

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I

RECEIVED

IN THE MATTER OF:

Town of North Providence,  
Department of Public Works  
2 Mafalda Street  
North Providence, RI 02904

DOCKET NO. CWA-01-2009-0093

Proposal to Assess  
Administrative Penalty  
Under Section 309(g) of  
the Clean Water Act

701 SEP 22 R 1:00

EPA ORC  
OFFICE OF  
REGIONAL HEARING CLERK

**ANSWER OF THE TOWN OF NORTH PROVIDENCE TO THE ADMINISTRATIVE  
COMPLAINT, FINDINGS OF VIOLATION, NOTICE OF PROPOSED ASSESSMENT  
OF A CIVIL PENALTY AND NOTICE OF OPPORTUNITY TO REQUEST A  
HEARING THEREON**

**I. STATUTORY AUTHORITY**

This paragraph states a legal conclusion as to which no response is required. To the extent that this Section I contains material factual allegations against the Town of North Providence (hereinafter, the "Town"), the Town denies such allegations.

**II. FINDINGS OF VIOLATIONS**

1. This paragraph states a legal conclusion as to which no response is required. To the extent that this Section II, Paragraph 1 contains material factual allegations against the Town of North Providence (hereinafter, the "Town"), the Town denies such allegations.

2. The Town admits that it owns a system of pumps and pipes the purpose of which is the collection of wastewater.

3. This paragraph states a legal conclusion as to which no response is required. To the extent that this Section II, Paragraph 3 contains material factual allegations against the Town of North Providence (hereinafter, the "Town"), the Town denies such allegations.

4. The Town admits receiving the 2008 Order, as this term is defined in the Complaint. The Town denies the remaining allegations contained in this Section II, Paragraph 4.

5. The Town admits receiving the 2009 Information Request, as this term is defined in the Complaint. The Town denies the remaining allegations contained in this Section II, Paragraph 5.

6. The Town admits receiving a letter from the EPA in March of 2009. The Town denies the remaining allegations contained in this Section II, Paragraph 6.

7. The Town denies the allegations contained in this Section II, Paragraph 7.

8. This paragraph states a legal conclusion as to which no response is required. To the extent that this Section II, Paragraph 8 contains material factual allegations against the Town of North Providence (hereinafter, the "Town"), the Town denies such allegations.

### **III. NOTICE OF PROPOSED ORDER ASSESSING A CIVIL PENALTY**

This paragraph states a legal conclusion as to which no response is required. To the extent that this Section III contains allegations against the Town, the Town denies such allegations.

### **IV. NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

This paragraph states a legal conclusion as to which no response is required. To the extent that this Section IV contains allegations against the Town, the Town denies such allegations.

**VI [sic].      PUBLIC NOTICE FOR CLEAN WATER ACT VIOLATION**

This paragraph states a legal conclusion as to which no response is required. To the extent that this Section VI contains allegations against the Town, the Town denies such allegations.

**VII [sic].      SETTLEMENT**

This paragraph states a legal conclusion as to which no response is required. To the extent that this Section VII contains allegations against the Town, the Town denies such allegations.

**DEFENSES**

The Town has made every effort to comply with each and every requirement in the EPA's order and request for information under the Clean Water Act, and is hampered by circumstances not within its control, primarily the lack of funding required in order to provide the data necessary to provide an accurate and adequate response. Moreover, the Town has expended significant effort to expend what resources it has on the most pressing matters associated with the Town's CMOM program, more particularly described in the Town's prior responses. The proposed penalty is excessive and unreasonable in light of the above-described circumstances, the negligible gravity of the alleged violation, the minimal degree of culpability and the lack of prior compliance history. A proper consideration of the factors related to this matter would result in a de minimus penalty, if any.

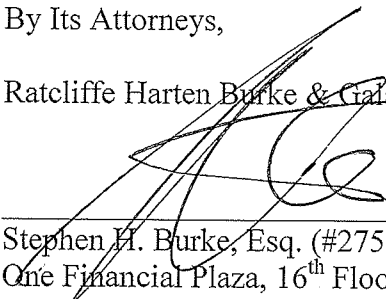
**REQUEST FOR HEARING**

Pursuant to Section 309(g) of the Clean Water Act, 33 U.S.C. §1319(g), the Town hereby requests a hearing on the proposed penalty assessment and findings of violations contained in

Section II and III of this Complaint, respectively, and, at such hearing, contest the allegations contained in this Complaint.

The Town of North Providence,  
By Its Attorneys,

Ratcliffe Harten Burke & Galamaga, LLP



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Stephen H. Burke, Esq. (#2759)  
One Financial Plaza, 16<sup>th</sup> Floor  
Providence, R.I. 02903  
(401)331-3400  
(401)331-3440 Fax

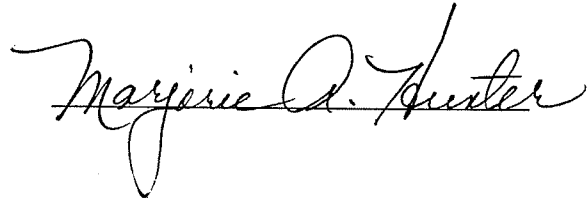
**CERTIFICATION**

I hereby certify on this 18<sup>th</sup> day of September, 2009, the foregoing was sent, in the form specified, via first class certified mail, return receipt requested to:

Original and One Copy to:  
Wanda Rivera  
Regional Hearing Clerk  
U.S. EPA – Region I  
One Congress Street, Suite 1100 (RAA)  
Boston, MA 02114-2023  
(Also sent via Federal Express)

One Copy to:  
Dean Albro, Chief  
Office of Compliance and Inspection  
Rhode Island Department of Environmental Management  
235 Promenade Street  
Providence, RI 02908-5767

One Copy to:  
Tonia Bandrowicz  
U.S. EPA – Region I  
One Congress Street, Suite 1100 (SEL)  
Boston, MA 02114-2023

A handwritten signature in cursive script that reads "Margie A. Hunter". The signature is written in black ink and is positioned to the right of the recipient address.

*2009-0093 Answer of Town.doc*



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

1 CONGRESS STREET, SUITE 1100  
BOSTON, MASSACHUSETTS 02114-2023

September 22, 2009

Honorable Susan L. Biro  
Chief, Administrative Law Judge (1900c)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

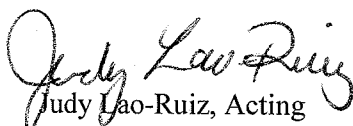
Re: In the Matter Town of North Providence, Department of Public Works, North Providence,  
MA

Docket No. CWA-01-2009-0093

Dear Judge Biro:

Pursuant to 40 C.F.R. 22.21(a) of the Consolidated Rules of Practice, I am transmitting a copy of the Complaint, Findings of Violation, Notice of Proposed Assessment of Civil Penalty and Notice of Opportunity to Request a Hearing, and Respondent's Answer. Please assign an Administrative Law Judge to serve as Presiding Officer.

Sincerely,

  
Judy Lao-Ruiz, Acting  
Regional Hearing Clerk

Enclosures

cc: Respondent(s)

Stephen H. Burke, Esq.  
Ratcliffe Harten Burke & Galamaga, LLP  
One Financial Plaza, 16<sup>th</sup> Floor  
Providence, RI 02903

Dean Albro, Chief  
Office of Compliance & Inspection  
RI DEM  
235 Promenade Street  
Providence, RI 02908-5767

Counsel for Complainant:

Tonia Bandrowicz  
Senior Enforcement Counsel  
Office of Environmental Stewardship (SEL)  
U.S. Environmental Protection Agency, Region 1  
One Congress Street, Suite 1100 (SEL)  
Boston, MA 02114-2023

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