



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 10

1200 Sixth Avenue, Seattle, Suite 900 Washington 98101

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-10-2015-0019, NPDES Nos. IDR12CU65 & IDR12CU68

RECEIVED

15 FEB -3 AM 8:24

HEARINGS CLERK  
EPA -- REGION 10

M3 Development Partners, LLC and Idaho Sand & Gravel ("Respondents") are "persons," 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.

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

Respondents had an unauthorized discharge of storm water in violation of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311, and/or failed to comply with their National Pollutant Discharge Elimination System ("NPDES") storm water permit issued under Section 402 of the Act, 33 U.S.C. § 1342.

EPA finds, and Respondents admit, that Respondents are 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." Respondents neither admit nor deny 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 \$4,050. Respondents consent to the assessment of this penalty, and waive 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, Respondents certify, 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. Respondents shall submit a written report with this Agreement detailing the specific actions taken to correct the violations cited herein.

Respondents certify that they have submitted bank, cashiers, or certified checks, with case name and docket number noted, totaling the amount specified above, payable to the "Treasurer, United States of America," via certified mail, to:

U.S. EPA, Region 10  
Fines and Penalties, Cincinnati Finance Center  
In the Matter of: Foxtail Sub - M3 Dev Partners & ID Sand & Gravel  
Docket No.:  
CWA-10-2015-0019  
P.O. Box 979077  
St. Louis, MO 63197-9000

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

This Agreement is binding on the parties signing below and effective upon filing with the Regional Hearing Clerk.

APPROVED BY EPA:

Date: 10/15/2014

Edward J. Kowalski, Director  
Office of Compliance and Enforcement

APPROVED BY RESPONDENT:

Name

(print): THOMAS H. WARLEY

Title

(print): DEVELOPMENT MANAGER

Signature:

Date: 10/22/14

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.

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

Date: 1/27/2015

M. Socorro Rodriguez  
Regional Judicial Officer, Region 10



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EPA finds, and Respondents admit, that Respondents are 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." Respondents neither admit nor deny the deficiencies specified in the Form.

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This Agreement is binding on the parties signing below and effective upon filing with the Regional Hearing Clerk.

APPROVED BY EPA:

[Signature]
Edward J. Kowalski, Director
Office of Compliance and Enforcement

Date: 10/15/2014

APPROVED BY RESPONDENT:

Name: C. Ryan Russell

Title: Authorized Agent

Signature: [Signature] Date: 11/6/2014

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.

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

[Signature]
M. Socorro Rodriguez
Regional Judicial Officer, Region 10

Date: 2/3/15

**Certificate of Service**

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: M3 Development Partners, LLC and Idaho Sand & Gravel: Foxtail (formerly "Reynard") Subdivision, Docket No.: CWA-10-2015-0019**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered to:

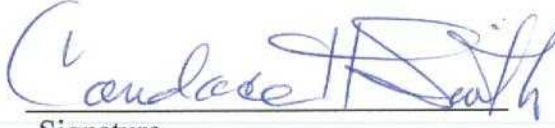
Chris Gebhardt  
U.S. Environmental Protection Agency  
1200 Sixth Avenue, OCE - 133  
Suite 900  
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Tom Warley, Development Manager  
M3 Development Partners, LLC  
4222 E. Camelback Road, Suite H100  
Phoenix, Arizona 65018

Ryan Russell, Project Manager  
Idaho Sand & Gravel  
P.O. Box 1310  
Nampa, Idaho 83653

DATED this 3<sup>rd</sup> day of February, 2015

  
Signature

Candace H. Smith  
Regional Hearing Clerk  
EPA Region 10