w/Complaint only)

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.11
2010 DEC 16 P 2:53
REGIONAL HEARING
CLERK

IN THE MATTER OF:

D.R. Horton, LLC
700 East Gate Drive
Mount Laurel, New Jersey 08054

The Grande at Hanover, Whippany, New Jersey
NPDES Tracking No. NJU000792
The Grande at Springville, Mount Laurel, New Jersey
NPDES Tracking No. NJU000908

Respondent

Proceeding pursuant to Section 309(g) of the Clean
Water Act, 33 U.S.C. §1319(g)

**PROCEEDING TO ASSESS
A CLASS II CIVIL PENALTY**

DOCKET NO. CWA-02-2011-3402

**ADMINISTRATIVE COMPLAINT
FINDINGS OF VIOLATION, NOTICE OF PROPOSED
ASSESSMENT OF AN ADMINISTRATIVE PENALTY, AND
NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

I. STATUTORY AND REGULATORY AUTHORITY

1. This Administrative Complaint, Findings of Violation, Notice of Proposed Assessment of an Administrative Penalty, and Notice of Opportunity to Request a Hearing ("Complaint") is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 309(g)(2)(B) of the Clean Water Act ("Act" or "CWA"), 33 U.S.C. §1319(g)(2)(B). The Administrator has delegated this authority to the Regional Administrator of EPA, Region 2, who in turn has delegated it to the Director, Division of Enforcement and Compliance Assistance ("DECA") of EPA, Region 2 ("Complainant").
2. Pursuant to Section 309(g)(2)(B) of the Act, and in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits ("CROP"), 40 C.F.R. Part 22 (2001), a copy of which is attached, Complainant hereby proposes to assess a civil penalty against D.R. Horton, LLC ("Respondent"), as a result of Complainant's determination that the Respondent has violated, and continues to be in violation of, Sections 301 and 402 of the Act, 33 U.S.C. §§1311 and 1342, respectively, for failure to obtain and comply with the New Jersey Pollutant Discharge Elimination System ("NJPDES") Construction Activity Stormwater General Permit No. NJG0088323 ("CGP") on construction sites it owns and operates.

II. DEFINITIONS AND STATUTORY PROVISIONS

3. Section 301(a) of the CWA, 33 U.S.C. §1311(a), provides, in relevant part, that "Except as in compliance with this section and [section 1342] of this title, the discharge of any pollutant by any person shall be unlawful."
4. The term "person" includes an individual, corporation, partnership, association or municipality, pursuant to Section 502(5) of the CWA, 33 U.S.C. §1362(5).
5. The term "discharge of a pollutant" means any addition of any pollutant to navigable waters from any point source, pursuant to Section 502(12) of the CWA, 33 U.S.C. §1362(12).
6. The term "pollutant" includes, among other things, solid waste, dredged spoil, rock, sand, cellar dirt, sewage, sewage sludge and industrial, municipal and agricultural waste discharged into water, pursuant to Section 502(6) of the CWA, 33 U.S.C. §1362(6).
7. The term "point source" means any discernible, confined and discrete conveyance, including, as relevant here, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container, pursuant to Section 502(14) of the CWA, 33 U.S.C. §1362(14).
8. The term "navigable waters" includes the waters of the United States pursuant to Section 502(7) of the CWA, 33 U.S.C. §1362(7).
9. Section 402 of the CWA, 33 U.S.C. §1342, authorizes the Administrator of EPA to grant a National Pollutant Discharge Elimination System ("NPDES") permit authorizing the discharge of storm water to waters of the United States, under certain conditions. A NPDES permit is required for storm water discharges associated with construction activity that results in the disturbance of land equal to or greater than one acre, or construction activity that results in the disturbance of less than one acre, but which is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than one acre. 40 C.F.R. §§122.26(b)(14)(x) and (b)(15)(i). The Section 402 permit program has been delegated to the State of New Jersey, so that proponents of construction storm water discharges may comply with the Act by obtaining a New Jersey Pollutant Discharge Elimination System ("NJPDES") permit from the New Jersey Department of Environmental Protection ("NJDEP"). 33 U.S.C. §1342(b).
10. Persons regulated under 40 C.F.R. §122.26(b)(14)(x) or 40 C.F.R. §122.26(b)(15)(i) may comply with the permit requirement of Section 402 of the CWA by obtaining coverage under New Jersey's Construction Activity Storm Water General Permit No. NJG0088323 (5G3) ("CGP"). The Construction Activity Storm Water General Permit Phase II went into effect on March 3, 2004 and was renewed on August 17, 2009.
11. Pursuant to 40 C.F.R. §§122.41(a) and 123.25(a)(12), permittees are required to comply with all conditions of their permit, and any permit noncompliance constitutes a violation of the CWA and is grounds for enforcement action.
12. Compliance with the New Jersey CGP requires the preparation of a Stormwater Pollution Prevention Plan ("SPPP") that consists of an erosion and sediment control component and a construction site waste control component. The SPPP requires, among other things, the implementation of stormwater best management practices ("BMPs"), weekly inspections, the

preparation and maintenance of weekly inspection reports, the maintenance of spill kits on site, and the preparation and maintenance of annual reports and certifications.

13. Section 309(a) of the CWA, 33 U.S.C. §1319(a) authorizes the Administrator to commence an administrative action for any violation of Section 301 of the CWA, 33 U.S.C. §1311, or any permit condition or limitation implementing, inter alia, Section 301, and contained in a permit issued under Section 402 of the CWA, 33 U.S.C. §1342.

III. FINDINGS OF VIOLATION

1. Respondent, D.R. Horton, LLC is a corporation, and is therefore a person within the meaning of Section 502(5) of the CWA, 33 U.S.C. §1362(5).

Hanover Site

2. Since April 5, 2005, Respondent has owned and operated a 16.3 acre construction site, called Grande at Hanover (“Hanover”), in Whippany, New Jersey, where Respondent has conducted, among other things, clearing, grading and excavation activities, resulting in the disturbance of greater than one acre of land. According to D.R. Horton officials, construction at the site is scheduled to be completed sometime in 2011.
3. Based on climatic data from the Northeast Regional Climate Center in Chatam, NJ weather station it rained 0.73” on April 8, 2005. Therefore, discharges of storm water associated with construction activity began on or before April 8, 2005.
4. Storm water runoff from Respondent’s Hanover site discharges to the Whippany River, a navigable water of the United States within the meaning of Section 502(7) of the CWA, 33 U.S.C. §1362(7).
5. D.R. Horton obtained CGP coverage for the Hanover site on February 10, 2010.
6. On October 14, 2009, EPA inspectors conducted a Compliance Evaluation Inspection (“CEI”) at the facility. At the time of the CEI, the EPA inspectors observed that construction activity resulting in the disturbance of greater than one acre of land was ongoing at the site, and, compounding Respondent’s failure to obtain a permit for its construction activities at the site between April 5, 2005 and February 10, 2010, EPA observed the following violations of the New Jersey CGP:
 - i. Part D of the CGP requires that a completed, signed, and certified Request for Authorization (RFA) for the project be available. The RFA was not available at the time of the October 14, 2009 CEI.
 - ii. Part E.1 of the CGP requires that a certified and executed SPPP be available, and that a copy of the SPPP be retained by the permittee for a period of at least 5 years after the completion of construction. A valid copy of the SPPP was not available at the time of the October 14, 2009 CEI.

7. During the CEI, the inspectors identified the following erosion and sediment control deficiencies, in violation of Parts E.1 (a) and (b):
 - i. Silt fencing was not installed and/or maintained in several areas of the site as required by the SPPP and the CGP;
 - ii. Construction entranceways were not installed and/or maintained in accordance with the SPPP and the CGP;
 - iii. The installation/implementation of the site's Best Management Practices (BMPs) was not documented in "BMP installation and sequence schedule" portion of the SPPP.
8. During the CEI, EPA inspectors identified the following construction site waste control deficiencies, in violation of Part E.1 (c) and the requirements set forth in Part J of the CGP:
 - i. Waste materials were observed on the ground in an area not identified in the SPPP. This waste was outside and presented a risk for storm water contamination. Waste material must be stored and disposed properly, and must be addressed in the SPPP;
 - ii. Concrete washout and/or waste material were observed on the ground surrounding the concrete washout basin, located near the retention basin discharge point. The facility failed to properly manage its waste in these areas as required by Part E.1.c of the Permit;
9. During the CEI, the inspectors found that the facility had failed to comply with Part E.3 by failing to conduct and document routine (minimum weekly) inspections of the facility.
10. During the CEI, the inspectors found that the facility had failed to comply with Part E.4 of the CGP by failing to prepare annual reports summarizing each inspection.
11. During the CEI, inspectors found that the facility had failed to comply with Part E.5 of the CGP by failing to report all areas of noncompliance described in the above findings of this Order and in the "Potential Noncompliance Items" section of the CEI report.
12. The Request for Authorization provided to EPA by the permittee failed to include the legal name and address of all known current owners and operating entities, in violation of Part D.4 (a) of the CGP.
13. During the CEI, the facility failed to provide all records that must be kept under the conditions of their NJPDES permit, in violation of Part F.1 (vi) of the NJ CGP. The following required records were unavailable during the inspection, in violation of the CGP:
 - i. The Waste Management portion of the SPPP required by Part E.1 of the CGP;
 - ii. The routine inspection reports as required by Part E.3 of the CGP;
 - iii. The annual reports and certifications as required by Part E.4 of the CGP;

- iv. The reports of noncompliance as required by Part E.5 of the CGP;

Springville Site

14. Since August 2, 2005, Respondent has owned and operated a 38.81 acre construction site called Grande at Springville ("Springville") in Mount Laurel, New Jersey, where Respondent has conducted, among other things, clearing, grading and excavation activities, resulting in the disturbance of greater than one acre of land.
15. Based on climatic data from the Northeast Regional Climate Center in Mt. Holly, NJ weather station it rained 1.12 inches on August 8, 2005. Therefore, discharges of storm water associated with construction activity began on or before August 8, 2005.
16. Storm water runoff from Respondent's Springville site discharges to Mason's Creek, a navigable water of the United States within the meaning of Section 502(7) of the CWA, 33 U.S.C. §1362(7).
17. D.R. Horton has not obtained CGP coverage for the Springville site.
18. On October 20, 2009, an EPA inspector conducted a Compliance Evaluation Inspection ("CEI") at the facility. At the time of the CEI, the EPA inspector observed that construction activity resulting in the disturbance of greater than one acre of land was ongoing at the site, and, compounding Respondent's failure to obtain a permit for its construction activities at the site, EPA observed the following violations of the New Jersey CGP:
 - i. Part D of the CGP requires that a completed, signed, and certified Request for Authorization (RFA) for the project be available. The RFA was not available at the time of the October 20, 2009 CEI.
 - iii. Part E.3 of the CGP requires that site inspections be conducted at a minimum of once per week. At the time of the October 20, 2009 CEI, site representatives informed EPA inspectors that weekly inspections had only been conducted at the site since December 30, 2008.
 - iii. Part E.4 of the CGP requires that the permittee prepare an annual report summarizing the weekly site inspections as well as a certification that the facility is in compliance with the SPPP and the permit. At the October 20, 2009 CEI, Respondent failed to have any annual reports and certifications for 2005 - 2008.
19. Based on the Findings above, Respondent violated Sections 301 and 402 of the Act, 33 U.S.C. §§1311 and 1342.

IV. NOTICE OF PROPOSED ORDER ASSESSING A CIVIL PENALTY

Based on the foregoing Findings of Violation, and pursuant to the authority of Section 309(g) of the Act, 33 U.S.C. §1319(g), and the Debt Collection Improvement Act of 1996, EPA, Region 2 hereby proposes to issue a Final Order Assessing Administrative Penalties (Final Order) to Respondent assessing a penalty of **\$170,814**. EPA determined the proposed penalty after taking into account the applicable factors identified at Section 309(g)(3) of the Act, 33 U.S.C. §1319(g)(3). EPA has taken account of the nature, circumstances, extent and gravity of the violation (or violations), and Respondent's prior compliance

history, degree of culpability, economic benefit or savings accruing to Respondent by virtue of the violations, and Respondent's ability to pay the proposed penalty. Based on the Findings set forth above, the Respondent is liable for **four (4) distinct violations of the Act, some of which have continued for at least one thousand seven hundred sixty-nine (1769) days.** EPA may issue the Final Order Assessing Administrative Penalties thirty (30) days after Respondent's receipt of this Notice, unless Respondent files an Answer to the Complaint within that time and requests a Hearing on this Notice pursuant to the following section.

V. PROCEDURES GOVERNING THIS ADMINISTRATIVE ACTION

The rules of procedure governing this civil administrative litigation have been set forth in the CROP, 40 C.F.R. Part 22. A copy of these rules accompanies this Complaint.

A. Answering The Complaint

Where Respondent intends to contest any material fact upon which the Complaint is based, to contend that the proposed penalty is inappropriate or to contend that Respondent is entitled to judgment as a matter of law, Respondent must file with the Regional Hearing Clerk of EPA, Region 2, both an original and one copy of a written Answer to the Complaint, and such Answer must be filed within thirty (30) days after service of the Complaint. 40 C.F.R. §22.15(a). The address of the Regional Hearing Clerk of EPA, Region 2, is:

**Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866**

Respondent shall also then serve one copy of the Answer to the Complaint upon Complainant and any other party to the action. 40 C.F.R. §22.15(a). Respondent's Answer to the Complaint must clearly and directly admit, deny, or explain each of the factual allegations that are contained in the Complaint and with regard to which the Respondent has any knowledge. 40 C.F.R. §22.15(b). Where Respondent lacks knowledge of a particular factual allegation and so states in the Answer, the allegation is deemed denied. 40 C.F.R. §22.15(b). The Answer shall also set forth: (1) the circumstances or arguments that are alleged to constitute the grounds of defense, (2) the facts that Respondent disputes (and thus intends to place at issue in the proceeding), (3) the basis for opposing the proposed relief and (4) whether Respondent requests a Hearing. 40 C.F.R. §22.15(b).

Respondent's failure to affirmatively raise in the Answer facts that constitute, or that might constitute, the grounds of a defense may preclude Respondent, at a subsequent stage in this proceeding, from raising such facts and/or from having such facts admitted into evidence at a Hearing.

B. Opportunity To Request A Hearing

If requested by Respondent in its Answer, a Hearing upon the issues raised by the Complaint and Answer may be held. 40 C.F.R. §22.15(c). However, even if Respondent does not request a Hearing, the Presiding Officer (as defined in 40 C.F.R. §22.3) may hold a Hearing if the Answer raises issues appropriate for adjudication. 40 C.F.R. §22.15(c).

Any Hearing in this proceeding will be held at a location determined in accordance with 40 C.F.R. §22.21(d). A Hearing of this matter will be conducted in accordance with the applicable provisions of the Administrative Procedure Act, 5 U.S.C. §§551-59, and the procedures set forth in Subpart D of 40 C.F.R. Part 22.

Should Respondent request a Hearing on this proposed penalty assessment, members of the public, to whom EPA is obligated to give notice of this proposed action, will have a right under Section 309(g)(4)(B) of the Act, 33 U.S.C. §1319(g)(4)(B), to be heard and to present evidence on the appropriateness of the penalty assessment. Should Respondent not request a Hearing, EPA will issue a Final Order, and only members of the public who submit timely comment on this proposal will have an additional thirty (30) days to petition EPA to set aside the Final Order and to hold a Hearing thereon. EPA will grant the petition and will hold a Hearing only if the petitioner's evidence is material and was not considered by EPA in the issuance of the Final Order.

C. Failure To Answer

If Respondent fails in any Answer to admit, deny, or explain any material factual allegation contained in the Complaint, such failure constitutes an admission of the allegation. 40 C.F.R. §22.15(d). If Respondent fails to file a timely [*i.e.* in accordance with the thirty (30)-day period set forth in 40 C.F.R. §22.15(a)] Answer to the Complaint, Respondent may be found in default upon motion by the Complainant. 40 C.F.R. §22.17(a). Default by Respondent constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations. 40 C.F.R. §22.17(a). Following a default by Respondent for a failure to timely file an Answer to the Complaint, any order issued therefore shall be issued pursuant to 40 C.F.R. §22.17(c).

Any penalty assessed in the default order shall become due and payable by Respondent without further proceedings thirty (30) days after the Default Order becomes final pursuant to 40 C.F.R. §22.27(c). 40 C.F.R. §22.17(d). If necessary, EPA may then seek to enforce such Final Order of Default against Respondent, and to collect the assessed penalty amount, in Federal court.

VI. INFORMAL SETTLEMENT CONFERENCE

Regardless of whether Respondent requests a formal Hearing, EPA encourages settlement of this proceeding consistent with the provisions of the Act and its applicable regulations. 40 C.F.R. §22.18(b). At an informal conference with a representative(s) of Complainant, Respondent may comment on the charges made in this Complaint and Respondent may also provide whatever additional information is believed to be relevant to the disposition of this matter, including: (1) actions Respondent has taken to correct any or all of the violations herein alleged, (2) any information relevant to Complainant's calculation of the proposed penalty, (3) the effect the proposed penalty would have on Respondent's ability to continue in business and/or (4) any other special facts or circumstances Respondent wishes to raise.

Complainant has the authority to modify its findings and/or the amount of the proposed penalty, where appropriate, in response to any relevant information previously not known to Complainant, that demonstrates that any of the findings herein are without merit, or that the proposed penalty is not warranted. Respondent is referred to 40 C.F.R. §22.18.

Any request for an informal conference or any questions that Respondent may have regarding this Complaint should be directed to:

Chris Saporita, Esq.
Assistant Regional Counsel
Water and General Law Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
Telephone (212) 637-3203

The parties may engage in settlement discussions regardless of whether Respondent has requested a Hearing. 40 C.F.R. §22.18(b)(1). Respondent's request for a formal Hearing does not prevent Respondent from also requesting an informal settlement conference; the informal conference procedure may be pursued simultaneously with the formal adjudicatory hearing procedure. A request for an informal settlement conference constitutes neither an admission nor a denial of any of the matters alleged in the Complaint. Complainant does not deem a request for an informal settlement conference as a request for a Hearing as specified in 40 C.F.R. §22.15(c).

A request for an informal settlement conference does not affect Respondent's obligation to file a timely Answer to the Complaint pursuant to 40 C.F.R. §22.15. No penalty reduction, however, will be made simply because an informal settlement conference is held.

Any settlement that may be reached as a result of an informal settlement conference shall be embodied in a written Consent Agreement. 40 C.F.R. §22.18(b)(2). And, in order to conclude the proceeding, a Final Order ratifying the parties' agreement to settle will be executed. 40 C.F.R. §22.18(b)(3). In accepting a Consent Agreement, Respondent waives its right to contest the allegations in the Complaint and waives its right to appeal the Final Order that is to accompany the Consent Agreement. 40 C.F.R. §22.18(b)(2).

Entering into a settlement through the signing of such Consent Agreement and complying with the terms and conditions set forth in such Consent Agreement and Final Order terminates this administrative litigation and these civil proceedings against Respondent (note that a new enforcement action may be initiated based on continued non-compliance). Entering into a settlement agreement does not extinguish, waive, satisfy or otherwise affect Respondent's obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

VII. RESOLUTION OF THIS PROCEEDING WITHOUT HEARING OR CONFERENCE

Instead of filing an Answer, Respondent may choose to pay the total amount of the proposed penalty (\$170,814) within thirty (30) days after receipt of the Complaint, provided that Respondent files with the Regional Hearing Clerk, Region 2 (at the address noted below), a copy of the check or other instrument of payment. 40 C.F.R. §22.18(a). A copy of the check or other instrument of payment should be provided to the EPA Attorney identified in Section VI above. Payment of the penalty assessed should be made by sending a cashier's or certified check payable to the "Treasurer, United States of America", in the full amount of the penalty assessed in this complaint to the following addressee:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000
Docket No. CWA-02-2011-3402

Wire transfers should be directed to the Federal Reserve Bank of New York

Federal Reserve Bank of New York
ABA = 021030004
Account = 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"

Pursuant to 40 C.F.R. §22.18(a)(3), if Respondent elects to pay the full amount of the penalty proposed in the Complaint within thirty (30) days of receiving the Complaint, then, upon EPA's receipt of such payment, the Regional Administrator of EPA, Region 2 (or, if designated, the Regional Judicial Officer), shall issue a Final Order in accordance with 40 C.F.R. §22.18(a)(3). In accordance with 40 C.F.R. §22.45(c)(3), no Final Order shall issue until at least ten (10) days after the close of the comment period on this Complaint. Issuance of a Final Order terminates this administrative litigation and the civil proceedings arising out of the allegations made in the Complaint (note that a new enforcement action may be initiated based on continued non-compliance). Further, pursuant to 40 C.F.R. §22.18(a)(3), the making of such payment by Respondent shall constitute a waiver of Respondent's right both to contest the allegations made in the Complaint and to appeal said Final Order to Federal court. Such payment does not extinguish, waive, satisfy or otherwise affect Respondent's obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

VII. FILING OF DOCUMENTS

The Answer and any Hearing Request and all subsequent documents filed in this action should be sent to:

Regional Hearing Clerk
U.S. Environmental Protection Agency
290 Broadway, 16th Floor
New York, New York 10007-1866

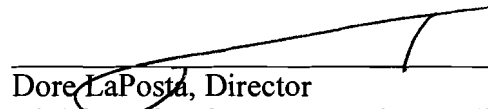
A copy of the Answer, any Hearing Request and all subsequent documents filed in this action shall be sent to:

Chris Saporita, Esq.
Assistant Regional Counsel
Water & General Law Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
Telephone (212) 637-3203
Fax: (212) 637-3199

VIII. GENERAL PROVISIONS

1. Respondent has a right to be represented by an attorney at any stage of these proceedings.
2. This Complaint does not constitute a waiver, suspension or modification of the requirements of the Act, regulations promulgated there under, or any applicable permit.
3. Neither assessment nor payment of an administrative civil penalty pursuant to Section 309(g) of the Act will affect Respondent's continuing obligation to comply with the Act, and with any separate Compliance Order issued under Section 309(a) of the Act, 33 U.S.C. §1319(a), for the violations alleged herein.

ISSUED THIS 14th DAY OF DECEMBER, 2010.



Dore LaPosta, Director
Division of Enforcement and Compliance Assistance
U. S. Environmental Protection Agency - Region 2
290 Broadway
New York, New York 10007

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

D.R. Horton, LLC
700 East Gate Drive
Mount Laurel, New Jersey 08054

The Grande at Hanover, Whippany, New Jersey
NPDES Tracking No. NJU000792
The Grande at Springville, Mount Laurel, New Jersey
NPDES Tracking No. NJU000908

Respondent

Proceeding pursuant to Section 309(g) of the Clean
Water Act, 33 U.S.C. §1319(g)

**PROCEEDING TO ASSESS
A CLASS II CIVIL PENALTY**

DOCKET NO. CWA-02-2011-3402

I certify that on _____, I served the foregoing fully executed Administrative Complaint, Findings of Violation, Notice of Proposed Assessment of an Administrative Penalty, and Notice of Opportunity to Request a Hearing, bearing the above referenced docket number, on the persons listed below, in the following manner:

Original and One Copy
By Hand:

Office of Regional Hearing Clerk
U.S. Environmental Protection Agency - Region 2
290 Broadway, 16th floor
New York, New York 10007-1866


Copy by Certified Mail
Return Receipt Requested:

D.R. Horton, LLC
700 East Gate Drive
Mount Laurel, New Jersey 08054

Copy by Certified Mail
Return Receipt Requested:

Marcedius T. Jameson, Administrator
Water and Land Use
New Jersey Department of Environmental Protection
P.O. Box 422
401 East State Street, 4th Floor East
Trenton, NJ 08625

Dated: 12/15/10


Secretary
New York, New York