

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2007 NOV 20 PM 2:44

In the Matter of:)

Rockrimmon Constructors,)
a SEMA/CH2M Hill joint venture,)

Respondent.)

Docket no. CWA-08-2007-0021

Motion for Approval of Consent Agreement

Complainant, United States Environmental Protection Agency, Region 8, ("EPA"), by its undersigned attorney and delegated official, hereby moves that the Regional Judicial Officer approve the settlement contained in the attached consent agreement and issue a final order in this matter. This motion is authorized by the Consolidated Rules of Practice, 40 CFR § 22.4 (c), 22.16 (c).

This settlement is authorized by the Consolidated Rules of Practice, which state that "where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a consent agreement and final order pursuant to § 22.18 (b)(2) and (3)." 40 CFR § 22.13 (b). The rules further provide that when such a consent agreement is contemplated, it must also contain certain specified elements of a complaint, specifically those found at 40 CFR § 22.14(a)(1)-(3), and (8). 40 CFR § 22.18 (b)(2).

The attached consent agreement references (1) the authority of the statute, (2) provisions of the statute and regulations violated by Respondent, and (3) the factual basis for the violation. The attached agreement provided incorrect instructions for the payment of penalties. EPA apologizes for that error, and attaches and incorporates correct payment instructions as attachment 1 to this motion.


The attached consent agreement, as supplemented by this motion with attachments, constitutes a complete and appropriate settlement under the Consolidated Rules of Practice, and reflects the wishes of the parties in the proceeding. Accordingly, a final order approving the settlement should be entered as soon as possible.

EPA respectfully moves that the Regional Judicial Officer approve the settlement reached by the parties as reflected in the consent agreement and this motion.

Complainant, United States Environmental Protection
Agency, Region 8

11/19/2007
Date

By:


David J. Janik, Supervisory Enforcement Attorney
Legal Enforcement Program

COLLECTION INFORMATION [attachment 1]

PENALTY PAYMENTS:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

WIRE TRANSFERS:

Wire transfers should be directed to the Federal Reserve Bank of New York

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045
Field Tag 4200 of the Fedwire message should read " D 68010727
Environmental Protection Agency "

OVERNIGHT MAIL:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: Natalie Pearson
314-418-4087

ACH (also known as REX or remittance express)

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact - Jesse White 301-887-6548
ABA = 051036706
Transaction Code 22 - checking
Environmental Protection Agency
Account 310006

CTX Format

ON LINE PAYMENT:

There is now an On Line Payment Option, available through the Dept. of
Treasury.

This payment option can be accessed from the information below:

WWW.PAY.GOV

Enter sfo 1.1 in the search field

Open form and complete required fields.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 8

1595 Wynkoop St.

Denver, Colorado 80202-1129

2007 SEP 20 AM 8:59

EXPEDITED SETTLEMENT AGREEMENT

IN THE MATTER OF: ROCKRIMMON CONSTRUCTORS, A SEMA/CH2M HILL JOINT VENTURE

Docket Number: CWA-08-2007-0021

NPDES No: COR10BW6F

Rockrimmon Constructors, A SEMA/CH2M Hill Joint Venture ("Respondent"), is a Colorado joint venture consisting of SEMA Construction, Inc. (a Colorado corporation) and CH2M Hill Constructors, Inc. (a Delaware corporation). In Colorado, the substantive law of partnership applies to joint ventures. Thus, 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.

Respondent certifies that, within ten (10) days of receiving notice from EPA that the Agreement is effective (thirty (30) days from the date it is signed by the Regional Judicial Officer), Respondent shall submit a bank, cashiers or certified check, with case name and docket number noted, for the amount specified above payable to the "Treasurer, United States of America," via certified mail, to:

Attached is an "Expedited Settlement Offer Deficiencies Form" ("Form"), which is incorporated by reference. By its signature, Complainant ("EPA") finds that Respondent is responsible for the deficiencies specified in the Form.

USEPA Region 8
In the Matter of : Rockrimmon Constructors
Docket No: CWA-08-2007-0021
P. O. Box 371099M
Pittsburgh, PA 15251

Respondent failed to comply with its National Pollutant Discharge Elimination System ("NPDES") storm water permit issued under Section 402 of the Act, 33, U.S.C. § 1342.

This Agreement settles EPA's civil penalty claims against Respondent for the Clean Water Act violation(s) specified in this Agreement. 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.

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 any "person" who "discharges pollutants" from a "point source" to "waters of the United States." Respondent neither admits nor denies the deficiencies specified in the Form.

The undersigned Respondent's representative certifies that he/she is fully authorized to enter into the terms and conditions of this Agreement and Respondent to the terms and conditions of this Agreement.

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 \$6700. Respondent consents to the assessment of this penalty, and waives the right to: (1) contest the finding(s) specified in the Form; (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).

This Agreement is binding on the parties signing below and effective when 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.

Additionally, Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that any deficiencies identified in the Form have been corrected.

IN THE MATTER OF: ROCKRIMMON
CONSTRUCTORS, A SEMA/CH2M HILL JOINT
VENTURE

Docket No. CWA-08-2007-0021

APPROVED BY EPA:

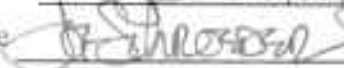
 Date: 9/11/07

Darcy O'Connor
Chief, NPDES Enforcement Unit
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

 Date: 9.13.07

David Janik
Acting Director
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

APPROVED BY RESPONDENT:

Name JE Schreiner
Title Project Manager - Rockrimmon Constructors
Signature  Date 8-31-07

Having determined that this Agreement is authorized by
law, IT IS SO ORDERED:

_____ Date _____
Elyana R. Sutin
Regional Judicial Officer

**Expedited Settlement Offer Worksheet
Deficiencies Form**

Consult instructions regarding eligibility criteria and procedures prior to use

version 10.3.4



LEGAL NAME AND MAILING ADDRESS OF OPERATOR		Telephone Number	NPDES Permit Number
1	Rockrimmon Constructors 5785 Mark Dabling Blvd., Suite 375 Colorado Springs, CO 80918		COR10BW6F
LOCATION AND ADDRESS OF SITE		Inspector Name:	Leo Hanley
2	Colorado Springs Metro Interstate Expansion (COSMIX) - Segment 4 - north of Pine Creek to North Academy Interchange	Inspector Agency:	US EPA
		Entrance Interview Conducted:	No
		Exit Interview Conducted:	No
		Exit Interview given to:	
		Exit Interview time:	Date: 08/23/2006
No representative was on site at the time of the inspection. A site representative, Mr. Jack Woo, was contacted on 8/21/06 and at which time the inspection observations were presented			

FACILITY DESCRIPTION / CONTACT NAMES	
Name of Site Contact (ESO Worksheet recipient):	Joseph P. Schroeder
Name of Authorized Official (40 CFR 123.22):	Joseph P. Schroeder
Inspection Date:	08/23/2006
Start Construction Date:	04/19/2006
Estimated Completion Construction Date:	11/03/2006
If Unpermitted, Number of Months Unpermitted:	NA
Name of Receiving Water Body (Indicate whether 303(d) listed):	Pine Creek
Acres Currently Disturbed Acres to be Disturbed in Whole Common Plan	17.00
Has Operator Requested Rainfall Erosivity or TMDL Waiver per 44 CFR 122.26(b)(15)?	Segments 1, 2, 3, and 4, a total of 107 acres. The Federal permit COR10BW6F is for Segment 4 which is

PERMIT COVERAGE	Findings	Citation Reference**	R C A*	No. of Deficiencies	Dollar Amount	Total
3 Operator unpermitted for _____ months (# months unpermitted equals number of violations)		CWA 301		0	\$500.00	=
SWPPP REVIEW						
4 SWPPP not prepared (if no SWPPP, leave elements 5 - 30 blank)		CGP 3.1.A			\$5,000.00	=
5 SWPPP prepared but prepared after construction start (# of months = # of violations)		CGP 3.1.A		0	\$75.00	=
6 SWPPP does not identify all potential sources of pollution to include: porta-pottys, fuel tanks, staging areas, waste containers, chemical storage areas, concrete cure, paints, solvents, etc.		CGP 3.1.B		0	\$250.00	=
7 SWPPP does not identify all operators for the project site and the areas of the site over which each operator has control		CGP 3.1.A		0	\$500.00	=
8 SWPPP does not have site description, as follows:	SWPPP provided in response to inspection report did not clearly indicate the sequence of major activity (3.3.B.2); did not have a site map showing the structural practices (3.3.C.3); or surface water discharge points (3.3.C.7).					
A. Nature of activity in description		CGP 3.3.B.1		0	\$100.00	=
B. Intended sequence of major activities		CGP 3.3.B.2		1	\$100.00	= \$100
C. Total disturbed acreage		CGP 3.3.B.3			\$100.00	=
D. General location map		CGP 3.3.B.4		0	\$100.00	=
E. Site map		CGP 3.3.C		0	\$500.00	=
F. Site map does not show drainage patterns, slopes, areas of disturbance, locations of major controls, structural practices shown, stabilization practices, offsite materials, waste, borrow or equipment storage areas, surface waters, discharge points, areas of final stabilization (count each omission under 8F as 1 violation)		CGP 3.3.C.1-8		2	\$50.00	= \$100
G. Location/description industrial activities, like concrete or asphalt batch plants		CGP 3.3.D		0	\$500.00	=

	B Describe sequence for implementation		CGP 3.4.A	0	\$250.00	=	
	C Detail operator(s) responsible for implementation		CGP 3.4.A	0	\$250.00	=	
10	SWPPP does not describe interim stabilization practices		CGP 3.4.B	0	\$250.00	=	
11	SWPPP does not describe permanent stabilization practices		CGP 3.4.B	0	\$250.00	=	
12	SWPPP does not describe a schedule to implement stabilization practices		CGP 3.4.B	0	\$250.00	=	
13	Following dates are not recorded: major grading activities; construction temporarily or permanently ceased; stabilization measures initiated (count each omission under 13 as 1 violation)		CGP 3.4.C.1-3	0	X \$250.00	=	
14	SWPPP does not have description of structural practices to divert flows from exposed soils, retain flows, or limit runoff from exposed areas		CGP 3.4.D	0	\$500.00	=	
15	SWPPP does not have a description of measures that will be installed during the construction process to control pollutants in storm water discharges that will occur AFTER construction operations have been completed		CGP 3.4.E	0	\$500.00	=	
16	SWPPP does not describe measures to prevent discharge of solid materials to waters of the US, except as authorized by 404 permit		CGP 3.4.F	0	\$500.00	=	
17	SWPPP does not describe measures to minimize off-site vehicle tracking and generation of dust		CGP 3.4.G	0	\$500.00	=	
18	SWPPP does not include description of construction or waste materials expected to be stored on site w/updates re: controls used to reduce pollutants from these materials		CGP 3.4.H	0	\$250.00	=	
19	SWPPP does not have description of pollutant sources from areas other than construction (asphalt or concrete plants) w/ updates re: controls to reduce pollutants from these materials		CGP 3.4.I	0	\$500.00	=	
20	SWPPP does not identify allowable sources of non-storm water discharges listed in subpart 1.3.B of the CGP		CGP 3.5	0	\$500.00	=	
21	SWPPP does not identify/ensure implementation of pollution prevention measures for non-storm water discharges		CGP 3.5	0	\$500.00	=	
22	Endangered Species Act documentation is not in SWPPP		CGP 3.7	0	\$500.00	=	
23	Historic Properties (Reserved)						
24	Copy of permit and/or NOI not in SWPPP (count each omission under 24 as 1 violation)		CGP 3.8	0	X \$250.00	=	
25	SWPPP is not consistent with requirements specified in applicable sediment and erosion site plans or site permits, or storm water management plans or site permits approved by State, Tribal or local officials (e.g., MS4 requirements)		CGP 3.9	0	\$750.00	=	
26	SWPPP has not been updated to remain consistent with changes applicable to protecting surface waters in State, Tribal or local erosion plans		CGP 3.9	0	\$250.00	=	
27	Copies of inspection reports have not been retained as part of the SWPPP for 3 years from date permit coverage terminates		CGP 3.10.G	0	\$500.00	=	
28	SWPPP has not been updated/modified to reflect change at site effecting discharge, or where inspections identify SWPPP/BMPs as ineffective, updates to SWPPP regarding modifications to BMPs not made within 7 days of such inspection (count each omission under 28 as 1 violation)		CGP 3.11.C	0	X \$50.00	=	
29	Copy of SWPPP not retained on site		CGP 3.12.A	0	\$500.00	=	
	A SWPPP not made available upon request		CGP 3.12.C	0	\$500.00	=	
30	SWPPP not signed/certified	SWPPP provided in response to inspection report was not signed	CGP 3.12.D	1	\$500.00	= \$500	
Subtotal SWPPP Deficiencies							\$700

INSPECTIONS									
31	Inspections not performed and documented either once every 7 days, or once every 14 days and within 24 hours after storm event greater than 0.5 inches or greater (not required if temp stabilization; runoff unlikely due to winter conditions; construction during and periods in arid areas) (Count each failure to inspect and document as one violation)	Weather data provided in response to inspection report show precipitation greater than 0.5" on 8/29/06, 8/30/06 and 8/31/06. No inspections reports were conducted, i.e., no inspection reports were provided for these dates. SWPPP says inspection to be conducted after storm event greater than 0.5 inches. 1 count for each day of non-inspection for a total of 3 counts.	CGP 3.10.A, 3.10.B	3	X	\$250.00	=	\$750	
	No inspections conducted and documented (if True, then leave elements 32-39 blank)			FALSE		True or False			
	Number of inspections expected if performed every 7 days	18							
	Number of inspections expected if performed bi-weekly	9							
	If known, number of days of rainfall of >0.5"								
32	Inspections not conducted by qualified personnel		CGP 3.10.D	0		\$50.00	=		
33	All areas disturbed by construction activity or used for storage of materials and which exposed to precipitation not inspected	Facility inspection report was too generic. There was inadequate documentation that Segment 4 was inspected and BMPs repaired at slopes and around the two storm drains. 2 counts for the two storm drains observed on 8/23/06. 1 count for the slopes observed on 8/23/06. 1 count for the slopes observed on 7/2/06.	CGP 3.10.E	4		\$50.00	=	\$200	
34	All pollution control measures not inspected to ensure proper operation		CGP 3.10.E	0		\$50.00	=		
35	Discharge locations are not observed and inspected	Facility inspection report does not indicate that the two storm drains observed by EPA on 8/23/06 had been inspected. These storm drains had sediment on top of the grate and in the storm drains. Wastewater from these storm drains go to the highway median which has minimum detention or retention capacity. The site inspection reports do not indicate if or when the median was inspected. The median drains to Pine Creek. The Facility inspection report does not show if the sloped areas on the north bound side of the Highway were inspected. EPA observed sediment behind the down silt fences and sediment near the concrete drainage channel on 8/23/06. Facility inspection report does not show how or when the silt fences were replaced or repaired. 1 count for inspection not done or documented at these storm drains or slope areas to Pine Creek.	CGP 3.10.E	1		\$50.00	=	\$50	
36	For discharge locations that are not accessible, nearby locations are not inspected		CGP 3.10.E	0		\$50.00	=		
37	Entrance/exit not inspected for off-site tracking		CGP 3.10.E	0		\$50.00	=		
38	Site inspection report does not include: date, name and qualifications of inspector, weather information, location of sediment/pollutant discharge, BMP(s) requiring maintenance, BMP(s) that have failed, BMP(s) that are needed, corrective action required including changes/updates to SWPPP and schedule/dates (count each omission under 38 as 1 violation)		CGP 3.10.G	0	X	\$50.00	=		
39	Inspection reports not properly signed/certified (count each failure to sign/certify as 1 violation)		CGP 3.10.G	0	X	\$50.00	=		

AVAILABILITY OF RECORDS						
40	Sign/notice not posted		CGP 3.12.B	0	\$250.00	=
	A Does not contain copy of complete NOI		CGP 3.12.B	0	\$50.00	=
	B Location of SWPPP or contact person for scheduling viewing times where on-site location for SWPPP unavailable not noted on sign		CGP 3.12.B	0	\$50.00	=
Subtotal Records Deficiencies						\$0

BEST MANAGEMENT PRACTICES						
41	No velocity dissipation devices located at discharge locations or outfall channels to ensure non-erosive flow to receiving water		CGP 3.13.F	0	\$500.00	=
42	Control measures are not properly selected, installed and maintained	On 8/23/06, EPA observed two storm drains where the BMPs were not maintained, sediment was going into storm drains. On 8/23/06, EPA observed silt fences that were torn or down on the slopes and where erosion or sediment will go to Pine Creek. 1 count for each storm drain where the BMP(s) should have been maintained/replaced for a total of 2 counts. 1 count for the silt fence on the slopes that should have been repaired/replaced	CGP 3.13.A	3	\$600.00	= \$1,500
	B Maintenance not performed prior to next anticipated storm event (count each failure to select, install, maintain each BMP as one violation)		CGP 3.4.B	0	\$250.00	=
43	When sediment escapes the site, it is not removed at a frequency necessary to minimize off-site impacts	On 7/2/06, the AFA documented inadequate BMPs at the concrete drainage channel to Pine Creek. Sediment was observed in Pine Creek. On 8/23/06, EPA documented two storm drains with inadequate BMPs, sediment was observed in the storm drains. EPA also observed sediment beyond the silt fences. The Facility Inspection report showed a project inspection was conducted on 8/28/06, three days after the EPA inspection but the facility inspection was not necessarily at Segment 4. 1 count for sediment in Pine Creek on 7/2/06. 1 count for sediment in concrete drainage channel to Pine Creek on 7/2/06. 2 counts for two storm drains with sediment observed on 8/23/06. 1 count for sediment observed behind silt fences on 8/23/06	CGP 3.13.B	5	\$500.00	= \$2,500
44	Litter, construction debris, and construction chemicals exposed to storm water are not prevented from becoming a pollutant source (e.g. screening outfalls, pickup daily, etc.)		CGP 3.13.C	0	\$500.00	=
45	Stabilization measures are not initiated as soon as practicable on portions of the site where construction activities have temporarily or permanently ceased within 14 days after such cessation		CGP 3.13.D		\$500.00	=
	*Exceptions:					
	(a) Snow or frozen ground conditions					
	(b) Activities will be resumed within 14 days					
	(c) Arid or Semiarid areas (<20 inches per					

46	Common Drainage of 10+ acres does not have a sedimentation basin for the 2 year, 24 hour storm, or 3600 cubic ft. storage per acre drained	Segment 4 is approximately 17 acres as noted in the NOI. No temporary (or permanent) sediment basin was available for storage of runoff from a 2-year, 24-hour storm. Sediment on slope and on the banks of Pina Creek may not have been addressed. Sediment was first documented on 7/2/06. Evidence of the sediment was observed on 8/23/06.	CGP 3.13.E.1	1	\$1,000.00	=	\$1,000
	A Where sedimentation basin not attainable, smaller sediment basins, sediment traps, or erosion controls not implemented for down slope boundaries.		CGP 3.13.E.2		\$1,000.00	=	
	B Sediment not removed from sediment basin or traps when design capacity reduced by 50% or more		CGP 3.6.C		\$500.00	=	
47	Common Drainage less than 10 acres does not have sediment traps, silt fences, vegetative buffer strips, or equivalent sediment controls for all down slope boundaries (not required if sedimentation sediment basin meeting criteria in 46 above)		CGP 3.13.E.3		\$500.00	=	
	A Sediment not removed from sediment trap when design capacity reduced by 50% or more		CGP 3.6.C	X	\$500.00	=	
Subtotal BMP Deficiencies:							\$5,000
SMALL BUSINESS EVALUATION							
48	Is the Owner/Operator a Small Business?		No				
	A small business is defined by EPA's Small Business Compliance Policy as: "a person, corporation, partnership, or other entity that employs 100 or fewer individuals (across all facilities and operations owned by the small business)." The number of employees should be considered as full-time equivalents on an annual basis, including contract employees (see 40 CFR 372.3). A full time employee unit is 2000 hours worked per year.						
Total Expedited Settlement:							56,700
<p>* Requires Corrective Action</p> <p>** NPDES General Permit, 65 FR 39047, issued by EPA on July 1, 2003; http://cfpub.epa.gov/npdes/stormwater/cgp.cfm</p>							

IN THE MATTER OF:

ROCKRIMMON CONSTRUCTORS
a SEMA/CH2M HILL JOINT VENTURE

DOCKET NUMBER:

CWA-08-2007-0021

CERTIFICATE OF SERVICE

I hereby certify that the original Motion for Approval Of Consent Agreement with attachments and a true copy for the docket number indicated above was hand-delivered to the Regional Hearing Clerk, EPA Region 8, 1595 Wynkoop Street Denver, Colorado 80202-1129.

And that a true copy of the same was sent by first class mail to:

Carol Deck
Corporate Counsel
CH2M Hill Inc.
9191 S. Jamaica St.
Englewood, Colorado 80112

11/20/2007
Date

Judith M. McTernan
Judith M. McTernan