



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
Denver, CO 80202-1129  
Phone 800-227-8917  
www.epa.gov/region8

2017 SEP 15 AM 9:29

FILED  
EPA REGION VIII  
HEARING CLERK

DOCKET NO.: CWA-08-2017-0018

IN THE MATTER OF:

Fieldstone Homes, LLC

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 Consent 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 Consent Agreement, effective 30 days after issuance of this Final Order.

SO ORDERED THIS 14<sup>th</sup> DAY OF September, 2017.

KATHERIN E. HALL  
Katherin E. Hall  
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2017 JUL 25 AM 9:10

IN THE MATTER OF: )  
)  
Fieldstone Homes, LLC )  
12896 South Pony Express Road )  
Suite 400 )  
Draper, Utah 84020 )  
)  
)  
Respondent. )

Docket No. CWA-08-2017-0018

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**COMBINED COMPLAINT AND  
CONSENT AGREEMENT**

The U.S. Environmental Protection Agency, Region 8 (EPA), and Fieldstone Homes, LLC (Respondent), by their undersigned representatives, hereby consent and agree as follows:

**I. AUTHORITY**

1. This proceeding is subject to the EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. part 22. This Combined Complaint and Consent Agreement (CCCA) is entered into by the parties for the purpose of simultaneously commencing and concluding this matter, as authorized by 40 C.F.R. § 22.13(b), and is executed pursuant to 40 C.F.R. § 22.18(b)(2) and (3).
2. The EPA has jurisdiction over this matter pursuant to section 309(g)(1)(A) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g)(1)(A).

**II. PARTIES BOUND**

3. This CCCA, upon incorporation into a Final Order, applies to and is binding upon the EPA and upon Respondent, and Respondent's officers, directors, agents, successors and assigns. Each signatory to this CCCA certifies that they are authorized to execute and legally bind the party they represent to this CCCA.

**III. STATEMENT OF THE PARTIES**

4. For the purposes of this settlement only, Respondent admits the jurisdictional allegations contained herein and neither admits nor denies the EPA's specific factual allegations and legal conclusions.
5. With respect to this settlement only, Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CCCA, including any right of judicial review under the Administrative Procedure Act, 5 U.S.C. §§ 701 – 706.
6. The EPA asserts that settlement of this matter is in the public interest, and the EPA and Respondent agree that entry of this CCCA and its incorporation into a Final Order without further litigation and without adjudication of any issue of fact or law will avoid prolonged and complicated litigation between the parties.

7. The parties reserve any and all rights and defenses they may have against any person or entity not a party to this CCCA.
8. This CCCA, 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 alleged below.

#### IV. GENERAL ALLEGATIONS

9. In order to restore and maintain the integrity of the nation's waters, section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person into waters of the United States, unless authorized by certain other provisions of the CWA, including section 402 of the CWA, 33 U.S.C. § 1342.
10. Section 402 of the CWA, 33 U.S.C. § 1342, establishes a National Pollutant Discharge Elimination System (NPDES) program, under which the EPA, and states with authorization from the EPA, may permit discharges of pollutants into navigable waters, subject to specific terms and conditions.
11. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), establishes a program under which a NPDES permit may be issued to authorize discharges of stormwater discharges associated with industrial activities.
12. The regulations further defining requirements for NPDES permits for stormwater discharges associated with industrial activity are found at 40 C.F.R. part 122.
13. Construction activity including clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre and less than five acres is considered small construction activity. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres is small construction activity. 40 C.F.R. § 122.26(b)(15).
14. Dischargers of stormwater associated with industrial activity must either apply for an individual permit or seek coverage under an existing and lawful general permit. 40 C.F.R. § 122.26(c).
15. The Utah Department of Environmental Quality (UDEQ) was approved by the EPA to administer the NPDES program on July 7, 1987. 52 Fed. Reg. 27578-2757, July 22, 1987. A permit issued by UDEQ under Utah's EPA-approved NPDES program is known as an UPDES permit. The EPA maintains concurrent enforcement authority with delegated states for violations of the CWA or of any permit condition or limitation implementing the CWA. 33 U.S.C. § 1342(i).
16. Effective July 1, 2014, the UDEQ issued an NPDES general permit (UPDES Permit No. UTRC00000, referenced as the Permit) authorizing discharges of stormwater associated with

construction activities including small construction activity, if done in compliance with its terms and conditions. Dischargers may apply for authorization to discharge under the Permit by submitting a notice of intent for coverage to the UDEQ.

17. The Permit requires, among other things, that dischargers develop and implement an adequate stormwater pollution prevention plan (SWPPP), conduct regular stormwater inspections, and implement and maintain best management practices (BMPs) to prevent or reduce pollution. BMPs include, but are not necessarily limited to, structural controls (e.g., storm drain inlet protection) and management practices (e.g., dedicated concrete washout areas and street sweeping).

## **V. EPA'S SPECIFIC ALLEGATIONS**

18. Respondent is a limited liability corporation organized under the laws of the State of Utah and authorized to do business in the State of Utah. Respondent's principal office is located in Draper, Utah. Brett Woodland is the Director of Construction for Respondent.
19. Respondent is a "person" within the meaning of section 502(5) of the CWA and is therefore, subject to the requirements of the CWA and its implementing regulations. 33 U.S.C. § 1362(5) and 40 C.F.R. § 122.2.
20. Respondent was, at all times relevant to this CCCA, engaged in construction activities at a housing subdivision known as Riverfront South Salt Lake (the Site) located at 982 West Carlisle Park, South Salt Lake, Utah. Respondent was engaged in an "industrial activity" as defined at 40 C.F.R. § 122.26(b)(14).
21. The Site encompassed approximately 2.53 acres.
22. Respondent filed the notice of intent and was covered under the Permit tracking number UTR372355 between September 6, 2015 and September 5, 2016.
23. Respondent had day-to-day responsibility for the construction at the Site.
24. Stormwater runoff, snow melt runoff, surface runoff, and/or drainage water left the Site and flowed into the Jordan River. The runoff and drainage from the Site are "stormwater" as defined by EPA regulations. 40 C.F.R. § 122.26(b)(13).
25. The Jordan River is a navigable water of the United States as defined in section 502(7) of the CWA, 33 U.S.C. § 1362(7) and 40 C.F.R. § 122.2.
26. Stormwater contains "pollutants" as defined by section 502(6) of the CWA, 33 U.S.C. § 1362(6).
27. Each stormwater discharge from the Site is a discharge from a "point source" as defined by section 502(14) of the CWA, 33 U.S.C. § 1362(14), and 40 C.F.R. § 122.2.

28. Each stormwater discharge from the Site is a “discharge of a pollutant” as defined by section 502(12) of the CWA, 33 U.S.C. § 1362(12), and 40 C.F.R. § 122.2.

## **VI. DESCRIPTION OF ALLEGED VIOLATIONS**

29. On July 14, 2016, inspectors from the EPA conducted a stormwater inspection at the Site to determine compliance with the CWA, the UPDES General Permit and EPA regulations (Inspection).
30. Part 1.5 of the Permit requires permittees post notice of coverage that is visible from a public access point, including the UPDES Permit tracking number, operator contact name and phone number for obtaining information on the Permit, the SWPPP and/or the project.
31. At the time of the Inspection, there was no visible sign containing the Permit tracking number and/or operator contact information.
32. Part 7.3 of the Permit requires permittees to maintain a current copy of the project SWPPP.
33. At the time of the Inspection, there was no SWPPP available for review.
34. Part 2.1.2.c of the Permit sets forth requirements for track-out controls, including the restriction of vehicle use to properly designated exit points, the use of stabilization techniques at all exits onto paved roads to ensure sediment removal prior to vehicle exit, and the removal of deposited sediment before it accumulates significantly beyond the immediate vicinity of the project.
35. At the time of the Inspection, the EPA inspectors observed no vehicle track-out controls resulting in numerous areas of deposited sediment on paved roads.
36. Part 2.1.1.d of the Permit requires, among other things, that for problems discovered during inspections, replacement, repairs or maintenance must be done immediately following the inspection or in a timely manner as identified in the SWPPP.
37. Part 2.3.2 of the Permit requires the permittee to install pollution prevention controls and replace, repair, or maintain pollution prevention controls in effective operating condition.
38. During the Inspection, the EPA observed the following: sediment packed in and around two stormwater inlets, an inlet with a gap between the rock sock and curb, and a curb cutback that was not maintained.
39. Part 5.4.1 of the Permit requires the permittee to make an entry in a report/log or other device for monitoring corrective action following the discovery of a stormwater or pollution control problem, including the condition identified (e.g., BMPs not installed, installed incorrectly, and need repair) and the date and time the condition was identified and how identified.
40. Part 5.4.2 of the Permit also requires that within seven (7) calendar days of discovery the stormwater or pollution control problem, the permittee must make an entry in a corrective action report/log or other device describing follow up actions and whether modification to the SWPPP is required.

41. At the time of the Inspection, and based on information received from the Respondent in response to the EPA's construction stormwater inspection report dated October 3, 2016, Respondent did not log corrective action monitoring and/or repair from approximately November 15, 2015, through August 3, 2016.
42. As set forth in paragraphs 29, 31, 33, 35, 38, and 41 above, Respondent failed to comply with the conditions of the Permit in violation of 33 U.S.C. § 1342 of the CWA.

## VII. CIVIL PENALTY

43. Pursuant to section 309(g)(2)(A) of the CWA, 33 U.S.C. § 1319 (g)(2)(A), and after consideration of the facts of this case as they related to the factors set forth in section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), the EPA has determined that a civil penalty of twenty-seven thousand and five hundred dollars (\$27,500.00) is appropriate to settle this matter.
44. Respondent consents and agrees to pay a civil penalty in the amount of twenty-seven thousand and five hundred dollars (\$27,500.00) in the manner described below:
  - a. Payment shall be in a single payment of \$27,500, due no later than thirty (30) calendar days from the date of the Final Order. If the due date for the payment falls on a weekend or federal holiday, then the due date is the next business day. The date the payment is made is considered to be the date processed by U.S. Bank, as described below. Payment must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day.
  - b. The payment shall be made by remitting a check or making a wire transfer or on-line payment. The check or other payment shall designate the case name and docket number, be in the amount stated in the preceding paragraph, and be payable to the "Environmental Protection Agency." The payment shall be remitted as follows:

If remitted by regular U.S. mail:

U.S. EPA Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

If remitted by any overnight commercial carrier:

U.S. Bank  
1005 Convention Plaza Mail Station  
SL-MO-C2-GL  
St. Louis, Missouri 63101

If remitted by wire transfer:

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

If remitted through the Automated Clearing House (ACH) for receiving US currency:

U.S. Treasury REX / Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 -- checking

Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, Maryland 20737  
Contacts: REX (Remittance Express): 866-234-5681

If remitted online with a debit card or credit card: No user name, password, or account number is necessary for this option. Online payment can be accessed via [WWW.PAY.GOV](http://WWW.PAY.GOV), entering SFO 1.1 in the form search box on the left side of the screen, opening the form, and following the directions on the screen.

Copies of the check or record of payment shall be sent to:

Laurel Dygowski  
U.S. Environmental Protection Agency (8ENF-W-NP)  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

and

Melissa Haniewicz  
Regional Hearing Clerk  
U.S. Environmental Protection Agency (8RC)  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

A transmittal letter identifying the case title and docket number must accompany the remittance and copies of the check.

45. If the payment is not received by the specified due date, interest accrues from the date of the Final Order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received (e.g., on the 1<sup>st</sup> late day, 30 days of interest will have accrued).
46. A handling charge of fifteen dollars (\$15) shall be assessed the 31<sup>st</sup> day from the date of the Final Order, and for each subsequent 30-day period that the debt, or any portion thereof, remains unpaid. In addition, a 6% per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 30 days of the due date. Payments are first applied to outstanding handling charges, second to penalty assessments, third to accrued interest, and then to the outstanding principal amount.
47. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

#### **VIII. PUBLIC NOTICE**

48. As required by section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45, the EPA will provide public notice and a reasonable opportunity to comment on the penalty that Respondent has agreed to pay in this matter. The EPA may modify or withdraw its consent to this CCCA if comments received disclose facts or considerations which indicate that this CCCA is inappropriate, improper, or inadequate.
49. If comments received during the public comment period do not require modification or withdrawal by the EPA from this CCCA, the parties agree to submit this CCCA to the Regional Judicial Officer for Region 8 following the close of the public comment period specified in 40 C.F.R. § 22.45, with a request that it be incorporated into a final order.

#### **IX. GENERAL PROVISIONS**


50. Nothing in this CCCA shall relieve Respondent of the duty to comply with the CWA and any regulation, order, or permit issued pursuant to the CWA.
51. Any failure by Respondent to comply with this CCCA shall constitute a breach of this CCCA and may result in referral of the matter to the United States Department of Justice for enforcement of this CCCA and such other relief as may be appropriate.




52. Nothing in this CCCA shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of any failure by Respondent to comply with this CCCA.
53. The parties agree to submit this CCCA to the Regional Judicial Officer, with a request that it be incorporated into a Final Order.
54. Each party shall bear its own costs and attorney's fees in connection with this matter.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8,  
Complainant

Date: 7.21.2017


By:   
James H. Eppers  
Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance,  
and Environmental Justice

Date: 7/20/17

By:   
Stephanie DeJong, Unit Chief  
Water Technical Enforcement Unit  
Office of Enforcement, Compliance,  
and Environmental Justice (8ENF-L)

FIELDSTONE HOMES, LLC  
Respondent

Date: 7-17-17

By:   
Brett Woodland  
Director of Construction  
Fieldstone Homes

52. Nothing in this CCCA shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of any failure by Respondent to comply with this CCCA.
53. The parties agree to submit this CCCA to the Regional Judicial Officer, with a request that it be incorporated into a Final Order.
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UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8,  
Complainant

Date: \_\_\_\_\_


By: \_\_\_\_\_  
James H. Eppers  
Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance,  
and Environmental Justice

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Stephanie DeJong, Unit Chief  
Water Technical Enforcement Unit  
Office of Enforcement, Compliance,  
and Environmental Justice (8ENF-L)

FIELDSTONE HOMES, LLC  
Respondent

Date: 7-17-17

By:   
Brett Woodland  
Director of Construction  
Fieldstone Homes

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (EPA) REGION 8  
1595 Wynkoop Street, Denver, CO 80202-1129

**PUBLIC NOTICE OF PROPOSED COMBINED COMPLAINT AND CONSENT  
AGREEMENT AND OPPORTUNITY TO COMMENT**

**Summary:** The EPA is providing notice of the opportunity to comment on a proposed Combined Complaint and Consent Agreement (CCCA). The CCCA settles allegations by the EPA that Fieldstone Homes, LLC, has violated a permit issued pursuant to the Clean Water Act (CWA) (permit number UTR372355) at the Riverfront construction site located at 982 West Carlisle Park, South Salt Lake, Utah.

**Background:** The EPA and Fieldstone Homes, LLC, have agreed to enter into a CCCA to resolve Fieldstone Homes, LLC's alleged failure to implement required stormwater controls to minimize discharges of sediment and other pollutants into waters of the United States. Fieldstone Homes, LLC, has agreed to pay a civil administrative penalty of \$27,500.00 to resolve its civil penalty liability for these alleged violations. Pursuant to section 309(g)(4) of the CWA, the EPA hereby notifies the public of the EPA's proposed penalty assessment.

The addresses of the EPA and Fieldstone Homes, LLC, are listed below.

Fieldstone: Fieldstone Homes, LLC, 12896 South Pony Express Road, Suite 400, Draper, Utah, 84020, identified in the CCCA as the Respondent.

EPA: EPA Region 8, 1595 Wynkoop Street, Denver, Colorado, 80202-1129, identified in the CCCA as the Complainant.

The EPA is authorized by section 309(g) of the CWA, 33 U.S.C. § 1319(g), to issue an order assessing a civil administrative penalty for violations of certain CWA requirements, after providing (1) an opportunity for the person to be assessed the penalty to request a hearing to contest the penalty, and (2) notification to the public of its rights to submit written comments and to participate in any hearing.

**PUBLIC COMMENTS**

The EPA encourages the public to comment on the CCCA, which will be available for public review for a comment period of thirty (30) days after the publication or posting of this notice. After the close of this comment period, the EPA will, if appropriate in view of any comments received, enter an order approving the CCCA. The order, if any, would be issued at least ten (10) days after the close of the public comment period and at least forty (40) days after publication or posting of this notice, in accordance with 40 C.F.R. § 22.45(b) and (c)(3). Any person submitting written comments has a right to participate in a hearing, if one is held. The CCCA will be available for review between 9:00 a.m. and 4:00 p.m. on business days at the address listed below.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2017 JUL 25 AM 9:10

IN THE MATTER OF: )  
)  
Fieldstone Homes, LLC ) Docket No. CWA-08-2017-0018  
12896 South Pony Express Road )  
Suite 400 )  
Draper, Utah 84020 )  
)  
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**I. AUTHORITY**

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2. The EPA has jurisdiction over this matter pursuant to section 309(g)(1)(A) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g)(1)(A).

**II. PARTIES BOUND**

3. This CCCA, upon incorporation into a Final Order, applies to and is binding upon the EPA and upon Respondent, and Respondent's officers, directors, agents, successors and assigns. Each signatory to this CCCA certifies that they are authorized to execute and legally bind the party they represent to this CCCA.

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4. For the purposes of this settlement only, Respondent admits the jurisdictional allegations contained herein and neither admits nor denies the EPA's specific factual allegations and legal conclusions.
5. With respect to this settlement only, Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CCCA, including any right of judicial review under the Administrative Procedure Act, 5 U.S.C. §§ 701 – 706.
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38. During the Inspection, the EPA observed the following: sediment packed in and around two stormwater inlets, an inlet with a gap between the rock sock and curb, and a curb cutback that was not maintained.
39. Part 5.4.1 of the Permit requires the permittee to make an entry in a report/log or other device for monitoring corrective action following the discovery of a stormwater or pollution control problem, including the condition identified (e.g., BMPs not installed, installed incorrectly, and need repair) and the date and time the condition was identified and how identified.
40. Part 5.4.2 of the Permit also requires that within seven (7) calendar days of discovery the stormwater or pollution control problem, the permittee must make an entry in a corrective action report/log or other device describing follow up actions and whether modification to the SWPPP is required.

41. At the time of the Inspection, and based on information received from the Respondent in response to the EPA's construction stormwater inspection report dated October 3, 2016, Respondent did not log corrective action monitoring and/or repair from approximately November 15, 2015, through August 3, 2016.
42. As set forth in paragraphs 29, 31, 33, 35, 38, and 41 above, Respondent failed to comply with the conditions of the Permit in violation of 33 U.S.C. § 1342 of the CWA.

## VII. CIVIL PENALTY

43. Pursuant to section 309(g)(2)(A) of the CWA, 33 U.S.C. § 1319 (g)(2)(A), and after consideration of the facts of this case as they related to the factors set forth in section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), the EPA has determined that a civil penalty of twenty-seven thousand and five hundred dollars (\$27,500.00) is appropriate to settle this matter.
44. Respondent consents and agrees to pay a civil penalty in the amount of twenty-seven thousand and five hundred dollars (\$27,500.00) in the manner described below:
  - a. Payment shall be in a single payment of \$27,500, due no later than thirty (30) calendar days from the date of the Final Order. If the due date for the payment falls on a weekend or federal holiday, then the due date is the next business day. The date the payment is made is considered to be the date processed by U.S. Bank, as described below. Payment must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day.
  - b. The payment shall be made by remitting a check or making a wire transfer or on-line payment. The check or other payment shall designate the case name and docket number, be in the amount stated in the preceding paragraph, and be payable to the "Environmental Protection Agency." The payment shall be remitted as follows:

If remitted by regular U.S. mail:

U.S. EPA Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

If remitted by any overnight commercial carrier:



U.S. Bank  
1005 Convention Plaza Mail Station  
SL-MO-C2-GL  
St. Louis, Missouri 63101

If remitted by wire transfer:

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

If remitted through the Automated Clearing House (ACH) for receiving US currency:

U.S. Treasury REX / Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 -- checking

Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, Maryland 20737  
Contacts: REX (Remittance Express): 866-234-5681

If remitted online with a debit card or credit card: No user name, password, or account number is necessary for this option. Online payment can be accessed via [WWW.PAY.GOV](http://WWW.PAY.GOV), entering SFO 1.1 in the form search box on the left side of the screen, opening the form, and following the directions on the screen.

Copies of the check or record of payment shall be sent to:

Laurel Dygowski  
U.S. Environmental Protection Agency (8ENF-W-NP)  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

and

Melissa Haniewicz  
Regional Hearing Clerk  
U.S. Environmental Protection Agency (8RC)  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

A transmittal letter identifying the case title and docket number must accompany the remittance and copies of the check.

45. If the payment is not received by the specified due date, interest accrues from the date of the Final Order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received (e.g., on the 1<sup>st</sup> late day, 30 days of interest will have accrued).
46. A handling charge of fifteen dollars (\$15) shall be assessed the 31<sup>st</sup> day from the date of the Final Order, and for each subsequent 30-day period that the debt, or any portion thereof, remains unpaid. In addition, a 6% per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 30 days of the due date. Payments are first applied to outstanding handling charges, second to penalty assessments, third to accrued interest, and then to the outstanding principal amount.
47. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

#### **VIII. PUBLIC NOTICE**

48. As required by section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45, the EPA will provide public notice and a reasonable opportunity to comment on the penalty that Respondent has agreed to pay in this matter. The EPA may modify or withdraw its consent to this CCCA if comments received disclose facts or considerations which indicate that this CCCA is inappropriate, improper, or inadequate.
49. If comments received during the public comment period do not require modification or withdrawal by the EPA from this CCCA, the parties agree to submit this CCCA to the Regional Judicial Officer for Region 8 following the close of the public comment period specified in 40 C.F.R. § 22.45, with a request that it be incorporated into a final order.


#### **IX. GENERAL PROVISIONS**

50. Nothing in this CCCA shall relieve Respondent of the duty to comply with the CWA and any regulation, order, or permit issued pursuant to the CWA.
51. Any failure by Respondent to comply with this CCCA shall constitute a breach of this CCCA and may result in referral of the matter to the United States Department of Justice for enforcement of this CCCA and such other relief as may be appropriate.


52. Nothing in this CCCA shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of any failure by Respondent to comply with this CCCA.
53. The parties agree to submit this CCCA to the Regional Judicial Officer, with a request that it be incorporated into a Final Order.
54. Each party shall bear its own costs and attorney's fees in connection with this matter.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8,  
Complainant

Date: 7.21.2017

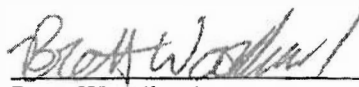
By:   
James H. Eppers  
Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance,  
and Environmental Justice

Date: 7/20/17

By:   
Stephanie DeJong, Unit Chief  
Water Technical Enforcement Unit  
Office of Enforcement, Compliance,  
and Environmental Justice (8ENF-L)

FIELDSTONE HOMES, LLC  
Respondent

Date: 7-17-17

By:   
Brett Woodland  
Director of Construction  
Fieldstone Homes

- 52. Nothing in this CCCA shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of any failure by Respondent to comply with this CCCA.
- 53. The parties agree to submit this CCCA to the Regional Judicial Officer, with a request that it be incorporated into a Final Order.
- 54. Each party shall bear its own costs and attorney's fees in connection with this matter.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8,  
Complainant

Date: \_\_\_\_\_

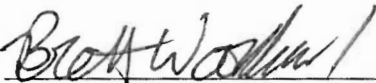
By: \_\_\_\_\_  
James H. Eppers  
Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance,  
and Environmental Justice

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Stephanie DeJong, Unit Chief  
Water Technical Enforcement Unit  
Office of Enforcement, Compliance,  
and Environmental Justice (8ENF-L)

FIELDSTONE HOMES, LLC  
Respondent

Date: 7-17-17

By:   
Brett Woodland  
Director of Construction  
Fieldstone Homes

**CERTIFICATE OF SERVICE**

The undersigned certifies that the original of the attached **COMBINED COMPLAINT AND CONSENT AGREEMENT and FINAL ORDER** in the matter of **Fieldstone Homes, LLC; DOCKET NO.: CWA-08-2017-0018** was filed with the Regional Hearing Clerk on September 15, 2017.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Laurianne Jackson, Enforcement Attorney. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt on September 15, 2017 to:


Respondent

Fieldstone Homes, LLC  
12896 South Pony Express Road  
Suite 400  
Draper, Utah 84020

And emailed to:

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

September 15, 2017

  
Elizabeth Archer  
Acting Regional Hearing Clerk