

US EPA ARCHIVE DOCUMENT

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

Date of Notice: November 3, 2004

Public Notice Number: PN2004-0014

Comment Period: November 3, 2004 - December 2, 2004

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)(2)(B) of the Clean Water Act, 33 U.S.C. § 1319(g)(2)(B), EPA is authorized to assess a civil penalty only after providing the person to be assessed the civil penalty with written notice and the opportunity to request a hearing and after providing interested persons with public notice of and reasonable opportunity to comment on the proposal to assess the penalty. In a Class II proceeding under Section 309(g)(2)(B), EPA may assess against a person an administrative civil penalty of up to \$137,500 for violations of the Clean Water Act occurring after January 31, 1997 and on or before March 15, 2004 and up to \$157,500 for violations occurring after March 15, 2004. Class II proceedings are conducted in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Order, and the Revocation, Termination or Suspension of Permits” (the “Consolidated Rules”) at 40 C.F.R. Part 22 .

The procedure by which the public may submit comments on a proposal to assess a Class II civil penalty or participate in a Class II proceeding is set forth in the Consolidated Rules. The deadline for submitting comments on a proposal to assess a Class II civil penalty is 30 days after the issuance of public notice.

Pursuant to Section 309(g)(2)(B), EPA is providing public notice of the following proposed Class II administrative penalty assessment:

In the Matter of Taunton Development Corporation, Condyne, LLC, and G. Lopes Construction, Inc.

Name and Mailing Address of Respondent:

Taunton Development Corporation
12 Taunton Gr., Suite 201
Taunton, MA 02780

Condyne LLC
275 John Hancock Road
Taunton, MA 02780

G. Lopes Construction Co., Inc.
565 Winthrop Street
Taunton, MA 02780

Name and Address of Facility or Site Addressed by Complaint:

244 acres of land in the southeast quadrant of the Route 140/Stevens Street interchange in Taunton, Massachusetts (a.k.a. "Liberty and Union Industrial Site")

Description of Business or Activity Conducted by the Respondent:

Development/Construction

Description of Violations Alleged in Complaint:

Unauthorized discharge of pollutants into waters of United States without a 404 permit from U.S. Army Corps of Engineers in violation of Section 301 of the Clean Water Act; unauthorized discharge of pollutants into waters of the United States without authorization of a National Pollutant Discharge Elimination System ("NPDES") permit in violation of Section 301 of the Act; failure to apply for an NPDES permit in violation of Section 308(a) of the Act

Proposed Settlement Penalty: \$137,500

Name of Case:

In the Matter of Taunton Development Corporation, Condyne LLC, and G. Lopes Construction, Inc.

Docket Number: CWA-01-2004-0090

Date Filed with Regional Hearing Clerk: November 2, 2004

Name, Mailing Address, and Telephone Number of Regional Hearing Clerk:

Wanda Rivera, Regional Hearing Clerk, U.S. Environmental Protection Agency Region I,
One Congress Street, Suite 1100 RAA, Boston, MA 02114-2023; (617) 918-1113

FOR FURTHER INFORMATION: Persons wishing to receive a copy of the Consolidated Rules, 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 at U.S. Environmental Protection Agency Region I, One Congress Street, Suite 1100, Boston, Massachusetts, and the record will be open for public inspection during normal business hours.

Because this matter involves a CWA Section 309(g)(2)(B) proceeding which is proposed to be simultaneously commenced and settled under 40 C.F.R. § 22.13(b), this matter will not be resolved or settled until 10 days after the close of the public comment period in accordance with 40 C.F.R. § 22.45(b).