



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

2014 JAN 28 AM 10:58

EPA REGION VIII
HEARING CLERK

DOCKET NO.: CWA-08-2014-0001


IN THE MATTER OF:)	
)	
SMILEY CONSTRUCTION)	FINAL ORDER
)	
RESPONDENT)	

Pursuant to 40 C.F.R. §22.13(b), of EPA’s Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order.

The original Expedited Settlement Agreement was filed on October 17, 2013 and presented to me with typographical errors after the public comment closed. The Regional Hearing Clerk received a corrected version of the Expedited Settlement Agreement, signed by both parties, on January 24, 2014. The errors did not change the substantive content of the Settlement Agreement; therefore, no other public notice was necessary.

The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 28th DAY OF January, 2014.



Elyana R. Sutin, Regional Judicial Officer



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 8
1595 Wynkoop Street
Denver, Colorado 80202

2014 JAN 29 AM 9:06

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-08-2014-0001, NPDES No. NDR105200

FILED
EPA REGION VIII
HEARING CLERK

Smiley Construction (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.

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 \$5,500.00.

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 with this Agreement detailing the specific actions taken to correct the violations cited herein.

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:
U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 69197-9000
In the Matter of: Smiley Construction

Docket No: CWA-08-2014-0001

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.

This Agreement is binding on the parties signing below and effective when the Agreement and Final Order is issued by the Administrative Law Judge after the public notice period has elapsed. No public comments were received during the public comment period.

APPROVED BY EPA:

[Signature of Gwen Campbell]

Gwen Campbell, Acting Unit Chief
NPDES Enforcement Program
Office of Enforcement, Compliance
And Environmental Justice

Date: 12/18/13

[Signature of James Eppers]

James Eppers, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
And Environmental Justice

Date: 12/18/13

APPROVED BY RESPONDENT:

Name (print): *see Lady Janguta*

Title (print): *owner*

Signature: *Lady Janguta* Date: *1-9-14*


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

_____ Date _____
Elyana R. Sutin
Regional Judicial Officer

APPROVED BY RESPONDENT:

Name (print): Sody J. Sargata

Title (print): owner

Signature:  Date: 12-16-13

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

_____ Date _____
Elyana R. Sutin
Regional Judicial Officer

OCT 17 2013



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY Office of Enforcement, Compliance and Environmental Justice (Water)
Region 8
1595 Wynkoop Street
Denver, Colorado 80202

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-08-2014-0001, NPDES No. NDR105200

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

APPROVED BY EPA:

Gwen Campbell, Acting Unit Chief
NPDES Enforcement Program
Office of Enforcement, Compliance
And Environmental Justice

Date: 10/23/13

James Eppers, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
And Environmental Justice

Date: 10/22/13

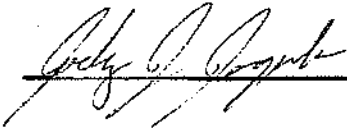
EPA-REGION VIII
HEADING PI FRK

2013 OCT 23 AM 11:03

APPROVED BY RESPONDENT:

Name (print): Jody Sanguka

Title (print): owner

Signature:  Date: 12-16-13

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

_____ Date _____
Elyana R. Sutin
Regional Judicial Officer

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT** in the matter of **SMILEY CONSTRUCTION; DOCKET NO.: CWA-08-2014-0001** was filed with the Regional Hearing Clerk on October 23, 2013 and the corrected version on January 24, 2014. **THE FINAL ORDER** was filed on January 28, 2014.

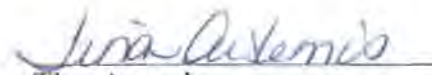
Further, the undersigned certifies that a true and correct copy of the documents were delivered to, Marc Weiner, Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were emailed and placed in the United States mail to:

Jody J. Jangula, Owner
Smiley Construction
P. O. Box 135
Napoleon, ND 58561

And emailed to:

Kim White
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

January 28, 2014



Tina Artemis
Paralegal/Regional Hearing Clerk

