



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 10

1200 Sixth Avenue, Seattle, Suite 900 Washington 98101

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-10-2008-0123, NPDES No. IDR10B484

Kootenai Excavators, Inc. and Joel Wahlin respondents") are "persons," within the meaning of Section (5) of the Clean Water Act ("Act"), 33 U.S.C. § 1362(5), 40 C.F.R. § 122.2.

Attached is an "Expedited Settlement Offer Worksheet Deficiencies Form" ("Form"), which is incorporated by reference. By its signature, Complainant ("EPA") finds that respondents are responsible for the deficiencies specified in the form.

Respondents had an unauthorized discharge of storm water in violation of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311, and/or failed to comply with their National Pollutant Discharge Elimination System ("NPDES") storm water permit issued under Section 402 of the Act, 33 U.S.C. § 402.

EPA finds, and Respondents admit, that Respondents subject to Section 301(a) of the Act, 33 U.S.C. § 1311, and EPA has jurisdiction over any "person" who "discharges pollutants" from a "point source" to "waters of the United States." Respondents neither admit nor deny the deficiencies identified in the Form.

EPA is authorized to enter into this Consent Agreement 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 [redacted]. Respondents consent to the assessment of this penalty, and waive the right to: (1) contest the finding(s) specified in the finding; (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, Respondents certify, 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. Respondents shall submit a written report with this Agreement detailing the specific actions taken to correct the violations cited herein.

Respondents certify that they have submitted bank transfers, or certified checks, with case name and docket number attached, totaling the amount specified above, payable to the Treasurer, United States of America," via certified mail, to:

U.S. EPA, Region 10
In the Matter of: Kootenai Excavators, Inc. and Joel Wahlin
Docket No.: CWA-10-2008-0123
P.O. Box 979077
St. Louis, MO 63197-9000

This Agreement settles EPA's civil penalty claims against Respondents for the Clean Water Act violation(s) specified in this Agreement. EPA does not waive its rights to take any enforcement action against Respondents 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 upon filing with the Regional Hearing Clerk.

APPROVED BY EPA:

[Signature] Date: 7/2/08

Kimberly A. Ogle
Manager, NPDES Compliance Unit

APPROVED BY RESPONDENT:

Name (print): \_\_\_\_\_

Title (print): \_\_\_\_\_

Signature: [Signature] Date: \_\_\_\_\_

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:

[Signature] Date: 9/22/08

Richard G. McAllister
Regional Judicial Officer, Region 10

RECEIVED 7/7/08

**EXPEDITED SETTLEMENT AGREEMENT INSTRUCTIONS**  
**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION 10**

**1200 Sixth Avenue, Suite 900**  
**Seattle, Washington 98101**

**COPY**

**INSTRUCTIONS**

The United States Environmental Protection Agency (EPA) has authority under Section 309 of the Clean Water Act to pursue civil penalties for violations of the storm water regulations. EPA encourages the expedited settlement of certain violations of storm water requirements, such as the violations cited in the Expedited Settlement Agreement ("Agreement") for which these instructions are provided.

You may resolve this matter quickly by: (1) correcting all deficiencies identified by EPA in the *Deficiencies Form*; (2) detailing your corrective actions in a written report; (3) signing the original Agreement; and (4) submitting your penalty payment by check with case name and docket number noted.

**Within THIRTY (30) DAYS from your receipt of the Agreement, you must send the original, signed Agreement, the report detailing your corrective actions, and a photocopy of your penalty check, via certified mail, to:**

**U.S. EPA, Region 10**  
**1200 Sixth Avenue, Suite 900, ORC-158**  
**Seattle, WA 98101**  
**Attn: Regional Hearing Clerk**

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**You must also send a photocopy of the Agreement and your original penalty check with the case name and docket number noted, via certified mail, to:**

**U.S. EPA, Region 10**  
**In the Matter of: Kootenai Excavators, Inc. and Joel Wahlin**  
**Docket No.: CWA-10-2008- 0123**  
**P.O. Box 979077**  
**St. Louis, MO 63197-9000**

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Please retain copies of the signed agreement, the report detailing your corrective actions and the penalty check for your own records.

You may contact the person listed below and request an extension. EPA will consider whether to grant an extension on a case-by-case basis. If you believe that the alleged violations are without merit (and you can provide evidence contesting the allegations) you must provide such information to EPA as soon as possible but no later than THIRTY (30) days from your receipt of the Agreement.

If you choose to sign and return the Agreement, you waive your opportunity for a hearing and to appeal pursuant to Section 309 of the Clean Water Act. If you choose not to sign and return the Agreement or contact EPA within THIRTY (30) days, the Agreement will be automatically withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations alleged herein or any other violations. EPA may choose to pursue more formal enforcement measures to correct the violation(s) and seek penalties of up to a maximum penalty of \$32,500 per day per violation. Failure to return the Agreement within the approved time does not relieve you of the responsibility to comply fully with the regulations.

In accordance with 40 C.F.R. § 22.45, EPA must issue a Public Notice of the Agreement. The Public Notice allows the general public to submit comments on the Agreement to the Regional Hearing Clerk within thirty days of issuance of the Public Notice. In addition, EPA generally issues a press release announcing the Agreement.

If you have any questions, please contact Robert Grandinetti, Compliance Officer, EPA, at (509) 376-3748.

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT** in **In the Matter of: Kootenai Excavators, Inc., DOCKET NO.: CWA-10-2008-0123** was filed with the Regional Hearing Clerk on September 22, 2008.

On September 22, 2008 the undersigned certifies that a true and correct copy of the document was delivered to:

David Allnutt, Esquire  
US Environmental Protection Agency  
1200 Sixth Avenue, ORC-158  
Suite 900  
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt on September 22, 2008, to:

Mark Graham  
Kootenai Excavators, Inc.  
31656 HWY 200 E  
Suite A  
Ponderay, ID 83852

DATED this 22<sup>nd</sup> day of September 2008.



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Carol Kennedy  
Regional Hearing Clerk  
EPA Region 10