

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

In the Matter of:

FDD, Inc.,  
5261 Route 9W  
Newburgh, NY 12550

Respondent

In a proceeding under Section 1423(c) of the Safe  
Drinking Water Act, 42 U.S.C. § 300h-2(c)

Docket No. SDWA-02-2014-8902

**REPORT OF STATUS CONFERENCE AND ORDER**

The status teleconference in this matter was held on February 24, 2015. Participating were:

Presiding Officer:	Helen S. Ferrara
Respondent's Attorney:	Edward Carroll
Complainant:	Kara Murphy, Attorney
	Nicole Foley Kraft, Chief, Ground Water Compliance Section
	Frank Brock, Lead Environmental Scientist, Water Compliance Section

**Introduction:** The Presiding Officer requested that the parties' attorneys provide a general update on efforts to resolve this matter.

**Status:** In response to the Presiding Officer's query regarding the tenant history at the site, Mr. Carroll indicated that it appears there was a long term tenant who sublet the premises at

times. He agreed to get back to EPA with confirmation and more detail. He also stated that Respondent had not been able to visit the site due to recent weather conditions.

Ms. Murphy reiterated that EPA is still waiting for information from Respondent as to why the penalty should be lowered. Mr. Carroll responded that one of the individual owners of the site had committed suicide, and the other two are not in good health and are currently not in the position to make a counteroffer at this time.

Ms. Murphy asked whether Mr. Carroll intended to file an inability to pay claim on behalf of his client. Mr. Carroll said that was inevitable given the financial situation of Respondent, and asked that Ms. Murphy send him an email outlining the documentation that would be necessary to support such a claim.

Mr. Carroll stated that when his client's situation improves and the weather gets better, his client would be in the position to make a counter offer. In addition, FDD and EPA would then be able to schedule a final closure of the tank.

The parties agreed that it was in the best interest of all parties to schedule a follow up status teleconference to inform the Undersigned of their progress in resolving this matter.

**IT IS ORDERED:**

**A status teleconference is scheduled for Tuesday, March 24, 2015 at 10:00AM.**

**Dated: February 26, 2015**

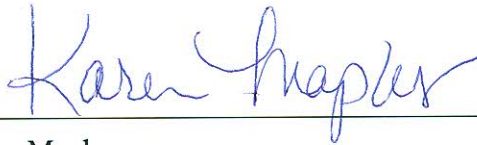
  
Helen S. Ferrara  
Presiding Officer

CERTIFICATE OF SERVICE

I hereby certify that the **Report of Status Conference and Order** by Regional Judicial Officer Helen Ferrara in the matter of **FDD, Inc., Docket No. SDWA-02-2014-8902**, was served on the parties as indicated below:

First Class Mail - Edward J. Carroll  
2733 Route 209  
Kingston, New York 12401

Inter Office Mail: Kara Murphy, Esq.  
Assistant Regional Counsel  
USEPA - Region II  
290 Broadway, 16<sup>th</sup> Floor  
New York, New York 10007-1866



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Karen Maples  
Regional Hearing Clerk  
USEPA - Region II

Dated: February 26, 2015