

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Jeffrey Norcross 3/2/12  
Name of Case Attorney Date

in the ORC (RAA) at 918-1113  
Office & Mail Code Phone number

Case Docket Number CWA-01-2011-0116

Site-specific Superfund (SF) Acct. Number \_\_\_\_\_

This is an original debt  This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Town of Westport, MA  
55 Main St.  
Westport MA 01886

Total Dollar Amount of Receivable \$ 1,500 Due Date: 4/9/12

SEP due? Yes  No  Date Due \_\_\_\_\_

Installment Method (if applicable)

INSTALLMENTS OF:

- 1<sup>ST</sup> \$ \_\_\_\_\_ on \_\_\_\_\_
- 2<sup>nd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_
- 3<sup>rd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_
- 4<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_
- 5<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

For RHC Tracking Purposes:

Copy of Check Received by RHC \_\_\_\_\_ Notice Sent to Finance \_\_\_\_\_

**TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

IFMS Accounts Receivable Control Number \_\_\_\_\_

If you have any questions call: \_\_\_\_\_  
in the Financial Management Office

Phone Number \_\_\_\_\_



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I

5 Post Office Square, Suite 100  
Boston, Massachusetts 02109-3912

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2012 MAR -2 A 10: 27

EPA ORC  
OFFICE OF  
REGIONAL HEARING CLERK

**BY HAND**

March 2, 2012

Wanda Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency - Region I  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

Re: In the Matter of: the Town of Westport, MA  
Docket No. CWA-01-2011-0116

Dear Ms. Santiago:

In accordance with 40 C.F.R. §§ 22.13(b), 22.18(b)(2), and 22.45(c)(3), enclosed please find the original and one copy of the fully executed Consent Agreement and Final Order (in the form of an Expedited Settlement Agreement) resolving the above-referenced case.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeffrey Norcross".

Jeffrey Norcross

Enclosures

cc: John J. Goldrosen, Esq., Kopelman and Paige, P.C.



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

EXPEDITED SETTLEMENT AGREEMENT

Issued under Section 309(g)(2)(A) of the Clean Water Act, 33 U.S.C. § 1319(g)(2)(A)  
and 40 C.F.R. § 22.13(b).

Docket Number: CWA-01-2011-0116

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The Town of Westport, Massachusetts ("Respondent") is a "municipality" and a "person" discharging "pollutants" from "point sources" to "navigable waters," as those terms are defined in Section 502 of the Clean Water Act ("Act"), 33 U.S.C. § 1362. Respondent is an owner and operator of a regulated small Municipal Separate Storm Sewer System ("MS4") as defined at 40 C.F.R. §§ 122.26(b)(16) and 122.32(a), which is covered by the National Pollutant Discharge Elimination System ("NPDES") General Permit for Storm Water Discharges from Small Municipal Separate Sewer Systems ("Permit") issued under Section 402 of the Act, 33 U.S.C. § 1342, dated May 1, 2003, and continued in effect pursuant to 40 C.F.R. § 122.6.

EPA finds, and Respondent admits, that pursuant to Part III, F.1. of the Permit, Respondent was required to submit an Annual Report on May 1, 2011 and Respondent failed to submit this Annual Report in violation of the Permit. Respondent also failed to submit an annual report on its MS4 program due on May 1, 2010 in a timely manner. By violating the terms and conditions of the Permit issued pursuant to Section 402 of the Act, Respondent has violated Section 301(a) of the Act, 33 U.S.C. § 1311(a).

For purposes of this proceeding, Respondent admits it is subject to the Permit and Section 402 of the Act and the regulations promulgated thereunder, and that EPA has jurisdiction over Respondent and Respondent's conduct as described above. Respondent admits to the facts and finding of violation stated above, and waives any objections it may have to EPA's jurisdiction in this matter.

The parties enter into this Expedited Settlement Agreement ("Agreement") in order to settle the civil violation alleged above. Pursuant to the Act, based on the nature of the violations, Respondent's agreement to perform a Supplemental Environmental Project ("SEP"), and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is in the amount of \$1,500. Respondent consents to the issuance of this Agreement and consents to the payment of such penalty and to the performance of the SEP as outlined in the attachments to this Agreement.

Respondent agrees that, within 10 days of the final date of this Agreement, Respondent shall submit a check, with case name and docket number noted ("In the Matter of the Town of Westport, MA Docket No. CWA-01-2011-0116"), for the amount specified above, payable to the "Treasurer, United States of America," via certified mail, to: U.S. EPA, Fines and Penalties, Cincinnati Finance Center, P.O. Box 979077, St. Louis, MO 63197-9000. Respondent further agrees to complete the SEP within the time frame set out in the attachments to this Agreement

Respondent consents to the assessment of the penalty and performance of the SEP stated herein, and waives its right to: (1) contest the findings of violation specified in this Agreement; (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 U. S. Government, that all required Annual Reports have been submitted to EPA, or will be submitted to EPA within 10 days of the final date of this Agreement (or an alternative time frame agreed to by EPA in writing).

This Agreement settles EPA's civil penalty claims against Respondent for the violation(s) specified above. EPA does not waive its rights to take enforcement action against Respondent for any other past, present, or future violation(s) 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 violation(s).

If Respondent does not sign and return this Agreement within 14 days of the date of its receipt, the proposed Expedited Settlement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violation(s) identified herein.

This Agreement is binding on the parties signing below and final 30 days from the date it is signed by the Regional Judicial 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), following public noticing of this settlement.

APPROVED BY THE TOWN OF WESTPORT,  
MASSACHUSETTS:

Name(print): RICHARD M. SPIRLET  
Title(print): CHAIRMAN - SELECTMAN  
Signature: [Signature] Date: Jan 9 2012

APPROVED BY EPA:  
[Signature] Date: 1/12/12  
Joanna Jerison, Legal Enforcement Manager  
Office of Environmental Stewardship

More than 40 days have elapsed since the public notice required by Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), and EPA has received no public comments concerning this matter.

IT IS SO ORDERED:  
[Signature] Date: 2/29/12  
Lee Ann Jensen  
Acting Regional Judicial Officer

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EPA ORC  
OFFICE OF  
REGIONAL HEARING CLERK

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1**

Attachment to Expedited Settlement Agreement  
Westport, Massachusetts  
Docket No. CWA 01-2011-0116  
Supplemental Environmental Project to be completed by Respondent

**Description of the SEP**

Respondent shall complete a supplemental environmental project ("SEP"), which the parties agree is intended to secure significant environmental or public health protection and improvements, and which requires the Respondent to fund the purchase and distribution of rain barrel systems in accordance with the attached Scope of Work (Exhibit A). Respondent agrees to spend, at a minimum, \$5,600 on such SEP and to complete the SEP no later than November 30, 2013.

Respondent hereby certifies that, as of the date of this Expedited Settlement Agreement ("Agreement"), Respondent is not required to perform or develop the SEP by any federal, state or local law or regulation, nor is Respondent required to perform or develop the SEP under any grant or agreement with any governmental or private entity, as injunctive relief in this or any other case, or in compliance with state or local requirements. Respondent further certifies that Respondent has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.

**SEP Completion Report**

By November 30, 2012, Respondent shall submit a SEP Completion Report to Jeffrey Norcross, Paralegal, at the addresses in the Agreement. The SEP Completion Report shall contain the following information:

- (i) A detailed description of the SEP as implemented;
- (ii) A description of any operating problems encountered and the solutions thereto;
- (iii) Itemized costs, documented by copies of purchase orders and receipts, canceled checks, or wire transfer records;
- (iv) Certification that the SEP has been fully implemented pursuant to the provisions of this Agreement (Specifically, the report shall include the addresses where rain barrels have been installed and verify, through homeowner certification or Town inspection, that all of the distributed rain barrels are in use); and

- (v) A description of the environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible).

### **Supplemental SEP Completion Report**

If additional rain barrels are distributed after November 30, 2012, the Respondent shall send a Supplemental SEP Completion Report to EPA by November 30, 2013 including the additional addresses where rain barrels have been installed and shall verify through homeowner certification or Town inspection that the rain barrels are in use.

### **Failure to Complete SEP**

In the event that Respondent fails to complete the SEP as outlined above, Respondent shall pay \$5,600. To the extent that Respondent's expenditures do not equal or exceed the \$5,600 minimum cost of the SEP ( i.e., to the extent that the Respondent either fails to purchase the required number of rain barrels or fails to distribute the required number of purchased rain barrels to residents), then Respondent shall be liable for paying the difference between the \$5,600 amount Respondent agreed to spend and the total cost of the rain barrels Respondent purchased and actually distributed to residents.

The determination of whether the Respondent has satisfactorily completed the SEP shall be in the sole discretion of EPA.

## SCOPE OF WORK

In accordance with the foregoing Expedited Settlement Agreement and Supplemental Environmental Project (SEP) Attachment, Respondent shall complete the SEP as follows:

The Town of Westport will oversee a five-phase project to promote the use of rainwater harvesting systems designed to capture runoff from rooftops and store the water for nonpotable uses, such as lawn and garden watering. This project is intended to (i) reduce pollutant transport through infiltration; (ii) conserve water and energy by reduction in usage of potable water from private wells by replacing potable water with rainwater, where appropriate and (iii) reduce the amount of chemicals used to treat potable water from the Fall River water system serving homes in North Westport.

As detailed below, the SEP will fund the purchase and distribution of approximately 60 rainwater harvesting systems in the Town. The Town proposes a multi-phased approach intended to maximize public participation in the Project.

## SCHEDULE AND ESTIMATED COSTS

### Phase I: Publicity and Pre-Registration

Beginning no later than 30 days following the date of the Regional Judicial Officer's signature on the Expedited Settlement Agreement, the Town of Westport will undertake a publicity and public education campaign to promote awareness of rainwater harvesting systems and encourage Town residents to participate in the Town's program. Publicity and public education efforts will include placing advertisements in regional and local weekly newspaper, and providing information on the Town website promoting the benefits of rainwater harvesting and the details of the systems that will be made available through the Town program.

In order to maximize participation through this publicity and education effort, staff in the Town offices and the Westport River Watershed Alliance will develop a database of Town residents who may pre-register for a rainwater harvesting system. Based on the pre-registration response, if necessary, the Town will additionally publicize by placing 8.5 x 11-inch flyers in public places such as Town Hall, the library, schools, and grocery stores.

The Town will budget approximately \$500 for newspaper advertisements and staff time to develop publicity and educational materials, develop and maintain paper and electronic pre-registration databases, and develop web materials.

Education materials will provide instructions to residents on how to install the rain barrels and maintain them. Homeowners should place rain barrels so that they discharge away from home foundations. Residents must cover rain barrels to prevent mosquitoes from reproducing. If the

rain barrels are not frost proof, residents will need to empty and unhook them in winter. In addition, education materials must warn residents not to drink the rainwater or use it for swimming pools or recreation. The water can be used for lawns and gardens.

Any resident who receives a free rain barrel must agree to connect the rain barrel and use it for rainwater harvesting, or return it to the Town.

*Phase I Net Cost - \$500*

### **Phase II: Purchase**

The Town will fund the purchase of approximately 60 rainwater harvesting systems through its Fiscal Year 2012 budget, which began July 1, 2011. Prior to April 1, 2012, based on resident response during the publicity and pre-registration period, the Town of Westport will purchase the systems from a vendor to be determined through the appropriate procurement process under Massachusetts law. The systems include one spigot, barrel modification, drop-in basket screen and down-spout adapter. The approximate net cost of the systems, including shipping, is \$60 per barrel.

*Phase II Net Cost - \$3,600*

### **Phase III: Distribution and Training**

The Town of Westport will receive and store the systems with the intent of distributing them quickly to minimize storage needs and to maximize use. The Town of Westport will publicize the distribution of the systems by taking out additional advertisements in regional and local newspapers, posting information on its website, and by directly contacting those residents who pre-registered for a system.

Organizing and staffing a distribution drive on a Saturday morning or similar convenient time prior to June 1, 2012, will require pay at current pay rates for at least four staff members for an approximate total of 16 hours in additional staff costs. The distribution event will include demonstration of proper installation of rain barrels. Publicizing the distribution of the systems will require approximately \$200 for newspaper advertisements and staff time to develop additional materials and contact pre-registered residents.

The Town of Westport will collect the addresses where rain barrels will be installed, to allow verification that the rain barrels are in use.

*Phase III Net Cost - \$500*

### **Phase IV: Further Efforts to Advertise and Distribute**

It is expected that not all of the approximate 60 barrel systems will be distributed by October 1, 2012. Therefore, in February 2013, the Town of Westport will re-publicize the availability of the barrels using the same methods of Phase I above, highlighting the positive experiences and

testimonials of those residents who participated in the program, and distributing barrels through the summer 2013.

*Phase IV Net Cost- \$500*

**Phase V: Distribution of Remaining Systems**

If by September 1, 2013, despite the Town's best efforts to distribute all remaining rainwater harvesting systems to Westport residents, businesses, educational institutions and non-profit entities, rainwater harvesting systems remain undistributed, the Town will use the remainder on Town buildings to the extent practicable. If rainwater harvesting systems still remain, the Town shall donate the remainder to a non-profit environmental organization that is based in Westport or in a neighboring municipality and is approved by EPA. The Town will complete this phase by November 30, 2013.

**Phase VI: Verification**

By August 31, 2012, the Town of Westport shall verify, through homeowner certification or Town inspection, that the distributed rain barrels are in use.

If additional rain barrels are distributed after August 31, 2012, the Town of Westport shall, by November 30, 2013, verify through homeowner certification or Town inspection that any remaining rain barrels are in use.

*Phase VI Net Cost- \$500*

***Minimum Net Cost for Project- \$5,600***

**ESTIMATED ENVIRONMENTAL BENEFITS**

Through capture and use of rainwater for non-potable water uses this project will reduce pollutant transport through infiltration. According to EPA studies, each rain barrel harvesting roof water reduces nutrient pollution in storm water by about 0.1 pounds per year. Further, the implementation and use of the 60 rainwater harvesting system barrels in the Town of Westport will reduce usage of potable water from private wells. The systems will save costs associated with building and maintaining the infrastructure and the energy costs associated with operation of the Fall River drinking water systems. Similarly, use of harvested rainwater reduces use of chemicals required for water treatment. Use of stormwater runoff for purposes of irrigation means that a portion of this stormwater will recharge the existing groundwater rather than simply be conducted via the stormwater sewer system to various water bodies.