



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

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FILED  
EPA REGION VIII  
HEARING CLERK

DOCKET NO.: CWA-08-2017-0014

IN THE MATTER OF:

HAMLET HOMES CORPORATION

RESPONDENT


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FINAL ORDER

Pursuant to 40 C.F.R. § 22.13(b) and §§ 22.18(b)(2) and (3) of EPA's Consolidated Rules of Practice, the Expedited Settlement Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order.

The Respondent is hereby **ORDERED** to comply with all of the terms of the Expedited Settlement Agreement, effective 30 days after the filing of the Agreement and Final Order.

SO ORDERED THIS 17<sup>th</sup> DAY OF August, 2017.

  
Katherine E. Hall  
Regional Judicial Officer



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 8

1595 Wynkoop Street
Denver, Colorado 80202

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-08-2017-0014, NPDES Permit No. UTR375389

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EPA REGION VIII

Docket No. CWA-08-2017-0014
In the Matter of: Hamlet Homes Corporation

This Expedited Settlement Agreement (Agreement) is entered into between the U.S. Environmental Protection Agency (EPA), and Hamlet Homes Corporation (Respondent), a Utah corporation and a "person" within the meaning of section 502(5) of the Clean Water Act (Act), 33 U.S.C. § 1362(5).

This Agreement, upon incorporation into a Final Order and full satisfaction by the parties, shall be a complete and full resolution of the Respondent's liability for federal civil penalties for the violations and facts alleged in the Form. The 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, any permit issued under the Act, or of any other federal statute or regulation. The EPA does not waive its right to issue a compliance order for any uncorrected deficiencies or violation(s) described in the Form. The EPA has determined this Agreement to be appropriate.

The EPA finds that Respondent failed to comply with the National Pollutant Discharge Elimination System (NPDES) storm water permit cited above, which was issued pursuant to section 402 of the CWA, 33 U.S.C. § 1342, and that Respondent is responsible for the deficiencies specified in the attached Expedited Settlement Offer Deficiencies Form (Form), which is incorporated by reference. The EPA also finds, and Respondent admits, that the EPA is authorized to assess administrative penalties for NPDES permit violations pursuant to section 309 of the Act, 33 U.S.C. § 1319, and 40 C.F.R. part 22, and that the Regional Judicial Officer for EPA Region 8 has jurisdiction to issue a final order ratifying this Agreement under section 309(g) of the Act, 33 U.S.C. § 1319(g), and 40 C.F.R. § 22.13(b). Respondent neither admits nor denies the deficiencies specified in the Form.

This Agreement is binding on the parties signing below and shall become final thirty (30) days from the date an order approving it is issued by the Regional Judicial Officer, unless a petition to set aside the order approving this Agreement is filed by a commenter pursuant to section 309(g)(4)(C) of the Act, 33 U.S.C. § 1319(g)(4)(C), or a hearing is requested under section 309(g)(5) of the Act, 33 U.S.C. § 1319(g)(5).

The parties enter into this Agreement in order to settle civil penalty liability for the violations described in the Form for a penalty of \$7,750.00. Respondent consents to the assessment of this penalty and waives the right to: (1) contest the statements in the Form; (2) participate in 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) of the Act, 33 U.S.C. § 1319(g)(8).

APPROVED BY THE EPA:

Stephanie DeJong, Unit Chief
NPDES Enforcement Unit
Office of Enforcement, Compliance and Environmental Justice
Date: 6/12/17

James H. Eppers, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance and Environmental Justice
Date: 6/13/17

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. No later than the date it signs this Agreement, Respondent shall submit a written report detailing the specific actions taken to correct all violations cited in the Form. Respondent also certifies that, no later than 10 days after receiving notice from the EPA that a final order has been signed ratifying this Agreement, Respondent shall submit a bank, cashiers or certified check, with the case name and docket number noted, for the amount specified above payable to the Treasurer, United States of America, to:

APPROVED BY RESPONDENT:

BARRY GITTLEMAN
Name of individual signing (printed)
PRESIDENT
Title of individual signing (printed)

Signature
Date: 5/30/17

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 69197-9000

**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	Hamlet Homes Corporation 308 East 4500 South, Suite 200 Murray, Utah 84117	801-281-2223	UTR375389	
		Inspector Name:	Laurel Dygowski	
		Inspector Agency:	US EPA	
		Entrance Interview Conducted:	Yes	
		Exit Interview Conducted:	Yes	
		Exit Interview given to:	Dave Gleaves	
		Exit Interview time:	14:10	Date: 03/28/2017
LOCATION AND ADDRESS OF SITE				
2	Glenmore Village 1300 West 6500 South Winchester Ave. Murray, Utah 84117			

FACILITY DESCRIPTION / CONTACT NAMES			
Name of Site Contact (ESO Worksheet recipient):		Reggie Pendleton, Superintendent, Hamlet Homes	
Name of Authorized Official (40 CFR 122.22):		Unknown	
Inspection Date:		03/28/2017	
Start Construction Date:		11/01/2016	
Estimated Completion Construction Date:		09/01/2017	
If Unpermitted, Number of Months Unpermitted:		0	
Name of Receiving Water Body (Indicate whether 303(d) listed):		Jordan River	
Acres Currently Disturbed   Acres to be Disturbed in Whole Common Plan:		4.5 acres	4.5 acres
Has Operator Requested Rainfall Erosivity or TMDL Waiver per 44 CFR 122.26(b)(15)?		No	

PERMIT COVERAGE	Findings	Citation Reference**	R C A*	No. of Deficiencies	Dollar Amount	Total
3	Operator unpermitted for one month (# months unpermitted equals number of violations). Discharge without a permit.	CWA 301			\$500.00 =	

SWPPP REVIEW		Citation Reference**	R C A*	No. of Deficiencies	Dollar Amount	Total
4	SWPPP not prepared (If no SWPPP, leave elements 5 - 30 blank)	UCGP 7.1.1			\$5,000.00 =	
5	SWPPP prepared but prepared after construction start (# of months = # of violations)	UCGP 7.1.1			\$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...	UCGP 7.2.6.9			\$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	UCGP 7.1.1			\$500.00 =	
8	SWPPP does not have site description, as follows:					
A	Nature of activity in description	UCGP 7.2.2			\$100.00 =	
B	Intended sequence of major activities	UCGP 7.2.4			\$100.00 =	
C	Total disturbed acreage	UCGP 7.2.2			\$100.00 =	
D	General location map	N/A			\$100.00 =	
E	Site map	UCGP 7.2.5			\$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)		UCGP 7.2.5				\$50.00	=	
	G	Location/description industrial activities, like concrete or asphalt batch plants		UCGP 7.2.5f				\$500.00	=	
9		SWPPP does not:								
	A	Describe all pollution control measures (e.g. BMPs)		UCGP 7.2.9				\$750.00	=	
	B	Describe sequence for implementation		UCGP 7.2.4.a				\$250.00	=	
	C	Detail operator(s) responsible for implementation		UCGP 7.2.1				\$250.00	=	
10		SWPPP does not describe interim stabilization practices		UCGP 2.2 & 7.2.9				\$250.00	=	
11		SWPPP does not describe permanent stabilization practices		UCGP 2.2 & 7.2.9				\$250.00	=	
12		SWPPP does not describe a schedule to implement stabilization practices		UCGP 7.2.4.d				\$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)		UCGP 7.2.4				\$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		UCGP 2.1.3				\$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		UCGP 2.2.2				\$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						\$500.00	=	
17		SWPPP does not describe measures to minimize off site vehicle tracking and generation of dust	The SWPPP did not document control techniques that would be used to remove sediment prior to vehicle exit.	UCGP 7.2.9.9 & 2.1.2.c & e	Yes	1		\$500.00	=	\$500
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		UCGP 7.2.6.6 & 2.3.3.c				\$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		UCGP 1.3.3				\$500.00	=	
20		SWPPP does not identify allowable sources of non-storm water discharges listed in subpart 1.3.B of the CGP		UCGP 1.3.4 & 7.2.7				\$500.00	=	
21		SWPPP does not identify/ensure implementation of pollution prevention measures for non-storm water discharges		UCGP 7.2.9.a				\$500.00	=	

22	Endangered Species Act documentation is not in SWPPP					\$500.00	=		
23	Historic Properties (Reserved)								
24	Copy of permit and/or NOI not in SWPPP (count each omission under 24 as 1 violation)		UCGP 7.2.16 & 7.2.1			\$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)					\$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		UCGP 7.4.1.a			\$250.00	=		
27	Copies of inspection reports have not been retained as part of the SWPPP for 3 years from date permit coverage terminates		UCGP 4.1.7.c and 5.4.3			\$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)		UCGP 7.4.1.a and 5.4.2			\$50.00	=		
29	Copy of SWPPP not retained on site		UCGP 7.1.1			\$500.00	=		
	A SWPPP not made available upon request					\$500.00	=		
30	SWPPP not signed/certified		UCGP 7.2.15			\$500.00	=		
<b>Subtotal SWPPP Deficiencies</b>							<b>\$500</b>		
<b>INSPECTIONS</b>									
31	Inspections not performed and documented at least 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).	The SWPPP did not have the self-inspection schedule specified. Due to this, it was not feasible at the time of the to determine if inspections were being done on schedule. It appears that a schedule of at least every 14 days was being implemented. In addition, there were six inspections that should have been done due to a rain event that were not done on the following dates: 1/9/17, 1/22/17, 2/12/17, 3/6/17 and 3/23/17. Following the 14-day schedule, there was a missed inspection on 12/30/16.	UCGP 4.1.2, 4.1.3, 4.4, 7.2.11b, and 7.2.11c	Yes	6	\$250.00	=	\$1,500	
	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:								

	Number of Inspections expected if performed bi-weekly:								
	If known, number of days of rainfall of >0.5"	10							
32	Inspections not conducted by qualified personnel		UCGP 4.1.1, 7.2.12, & 6				\$50.00	=	
33	All areas disturbed by construction activity or used for storage of materials and which exposed to precipitation not inspected		UCGP 4.1.5.a & c				\$50.00	=	
34	All pollution control measures not inspected to ensure proper operation		UCGP 4.1.5.b & 4.1.6				\$50.00	=	
35	Discharge locations are not observed and inspected		Part 4.1.5.e				\$50.00	=	
36	For discharge locations that are not accessible, nearby locations are not inspected						\$50.00	=	
37	Entrance/exit not inspected for off-site tracking		UCGP 4.1.5 & 4.1.6				\$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)		UCGP 4.1.7.a, 4.1.6,				\$50.00	=	
39	Inspection reports not properly signed/certified (count each failure to to sign/certify as 1 violation)		UCGP 4.1.7.b				\$50.00	=	
<b>Subtotal Inspections Deficiencies</b>									<b>\$1,500</b>
<b>AVAILABILITY OF RECORDS</b>									
40	Sign/notice not posted	There was no publicly accessible sign with the SWPPP and permit information.	UCGP 1.5	Yes	1		\$250.00	=	\$250
	A Does not contain copy of complete NOI		UCGP 7.2.16.a				\$50.00	=	
	B Location of SWPPP or contact person for scheduling viewing times where on-site location for SWPPP unavailable not noted on sign		UCGP 1.5				\$50.00	=	
<b>Subtotal Records Deficiencies</b>									<b>\$250</b>
<b>BEST MANAGEMENT PRACTICES</b>									
41	No velocity dissipation devices located at discharge locations or outfall channels to ensure non-erosive flow to receiving water						\$500.00	=	
42	Control measures are not properly:								
	A Selected, installed and maintained	There are no vehicle trackout controls and vehicle trackout was observed at the site (see photos 1169-1172, and 1177-1182). There were two vehicle exits. There was sediment observed leaving the site as well as sediment in the gutter and on the street and there were no perimeter controls installed (see photos 1173-1175 and 1178-1181). There were seven areas that needed perimeter control. There was one stockpile with no controls stockpile controls (see photo 1181). The inlet shown in photo 1187 was not installed per the manufacturer's specifications as there is a gap between the inlet control on the side of the inlet where sediment can enter the inlet and bypass the control.	UCGP 2.1.1.c.i, 2.1.1.c.ii, 2.1.1.d, and 2.3.2	Yes	11	X	\$500.00	=	\$5,500
	B Maintenance not performed prior to next anticipated storm event		UCGP 2.1.1.d.ii				\$250.00	=	

	(count each failure to select, install, maintain each BMP as one violation)								
43	When sediment escapes the site, it is not removed at a frequency necessary to minimize off-site impacts		UCGP 2.1.1.b.i			\$500.00	=		
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.)		UCGP 2.3.3			\$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		UCGP 2.2			\$500.00	=		
	*Exceptions:								
	(a) Snow or frozen ground conditions								
	(b) Activities will be resumed within 14 days								
	(c) Arid or Semi-arid areas (<20 inches per year)								
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		UCGP 2.1.3.b.i			\$1,000.00	=		
	A Where sedimentation basin not attainable, smaller sediment basins, sediment traps, or erosion controls not implemented for downslope boundaries					\$1,000.00	=		
	B Sediment not removed from sediment basin or traps when design capacity reduced by 50% or more		UCGP 2.1.3.b.ii			\$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)		UCGP 2.1			\$500.00	=		
	A Sediment not removed from sediment trap when design capacity reduced by 50% or more		UCGP 2.1.1.d			\$500.00	=		
<b>Subtotal BMP Deficiencies</b>							<b>\$5,500</b>		
<b>SMALL BUSINESS EVALUATION</b>									
48	Is the Owner/Operator a Small Business?								
	A <i>small business</i> 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.								
<b>Total Expedited Settlement:</b>							<b>\$7,750</b>		
* Requires Corrective Action									

**CERTIFICATE OF SERVICE**

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT** in the matter of **HAMLET HOMES CORPORATION; DOCKET NO.: CWA-08-2017-0014** was filed with the Regional Hearing Clerk on June 27, 2017, and **FINAL ORDER** was filed on August 17, 2017.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Peggy Livingston, Enforcement Attorney. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt on August 17, 2017, to:

Respondent

Barry Gittleman, President  
Hamlet Homes Corporation  
308 East 4500 South, Suite 200  
Murray, Utah 84107

And emailed to:

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

August 17, 2017



Melissa Haniewicz  
Regional Hearing Clerk