

December 6, 2024 7:00 am

USEPA – Region II
Regional Hearing Clerk



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY – REGION 2
Enforcement and Compliance Assurance Division
290 Broadway
New York, New York 10007-1866
EXPEDITED STORM WATER SETTLEMENT AGREEMENT
Docket Number: CWA-02-2025-3306, Permit: NJG0321923

Asbury Farms ("Respondent") is a "person," within the meaning of Section 502(5) of the Clean Water Act ("Act"), 33 U.S.C. §1362(5), and 40 C.F.R. §122.2.

Attached is an "Expedited Settlement Offer Deficiencies Form" (herein the "Form"), which is incorporated by reference. By its signature, Complainant ("EPA") finds that Respondent is responsible for the deficiencies specified in the Form.

Respondent failed to install and/or maintain Best Management Practices ("BMPs") at the site, in violation of Sections 301 and 402 of the Clean Water Act, 33 U.S.C. §1311 and §1342, as described in the attached table.

EPA finds, and Respondent admits, that Respondent is subject to Section 301(a) of the Act, 33 U.S.C. §1311, and that EPA has jurisdiction over the allegations and any "person" who "discharges pollutants" from a "point source" to "waters of the United States." Respondent neither admits nor denies the allegation(s) specified in the Form.

EPA is authorized to enter into this Consent Agreement and Final Order ("Agreement") under the authority vested in the Administrator of EPA by Section 309(g)(2)(A) of the Act, 33 U.S.C. §1319(g)(2)(A), and by 40 C.F.R. §22.13(b). The parties enter into this Agreement in order to settle the civil violation(s) alleged in this Agreement for a penalty of \$6,000. Respondent consents to the assessment of this penalty and waives the right to: (1) contest the finding(s); (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 United States Government, that it has corrected any deficiencies identified in the Form, and to the best of its knowledge, is in compliance with the NPDES permitting program.

Respondent certifies that, within ten (10) days of receiving notice from EPA that the Agreement is effective ("So Ordered") it will send a bank, cashiers or certified check for the amount specified above payable to the "Treasurer, United States of America," via certified mail, to:

Regional Hearing Clerk
U.S. EPA, Region 2
In the Matter of: Asbury Farms
Docket No.: CWA-02-2025-3306
Cincinnati Finance Center, PO Box 979078
St. Louis, MO 63197-9000

This Agreement settles EPA's civil penalty claims against Respondent for the CWA violation(s) specified in this Agreement. However, EPA does not waive its rights to take any enforcement action against Respondent for any other past, present, or future civil or criminal violation 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 deficiencies or violation(s) described in the Form. EPA has determined this Agreement to be appropriate.

This Agreement is binding on the parties signing below and effective thirty (30) days from the date it is signed ("Approved") by the Director of the Enforcement and Compliance Assurance Division 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), and Part 22.

APPROVED BY EPA:

KATHLEEN ANDERSON
Date: 2024.10.21 13:48:48
Kathleen Anderson, Division Director
Enforcement and Compliance Assurance Division

APPROVED BY RESPONDENT in accordance with 40 C.F.R. §122.22:

Name: Richard C. Cotton
Asbury Farms
Signature: [Signature]
Date: 10/9/24

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 EPA has received no comments concerning this matter.

Having determined that this CAFO is authorized by law and is in the public interest,

IT IS SO ORDERED:

12/3/24
Kathleen Anderson, Division Director
Enforcement and Compliance Assurance Division