



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 6, P.O. Box 50625, Dallas, Texas 75250-0625
EXPEDITED SETTLEMENT AGREEMENT

FILED FILED

2011 APR 23 10:19 AM REGION 6 HEARING CLERK

Docket Number: CWA-06-2011-1703, NPDES Facility Number: 20NM0001079

San Juan County ("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, the Environmental Protection Agency, Region 6 ("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.

Respondent's activities at the San Juan County and Valley Water Pipeline Construction Project, located at Highway 64 between County Road 6575 and County Road 6100, in Aztec, New Mexico, caused or resulted in unauthorized discharges of sediment-laden storm water from the construction site into the Animas River during two (2) rainfall events of one-half (1/2) inch or greater that occurred between March 2010 and September 2010 in violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

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 Expedited Settlement Agreement ("ESA") 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 ESA in order to settle the civil violation(s) alleged in this Agreement for a penalty of three thousand five hundred dollars (\$3,500.00). 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) an 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 along with this ESA detailing the specific actions taken to correct the violations cited herein.


Respondent understands that this ESA is effective upon filing with the Regional Hearing Clerk, pursuant to 40 C.F.R. § 22.31(b). Within thirty (30) days of filing this ESA, Respondent shall submit via certified mail: 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, to:

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

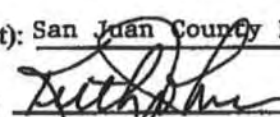
This ESA settles and resolves EPA's civil penalty claim against Respondent for violations of the Act alleged in this Agreement. EPA does not waive its right to take enforcement action against Respondent for any other past, present, or future civil or criminal violation of the Act or of any other violation of 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 ESA to be appropriate.

This ESA is binding on the parties signing below and effective upon filing.


APPROVED BY EPA:


 _____ Date: 3.29.11
 John Blevins
 Director
 Compliance Assurance and
 Enforcement Division

APPROVED BY RESPONDENT:

Name (print): Keith Johns
 Title (print): San Juan County Executive Officer
 Signature:  Date: 1-28-11

APPROVED AS TO FORM
 SAN JUAN COUNTY ATTORNEY

BY: 

Public Notice of and reasonable opportunity to comment on the proposed issuance of this Order was provided pursuant to Section 309(g)(4)(A), 33 U.S.C. § 1319(g)(4)(A) and EPA received no comments concerning this matter.

Having determined that this ESA is authorized by law, it is so ordered:



Regional Judicial Officer
EPA, Region 6

20 April 2011

Date

CERTIFICATE OF SERVICE

I hereby certify that on the 20 day of April, 2011, the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, U.S. EPA, Region 6 (6RC-D), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and that a true and correct copy was placed in the United States mail, by certified mail, return receipt requested, addressed to the following:

Mr. Keith Johns
San Juan County Executive Officer
County of San Juan
100 South Oliver Drive
San Juan, NM 87410

with a copy, first class postage prepaid, to

Mr. Glenn Saums
Acting Bureau Chief
Surface Water Quality Bureau
New Mexico Environment Department
P.O. Box 5469
Santa Fe, NM 87502-5469