



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

FEB 12 2010

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Article Number: 7005 3110 0000 5936 7766

Mr. Paul Wessels, President  
Applegate Industries  
P.O. Box 672  
Perth Amboy, New Jersey 08861

Re: Final Order/Expedited Settlement Agreement  
Fort Hamilton Athletic Fields, Pershing Loop Road, Fort Hamilton, New York  
Docket No. CWA-02-2010-3301  
NPDES Permit No. NYR10Q568

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2010 FEB 24 AM 9:52  
REGIONAL HEARING  
CLERK

Dear Mr. Wessels:

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 Two Thousand Two Hundred Dollars (\$2,200.00) 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: Applegate Industries  
Docket No.: CWA-02-2010-3301  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

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 check payment of the penalty amount must also be sent via certified mail, express mail or equivalent to Henry Mazzucca, P.E. Chief, Compliance Section, Water Compliance Branch, 290 Broadway, 20<sup>th</sup> 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.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY - REGION 2**  
**Division of Enforcement and Compliance Assistance**  
**290 Broadway**  
**New York, New York 10007-1866**

U.S. ENVIRONMENTAL  
 PROTECTION AGENCY-REGION II  
 2010 FEB 21 AM 9:52  
 REGIONAL HEARING  
 CLERK

**EXPEDITED STORM WATER SETTLEMENT AGREEMENT**  
**Applegate Industries, Docket Number: CWA-02-2010-3301, SPDES Permit No. NYR10Q568**

Applegate Industries ("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 comply with its Permit in violation of Section 301(a) 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 \$2,200.00. 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: Applegate Industries  
 Docket No.: CWA-02-2010-3301  
 Cincinnati Finance Center  
 PO Box 979077  
 St. Louis, MO 63197-9000

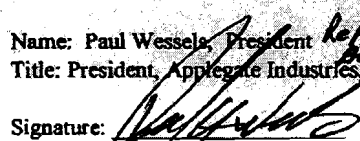
This Agreement settles EPA's civil penalty claims against Respondent for the CWA violation(s) specified in this Agreement. However, EPA does not waive its rights to take any enforcement action against Respondent for any other past, present, or future civil or criminal violation of the Act or of any other 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 Division of Enforcement and Compliance Assistance 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:


 Date: 12/1/09  
 Dore LaPosta, Director  
 Division of Enforcement and Compliance Assistance

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

Name: Paul Wessels, President *Rep. US Dept of Army*  
 Title: President, Applegate Industries, (Owner/Operator) *Buffield Project*  
 Signature:  Date: 11-19-09

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:  
 Date: 2/12/10  
 Dore LaPosta, Director  
 Division of Enforcement and Compliance Assistance

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

**IN THE MATTER OF:**

Applegate Industries  
P.O. Box 672  
Perth Amboy, New Jersey 08861

Docket No.CWA-02-2010-3301

Fort Hamilton Athletic Fields, Pershing Loop Road,  
Fort Hamilton, New York

NPDES Permit No. NYR10Q568

Respondent

Proceeding to Assess Civil Penalty Pursuant to  
Section § 309 (g) of the Clean Water Act, 33 U.S.C.  
§ 1319 (g)

**CERTIFICATE OF SERVICE**


I certify that, on the date noted below, I caused to be mailed a copy of this "CONSENT AGREEMENT AND FINAL ORDER" to the following person at the address listed below:

Mr. Paul Wessels, President  
Applegate Industries  
P.O. Box 672  
Perth Amboy, New Jersey 08861

I [hand carried/mailed] the original and a copy of this "CONSENT AGREEMENT AND FINAL ORDER" to the following person at the address listed below:

U.S. Environmental Protection Agency  
Regional Hearing Clerk (16<sup>th</sup> Floor)  
290 Broadway  
New York, N.Y. 10007-1866

Date: 2/23/10  
New York, New York

  
[Signature of Sender]