



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2009 AUG 18 AM 11:28

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: CWA-08-2009-0010

IN THE MATTER OF:)
)
COLORADO DEPARTMENT OF)
TRANSPORTATION)
4201 E. Arkansas Avenue)
Denver, CO 80222)
)
and)
)
SEMA CONSTRUCTION, INC.)
7353 South Eagle Street)
Centennial, CO 80112)
)
RESPONDENTS)

FINAL ORDER

Pursuant to 40 C.F.R. §22.18, 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 Respondents are hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

SO ORDERED THIS 18th DAY OF August, 2009.

Elyana R. Sutin
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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IN THE MATTER OF:)

Colorado Department of Transportation)
4201 E. Arkansas Avenue)
Denver, CO 80222)

and)

SEMA Construction, Inc.)
7353 South Eagle Street)
Centennial, CO 80112,)

Respondents.)

Proceeding under section 309(g) of the)
Clean Water Act, 33 U.S.C. §1319(g))

CONSENT AGREEMENT

Docket No. CWA-08-2009-0010

Complainant United States Environmental Protection Agency, Region 8 (EPA) and the Colorado Department of Transportation and SEMA Construction, Inc. (Respondents) hereby consent and agree as follows:

1. On March 31, 2009, EPA issued an Administrative Complaint (complaint) alleging that the Respondents violated the terms of the Final NPDES General Permit for Storm Water Discharges for Construction Activities (Federal CGP), in violation of § 301 of the Clean Water Act (the Act), 33 U.S.C. § 1311(a). The complaint proposed that the Respondents pay an administrative civil penalty for the violations alleged therein, pursuant to § 309(g) of the Act, 33 U.S.C. §1319(g).

2. The Respondents admit the jurisdictional allegations of the complaint and neither admit nor deny the specific factual allegations of the complaint.

3. The Respondents waive their right to a hearing before any tribunal to contest any issue of law or fact set forth in the complaint or in this consent agreement.

4. This consent agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondents and Respondents' successors and assigns. Any change in the ownership or corporate status of Respondents, including, but not limited to, any transfer of assets or real or personal property, shall not alter the Respondents' responsibilities under this agreement. This consent agreement contains all terms of the settlement agreed to by the parties.

5. The Respondents consent and agree to pay a civil penalty in the amount of eighty thousand five hundred dollars (\$80,500.00) in the manner described below:

a. Payment is due within 30 calendar days from the date written on the Final Order, issued by the Regional Judicial Officer, that adopts this consent agreement. If the due date for the payment falls on a weekend or legal federal holiday, then the due date is the next business day. Payment must be received by 11:00 AM Eastern Standard Time to be considered received that day.

b. Payment shall be made by one of the following methods:

I. **Payment by cashier's or certified check:**

A cashier's or certified check, including the name and docket number of this case, for this amount, payable to "Treasurer, United States of America," to:

Regular Mail:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Overnight Mail:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

ii. **Wire Transfer:**

Wire transfers should be directed to the Federal Reserve Bank of New York with the following information:

ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

iii. **On Line Payment:**

This option is available through the Department of Treasury.
www.pay.gov
Enter sfo 1.1 in the search field
Open form and complete the required fields.

- c. A copy of the check or record of payment if sent by other means shall be sent simultaneously to:

Lee Hanley
NPDES Enforcement Unit
Technical Enforcement Program (8ENF-W-NP)
U.S. EPA Region 8
1595 Wynkoop St.
Denver, CO 80202-1129

and

Tina Artemis
Regional Hearing Clerk (8RC)
U.S. EPA Region 8
1595 Wynkoop St.
Denver, CO 80202-1129

- d. In the event 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 (i.e., on the 1st late day, 30 days of interest will have accrued).
- e. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 31st day from the due date of any payment, and for each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date. Payments are first applied to outstanding handling charges, 6% penalty interest, and late interest. The remainder is then applied to the outstanding principal amount.

f. The Respondents agree that the penalty shall never be claimed as a federal or other tax deduction or credit.

6. Nothing in this consent agreement shall relieve the Respondents of the duty to comply with the Act and its implementing regulations.

7. Failure by the Respondents to comply with any of the terms of this consent agreement shall constitute a breach of the consent agreement and may result in referral of the matter to the Department of Justice for enforcement of this consent agreement and for such other relief as may be appropriate.

8. Nothing in this consent agreement 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 the Respondents' failure to perform pursuant to the terms of this consent agreement.


9. The parties agree to submit this consent agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.

10. Each party shall bear its own costs and attorney fees in this matter.

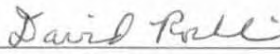
11. This consent agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the complaint.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,
Complainant.

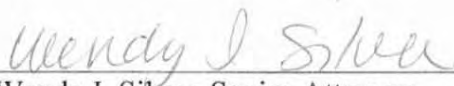
Date: 08.13.09

By: 
Diane Sipe, Director
Water Enforcement Program

Date: 8/13/09

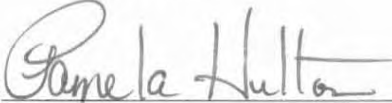
By: 
Michael T. Risner, Director
David Rochlin, Supervisory Enforcement Attorney
Legal Enforcement Program

Date: 8/13/09

By: 
Wendy I. Silver, Senior Attorney
Legal Enforcement Program


COLORADO DEPARTMENT OF TRANSPORTATION,
Respondent.

Date: 8-12-09

By: 

SEMA CONSTRUCTION, INC.,
Respondent.

Date: 8/12/09

By: 
Thomas C. Cleak,
Sr. Vice President

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **COLORADO DEPARTMENT OF TRANSPORTATION and SEMA CONSTRUCTION, INC.; DOCKET NO.: CWA-08-2009-0010** was filed with the Regional Hearing Clerk on August 18, 2009.

Further, the undersigned certifies that a true and correct copy of the documents were delivered Wendy Silver, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt requested on August 18, 2009, to:

Thomas C. Clark
Senior Vice President
SEMA Construction, Inc.
7353 S. Eagle Street
Centennial, CO 80112-4223

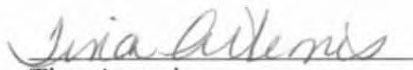
and

Russell George
Executive Director
Colorado Department of Transportation
4201 Arkansas Avenue
Denver, CO 80222

E-mailed to:

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

August 18, 2009


Tina Artemis
Paralegal/Regional Hearing Clerk

