



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

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II
2007 MAR 28 PM 2:41
REGIONAL HEARING
CLERK

MAR 27 2007

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Article Number: 7005 3110 0000 5971 3952

Bruce R. Becker, President
Becker & Becker Associates, Inc.
95 Reef Road
Fairfield, CT 06824

**Re: Docket No. CWA-02-2007-3407
Octagon Park Apartments of Roosevelt Island Construction Site
NPDES Storm Water Construction General Permit No. NYR-10G116**

Dear Mr. Becker:

Enclosed is a copy of the signed Expedited Settlement Offer ("ESO") Agreement entered into as part of the Consent Agreement and Final Order ("CAFO").

As you agreed to in this Expedited Storm Water Settlement Agreement, you must pay the settlement penalty amount (\$14,350) within ten (10) days from the date of receipt of this letter, which contains the agreement which has been "So Ordered" and is effective. You must send your original check and a copy of the Agreement, via certified mail, to:

Regional Hearing Clerk
U.S. EPA, Region 2
In the Matter of: Octagon Park Apartments
Docket No.: CWA-02-2007-3407
P.O. Box 360188M
Pittsburgh, PA 15251

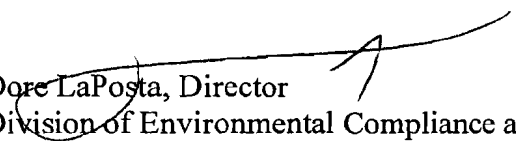
The payment for the penalty amount must be in the form of a bank, cashiers or certified check payable to the "Treasurer, United States of America" with EPA and the Docket Number of the Expedited Settlement Agreement written on the check.

A copy of the fully executed Expedited Settlement Offer and check payment of the penalty amount must also be sent via certified mail to Douglas McKenna, Chief, Water Compliance Branch, 290 Broadway, 20th Floor, New York, NY 10007 for our records.

Please note that once full payment is made this settles all civil penalties claims against you for the Clean Water Act violations issued in the CAFO.

If you have any questions concerning the above, please contact Mr. Douglas McKenna at (212) 637-4244.

Sincerely,


Dore LaPosta, Director
Division of Environmental Compliance and Assistance

Enclosure

cc: Joseph DiMura, NYSDEC
Tom Rudolph, NYSDEC Region 2



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY-Region 2

Division of Enforcement and Compliance Assistance

290 Broadway

New York, New York 10007-1866

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-02-2007-3407, NPDES No. NYR-10G116

ENVIRONMENTAL PROTECTION AGENCY-REG.II
2007 MAR 28 PM 2:41
REGIONAL HEARING CLERK

Becker & Becker Associates, Inc. ("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" ("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 retain a Storm Water Pollution Prevention Plan (SWPPP) on site, and failure to perform and document inspections at least once every seven (7) days in violation of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311, as described in the worksheet.

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 any "person" who "discharges pollutants" from a "point source" to "waters of the United States." Respondent neither admits nor denies the deficiencies 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 \$14,350. Respondent consents to the assessment of this penalty, and waives the right to: (1) contest the finding(s) specified in the Form; (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 any deficiencies identified in the Form have been corrected. Respondent shall submit a written report with this Agreement detailing the specific actions taken to correct the violations cited herein.

Respondent certifies that it has submitted a bank, cashiers, or certified check, with case name and docket number noted, 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

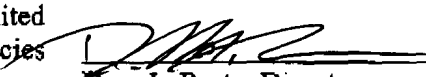
In the Matter of Becker & Becker Associates, Inc.

P.O. Box 360188M

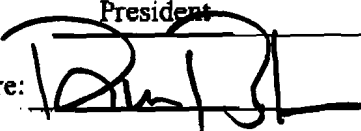
This Agreement settles EPA's civil penalty claims against Respondent for the Clean Water Act violation(s) specified in this Agreement. EPA does not waive its rights to take any enforcement action against Respondent for any other past, present, or future civil or criminal violation of the Act or of any 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 by the Presiding 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), and Part 22] or [upon filing with the Regional Hearing Clerk].

APPROVED BY EPA:

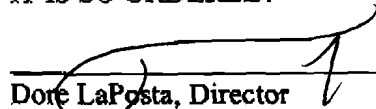
 Date: 2/6/07
Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

APPROVED BY RESPONDENT:

Name (print): Bruce R. Becker
Title: President
 Date: 1/23/07

[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 Agreement is authorized by law, IT IS SO ORDERED:

 Date: MARCH 27, 2007
Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

INSTRUCTIONS

EXPEDITED STORM WATER SETTLEMENT INSTRUCTIONS

Becker & Becker Associates, Inc.
Octagon Park Apartments
888 Main Street
Roosevelt Island, NY 10044
Docket Number: CWA-02-2007-3407

The United States Environmental Protection Agency (EPA) has authority under Section 309 of the Clean Water Act to pursue civil penalties for violations of the storm water regulations. EPA encourages the expedited settlement of certain easily verifiable violations of storm water requirements, such as the violations cited in the enclosed Expedited Settlement Agreement (the "Agreement") for which these instructions are provided. You may resolve this matter quickly by: (1) correcting all the deficiencies identify by EPA; (2) signing the original Agreement; and (3) submitting your penalty payment.

In order to settle this matter Becker & Becker Associates, Inc., should do the following:

1. Within thirty (30) days from your receipt of this Agreement you should send the original, signed Agreement (you should retain a copy for your records), with a certification that you will submit your penalty payment within ten (10) days from the date you received notice from EPA that the Agreement has been issued ("So Ordered"), and is effective, via certified mail, to:

United States Environmental Protection Agency, Region 2
Division of Enforcement and Compliance Assistance
Water Compliance Branch
290 Broadway, 20th Floor
New York, New York 10007-1866

Be aware that EPA will not accept or approve any Agreement returned more than 30 days after the date of your receipt. Once the Agreement has been fully executed ("So Ordered") by EPA it is binding on EPA and the owner or operator.

2. Within ten (10) days from the date you receive notice from EPA that the Agreement has been issued ("So Ordered"), and is effective, you must send your original check and a copy of the Agreement, via certified mail, to:

Regional Hearing Clerk
U.S. EPA, Region 2
In the Matter of: Octagon Park Apartments
Docket No.: CWA-02-2007-3407
P.O. Box 360188M
Pittsburgh, PA 15251

The payment for the penalty amount must be in the form of a bank, cashiers or certified check payable to the "Treasurer, United States of America" with EPA and the Docket Number of the Expedited Settlement Agreement written on the check. The Docket Number is located at the top of the Expedited Settlement Agreement.

3. A copy of the check payment of the penalty amount and the Agreement must be sent via certified mail to Douglas McKenna, Chief, Water Compliance Branch for our records.

If you choose not to sign and return the Agreement within 30 days of your receipt, the Agreement will be automatically withdrawn, without prejudice to EPA's ability to file an enforcement action for the above or any other violations. EPA may pursue more formal enforcement measures to correct the violation(s) and seek penalties of up to a maximum penalty of \$11,000 per day per violation for Administrative Cases.

Your return of the signed Agreement within the approved time does not relieve you of the responsibility to comply fully with the regulations, including correcting the violations that have been specifically identified in the Deficiencies Form.

By the terms of the Expedited Settlement Agreement, you waive your opportunity for a hearing pursuant to Section 309 of the Clean Water Act. EPA will treat any response to the proposed Expedited Settlement Agreement, other than acceptance of the settlement offer, as an indication that the recipient is not interested in pursuing this expedited settlement procedure.

If you have any questions, you may contact Mr. Douglas McKenna at (212) 637-4244.

Expedited Settlement Offer Worksheet

Deficiencies Form

Consult instructions regarding eligibility criteria and procedures prior to use

version 10.3.4



LEGAL NAME AND MAILING ADDRESS OF OPERATOR		Telephone Number	NPDES Permit Number
1	Bruce R. Becker, President Becker & Becker Associates, Inc. 95 Reef Road Fairfield, CT 06824	203-292-4922	NYR-10G116
		Inspector Name:	P. LI
		Inspector Agency:	US EPA
		Entrance Interview Conducted:	Yes
		Exit Interview Conducted:	Yes
		Exit Interview given to:	
		Exit Interview time:	Date:
LOCATION AND ADDRESS OF SITE			
2	Octagon Park Apartments 888 Main Street Roosevelt Island, NY 10044		

FACILITY DESCRIPTION / CONTACT NAMES			
Name of Site Contact (ESO Worksheet recipient):		Becker & Becker Associates, Inc.	
Name of Authorized Official (40 CFR 122.22):			
Inspection Date:		07/11/2006	
Start Construction Date:		11/01/2004	
Estimated Completion Construction Date:		09/01/2006	
If Unpermitted, Number of Months Unpermitted:			
Name of Receiving Water Body (Indicate whether 303(d) listed):		East River	
Acres Currently Disturbed Acres to be Disturbed in Whole Common Plan:		4.65-4.75 acres	
Has Operator Requested Rainfall Erosivity or TMDL Waiver per 44 CFR 122.26(b)(15)?		No	

PERMIT COVERAGE	Findings	Citation Reference**	R C A*	No. of Deficiencies	Dollar Amount	Total
3 Operator unpermitted for 17 months (# months unpermitted equals number of violations)		CWA 301			\$500.00 =	
SWPPP REVIEW						
4 SWPPP not prepared (If no SWPPP, leave elements 5 - 30 blank)		CGP 3.1.A			\$5,000.00 =	
5 SWPPP prepared but prepared after construction start (# of months = # of violations)		CGP 3.1.A			\$75.00 =	
6 SWPPP does not identify all potential sources of pollution to include: porta-pottys, fuel tanks, staging areas, waste containers, chemical storage areas, concrete cure, paints, solvents, etc...		CGP 3.1.B			\$250.00 =	
7 SWPPP does not identify all operators for the project site and the areas of the site over which each operator has control		CGP 3.3.A			\$500.00 =	
8 SWPPP does not have site description, as follows:						
A Nature of activity in description		CGP 3.3.B.1			\$100.00 =	
B Intended sequence of major activities		CGP 3.3.B.2			\$100.00 =	
C Total disturbed acreage		CGP 3.3.B.3			\$100.00 =	
D General location map		CGP 3.3.B.4			\$100.00 =	
E Site map		CGP 3.3.C			\$500.00 =	
F Site map does not show drainage patterns, slopes, areas of disturbance, locations of major controls, structural practices shown, stabilization practices, offsite materials, waste, borrow or equipment storage areas, surface waters, discharge points, areas of final stabilization (count each omission under 8F as 1 violation)		CGP 3.3.C.1-8			\$50.00 =	
G Location/description industrial activities, like concrete or asphalt batch plants		CGP 3.3.D			\$500.00 =	
9 SWPPP does not:						
A Describe all pollution control measures (e.g. BMPs)		CGP 3.4.A			\$750.00 =	

	B Describe sequence for implementation		CGP 3.4.A			\$250.00	=	
	C Detail operator(s) responsible for implementation		CGP 3.4.A			\$250.00	=	
10	SWPPP does not describe interim stabilization practices		CGP 3.4.B			\$250.00	=	
11	SWPPP does not describe permanent stabilization practices		CGP 3.4.B			\$250.00	=	
12	SWPPP does not describe a schedule to implement stabilization practices		CGP 3.4.B			\$250.00	=	
13	Following dates are not recorded: major grading activities; construction temporarily or permanently ceased; stabilization measures initiated (count each omission under 13 as 1 violation)		CGP 3.4.C.1-3			\$250.00	=	
14	SWPPP does not have description of structural practices to divert flows from exposed soils, retain flows, or limit runoff from exposed areas		CGP 3.4.D			\$500.00	=	
15	SWPPP does not have a description of measures that will be installed during the construction process to control pollutants in storm water discharges that will occur AFTER construction operations have been completed		CGP 3.4.E			\$500.00	=	
16	SWPPP does not describe measures to prevent discharge of solid materials to waters of the US, except as authorized by 404 permit		CGP 3.4.F			\$500.00	=	
17	SWPPP does not describe measures to minimize off-site vehicle tracking and generation of dust		CGP 3.4.G			\$500.00	=	
18	SWPPP does not include description of construction or waste materials expected to be stored on site w/updates re: controls used to reduce pollutants from these materials		CGP 3.4.H			\$250.00	=	
19	SWPPP does not have description of pollutant sources from areas other than construction (asphalt or concrete plants) w/ updates re: controls to reduce pollutants from these materials		CGP 3.4.I			\$500.00	=	
20	SWPPP does not identify allowable sources of non-storm water discharges listed in subpart 1.3.B of the CGP		CGP 3.5			\$500.00	=	
21	SWPPP does not identify/ensure implementation of pollution prevention measures for non-storm water discharges		CGP 3.5			\$500.00	=	
22	Endangered Species Act documentation is not in SWPPP		CGP 3.7			\$500.00	=	
23	Historic Properties (Reserved)							
24	Copy of permit and/or NOI not in SWPPP (count each omission under 24 as 1 violation)		CGP 3.8			\$250.00	=	
25	SWPPP is not consistent with requirements specified in applicable sediment and erosion site plans or site permits, or storm water management plans or site permits approved by State, Tribal or local officials (e.g., MS4 requirements)		CGP 3.9			\$750.00	=	
26	SWPPP has not been updated to remain consistent with changes applicable to protecting surface waters in State, Tribal or local erosion plans		CGP 3.9			\$250.00	=	
27	Copies of inspection reports have not been retained as part of the SWPPP for 3 years from date permit coverage terminates		CGP 3.10.G			\$500.00	=	
28	SWPPP has not been updated/modified to reflect change at site effecting discharge, or where inspections identify SWPPP/BMPs as ineffective, updates to SWPPP regarding modifications to BMPs not made within 7 days of such inspection (count each omission under under 28 as 1 violation)		CGP 3.11.C			\$50.00	=	
29	Copy of SWPPP not retained on site		CGP 3.12.A		1	\$500.00	=	\$500
	A SWPPP not made available upon request		CGP 3.12.C			\$500.00	=	
30	SWPPP not signed/certified		CGP 3.12.D		1	\$500.00	=	\$500
Subtotal SWPPP Deficiencies								\$1,000

INSPECTIONS									
31	Inspections not performed and documented either once every 7 days, or once every 14 days and within 24 hours after storm event greater than 0.5 inches or greater (not required if: temp stabilization; runoff unlikely due to winter conditions; construction during arid periods in arid areas) (Count each failure to inspect and document as one violation).	Start of construction approx (Oct.) Nov. 2004. Date of inspection: July 11, 2006; 89 weeks.	CGP 3.10.A, 3.10.B		89	X	\$150.00	=	\$13,350
	No inspections conducted and documented (if True, then leave elements 32-39 blank)						True or False		
	Number of Inspections expected if performed every 7 days:	95							
	Number of Inspections expected if performed bi-weekly:	47							
	If known, number of days of rainfall of >0.5"								
32	Inspections not conducted by qualified personnel		CGP 3.10.D				\$50.00	=	
33	All areas disturbed by construction activity or used for storage of materials and which exposed to precipitation not inspected		CGP 3.10.E.				\$50.00	=	
34	All pollution control measures not inspected to ensure proper operation		CGP 3.10.E.				\$50.00	=	
35	Discharge locations are not observed and inspected		CGP 3.10.E.				\$50.00	=	
36	For discharge locations that are not accessible, nearby locations are not inspected		CGP 3.10.E.				\$50.00	=	
37	Entrance/exit not inspected for off-site tracking		CGP 3.10.E.				\$50.00	=	
38	Site inspection report does not include: date, name and qualifications of inspector, weather information, location of sediment/pollutant discharge, BMP(s) requiring maintenance, BMP(s) that have failed, BMP(s) that are needed, corrective action required including changes/updates to SWPPP and schedule/dates (count each omission under 38 as 1 violation)		CGP 3.10.G				\$50.00	=	
39	Inspection reports not properly signed/certified (count each failure to sign/certify as 1 violation)		CGP 3.10.G				\$50.00	=	
Subtotal Inspections Deficiencies									\$13,350
AVAILABILITY OF RECORDS									
40	Sign/notice not posted		CGP 3.12.B				\$250.00	=	
	A Does not contain copy of complete NOI		CGP 3.12.B				\$50.00	=	
	B Location of SWPPP or contact person for scheduling viewing times where on-site location for SWPPP unavailable not noted on sign		CGP 3.12.B				\$50.00	=	
Subtotal Records Deficiencies									\$0
BEST MANAGEMENT PRACTICES									
41	No velocity dissipation devices located at discharge locations or outfall channels to ensure non-erosive flow to receiving water		CGP 3.13.F				\$500.00	=	
42	Control measures are not properly:								
	A Selected, installed and maintained		CGP 3.13.A		1	X	\$500.00	=	\$500
	B Maintenance not performed prior to next anticipated storm event		CGP 3.6.B				\$250.00	=	
	(count each failure to select, install, maintain each BMP as one violation)								
43	When sediment escapes the site, it is not removed at a frequency necessary to minimize off-site impacts		CGP 3.13.B				\$500.00	=	
44	Litter, construction debris, and construction chemicals exposed to storm water are not prevented from becoming a pollutant source (e.g. screening outfalls, pickup daily, etc.)		CGP 3.13.C				\$500.00	=	

45	Stabilization measures are not initiated as soon as practicable on portions of the site where construction activities have temporarily or permanently ceased within 14 days after such cessation		CGP 3.13.D		\$500.00	=	
	*Exceptions:						
	(a) Snow or frozen ground conditions						
	(b) Activities will be resumed within 14 days						
	(c) Arid or Semi-arid areas (<20 inches per						
46	Common Drainage of 10+ acres does not have a sedimentation basin for the 2 year, 24 hour storm, or 3600 cubic ft. storage per acre drained		CGP 3.13.E.1		\$1,000.00	=	
	A Where sedimentation basin not attainable, smaller sediment basins, sediment traps, or erosion controls not implemented for downslope		CGP 3.13.E.2		\$1,000.00	=	
	B Sediment not removed from sediment basin or traps when design capacity reduced by 50% or more		CGP 3.6.C		\$500.00	=	
47	Common Drainage less than 10 acres does not have sediment traps, silt fences, vegetative buffer strips, or equivalent sediment controls for all down slope boundaries (not required if sedimentation sediment basin meeting criteria in 46 above)		CGP 3.13.E.3		\$500.00	=	
	A Sediment not removed from sediment trap when design capacity reduced by 50% or more		CGP 3.6.C		\$500.00	=	
					Subtotal BMP Deficiencies		\$500
SMALL BUSINESS EVALUATION							
48	Is the Owner/Operator a Small Business? A <i>small business</i> is defined by EPA's Small Business Compliance Policy as: "a person, corporation, partnership, or other entity that employs 100 or fewer individuals (across all facilities and operations owned by the small business)." The number of employees should be considered as full-time equivalents on an annual basis, including contract employees (see 40 CFR 372.3). A full time employee unit is 2000 hours worked per year.						
					Total Expedited Settlement:		\$14,850
<p>* Requires Corrective Action</p> <p>** NPDES General Permit, 68 FR 39087, issued by EPA on July 1, 2003, http://cfpub.epa.gov/npdes/stormwater/cgp.cfm</p>							

In the Matter of: Octagon Park Apartments
Docket No. CWA-02-2007-3407

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing fully executed CONSENT AGREEMENT and FINAL ORDER, bearing the above-referenced docket number, in the following manner to the respective addresses below:

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:

Mr. Bruce R. Becker, President
Becker & Becker Associates, Inc.
95 Reef Road
Fairfield, CT 06824

Dated: 3/27/07
New York, New York

Marie St. Germain