



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-07-2010-0130, NPDES No.: NER-111626

10 NOV 17 AM 8:42

Ronco Construction Company ("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 \$2,825. 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 979077
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:

Mary Jey Mung Date: 10/28/10
William A. Spratlin
Director
Water, Wetlands, and Pesticides Division

APPROVED BY RESPONDENT:

Name (print): TOM NOLAN
Title (print): C.E.O.
Signature: Tom Nolan Date: 8/27/10

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 Date Nov. 16, 2010
Regional Judicial Officer

10 NOV 17 AM 8:42
ENVIRONMENTAL PROTECTION
AGENCY - REGION VII
REGIONAL HEARINGS CLERK

**Expedited Settlement Offer Worksheet  
Deficiencies Form**

Consult instructions regarding eligibility criteria  
and procedures prior to use

NER110000



LEGAL NAME AND MAILING ADDRESS OF OPERATOR		Telephone Number	NPDES Permit Number
1	Ronco Construction Company 1717 North 74th Street Omaha, NE 68114	402-397-9109	NER-111626
		Inspector Name:	Naji Ahmad
		Inspector Agency:	US EPA
		Entrance Interview Conducted:	Yes
		Exit Interview Conducted:	Yes
		Exit Interview given to:	Mr. Nate Vaughan
		Exit Interview time:	Date: 04/01/2010
LOCATION AND ADDRESS OF SITE			
2	Naval Operations Support Center 702 Nelson Drive Offutt AFB, NE 68113		

FACILITY DESCRIPTION / CONTACT NAMES	
Name of Site Contact (ESO Worksheet recipient):	Tom Nolan
Name of Authorized Official (40 CFR 122.22):	Tom Nolan
Inspection Date:	04/01/2010
Start Construction Date:	07/31/2009
Estimated Completion Construction Date:	09/04/2009
If Unpermitted, Number of Months Unpermitted:	
Name of Receiving Water Body (Indicate whether 303(d) listed):	Offutt AFB MS4, to Papillion Creek (impaired in 2008)
Acres Currently Disturbed   Acres to be Disturbed in Whole Common Plan:	2.70   2.70
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	CNR 119-2		X	\$500.00	
SWPPP REVIEW							
4 SWPPP not prepared (If no SWPPP, leave elements 5 - 30 blank)		CGP 3.1.A	NEGP Part III(A)(1)		X	\$5,000.00	
5 SWPPP prepared but prepared after construction start (# of months = # of violations)	SWPPP prepared 8/12/2009; NOI submitted 7/29/2009, with construction estimated to begin 7/31/2009; discharge authorization granted 8/3/2009.	CGP 3.1.A	NEGP Part III(A)(1)	No	1	\$75.00	\$75
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...		CGB 3.1.B	NGEP Part III(A)(2)(a)				
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	NEGP Part VI(D)(6)(c)				
8 SWPPP does not have site description, as follows:							
A Nature of activity in description		CGP 3.3.B.1	NGEP Part III(B)(1)(a)		X	\$100.00	
B Intended sequence of major activities		CGP 3.3.B.2	NGEP Part III, B(1)(b)		X	\$100.00	
C Total disturbed acreage		CGP 3.3.B.3	NGEP Part III, B(1)(c)		X	\$100.00	
D General location map		CGP 3.3.B.4	NGEP Part III, B(1)(d)		X	\$100.00	
E Site map		CGP 3.3.C	NGEP Part III(B)(2)		X	\$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	NGEP Part III(B)(2)		X	\$50.00	
G Location/description industrial activities, like concrete or asphalt batch plants		CGP 3.3.D	NGEP Part III(B)(3)		X	\$500.00	
9 SWPPP does not:							
A Describe all pollution control measures (e.g. BMPs)		CGP 3.4.A	NEGP Part III(C)(1)		X	\$750.00	
B Describe sequence for implementation		CGP 3.4.A	NEGP Part III(C)(1)		X	\$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	NEGP Part III(C)(2)			X	\$250.00	=		
11		SWPPP does not describe permanent stabilization practices		CGP 3.4.B	NEGP Part III(C)(2)			X	\$250.00	=		
12		SWPPP does not describe a schedule to implement stabilization practices		CGP 3.4.B	NEGP Part III(C)(2)			X	\$250.00	=		
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)		CGP 3.4.C.1-3	NEGP Part III(C)(3)			X	\$250.00			
14		SWPPP does not have description of structural practices to divert flows from exposed soils, retain flows, or limit runoff from exposed areas		CGP 3.4.D	NEGP Part III(C)(4)			X	\$500.00	=		
15		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 been completed		CGP 3.4.E	NEGP Part III(C)(5)			X	\$500.00			
16		SWPPP does not describe measures to prevent discharge of solid materials to waters of the US, except as authorized by 404 permit		CGP 3.4.F	NEGP Part III(C)(6)			X	\$500.00			
17		SWPPP does not describe measures to minimize off-site vehicle tracking and generation of dust		CGP 3.4.G	NEGP Part III(C)(7)			X	\$500.00	=		
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		CGP 3.4.H	NEGP Part III(C)(8)			X	\$500.00			
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		CGP 3.4.I	NEGP Part III(C)(9)			X	\$250.00			
20		SWPPP does not identify allowable sources of non-storm water discharges listed in subpart 1.3.B of the CGP		CGP 3.5	NEGP Part III(D)			X	\$500.00			
21		SWPPP does not identify/ensure implementation of pollution prevention measures for non-storm water discharges		CGP 3.5	NEGP Part III(D)			X	\$500.00			
22		Endangered Species Act documentation is not in SWPPP		CGP 3.7	NEGP Part III(F)			X	\$500.00			
23		Historic Properties (Reserved)			N/A							
24		Copy of permit and/or NOI not in SWPPP (count each omission under 24 as 1 violation)		CGP 3.8	NEGP Part III(G)			X	\$500.00			
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)		CGP 3.9	NEGP Part III(H)			X	\$750.00	=		
26		SWPPP has not been updated to remain consistent with changes applicable to protecting surface waters in State, Tribal or local erosion plans		CGP 3.9	NEGP Part III(H)			X	\$250.00			
27		Copies of inspection reports have not been retained as part of the SWPPP for 3 years from date permit coverage terminates		CGP 3.10.G	NEGP Part IV(E)(6)			X	\$500.00	=		
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)		CGP 3.11.C	NEGP Part III(J)			X	\$50.00	=		
29		Copy of SWPPP not retained on site		CGP 3.12.A	NEGP Part III(K)(1)			X	\$500.00	=		
		A SWPPP not made available upon request		CGP 3.12.C	NEGP Part III(K)(1)			X	\$500.00	=		
30		SWPPP not signed/certified	Certifying official's signature was missing from the SWPPP at time of inspection; this was corrected within a week following inspection.	CGP 3.12.D	NEGP Part VI(D)(6)(c)	No	1	X	\$500.00		\$500	

**INSPECTIONS**

31	Inspections not performed and documented either once every 7 days, or <b>once every 14 days and within 24 hours after storm event greater than 0.5 inches or greater</b> (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).		CGP 3.10.A, 3.10.B	NEGP Part III(1)(1)&(2)			X	\$250.00	=
	No inspections conducted and documented (if True, then leave elements 32-39 blank)			NEGP Part III(I)				True or False	
	Number of Inspections expected if performed every 7 days:			N/A					
	Number of Inspections expected if performed bi-weekly:			NEGP Part III(I)					
	If known, number of days of rainfall of >0.5"			NEGP Part III(I)					
32	Inspections not conducted by qualified personnel		CGP 3.10.D	NEGP Part III(1)(3)			X	\$500.00	
33	All areas disturbed by construction activity or used for storage of materials and which exposed to precipitation not inspected		CGP 3.10.E	NEGP Part III(1)(4)			X	\$50.00	
34	All pollution control measures not inspected to ensure proper operation		CGP 3.10.E	NEGP Part III(1)(4)			X	\$500.00	=
35	Discharge locations are not observed and inspected		CGP 3.10.E	NEGP Part III(1)(4)			X	\$50.00	
36	For discharge locations that are not accessible, nearby locations are not inspected		CGP 3.10.E	NEGP Part III(1)(4)			X	\$50.00	
37	Entrance/exit not inspected for off-site tracking		CGP 3.10.E	NEGP Part III(1)(4)			X	\$500.00	=
38	Site inspection report does not include: <b>date, name and qualifications of inspector, weather information, location of sediment/pollutant discharge, BMP(s) requiring maintenance, BMP(s) that have failed, BMP(s) that are needed, corrective action required including changes/updates to SWPPP and schedule/dates</b> (count each omission under 38 as 1 violation)		CGP 3.10.G	NEGP Part III(1)(6)			X	\$50.00	=
39	Inspection reports not properly signed/certified (count each failure to sign/certify as 1 violation)		CGP 3.10.G	NEGP Part III(1)(6)			X	\$50.00	

**AVAILABILITY OF RECORDS**

40	Sign/notice not posted	Entrance sign did not include the required SWPPP notice.	CGP 3.12.B	NEGP Part III(K)(2)	No	1	X	\$250.00	\$250
A	Does not contain copy of complete NOI		CGP 3.12.B	NEGP Part III(K)(2)			X	\$50.00	
B	Location of SWPPP or contact person for scheduling viewing times where on-site location for SWPPP unavailable not noted on sign		CGP 3.12.B	NEGP Part III(K)(2)			X	\$50.00	

**BEST MANAGEMENT PRACTICES**

41	No velocity dissipation devices located at discharge locations or outfall channels to ensure non-erosive flow to receiving water		CGP 3.13.F	NEGP Part III(L)(2)			X	\$500.00	=
42	Control measures are not properly:	A) East construction entrance/exit on Travis Drive did not have appropriate track-out BMP in place; PCC flume was missing adequate silt protection; Stormwater inlet at Nelson Rd in SE corner of site lacked sediment control BMP. B) Track-out BMP at South/west entrance on Nelson Drive (tracking pad and street sweeping) was not maintained and/or operating properly; Silt fence at southeast corner of site had excessive build-up of sediment.							
A	Selected, installed and maintained		CGP 3.13.A	NEGP Part III(E)&(L)(1)	No	3	X	\$500.00	\$1,500
B	Maintenance not performed prior to next anticipated storm event		CGP 3.6.B	NEGP Part III(E)&(L)(1)	No	2	X	\$250.00	\$500
	(count each failure to select, install, maintain each BMP as one violation)			NEGP Part III(E)&(L)(1)					
43	When sediment escapes the site, it is not removed at a frequency necessary to minimize off-site impacts		CGP 3.13.B	NEGP Part III(L)(2)			X	\$500.00	
44	Litter, construction debris, and construction chemicals exposed to storm water are not prevented from becoming a pollutant source (e.g. screening outfalls, pickup daily, etc.)		CGP 3.13.C	NEGP Part III(L)(3)			X	\$500.00	=
45	Stabilization measures are not initiated as soon as practicable on portions of the site where construction activities have temporarily or permanently ceased within 14 days after such cessation		CGP 3.13.D	NEGP Part III(L)(4)			X	\$500.00	=
	*Exceptions:								
	(a) Snow or frozen ground conditions			NEGP Part III(L)(4)(a)					

	(b) Activities will be resumed within 14 days			NEGP Part III(L)(4)(b)					
	(c) Arid or Semi-arid areas (<20 inches per year)			NEGP Part III(L)(4)(c)					
46	Common Drainage of 10+ acres does not have a sedimentation basin for the 2 year, 24 hour storm, or 3600 cubic ft. storage per acre drained			N/A					
	A Where sedimentation basin not attainable, smaller sediment basins, sediment traps, or erosion controls not implemented for downslope			N/A					
	B Sediment not removed from sediment basin or traps when design capacity reduced by 50% or more		CGP 3.6.C	NGEP Part III(E)(3)			X	\$500.00	
47	Common Drainage less than 10 acres does not have sediment traps, silt fences, vegetative buffer strips, or equivalent sediment controls for all down slope boundaries (not required if sedimentation sediment basin meeting criteria in 46 above)			N/A					
	A Sediment not removed from sediment trap when design capacity reduced by 50% or more		CGP 3.6.C	NGEP Part III(E)(3)			X	\$500.00	
<b>SMALL BUSINESS EVALUATION</b>									
48	Is the Owner/Operator a Small Business?								
	A <i>small business</i> 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.								
<b>Total Expedited Settlement:</b>									<b>\$2,825</b>
<p>* Requires Corrective Action  ** NPDES General Permit, 68 FR 39087, issued by EPA on July 1, 2003, <a href="http://cfpub.epa.gov/npdes/stormwater/cgp.cfm">http://cfpub.epa.gov/npdes/stormwater/cgp.cfm</a>  *** Authorization to Discharge under the state of Nebraska NPDES, NPDES Permit Number NER110000, Issued by NDEQ on January 1, 2008 - <a href="http://www.ndeq.state.ne.us">http://www.ndeq.state.ne.us</a></p>									

IN THE MATTER OF Ronco Construction Company, Respondent  
Docket No. CWA-07-2010-0130

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:

Sarah LaBoda  
Assistant Regional Counsel  
Region 7  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Tom Nolan, CEO  
Ronco Construction Company  
1717 North 74<sup>th</sup> Street  
Omaha, Nebraska 68114

Dated: 11/17/10



Kathy Robinson  
Kathy Robinson  
Hearing Clerk, Region 7