



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 8
1595 Wynkoop Street
Denver, Colorado 80202

2013 JAN 22 AM 10:50

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-08-2013-0008, NPDES Permit No. COR03J721

FILED
EPA REGION VIII
HEARING CLERK

This Expedited Settlement Agreement (Agreement) is entered into between the U.S. Environmental Protection Agency (EPA), and 53 Corporation, LLC (Respondent), a Colorado corporation and a "person" within the meaning of section 502(5) of the Clean Water Act (Act), 33 U.S.C. § 1362(5).

In the Matter of: 53 Corporation, LLC

Docket No: CWA-08-2013-0008

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 incorporating this Consent Agreement (Agreement) under section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), and 40 C.F.R. § 22.13(b). Respondent neither admits nor denies the deficiencies specified in the Form.

This Agreement settles the EPA's civil penalty claims against Respondent for the violation(s) specified 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.

This Agreement is binding on the parties signing below and effective thirty (30) days from the date it is signed 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 \$6,500.00. 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), 33 U.S.C. § 1319(g)(8).

APPROVED BY THE EPA:

Arturo Palomares, Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
And Environmental Justice

Date: 1/24/2012

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 all violations cited in the Form. Respondent also certifies that, within ten (10) days of the Agreement becoming effective (the effective date is thirty (30) days from the date it is signed by the Regional Judicial Officer), 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:

Margaret G. (Peggy) Livingston
James Eppers, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
And Environmental Justice

Date: 12.21.12

APPROVED BY RESPONDENT:

STACEY HOYT
Name of individual signing (printed)
CORPORATE SECRETARY
Title of individual signing (printed)

Signature

Date: 1/17/13

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

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

_____ Date: _____
Hon. Elyana R. Sutin
Regional Judicial Officer

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

**PUBLIC NOTICE OF PROPOSED EXPEDITED SETTLEMENT AGREEMENT AND
OPPORTUNITY TO COMMENT**

Action: The EPA is providing notice of the opportunity to comment on a proposed expedited settlement agreement. The agreement relates to alleged violations of a Clean Water Act (CWA) storm water permit at the North Sterling Reservoir State Park Marina in Logan County, Colorado which is being constructed by 53 Corporation, LLC (53 Corporation). The corporate address of 53 Corporation is 216 Malibu Street, Castle Rock, Colorado 80109.

Summary: The EPA is authorized by section 309(g)(2) of the CWA, 33 U.S.C. § 1319(g)(2), and by 40 C.F.R. §§ 22.13(b) and 22.38, 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 (Respondent) 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. The deadline for the public to submit comments is forty days after issuance of this notice.

The EPA and 53 Corporation have agreed to enter into an expedited settlement agreement to resolve the EPA's claims that 53 Corporation violated the requirements listed below. 53 Corporation has agreed to pay a civil penalty of \$6,500.00 to resolve its civil penalty liability for these claims. Pursuant to section 309(g)(4) of the CWA, the EPA hereby notifies the public of the opportunity to comment on this proposed penalty assessment.

EPA Docket Number for proposed expedited settlement: CWA-08-2013-0008

Alleged violations: (1) Failure to develop a stormwater management plan, (2) Failure to conduct required self-inspections from the start of the construction project on approximately October 8, 2012 until the date of the EPA's inspection on December 5, 2012 and (3) Failure to implement stormwater controls to minimize discharges of sediment and other pollutants into waters of the United States.

PUBLIC COMMENTS

Written comments on the expedited settlement agreement are encouraged and will be accepted at the address listed below for a period of forty (40) days after the publication of this notice.

Written comments submitted by the public as well as information submitted by Respondent will be available for public review, subject to the provisions of law restricting the disclosure of confidential information. Any person submitting written comments has a right to participate in a hearing, if one is held. The complaint is available for review between 9:00 a.m. and 4:00 p.m. at the address listed below and on the internet at: <http://yosemite.epa.gov/oa/rhc/epaadmin.nsf>.

Please submit written comments to:

Tina Artemis (8RC)
Regional Hearing Clerk
U.S. EPA, Region 8
1595 Wynkoop Street
Denver, CO 80202-1129
Telephone: (303) 312-6765

FOR FURTHER INFORMATION: Persons wishing to receive a copy of the expedited settlement agreement or other documents in this proceeding (such as the regulations in 40 C.F.R. part 22, which establish procedures for the hearing), or to comment upon the proposed penalty assessment or upon any other aspect of the matter, should contact the Regional Hearing Clerk identified above.