



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

EXPEDITED SETTLEMENT AGREEMENT 08 MAR 13 PM 3:49

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

ENVIRONMENTAL PROTECTION AGENCY-REGION VII REGIONAL HEARING CLERK

Shawnee Terra, L.L.C. ("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 \$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 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 Appropriate Official, 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 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 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

William A. Spratlin
Director
Water, Wetlands, and Pesticides Division

APPROVED BY RESPONDENT:

Name (print): Michael Hack
Title (print): Designated Member
Signature: [Signature] Date: 1-16-08

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:

Robert L. Patrick
Regional Judicial Officer

ENVIRONMENTAL PROTECTION AGENCY-REGION VII REGIONAL HEARING CLERK 08 MAR 13 PM 3:49

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 Shawnee Terra, L.L.C. 3434 Taurus Avenue Topeka, KS 66605	785-267-3900	KSR-101843
		Inspector Name:	Joe Joslin
		Inspector Agency:	US EPA
		Entrance Interview Conducted:	<input type="checkbox"/> Yes <input type="checkbox"/> No
		Exit Interview Conducted:	<input type="checkbox"/> Yes <input type="checkbox"/> No
		Exit Interview given to:	Steve Younger
		Exit Interview time:	11:00 Date: 04/19/2007
LOCATION AND ADDRESS OF SITE			
2	Aquarian Acres Subdivision No. 9 -Phase 2 Croco Road / SE 25th Street Topeka, KS 66607		

FACILITY DESCRIPTION / CONTACT NAMES	
Name of Site Contact (ESO Worksheet recipient):	Michael S. Hack
Name of Authorized Official (40 CFR 122.22):	Michael S. Hack
Inspection Date:	04/19/2007
Start Construction Date:	06/01/2006
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 13.00
Has Operator Requested Rainfall Erosivity or TMDL Waiver per 44 CFR 122.26(b)(15)?	No

PERMIT COVERAGE	Notes	Citation Reference**	State Citation Reference***	R C A*	No. of Deficiencies	Dollar Amount	Total	
3 Operator unpermitted for _____ months (# months unpermitted equals number of violations)		CWA 301	KAR 28-16-153		X	\$500.00	=	
SWPPP REVIEW								
4 SWPPP not prepared (if no SWPPP, leave elements 5 - 30 blank)		CGP 3.1.A	KSGP VII p.6			\$5,000.00	=	
5 SWPPP prepared but prepared after construction start (# of months = # of violations)		CGP 3.1.A	KSGP VII p.6		X	\$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.		CGP 3.1.B	KSGP VII p.8			\$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		CGP 3.3.A	KSGP VII p.7			\$500.00	=	
8 SWPPP does not have site description, as follows:	Site map does not show offsite materials, waste, borrow or equipment storage areas, surface waters, discharge points, or areas of final stabilization.	A Nature of activity in description	CGP 3.3.B.1	KSGP VII p.7		\$100.00	=	
B Intended sequence of major activities		CGP 3.3.B.2	KSGP VII p.7		\$100.00	=		
C Total disturbed acreage		CGP 3.3.B.3	KSGP VII p.7		\$100.00	=		
D General location map		CGP 3.3.B.4	KSGP VII p.7		\$100.00	=		
E Site map		CGP 3.3.C	KSGP VII p.7		\$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	No	6	X	\$50.00	= \$300
G Location/description industrial activities, like concrete or asphalt batch plants		CGP 3.3.D	N/A					
9 SWPPP does not:								
A Describe all pollution control measures (e.g. BMPs)		CGP 3.4.A	KSGP VII p.7			\$750.00	=	
B Describe sequence for implementation		CGP 3.4.A	KSGP VII p.7			\$250.00	=	
C Detail operator(s) responsible for implementation		CGP 3.4.A	N/A					
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			\$250.00	=	
12 SWPPP does not describe a schedule to implement stabilization practices		CGP 3.4.B	KSGP VII p.7			\$250.00	=	

A *small business* 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.

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Total Expedited Settlement: **\$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_revisions

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: 3/13/08



Kathy Robinson
Hearing Clerk, Region 7