



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

VIA UPS MAIL

Jefferson Homebuilders, Inc.
Joseph R. Daniel, President
501 North Main Street
Culpeper, VA 22701

**Re: Culpeper Wood Preservers Site: Administrative Settlement
No. CERCLA-03-2020-0055DC: Demand for Stipulated Penalties**

Dear Mr. Daniel:

Pursuant to Section XVII (Stipulated Penalties) of the above-referenced settlement ("Settlement"), the U.S. Environmental Protection Agency ("EPA") hereby demands payment from Jefferson Homebuilders, Inc. ("JHB") of stipulated penalties in the amount of \$49,000.00 for violations of provisions of the settlement as described in this letter.

A. Violations for Which Stipulated Penalties Are Demanded

1. Performance of Work Without an EPA-Approved Design (BY06 and BY07)

JHB installed and maintained waterline connections for two properties in violation of the Settlement. Specifically, JHB connected properties BY06 and BY07 to the waterline despite the fact that EPA had not approved JHB's design for the project.

Paragraph 19.a of the Settlement required JHB to submit a Work Plan for the project. Paragraph 19.b makes clear that, once approved by EPA, the Work Plan is incorporated into and enforceable under the Settlement. On March 12, 2020, EPA approved JHB's Work Plan.

The Settlement, via Task 5 of the EPA-approved Work Plan, required that JHB submit a design for approval by EPA. In addition, the Settlement, via Task 7 of the EPA-approved Work Plan, requires that JHB perform the work required by the Settlement in accordance with the approved design.

Notwithstanding the lack of an EPA-approved design for such work, JHB connected Properties BY06 and BY07 to the waterline. For purposes of this letter, EPA is using the August 10, 2021 connection date reported by JHB's counsel (letter dated September 10, 2021) notwithstanding prior representations by JHB's contractor that the connection was made in July

2021. The connection was maintained until August 19, 2021, at which time JHB disconnected BY06 and BY07 from the waterline at the insistence of the Town of Culpeper.

Paragraph 19.c of the Settlement states that JHB “shall not commence or perform any Work except in conformance with the terms of this Settlement.” Paragraph 59 of the Settlement provides that EPA may demand stipulated penalties for violation of certain provisions of the Settlement, including Paragraph 19. EPA contends that by connecting BY06 and BY07 to the waterline and maintaining those connections without obtaining EPA approval of the design, JHB violated Paragraph 19.c of the Settlement and, therefore, stipulated penalties began to accrue as of the date JHB commenced such work. EPA calculates the stipulated penalties for this violation as follows:

Per Day Rate	Duration of Violation	Days of Violation	Stipulated Penalty
\$2,000	August 10-19, 2021	9	\$18,000
Total			\$18,000

Note that EPA, in its discretion, is combining two violations (BY06 and BY07) into a single violation for purposes of this stipulated penalty.

2. Failure to Comply With Approved Project Schedule: North Side of Brandy Road

The EPA-approved project schedule required that construction on the north side of Brandy Road commence on August 2, 2021. As of November 21, 2021, construction had not started. JHB did not provide EPA with a notice of delay or a request that a delay to this work be considered a *force majeure* event and did not request a change to the EPA-approved project schedule.

Paragraph 19.a of the Settlement required JHB to submit a Work Plan for the project. Paragraph 19.b makes clear that, once approved by EPA, (a) JHB was required to implement the Work Plan in accordance with a schedule approved by EPA, and (b) the Work Plan is incorporated into and enforceable under the Settlement. On March 12, 2020, EPA approved JHB’s Work Plan. That Work Plan contained a schedule which was modified following a request by JHB, dated March 23, 2021, to change the schedule. EPA approved the modified schedule that same day. The modified schedule established the start dates for construction of the project for the north and south sides of Brandy Road. Construction on the north side of Brandy Road was required thereby to start on August 2, 2021. This work started on November 22, 2021.

EPA contends that by not starting construction on the north side of Brandy Road on or before August 2, 2021, JHB violated the settlement. For purposes of this demand, EPA is demanding payment of stipulated penalties for the first 15 days of violation only.¹ EPA calculates stipulated penalties so demanded as follows:

¹ EPA is not waiving the remaining accrued penalties for this violation but does not demand them in this letter.

Per Day Rate	Duration of Violation	Days of Violation	Stipulated Penalty
\$2,000	August 3-17, 2021	14	\$28,000
\$3,000	August 18-19, 2021	1	\$3,000
Total			\$31,000

3. *Total Stipulated Penalties Demanded by This Letter*

The total stipulated penalty amount demanded by this letter is \$49,000, calculated as follows:

Violation	Amount
Violation 1	\$18,000
Violation 2	\$31,000
Total	\$49,000

B. Payment of Demanded Stipulated Penalties

Payment of stipulated penalties is due within thirty (30) days after receipt of this demand unless the applicable dispute resolution procedures are invoked within the 30-day period, in which case payment shall be due as described in the Settlement.

Payment of demanded penalties shall be made at <https://www.pay.gov>. Enter “sfo 1.1” in the search field to access EPA’s Miscellaneous Payment Form – Cincinnati Finance Center. Complete the form including the Culpeper Wood Preservers Site, EPA Docket No. CERCLA-03-2020-0055DC, and Site/Spill ID Number 03M3. Payment must indicate that the payment is for stipulated penalties.

At the time payment is made, send a notice of payment to the following:

1. Via email to: CINWD_AcctsReceivable@epa.gov;
2. Via email to: R3_Hearing_Clerk@epa.gov; and
3. Via email to: goldman.andrew@epa.gov.²

The payment and each notice required hereunder shall contain the paying party’s name, street/PO Box address, email address, and telephone number; EPA Docket No. CERCLA-03-2020-0055DC; the amount of the payment; and the method of payment. If payment is disputed, send a copy of the dispute notice to the addresses in 1-3, above.

² The settlement requirement to send such notice via regular mail is hereby waived.

Please contact Project Manager Evelyn Sorto of my staff at (215) 814-2123 or sorto.evelyn@epa.gov, or have your counsel contact EPA Sr. Assistant Regional Counsel Andrew Goldman at (215) 814-2487 or goldman.andrew@epa.gov, if you have any questions regarding this matter.

Sincerely,

Paul Leonard, Director
Superfund & Emergency Management Division
EPA Region 3
1650 Arch Street
Philadelphia, PA 19103

cc: Dan Jordanger, Esquire
Andrew Goldman (ORC)
Evelyn Sorto (SEMD)
[CINWD AcctsReceivable@epa.gov](mailto:CINWD_AcctsReceivable@epa.gov)
[R3 Hearing Clerk@epa.gov](mailto:R3_Hearing_Clerk@epa.gov)