



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

NEW ENGLAND OFFICE
One Congress Street, Suite 1100 (SEW)
Boston, Massachusetts 02114-2023

DELIVERED BY HAND

June 1, 2010

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
One Congress Street
Suite 1100 (Mail Code: RAA)
Boston, MA 02114-2023

Re: In the Matter of: J. Derenzo Company
CWA-01-2010-0006

Dear Ms. Santiago:

Enclosed please find the original and one copy of a Consent Agreement and Final Order ("CAFO") settling the above-captioned case. The CAFO has been signed by the parties and approved by the Regional Judicial Officer.

Sincerely,

Andrew Spejewski
Environmental Engineer

Enclosure

cc: David Howe, J. Derenzo Company

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CLERK

In the Matter of: J. Derenzo Company
CWA-01-2010-0006

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Consent Agreement and Final Order was sent to the following persons, in the manner specified, on the date below:

Original and one copy,
hand-delivered to:

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
One Congress Street
Suite 1100 (Mail Code: RAA)
Boston, MA 02114-2023

Copy by Registered Mail to:

David Howe, Owner
J. Derenzo Company
338 Howard Street
Brockton, MA

Copy by First Class Mail to:

Richard Chalpin, Regional Director
Massachusetts DEP
205B Lowell Street
Wilmington, Massachusetts 01887

Dated: June 1, 2010



Andrew Spejewski
U.S. EPA, Region 1
One Congress Street
Suite 1100 (Mail Code: SEW)
Boston, MA 02114-2023
617-918-1014



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1, 5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-01-2010-0006

J. Derenzo Company ("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.

In the Matter of: J. Derenzo Company, Docket No. CWA-01-2010-0006, Cincinnati Finance Center, P.O. Box 979077, St. Louis, MO 63197-9000

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.

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.

Respondent had an unauthorized discharge of storm water in violation of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311, and/or failed to comply with its National Pollutant Discharge Elimination System ("NPDES") storm water permit issued under Section 402 of the Act, 33 U.S.C. § 1342.

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 40 C.F.R. Part 22.

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.

APPROVED BY EPA:

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 \$6,100. 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).

Susan Studlien Date: 02/26/10
Susan Studlien
Director
Office of Environmental Stewardship

APPROVED BY RESPONDENT:

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.

Name (print): David Howe
Title (print): President
Signature: DOWO Date: 2/11/10

Within 10 days of the effective date of this Agreement, Respondent shall submit 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: U.S. EPA, Fines and Penalties,

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:

Jill Metcalf Date: May 20, 2010
Jill Metcalf
Acting Regional Judicial Officer

Expedited Settlement Offer Worksheet
Deficiencies Form
 Consult instructions regarding eligibility criteria
 and procedures prior to use

version 10.3.4



1	LEGAL NAME AND MAILING ADDRESS OF OPERATOR	Telephone Number	NPDES Permit Number	
	J. Derenzo Company, c/o David Howe & Tony Loconte, Co-owners 338 Howard Street Brockton, MA 02302	(781) 389-0395	MAR10D545†	
2	LOCATION AND ADDRESS OF SITE	Inspector Name:	Joseph Canzano, P.E.	
		Inspector Agency:	US EPA	
		Entrance Interview Conducted:	Yes	
		Exit Interview Conducted:	Yes	
		Exit Interview given to:	Eric J. Bray	
		Exit Interview time:	13:00	Date: 12/04/2009
† NPDES # issued to "20 Seyon Street, LLC; c/o Samuels Associates, 333 Newbury St, Boston, MA"				

FACILITY DESCRIPTION / CONTACT NAMES	
Name of Site Contact (ESO Worksheet recipient):	Eric J. Bray
Name of Authorized Official (40 CFR 122.22):	Joel Sklar, Samuels Associates, 333 Newbury St, Boston, MA
Inspection Date:	12/04/2009
Start Construction Date:	06/01/2009
Estimated Completion Construction Date:	05/01/2010
If Unpermitted, Number of Months Unpermitted:	6
Name of Receiving Water Body (Indicate whether 303(d) listed):	Walker Pond
Acres Currently Disturbed Acres to be Disturbed in Whole Common Plan:	7.00 15.00
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 Deficien- cies	Dollar Amount	Total
3 Operator unpermitted for 6 months (# months unpermitted equals number of violations)		CWA 301		6 X	\$500.00 =	\$3,000
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		X	\$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		1	\$500.00 =	\$500
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		X	\$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 =	

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).		CGP 3.10.A, 3.10.B			X	\$250.00	=	
	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:	26							
	Number of Inspections expected if performed bi-weekly:	13							
	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.	23			\$50.00	=	\$1,150
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	23		X	\$50.00	=	\$1,150
39	Inspection reports not properly signed/certified (count each failure to sign/certify as 1 violation)		CGP 3.10.G			X	\$50.00	=	
Subtotal Inspections Deficiencies									\$2,300
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				\$500.00	=	
	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	=	