

US EPA ARCHIVE DOCUMENT

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

Date of Notice: June 20, 2012

Public Notice Number: PN2012 - 0012

Comment Period: June 21, 2012 – July 20, 2012

Action: Notice of Proposed Assessment of Class II Clean Water Act Section 309(g)(2)(B) Administrative Penalties and Opportunity to Comment

Under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g), EPA is authorized to assess a civil penalty after providing the person subject to the penalty notice of the proposed penalty and the opportunity for a hearing, and after providing interested persons public notice of the proposed penalty and a reasonable opportunity to comment on its issuance. In Class II proceedings under Section 309(g)(2)(B), any person who violates certain provisions of the Clean Water Act may be administratively assessed a civil penalty for each violation occurring before or on January 12, 2009 of up to eleven thousand dollars (\$11,000) per day for each day during which the violation continued; and, for each violation occurring after January 12, 2009, any person who violates certain provisions of the Clean Water Act may be administratively assessed a civil penalty up to \$16,000 per violation per day for each day during which the violation continues, up to a maximum of \$177,500. Proceedings are conducted in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," at 40 C.F.R. Part 22 ("Part 22").

The procedures by which the public may submit written comments on a proposed penalty order or participate in a penalty proceeding are set forth in Part 22. The deadline for submitting public comment on a proposed penalty order is thirty (30) days after issuance of public notice.

Pursuant to Section 309(g), EPA is providing public notice of the following proposed administrative penalty assessment:

In the Matter of Albee Realty Trust, Lawrence Hill, Trustee, and Brian McCann, Trustee

Name and Mailing Address of Respondents:

Albee Realty Trust
117 Water Street
Milford, MA 01757

Name and Address of Facility or Site Addressed by Complaint:

Mountainview Estates
Albee Road (northeasterly side)
Uxbridge, Massachusetts

Description of Business or Activity Conducted by the Respondents:

Residential Subdivision Development

Description of Violations Alleged in Complaint: Discharge of storm water associated with industrial activity without authorization under any National Pollution Discharge Elimination System ("NPDES") Permit.

Proposed Settlement Penalty: For each violation occurring before or on January 12, 2009, Respondents are subject to civil penalties of up to \$11,000 per day for each day during which the violation continued; and for each violation that occurred after January 12, 2009, Respondents are subject to civil penalties of up to \$16,000 per day for each day during which the violation continued, up to a maximum of \$177,500.

Name of Case: In the Matter of Albee Realty Trust, Lawrence Hill, Trustee and Brian McCann Trustee

Docket Number: CWA-01-2011-0003

Date Filed with Regional Hearing Clerk: June 15, 2012

Name, Mailing Address, and Telephone Number of Regional Hearing Clerk:
Wanda Santiago, Regional Hearing Clerk, U.S. Environmental Protection
Agency, Region I, 5 Post Office Square, Suite 100, Mail Code: ORA18-1, Boston,
MA 02109-3912; (617) 918-1113.

FOR FURTHER INFORMATION: Persons wishing to receive a copy of Part 22, review the complaint or other documents filed by the parties in this proceeding, comment upon the proposed penalty assessment, or participate in any hearing that may be held, should contact the Regional Hearing Clerk identified above. Unless otherwise noted, the public record for the proceeding is located in the EPA Regional Office at 5 Post Office Square, Suite 100, Boston, Massachusetts, and the file will be open for public inspection during normal business hours.

In order to provide opportunity for public comment, EPA will not take final action in this proceeding prior to thirty (30) days after issuance of this notice.