

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 7, 901 North 5th Street, Kansas City, KS 66101

EXPEDITED SETTLEMENT AGREEMENT08 MAR 13 PM 3:49

Docket Number: CWA-07-2008-0017, NPDES No.:KSR-101843

("Act"), 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

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.

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.

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.

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 \$10,050. 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).

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. Respondent shall submit a written report. Having determined that this Agreement is authorized by law, with this Agreement detailing the specific actions taken to correct IT IS SO ORDERED: the violations cited herein.

Respondent certifies that, within ten (10) days of receiving notice from EPA that the Agreement is effective thirty Robert L. Patrick (30) days from the date it is signed by the Appropriate Official, 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:

U.S. EPA Fines and Penalties Cincinnati Finance Center PO Box 979007 St. Louis, MO 63197-9000

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

Shawnee Terra, L.L.C. ("Respondent") is a "person," or future civil or criminal propagation of the Xet or of any other within the meaning of Section 502(5) of the Clean Water Act 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.

This Agreement is binding on the parties signing below and effective thirty (30) days from the date it is signed by the Presiding 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), and Part 22.

APPROVED BY EPA My Date: 03/11/08 William A. Spratlin Director Water, Wetlands, and Pesticides Division

APPROVED BY RESPONDENT:

Michael Name (print): designated monber Title (print):

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.

Date March 13, 2008

REGIONAL HEARING CLERK AGENOY-GEGION VII EHVIRONGETTAL FROTECTION 84:E NG E1 AAM 80

Expedited Settlement Offer Worksheet

Deficiencies Form

Consult instructions regarding eligibility criteria and procedures prior to use

KS-S-MCST-0110-1



LEGAL NAME AND MAILING ADDRESS OF OPERATOR	Telephone Number	NPDES Permit Number
1 Michael S. Hack	785-267-3900	KSR-101843
Shawnee Terra, L.L.C. 3434 Taurus Avenue Topeka, KS 66605	Inspector Name: Inspector Agency:	Joe Joslin US EPA
	Entrance Interview Conducted:	≧ Yes
	Exit Interview Conducted:	Yes
LOCATION AND ADDRESS OF SITE	Exit Interview given to:	Steve Younger
2 Aguarian Acres Subdivision No. 9 -Phase 2	Exit Interview time:	11:00 Date: 04/19/2007
Croco Road / SE 25th Street Topeka, KS 66607		

	FACILITY DESCRIPTION / CONTACT NAMES	
	Name of Site Contact (ESO Worksheet recipient):	Michael S. Hack
16	Name of Authorized Official (40 CFR 122.22):	Michael S. Hack
H	Inspection Date:	04/19/2007
	Start Construction Date:	
1 1	Estimated Completion Construction Date:	08/01/2008
	if Unpermitted, Number of Months Unpermitted:	
	Name of Receiving Water Body (Indicate whether 303(d) listed):	Deer Creek
	Acres Currently Disturbed Acres to be Disturbed in Whole Common Plan:	13.00 115.00 115.11 13.00 115.115.115.115.115.115.115.115.115.115
	Has Operator Requested Rainfall Erosivity or TMDL Waiver per 44 CFR 122.26(b)(15)?	SECTION OF THE PROPERTY OF THE

	 	PERMIT COVERAGE	Notes	Citation Reference**	State Citation Reference*** .	R C A*	No. of Deficien- cies		Dollar Amount		Total
3		Operator unpermitted formonths (# months unpermitted equals number of violations)		CWA 301	KAR 28-16-153			X	\$500.00	=	
	1	SWPPP REVIEW				12000	Camera a 22.9		25 222 22		
4		SWPPP not prepared (If no SWPPP, leave elements 5 - 30 blank)		CGP 3.1.A	KSGP VII p.6	100			\$5,000.00		
5		SWPPP prepared but prepared after construction start (# of months = # of violations)		CGP 3.1.A	KSGP VII p.6		id la	X	\$75.00		
6		SWPPP does not identify all potential sources of pollution to include: porta-pottys, fuel tanks, staging areas, waste containers, chemical		CGP 3.1.B	KSGP VII p.8	4000			\$250.00	=	
7		storage areas, concrete cure, paints, solvents, SWPPP does not identify all operators for the project site and the areas of the site over which each operator has control		CGP 3,3.A	KSGP VII p.7				\$500.00	a	
8		SWPPP does not have site description, as follows:	Site map does not show offsite materials, waste, borrow or equipment								
	Δ	Nature of activity in description	storage areas, surface waters, discharge	CGP 3.3.B.1	KSGP VII p.7	Sign		Ц	\$100.00		
-		Intended sequence of major activities	points, or areas of final stabilization	CGP 3.3.B.2	KSGP VII p.7	100	Constant Con-	Ш	\$100.00		
ŀ		Total disturbed acreage		CGP 3.3.B.3	KSGP VII p.7	3632	Ś. p.		\$100.00		
-		General location map		CGP 3.3.B.4	KSGP VII p.7	製造	30000		\$100.00	=	
-	,	Site map		CGP 3.3.C	KSGP VII p.7	382		П	\$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	KSGP VII p.7	20		×	\$50.00	=	\$300
	G	Location/description industrial activities, like concrete or asphalt batch plants		CGP 3.3.D	N/A					1000	CONTRACTOR OF THE PARTY OF THE
9		SWPPP does not:		Marketta orocco Mark		<u> </u>					
	Α	Describe all pollution control measures (e.g. BMPs)		CGP 3.4.A	K\$GP VII p.7				\$750.00	a	
Ì	В	Describe sequence for implementation		CGP 3.4.A	KSGP VII p.7		Partners Validation		\$250.00	=	
	C	Detail operator(s) responsible for implementation		CGP 3.4.A	N/A	2000 2000 2000 2000 2000 2000 2000 200		Ц			
10		SWPPP does not describe interim stabilization practices		CGP 3.4.B	KSGP VII p.7 & p.8				\$250.00		
11		SWPPP does not describe permanent stabilization practices		CGP 3.4.B	KSGP VII p.7 & p.8	1030	71.9. TS		\$250,00		
12		SWPPP does not describe a schedule to implement stabilization practices		CGP 3.4.B	KSGP VII p.7				\$250.00		

				CGP 3,4,C,1-3	N/A	Q(31952)	2816/18023-59-59-		T	\top	
13		Following dates are not recorded: major grading		CGP 3,4,C.1-3	N/A	225					
		activities; construction temporarily or permanently									
- 1		ceased; stabilization measures initiated (count									
		each omission under 13 as 1 violation)									
						444	S. 1907 (1904)	Щ			
14		SWPPP does not have description of structural		CGP 3.4.D	KSGP VII p.8	138		ll	\$500.00	=	
. ' ' I		practices to divert flows from exposed soils, retain							ŀ		
-		flows, or limit runoff from exposed areas			1	155			ŀ		
				CGP 3.4.E	KSGP VII p.8	No	\$77 3 (\$50)	<u> </u>	\$500.00	=	\$500
15		SWPPP does not have a description of measures		001 3.4.1	INOGI VII PIG	255			******		•
- 1		that will be installed during the construction				1,111					
		process to control pollutants in storm water				業家			ł		
- 1		discharges that will occur AFTER construction				37.55					
- 1		operations have been completed				19.545	gge/(aggilióilia				
16		SWPPP does not describe measures to prevent	The Caroline Commission Caroline Commission Commission Commission Commission Commission Commission Commission	CGP 3.4.F	KSGP VII p.8	No	# 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	П	\$500.00	=	\$500
.0					· .	182			ł		
- 1		discharge of solid materials to waters of the US,				1998			1		
		except as authorized by 404 permit		222212	10000 1/11 0	200 600	200 (A)	╂┼┼	\$500.00	_	
17	1	SWPPP does not describe measures to minimize	ART SPASSAGE SECTION OF A RESERVED SPASS	CGP 3.4.G	KSGP VII p.8	33		1	\$500.001	~	
- 1		off-site vehicle tracking and generation of dust		•				1	l		
		- "				1962	ille of the first of the				
18		SWPPP does not include description of		CGP 3.4.H	KSGP VII p.8	1 1	Service of the		\$250.00	=	
		construction or waste materials expected to be			Į				I		
i	32					l	1		1		
	151	stored on site w/updates re: controls used to		,		0.0	With the India				
	14.0	reduce pollutants from these materials	SPECIAL COST SERVICES	200.01		1 1 1 1 1	257 C 25 C 25 C	╂┼			
19	.:: .	SWPPP does not have description of pollutant		CGP 3.4.I	N/A	1,000	Michael Conf.		1		
- 1		sources from areas other than construction	varation of a sample of		· ·	43.5	dingle of		1	- 1	
		(asphalt or concrete plants) w/ updates re: controls				188					
ľ		to reduce pollutants from these materials						!	ľ	- 1	
- 1		to reduce politicalità nom treco missoriale				100		1	1		
		000000 4		CGP 3.5	N/A	368565	massi diki	\sqcap^{\uparrow}		T	
20		SWPPP does not identify allowable sources of		301-310	1.67	183	Girsinia		l		
ŀ	13	non-storm water discharges listed in subpart 1.3.B			1'				1		
_ 1		of the CGP			 	3725	50x 40;251;314;24*	-		-	
21		SWPPP does not identify/ensure implementation		CGP 3.5	N/A	188		1			
- 1	183	of pollution prevention measures for non-storm					200224	1		l	
		water discharges	e aleggereau en exercis messa escriberada en el mosco de la composición de la composición de la composición de				Military	1			
		Endangered Species Act documentation is not in		CGP 3.7	N/A	3.52	52.55 A.A.		\$500.00	=	
22	4			00. 0.7	/'"-·	300			, ,		
		SWPPP					2025-2016-2		200		
23	4.6	Historic Properties (Reserved)								謝鐵	
1	k.					1000					
24	-	Copy of permit and/or NOI not in SWPPP (count		CGP 3.8	N/A						
	3.4	each omission under 24 as 1 violation)									
		SWPPP is not consistent with requirements		CGP 3.9	N/A	3359	groupen Sa			T	
25				00, 0,0	1		SHEET SHOW	1	1	ı	
		specified in applicable sediment and erosion site		ļ					ĺ		
		plans or site permits, or storm water management				135		1		İ	
	- 64	plans or site permits approved by State, Tribal or		3							
1	- 33	local officials (e.g., MS4 requirements)		Ī					ļ		
ŀ						0.2	20466430	┷			
26	1131	SWPPP has not been updated to remain		CGP 3.9	N/A	155				- 1	
~~	100	consistent with changes applicable to protecting			1	17.33			1		
	140	surface waters in State, Tribal or local erosion	[발생님들은 반영한 반영화 하다 [[- 10] [[1] [-			4(3)		1	1		
	1					48.7	En Verri Servi	1	1		
	7	plans		CGP 3,10.G	KSGP IX p.9	2570	270,945 1345 1	1	\$500.00	=	
27	854	Copies of Inspection reports have not been	[설류[설문] [설문] [설문] [설문] [설문] [설문]	CGF 3.10.G	NOGE IX p.o	1		H.	4000.00		
	189	retained as part of the SWPPP for 3 years from	医重复结束 医连进性皮肤 医一克二氏			1 14		:			
	10	date permit coverage terminates			<u> </u>	4		┹┵			
28		SWPPP has not been updated/modified to reflect	BEFORE THE STATE OF THE STATE OF	CGP 3.11.C	KSGP VII p.6	100	1994 CE 1994	X	\$50,00	=	
		change at site effecting discharge, or where	Benderal is de la comunicación de l			1003.5	Seekele sellek		1	1	
ļ	HP	inspections identify SWPPP/BMPs as ineffective,		1					-	1	
1	34			1	1	製数			1	1	
]		updates to SWPPP regarding modifications to				1016			1	. 1	
1		BMPs not made within 7 days of such inspection	INCREMENTAL PROPERTY OF THE PROPERTY OF THE		1	188	AND SEE		I	. 1	
- 1	147	1				1.330			1	. 1	
		(count each omission under under 28 as 1				18168				. 1	\$500
		violation)		00000	K000) (1) - 7		2005-0400	1 +	\$600.00		
29				CGP 3.12.A	KSGP VII p.7	No	2005-1919 2005-1919		\$500.00		φυσι
29		violation)		CGP 3.12.C	KSGP VII p.7	233	akkonyten		\$500.00	=	
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		violation) Copy of SWPPP not retained on site A SWPPP not made available upon request		CGP 3.12.C	KSGP VII p.7	233	akkonyten		\$500.00	=	
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30		violation) Copy of SWPPP not retained on site A SWPPP not made available upon request SWPPP not signed/certified INSPECTIONS 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 arid periods in arid areas) (Count each failure to inspect and document as one violation). No inspections conducted and documented (if True, then leave elements 32-39 blank) Number of Inspections expected if performed every 7 days:	monthly inspections for period from Oct. '06 through April '06, and 9 inspections after rain events for 10/21 10/25-27, 12/20, 12/30, 2/12, 2/24, 3/30, 4/10-11, 4/13.	CGP 3.12.D CGP 3.10.A, 3.10.B	KSGP VII p.7 KSGP IX p.10	233	15	X	\$500.00 \$600.00 \$250.00	=	\$500
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- 1	. 1	nspections not conducted by qualified personnel		CGP 3.10.D	N/A	200			\$50.00	=	
A 4 5 4 1 1 1 1 1		All areas disturbed by construction activity or used		CGP 3.10.E	KSGP VII p.9	8 32		H	\$50.00	=	
33	f	or storage of materials and which exposed to precipitation not inspected		001 0.10/2					•		
34		All pollution control measures not inspected to		CGP 3.10.E	KSGP VII p.9				\$50.00	=	
"		ensure proper operation			``			Ц			
35		Discharge locations are not observed and nspected		CGP 3.10.E	KSGP VII p.9				\$50.00	=	
36	1	or discharge locations that are not accessible,		CGP 3,10.E	KSGP VII p.9				\$50.00	=	
37		nearby locations are not inspected Entrance/exit not inspected for off-site tracking		CGP 3.10.E	N/A	3455 3455 3455 3455		\vdash		+	
		,				2.35		IJ	\$50.00	_	
38		Site inspection report does not include: date,		CGP 3.10.G	KSGP VII p.9				\$50.00		
		name and qualifications of inspector, weather information, location of sediment/pollutant		ľ							
		discharge, BMP(s) requiring maintenance,									
		BMP(s) that have failed, BMP(s) that are								ı	
- 18		needed, corrective action required including changes/updates to SWPPP and schedule/dates									
		count each omission under 38 as 1 violation)						П			
-				CGP 3.10.G	KSGP VII p.9	100000		x	\$50.00	=	
39		nspection reports not properly signed/certified (count each failure to to sign/certify as 1 violation)		0.70.0					•		
	<u>ી</u>		,在中国的国际的国际的国际的		<u> </u>	18/92		Ш			
	j	AVAILABILITY OF RECORDS									
40	: 3	Sign/notice not posted		CGP 3.12.B	N/A	183	0.00	Ц	A 55.5	_	
	ΑI	Does not contain copy of complete NOI		CGP 3.12.B CGP 3.12.B	KSGP V p.5	133	esi este este este este este este este e	H	\$50.00	=	
		ocation of SWPPP or contact person for scheduling viewing times where on-site location		CGP 3.12.B	N/A	183	#19 19 49 K				
		for SWPPP unavailable not noted on sign				<u> </u>					
1											
7717		BEST MANAGEMENT PRACTICES No velocity dissipation devices located at		CGP 3.13.F	KSGP VII p.8	18G-18	ogajantas.	П	\$500.00	=	
41		discharge locations or outfall channels to ensure		00, 0				$\ \ $			
	8	non-erosive flow to receiving water	guro se resultares de estas estares estas estas				tesselle (ca			ite s	
42		Control measures are not properly:	1-3) Failure to maintain silt fence near SE Taurus Ave, Virgo Ave, and Scorpio	CGP 3.13,A	KSGP VII p.6 &		7		\$500.00	=	\$3,50
	A	Selected, installed and maintained	Ave; 4) Failure to maintain silt fence 100	CGF 5, 15,A	p.7			$\ \ $	φουσ.σσ		
	В	Maintenance not performed prior to next	fett sout of property line and 5) 50 feet	CGP 3.6.B	KSGP VII p 6 &			П	\$250.00	=	
L		anticipated storm event	east of Scorpio Ave; 6) Slope in need of hydroseed or blanket and 7) swale		p.9	1000	2557 3X 0			38 0	
		(count each failure to select, install, maintain each BMP as one violation	needs rock check dams.								
43		When sediment escapes the site, it is not removed		CGP 3.13.B	N/A	9755E					
4		at a frequency necessary to minimize off-site									
44		impacts Litter, construction debris, and construction		CGP 3.13.C	KSGP VII p.8	Ligh	in a saile		\$500.00	=	-
14		chemicals exposed to storm water are not			1	133					•
		prevented from becoming a pollutant source						$\ \ $			
45	1	(e.g. screening outfalls, pickup daily, etc.) Stabilization measures are not initiated as soon as	Lots 8.9, and 10 not stabilized	CGP 3.13.D	KSGP VII p.8		313	X	\$500.00	≡	\$50
		practible on portions of the site where construction									
		activities have temporarily or permanently ceased									
100		within 14 days after such cessation				830	364 - Inc. 1234 .			Ш	
		*Exceptions:			N/A		134 (31) (6)				
		(a) Snow or frozen ground conditions			N/A N/A	1		H	2005 460 000		
		(b) Activities will be resumed within 14 days									
		(c) Arid or Semi-arid areas (<20 inches per	[2015] [2] [2] [2] [2] [2] [2] [2] [2] [2] [2		N/A				\$4,000.00	100	200 0 200 0 000 000 000 000 000 000 000
46	1000	Common Drainage of 10+ acres does not have a		CGP 3.13.E.1	KSGP VII p.8	1	1		\$1,000.00	-	
- ,		sedimentation basin for the 2 year, 24 hour storm, or 3600 cubic ft. storage per acre drained	医医疗 医多种性 医二甲二甲二甲二甲二甲二甲二甲二甲二甲二甲二甲二甲二甲二甲二甲二甲二甲二甲二甲]							
					1,000,000	Janiaj,	ji negidnesid Savananisida	\bot	£1 000 00	╀	
		Where sedimentation basin not attainable, smaller		CGP 3.13,E.2	KSGP VII p.8	laidin Lisa			\$1,000.00	-	
		sediment basins, sediment traps, or erosion controls not implemented for downslope						Ц		Ш	
	В	Sediment not removed from sediment basin or		CGP 3.6.C	N/A						
1		traps when design capacity reduced by 50% or					3031-32				
47		more Common Drainage less than 10 acres does not	202 H. 188 P. 48 123 Child Child 18 100 440 F.	CGP 3.13.E.3	KSGP VII p.7 &				\$500.00	×	
· ']		have sediment traps, silt fences, vegetative buffer			p.8						
	95	strips, or equivalent sediment controls for all down			1	35501 35501					
Say		slope boundaries (not required if sedimentation sediment basin meeting criteria in 46 above)				1000				Ш	
		addition additional and an in a good of								-	
		Sediment not removed from sediment trap when		CGP 3.6.C	N/A		Date:				
-	22.7	design capacity reduced by 50% or more	The state of the second second section of the second secon	1						ا	
	 	SMALL BUSINESS EVALUATION					. Total operation	_		٦	

5300	A small business is defined by EPA's Small		
44	Business Compliance Policy as: "a person,		
	corporation, partnership, or other entity that		
100	employs 100 or fewer indiviudals (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.		
1111		Total Expedited Sottlement	\$10.050

* Requires Corrective Action

** NPDES General Permit, 68 FR 39087, issued by EPA on July 1, 2003, http://cfpub.epa.gov/npdes/stormwater/cgp.cfm

*** Kansas Water Pollution Control General Permit and Authorization to Discharge - Issued by KDHE on March 1, 2003 - http://kdhe.state.ks.us/stormwater/resources/cgp revision

IN THE MATTER OF Shawnee Terra, L.L.C., Respondent Docket No. CWA-07-2007-0017

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Expedited Settlement Agreement was sent this day in the following manner to the addressees:

Copy hand delivered to Attorney for Complainant:

Kristina Gonzales Assistant Regional Counsel Region VII United States Environmental Protection Agency 901 N. 5th Street Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Michael S. Hack Designated Member Shawnee Terra, LLC 3434 Taurus Avenue Topeka, Kansas 66605

Dated: 3/12/08

Kathy Robinson

Hearing Clerk, Region 7