

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 8 1595 Wynkoop Street Denver, Colorado 80202

2017 JUN 20 PM 3:31

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA₀₈₋₂₀₁₇₋₀₀₁₅, UPDES Permit No. UTR367

The United States Environmental Protection Agency (EPA) and violations and facts alleged in the Form This Agreement does Perry Homes Utah, Inc., a Utah corporation (Respondent), enter into this Expedited Settlement Agreement (Agreement) to resolve Respondent's civil penalty liability for alleged violations of the Utah Pollutant Discharge Elimination System storm water permit cited above (Permit).

The EPA finds that Respondent failed to comply with the Permit, that the Permit was issued pursuant to section 402 of the Clean Water Act (Act), 33 U.S.C. § 1342, that Respondent is a "person" as defined in section 502(5) of the Act, 33 U.S.C. § 1362(5), and that Respondent is responsible for the deficiencies specified in the attached Expedited Settlement Offer Deficiencies Form (Form). The Form is incorporated into this Agreement by reference.

The EPA also finds, and Respondent admits, that the EPA has jurisdiction over this matter pursuant to section 309(g) of the Act, 33 U.S.C. § 1319(g), and 40 C.F.R. part 22. Respondent neither admits nor denies the deficiencies specified in the Form.

Respondent agrees to pay a penalty of \$4,250. Respondent waives the rights (1) to contest the statements in the Form and (2) to appeal any final order that an EPA Regional Judicial Officer may issue to ratify this Agreement (Final Order).

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 to the EPA detailing the specific actions taken to correct the deficiencies cited in the Form. Respondent also certifies that, no later than ten (10) days after it receives notice from the EPA that the Final Order has been issued. Respondent shall submit a check, with the case name and docket number noted, for the amount specified above, payable to the Treasurer, United States of America, 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: Perry Homes Utah, Inc. Docket No. CWA-08-2017-0015

This Agreement, upon incorporation into a Final Order and full satisfaction by the parties, shall be a complete and full resolution of Respondent's liability for federal civil penalties for the not affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. Nothing in this Agreement shall relieve Respondent of the duty to comply with the Act and any regulation, order, or permit issued pursuant to the Act.

Prior to requesting that an EPA Regional Judicial Officer issue the Final Order, the EPA will provide public notice of this Agreement and a reasonable opportunity for the public to comment on it. The EPA will address any comments on this Agreement consistent with section 309(g)(4) of the Act, 33 U.S.C. § 1319(g)(4), and 40 C.F.R. § 22.45.

APPROVED BY EPA:

Date: 6/12/17

Date: 6/15/17

Styl- Pull	
Stephanie DeJong, Unit Chief	
NPDES Enforcement Program	
Office of Enforcement, Compliance	
and Environmental Justice	
1/2/	

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

APPROVED BY RESPONDENT:

Name (print):	WILLIAM O. PERRY, TV	
Signature:	m Jumy	
Date:	1 12/12</td <td></td>	

More than 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 the EPA has received no comments concerning this matter.

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

Date:_____

Hon. Katherin Hall Regional Judicial Officer

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 P	ermit Numbei	• ;		
1	Perry Homes	801-264-8800	UTR36748	33			
	17 East Winchester Street	Inspector Name:	Akash Joh	nson			
	Suite 200	Inspector Agency:	US EPA		1		
	Murray, Utah 84107	Entrance Interview C	onducted:	Yes			
		Exit Interview Conduc	cted:	Yes	1		
	LOCATION AND ADDRESS OF SITE	Exit Interview given to	: Kevin War	dle			
2	Midas Creek (Phases 6a and 6b)	Exit Interview time:	11:10	Date:	03/29/2017		
	11700 South 3200 West						
	South Jordan, Utah 84605						

	Name of Site Contact (ESO Worksheet recipient): Kevin Wardle / Superintendent / Perry Homes
j	Name of Authorized Official (40 CFR 122.22): Marlin Bigler / Project Manager / Perry Homes
	Inspection Date: 03/29/2017
	Start Construction Date: Spring 2015
	Estimated Completion Construction Date: Fall 2017
-	If Unpermitted, Number of Months Unpermitted: N/A
-	Name of Receiving Water Body (Indicate whether 303(d) listed): Midas Creek
	Acres Currently Disturbed / Acres to be Disturbed in Whole Common Plan: Unknown / 20 acres
	Has Operator Requested Rainfall Erosivity or TMDL Waiver per 44 CFR 122.26(b)(15)?

		PERMIT COVERAGE	Findings	Citation Reference**	R C A*	No. of Deficien- cies	Dollar Amount	Total
3		Operator unpermitted for one month (# months unpermitted equals number of violations). Discharge without a permit.	ka k	CWA 301			\$500.00 =	
		SWPPP REVIEW	1.					
4		SWPPP not prepared (If no SWPPP, leave elements 5 - 30 blank)		UCGP 7.1.1			\$5,000.00 =	1
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.a			\$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 =	
		Intended sequence of major activities		UCGP 7.2.4			\$100.00 =	
		Total disturbed acreage		UCGP 7.2.2			\$100.00 =	
		General location map	and the second s	1			\$100.00 =	
		Site map is not included in SWPPP.		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		UCGP 7.2.5			\$50.00 =	
		storage ageas, surface waters, discharge points, areas of final stabilization (count each omission under 8F as 1 violation)	en de la companya de La companya de la companya de					
	G	Location/description industrial activities, like concrete or asphalt batch plants		UCGP 7.2.5.a.vii			\$500.00 =	
9		SWPPP does not:	The inlet protection devices observed					
	Α		onsite (Photographs 1217-1219, 1221, 1224, 1225, and 1228) were not detailed		Yes	1	\$750.00 =	
	В	Describe sequence for implementation	in the SWPPP.	UCGP 7.2.4			\$250.00 =	
		Detail operator(s) responsible for implementation	The SWPPP did not identify the stormwater team or personnel responsible for conducting inspections.	UCGP 7.2.1	Yes	1	\$250.00 =	\$250

10	SWPPP does not describe interim stabilization practices		UCGP 2.2 & 7.2.9.c			\$250	0.00	=
11	SWPPP does not describe permanent stabilization practices		UCGP 2.2 & 7.2.9			\$250	00.0	=
12	SWPPP does not describe a schedule to implement stabilization practices		UCGP 7.2.4.d			\$250	0.00	=
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)					\$250	00,0	=
14	SWPPP does not have description of structural practices to divert flows from exposed soils, retain		UCGP 2.1.3a-b & 7.2.9.a			\$500	0.00	
15	flows, or limit runoff from exposed areas 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					\$500	0.00	=
16	been completed SWPPP does not describe measures to prevent discharge of solid materials to waters of the US, except as authorized by 404 permit					\$500	0.00	=
17	SWPPP does not describe measures to minimize off site vehicle tracking and generation of dust		UCGP 2.1.2.c, 2.1.2.e, & 7.2.9.a.iii	16.			00,00	
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		UCG₱ 7.2.6.b, 7.2.10.b, & 2.3.3.c				0.00	
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 & 7.2.6.a		Sesti Constant Constant	\$500	0.00	=
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		«1»	\$500	0.00	=
21	SWPPP does not identify/ensure implementation of pollution prevention measures for non-storm water discharges	Section 1981	UCGP 1.3.4, 7.2.7, & 7.2.9.a				0.00	
22	Endangered Species Act documentation is not in SWPPP					\$500	0.00	=
23	Historic Properties (Reserved)	a same a series						
24	Copy of permit and/or NOI not in SWPPP (count each omission under 24 as 1 violation)		UCGP 7.2.1 & 7.2.16				0.00	1
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)			and the second filter for the second		\$750	0.00	=
26	SWPPP has not been updated to remain consistent with changes applicable to protecting surface waters in State, Tribal or local erosion plans	Permit) of the SWPPP is the previous version of the UPDES CGP, UTR300000, which has expired. The maps included as Appendix B (Erosion Control Plan) of the SWPPP indicate the sequence of BMP installation to be, "as new drainage	UCGP 7.4.1.e	Yes	2	\$250	0.00	= \$
		elements are completed, contractor shall implement the use of proper BMP's [sic] as outlined in Section 3.5.1.b in the UPDES permit regulations." This permit reference is not applicable to the current UPDES CGP, UTRC00000.			,			
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 & 5.4.3			\$500	0.00	=

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 under 28 as 1 violation)	Neither the SWPPP maps or site plans (Photographs 1226 and 1227) had not been updated to reflect the location of the concrete washout in the northeastern portion of the site, the stockpiles located at the southern terminus of Waterbrook Court (Photographs 1229 and 1230), or the vehicle tracking control pad on Lot 644.	UCGP 5.4.2.b & 7.4.1	Yes	3	\$50,00 =	\$150
29	Copy of SWPPP not retained on site		UCGP 7.1.1 & 7.3	100	238 - 1 - 1 - 1 - 1	\$500.00 =	
	A SWPPP not made available upon request		UCGP 7.3			\$500.00 =	
30	SWPPP not signed/certified	Section 8 (Certification and Notification) of the SWPPP was not signed. Additionally, the Delegation of Authority Form, included as Appendix K of the SWPPP, did not indicate Kevin Wardle, the observed official responsible for overseeing permit compliance, as the "duly authorized representative."	UCGP 7.2.15	Yes	40 Ac 9 Ac 9	\$500.00	\$500
		Bulley and the second s	4x i	Sub	total SWPP	P Deficiencies	\$2,150
	INSPECTIONS		UCGP 4.1.2,	-		\$250.00 =	
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).	***************************************	4.1.3, 4.1.4, 4.1.7, 7.2.11.b, & 7.2.11.c			\$250.00	
			dispersion of the second				
	No inspections conducted and documented (if		·		FALSE	True or False	
-	True, then leave elements 32-39 blank) Number of Inspections expected if performed			85455		raise	
	every 7 days:						
	Number of Inspections expected if performed bi- weekly:		the state of the second state of the	-20			
	If known, number of days of rainfall of >0.5"						
32	Inspections not conducted by qualified personnel		UCGP 4.1.1, 6, & 7.2.12		A Secretary Const.	\$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 & 4.1.5.c		100 mm 1	\$50.00 =	
34	All pollution control measures not inspected to		UCGP 4.1.5.b &			\$50.00 =	
36	ensure proper operation Discharge locations are not observed and inspected		4.1.6 Part 4.1.5.e	-		\$50.00 =	
35			1 41.1.5.8		National Control	\$50.00 =	
36	For discharge locations that are not accessible, nearby locations are not inspected			1			
37	Entrance/exit not inspected for off-site tracking		UCGP 4.1.5 & 4.1.6	si Carre	1464 - 2115	\$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,		UCGP 4.1.7, 4.1.6, & 5.4			\$50.00 =	
1	BMP(s) that are needed, corrective action required including changes/updates to SWPPP and schedule/dates (count each omission under 38 as 1 violation)	and the second s			京 報塞/模で 1.7		
	Inspection reports not properly signed/certified		UCGP 4.1.7.b	181- 121 201-121	Selfer State Control	\$50.00 =	
39	(count each failure to to sign/certify as 1 violation)						

T		AVAILABILITY OF RECORDS								
o		Sign/notice not posted	The SWPPP signage (Photograph 1235)		, , ,	1 1 1 1 1 1		\$250.00		
	Α	Does not contain copy of complete NOI	was not legible and did not contain all of	UCGP 1.5	Yes		1	\$50.00		
Γ		Location of SWPPP or contact person for	the information required by Part 1.5 of	UCGP 1.5	Yes	1		\$50.00	="	\$
1		scheduling viewing times where on-site location for	the permit.					1		
1	Ì	SWPPP unavailable not noted on sign								
					Subt	otal Reco	rds D	eficiencie	s	\$.1
Т										
1		BEST MANAGEMENT PRACTICES								
1		No velocity dissipation devices located at discharge		UCGP 2.1.3.a &				\$500.00	=	
-		locations or outfall channels to ensure non-erosive		2.1.3.b.3	1					
1.		flow to receiving water							<u> </u>	
2		Control measures are not properly:	Along Rolling Creek Way, control							
Γ	Α	Selected, installed and maintained	measures were not installed between	UCGP 2.1.1.c,	Yes	4		\$500.00	=	\$2,0
			disturbed areas and the paved roadway	2.1.1.d, 2.1.3.a,	-				İ	
1	1	*	(Photographs 1220, 1222, and 1223).	2.1.3.b, 2.2, &	Ι.			1		
1				2.3.2	`			1		
	-		At the eastern terminus of Rolling Creek		Ι΄					
1			Way, control measures were not							
			installed between disturbed Lot 641 and				Ш	İ		
Ī,	:		the northern adjacent walkway, which		l					
	/		led and drained to the stormwater			1-				
			overflow basins (Photograph 1234).	1	Glossel'					
			and the rest of the second of	18 Jan 1				11 4 4		
	.4.75		In the Waterbrook Court cul-de-sac, no							
		10 m	vehicle tracking controls were installed					1		
			at the point where vehicles were moving		15. 41					
			between disturbed and paved areas of		8.1					
1			the site (Photograph 1228).		-			}		
1					ŀ					
			In the Waterbrook Court cul-de-sac,				Ш	1		
-	_		control measures were not installed	UCCD 24 4 d ::	-		₩	8050.00		
1	В	Maintenance not performed prior to next anticipated	around the stockpiles located along the	UCGP 2.1.1.d.ii			Ш	\$250.00	=	
		storm event	southern perimeter of the site,	& 2.1.1.iii	90.000		6620 260	CHEST CONTROL OF THE PARTY OF T	ON CONSTRUCTION	A SECTION ASSESSMENT
		(count each failure to select, install, maintain each	immediately upgradient and adjacent to							
		BMP as one violation),	the Midas Creek easement							
+			(Photographs 1229 and 1230).	HOOD OA O				0500.00		
3		When sediment escapes the site, it is not removed		UCGP 2.1.2.c.iv			Ш	\$500.00	=	
-		at a frequency necessary to minimize off-site								
+	_	impacts		UCGP 2.3.3	├		├	\$500.00	_	
4		Litter, construction debris, and construction	•	100GF 2.3,3				\$500.00	-	
-		chemicals exposed to storm water are not		ł						
ŀ	- 1	prevented from becoming a pollutant source (e.g.					Ш	1	- 1	
5		screening outfalls, pickup daily, etc.) Stabilization measures are not initiated as soon as		UCGP 2.2	-		╁	\$500.00	=	
기		practible on portions of the site where construction	· · ·	000F 2.2	Ι.			\$500,00	_	
	-34	activities have temporarily or permanently ceased								
E	닉	within 14 days after such cessation			1			1		
-					25890856	ACCOMPANIED (10 to 100 to			0.80.2
- 6	3	*Exceptions:	A STATE OF THE STA							
2	4 8	(a) Snow or frozen ground conditions								
1		(b) Activities will be resumed within 14 days	Andrew Commencer (Commencer Commencer	200						
+	_	(c) Arid or Semi-arid areas (<20 inches per year)		UCGP 2.1.3.b.i.1				\$1,000.00	- -	
3		Common Drainage of 10+ acres does not have a		00GP 2.1.3.D.I.1			113	,,000,000	-	
		sedimentation basin for the 2 year, 24 hour storm,								
\vdash		or 3600 cubic ft. storage per acre drained	-		1		 ,	61,000.00		—
		Where sedimentation basin not attainable, smaller					113	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	-	
		sediment basins, sediment traps, or erosion controls not implemented for downslope boundaries								
	٠.	not implemented for downslope boundaries	20		1					
1	_	Codiment not computed from and bearings to		LICCD 2 4 2 b !!	-		\vdash	\$500.00	_	
1		Sediment not removed from sediment basin or traps when design capacity reduced by 50% or more	· · · · · · · · · · · · · · · · · · ·	UCGP 2.1.3.b.ii				\$500.00		
		when design capacity reduced by 50% or more	,							
7	1858	Common Drainage less than 10 acres does not		UCGP 2.1.1.b,	1:		-	\$500.00	=	
1		have sediment traps, silt fences, vegetative buffer	11	2.1.1.c, & 2.1.2				ψυσυ.συ		
1		strips, or equivalent sediment controls for all down	w said	Z. 1. 1.0, & Z. 1.Z						
		slope boundaries (not required if sedimentation								
		sediment basin meeting criteria in 46 above)								
-				HICCE 2 4 4 Z C				8500 00		
		Sediment not removed from sediment trap when		UCGP 2.1.1.d &				\$500,00	-	
		design capacity reduced by 50% or more	L	2.3.2	ــــــــــــــــــــــــــــــــــــــ		ME	-fi-le-si	_	00
					<u> </u>	uptotal B	WP D	eficiencie	S	\$2,
	,	01/11/5/01/500-11/11/5/01/5/01/5/01/5/01								
		SMALL BUSINESS EVALUATION	<u> </u>				-			
7-	- 1	Is the Owner/Operator a Small Business?			L					
			•							

	Total Expedited Settlement: \$
worked per year.	
372.3). A full time employee unit is 2000 hours	
basis, including contract employees (see 40 CFR	
considered as full-time equivalents on an annual	
business)." The number of employees should be	
facilities and operations owned by the small	
employs 100 or fewer indiviudals (across all	
corporation, partnership, or other entity that	
Business Compliance Policy as: "a person,	

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