





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 8
1595 Wynkoop Street
Denver, Colorado 80202

2014 OCT -2 PM 3:32

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-08-2015-0004 NPDES No. NDR103826

HEARING CLERK

Knife River Corporation (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.

America, via certified mail, to:
U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 69197-9000
In the Matter of: Knife River Corporation

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.

Docket No: CWA-08-2015-0004

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.

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.

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.

This Agreement is binding on the parties signing below and effective after forty (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 substantive comments concerning this matter.

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 \$7,650.00.

APPROVED BY EPA:

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).

[Signature of Gwenette C. Campbell]

Date: 10/20/14

Gwenette C. Campbell, Unit Chief
NPDES Enforcement Unit
Office of Enforcement, Compliance and Environmental Justice

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.

[Signature of James Eppers]

Date: 10/20/14

James Eppers, Supervisory Attorney
Regulatory Enforcement Unit
Office of Enforcement, Compliance and Environmental Justice

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 Regional Judicial Officer), 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

APPROVED BY RESPONDENT:

Name (print): Andy Cramer

Title (print): Vice President

Signature:  Date: 9/8/14

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

\_\_\_\_\_ Date \_\_\_\_\_  
Elyana R. Sutin  
Regional Judicial Officer

**Expedited Settlement Offer Worksheet**  
**Deficiencies Form**  
*Consult instructions regarding eligibility criteria and procedures prior to use*

version 10.3.4



LEGAL NAME AND MAILING ADDRESS OF OPERATOR		Telephone Number	NPDES Permit Number
1	Greg Ranniger Knife River Corporation 5654 134th Ave NW Williston, ND 58801	701-774-3770	NDR105826
		Inspector Name:	Michael Boeglin
		Inspector Agency:	US EPA
		Entrance Interview Conducted:	Yes
		Exit Interview Conducted:	Yes
		Exit Interview given to:	Joe McLain, Project Manager
		Exit Interview time:	11:30 Date: 07/15/2014
LOCATION AND ADDRESS OF SITE			
2	Williston City Water, Sewer, Storm Drain and Street Improvements, District 13-10 42nd Street between University Avenue and 11th Avenue Bismarck, ND 58801 (Lat/Long: 48.183169N, -103.605131W)		

FACILITY DESCRIPTION / CONTACT NAMES			
Name of Site Contact (ESO Worksheet recipient):		Greg Ranniger, Project Manager	
Name of Authorized Official (40 CFR 122.22):		Greg Ranniger, Project Manager	
Inspection Date:		07/15/2014	
Start Construction Date:		07/06/2013	
Estimated Completion Construction Date:		10/31/2014	
If Unpermitted, Number of Months Unpermitted:			
Name of Receiving Water Body (Indicate whether 303(d) listed):		Little Muddy River (impaired for Recreation due to fecaliform)	
Acres Currently Disturbed   Acres to be Disturbed in Whole Common Plan:		5.00   15.00	
Has Operator Requested Rainfall Erosivity or TMDL Waiver per 44 CFR 122.26(b)(15)?		No	

PERMIT COVERAGE	Findings	Citation Reference**	R C A*	No. of Deficiencies	Dollar Amount	Total
3	Operator unpermitted for one month (# months unpermitted equals number of violations). Discharge without a permit	CWA 301			\$500.00 =	

SWPPP REVIEW						
4	SWPPP not prepared (If no SWPPP, leave elements 5 - 30 blank)	ND CGP I.C.1			\$5,000.00 =	
5	SWPPP prepared but prepared after construction start (# of months = # of violations)	ND CGP I.C.1			\$75.00 =	
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...	ND CGP II.C			\$250.00 =	
7	SWPPP does not identify all operators for the project site and the areas of the site over which each operator has control	ND CGP II.C			\$500.00 =	

8	SWPPP does not have site description, as follows:								
	A Nature of activity in description	8F: The SWPP plan described, but the map did not show, the receiving water body (wetland area flowing into Little Muddy River), the discharge point from the site, a designated location for concrete washout, or the location of erosion control blankets and rock socks between the dewatering pipe outlet and the culvert under the 135th Avenue spur.	ND CGP II.C.1.a				\$100.00	=	
	B Intended sequence of major activities		ND CGP II.C.1.c				\$100.00	=	
	C Total disturbed acreage		ND CGP II.C.1.b				\$100.00	=	
	D General location map		EPA CGP 3.3.B.4				\$100.00	=	
	E Site map		ND CGP II.C.1.f				\$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)		ND CGP II.C.1.f.1-6	Yes	5		\$50.00	=	\$250
	G Location/description industrial activities, like concrete or asphalt batch plants		ND CGP II.C.1.f.7				\$500.00	=	
9	SWPPP does not:								
	A Describe all pollution control measures (e.g. BMPs)	An erosion control blanket was used in the roadside ditch downstream from the dewatering pipe discharge, but it was not described in the SWPP plan or map.	ND CGP II.C.2		1		\$750.00	=	\$750
	B Describe sequence for implementation	The plan identifies which control measures will be used but does not indicate the applicable phases of the project for each.	ND CGP III.C.3		1		\$250.00	=	\$250
	C Detail operator(s) responsible for implementation		ND CGP II.C.2.a				\$250.00	=	
10	SWPPP does not describe interim stabilization practices		ND CGP II.C.3.b				\$250.00	=	
11	SWPPP does not describe permanent stabilization practices		ND CGP II.C.3.b				\$250.00	=	
12	SWPPP does not describe a schedule to implement stabilization practices		ND CGP II.C.3				\$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)		EPA CGP 3.4.C.1-3				\$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		EPA CGP 3.4.C				\$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	The template used by the contractor to develop the SWPP plan included a section describing what should be considered when identifying post-construction stormwater controls, but the SWPP plan did not describe any such controls specific to this site.	EPA CGP 3.4.C	Yes	1		\$500.00	=	\$500
16	SWPPP does not describe measures to prevent discharge of solid materials to waters of the US, except as authorized by 404 permit		EPA CGP 3.4.C				\$500.00	=	
17	SWPPP does not describe measures to minimize off site vehicle tracking and generation of dust		ND CGP II.C.3.a				\$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		ND CGP II.C.3.b				\$250.00	=	

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		ND CGP II.C			\$500.00	=	
20	SWPPP does not identify allowable sources of non-storm water discharges listed in subpart 1.3.B of the CGP		ND CGP II.A			\$500.00	=	
21	SWPPP does not identify/ensure implementation of pollution prevention measures for non-storm water discharges		ND CGP II.C			\$500.00	=	
22	Endangered Species Act documentation is not in SWPPP		EPA CGP 3.7			\$500.00	=	
23	Historic Properties (Reserved)							
24	Copy of permit and/or NOI not in SWPPP (count each omission under 24 as 1 violation)		ND CGP III.B			\$250.00	=	
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)		EPA CGP 3.9			\$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		EPA CGP 3.9			\$250.00	=	
27	Copies of inspection reports have not been retained as part of the SWPPP for 3 years from date permit coverage terminates		ND CGP IV.A.5			\$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)		ND CGP II.C.7.c			\$50.00	=	
29	Copy of SWPPP not retained on site		ND CGP II.C.7.a			\$500.00	=	
	A SWPPP not made available upon request		ND CGP II.C.7.b			\$500.00	=	
30	SWPPP not signed/certified		ND CGP II.C.7.a			\$500.00	=	
<b>Subtotal SWPPP Deficiencies</b>								<b>\$1,750</b>
<b>INSPECTIONS</b>								
31	Inspections not performed and documented at least once every 14 days and within 24 hours after storm event greater than 0.5 inches or greater (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).	Knife River missed one site inspection during the two-week period between April 5 and April 20, 2014.	ND CGP III.A.1	No	1	\$250.00	=	\$250

	No inspections conducted and documented (if True, then leave elements 32-39 blank)				FALSE	True or False		
	Number of inspections expected if performed every 7 days:	40						
	Number of inspections expected if performed bi-weekly:	20						
	If known, number of days of rainfall of >0.5"							
32	Inspections not conducted by qualified personnel		ND CGP II.C.2.a			\$50.00	=	
33	All areas disturbed by construction activity or used for storage of materials and which exposed to precipitation not inspected		EPA CGP 3.10.E.			\$50.00	=	
34	All pollution control measures not inspected to ensure proper operation	Knife River did not inspect the dewatering discharge on a daily basis to monitor its potential effect on the management of sediment and erosion controls and on the downstream receiving water body. Dewatering occurred on at least three days when an EPA representative was present on or near the site: July 14, 15, and 17, 2014.	EPA CGP 3.10.E.	Yes	3	\$50.00	=	\$150
35	Discharge locations are not observed and inspected		EPA CGP 3.10.E.			\$50.00	=	
36	For discharge locations that are not accessible, nearby locations are not inspected		EPA CGP 3.10.E.			\$50.00	=	
37	Entrance/exit not inspected for off-site tracking		EPA CGP 3.10.E.			\$50.00	=	
38	Site inspection report does not include: 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 (count each omission under 38 as 1 violation)		ND CGP III.A.2			\$50.00	=	
39	Inspection reports not properly signed/certified (count each failure to sign/certify as 1 violation)		EPA CGP 3.10.G			\$50.00	=	
<b>Subtotal Inspections Deficiencies</b>								<b>\$400</b>
<b>AVAILABILITY OF RECORDS</b>								
40	Sign/notice not posted		EPA CGP 3.12.B			\$250.00	=	
	A Does not contain copy of complete NOI		EPA CGP 3.12.B			\$50.00	=	
	B Location of SWPPP or contact person for scheduling viewing times where on-site location for SWPPP unavailable not noted on sign		EPA CGP 3.12.B			\$50.00	=	
<b>Subtotal Records Deficiencies</b>								<b>\$0</b>
<b>BEST MANAGEMENT PRACTICES</b>								
41	No velocity dissipation devices located at discharge locations or outfall channels to ensure non-erosive flow to receiving water		ND CGP II.C.4.b			\$500.00	=	

42	Control measures are not properly:		42A: Seven (7) stormwater inlets along 42nd Street E either lacked inlet protection or had a fabric lining beneath the inlet grate that was inadequate or not properly maintained; the length of 42nd Street E between University Avenue and 11th Avenue E was covered by sediment being tracked across the site and had not been swept since approximately 33 days before the inspection, which is not in accordance with the SWPPP commitment to sweep the streets at the end of each day as needed; a rock sock in the roadside ditch downstream of the dewatering discharge pipe was not anchored in the center of the channel; one soil stockpile at the eastern end of the street project was located in the roadside ditch and was not surrounded by any sediment controls to prevent migration of sediment further down the ditch; and the site lacked adequate control measures to minimize the release of sediment at the outfall of the dewatering discharge pipe at the eastern edge of the project, as required by Part II.C.2.g.2 of the permit. Each item listed above is counted as one violation, with the exception of inadequate inlet protection, which is counted as 7 separate violations.	ND CGP II.C.3.c	Yes	11	X	\$500.00	=	\$5,500
	A	Selected, installed and maintained								
	B	Maintenance not performed prior to next anticipated storm event								
	(count each failure to select, install, maintain each BMP as one violation)									
43	When sediment escapes the site, it is not removed at a frequency necessary to minimize off-site impacts			ND CGP II.C.3.d			\$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.)			ND CGP II.C.2.b			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			ND CGP II.C.3				\$500.00	=	
	*Exceptions:									
	(a) Snow or frozen ground conditions									
	(b) Activities will be resumed within 14 days									
	(c) Arid or Semi-arid areas (<20 inches per year)									
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			ND CGP II.C.3				\$1,000.00	=	
	A	Where sedimentation basin not attainable, smaller sediment basins, sediment traps, or erosion controls not implemented for downslope boundaries		ND CGP II.C.3				\$1,000.00	=	
	B	Sediment not removed from sediment basin or traps when design capacity reduced by 50% or more		ND CGP II.C.3				\$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)		ND CGP II.C.3			\$500.00	=		
A	Sediment not removed from sediment trap when design capacity reduced by 50% or more		ND CGP II.C.3			\$500.00	=		
<b>Subtotal BMP Deficiencies</b>									<b>\$5,500</b>
<b>SMALL BUSINESS EVALUATION</b>									
48	Is the Owner/Operator a Small Business?				No				
	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>\$7,650</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></p>									

# ATTACHMENT A

## Respondent Knife River Corporation's Report of Corrective Actions

CoW WATER, SEWER, STORM, AND STREET IMPROVEMENTS, DISTRICT 13-10 CORRECTIVE ACTIONS

DEFICIENCY FORM ITEM 8F: We have edited the map to show the wetland area flowing into the Little Muddy River, as well as the discharge point from the site.

The area designated for concrete washout has been added to the plan. With our concrete plant being so close to the job, we normally take concrete trucks back to the plant for washout.

The location of the erosion control blankets and foam logs between the dewatering hose outlet, and the culvert under the 135<sup>th</sup> Ave spur are now correctly documented. It appears that they were written down as installed on 5/15/14, but the placement on the map was incorrect. We had them marked on the plan a few hundred feet west of where they were actually installed.

DEFICIENCY FORM ITEM 9A: The swppp states in segment (3 d., page 7) that "if any BMP's are not working according to plan, a new BMP is to be implemented and installed according the contractors discretion to ensure the intent and purpose of the proposed BMP is met."

We have amended the map to show where the blanket was installed. We were not aware of the exact date, or who did the installation, therefore we did not document date/personnel, just installation.

DEFICIENCY FORM ITEM 9B: We have created a newly attached page, as a revision to our plan adding more control measures and indicating the applicable phases of the project for each. See attached; 15B.

DEFICIENCY FORM ITEM 15: When construction operations have been completed, we will remove all unnecessary BMP's from the site. After operations grass will be used as vegetative stabilization on the finished slopes. No other permanent practices are currently planned for future use on this project.

DEFICIENCY FORM ITEM 31: We have no remedy for the previously missed site inspection during the period between April 5<sup>th</sup>, and April 20<sup>th</sup>. Going forward, we will continue site inspections, performed by Mick Flugel, Mike Kemp, Dan Comte, or Chris Flippo. After temporary stabilization we may be performing fewer site inspections. If/when runoff appears unlikely due to winter conditions, we may halt inspections entirely.

DEFICIENCY FORM ITEM 34: We have no remedy for the previously missed dewatering inspections. Dewatering appears to be complete for this job, however if and when we use dewatering, we will use the attached 'SWPPP dewatering documentation' form to monitor its potential effect on the receiving water body. We will observe whether or not BMP's for dissipation or filtering are necessary, and react accordingly.

DEFICIENCY FORM ITEM 42A: The 7 storm water inlets along 42<sup>nd</sup> St E that previously lacked inlet protection are now protected. On 7/15 Dan Comte and Brian Cucullo installed foam wattle protection around the inlets.

We have been brooming streets on a more frequent basis, as needed.

**RECEIVED**

**SEP 18 2014**

Office of Enforcement, Compliance  
and Environmental Justice (Water)

The foam logs have been removed in the road side ditch, as we are no longer dewatering into this area. We have plugged the culvert on the south part of 42<sup>nd</sup> near the residence with concrete. We have filled the natural ditch with class 5, sloped, and added cat tracks.

The soil stockpile towards the eastern end of 42<sup>nd</sup> St E, south of University is now contained with a silt fence perimeter. Bakken contractors, working on the nearby Pheasant Crossing development installed the fence as part of their SWPPP.

Dewatering is complete for this job, however if and when we use dewatering in the future we will include more control measures, such as rip rap or wattle, to slow dissipation velocity and minimize release of sediment . The discharge hose referred to at the eastern end of the project is no longer being used.

We have corrected all deficiencies identified by the EPA included in the received report.

Mike Kemp and Andy Cramer have previously signed the original agreement, and submitted payment for penalties.

I spoke with Michael Boeglin, the EPA official that inspected our site. He granted us until September 18<sup>th</sup> to submit the corrective actions report.

<u>ESC Measure</u>	Silt Fence/Fiber Logs
<u>Location</u>	Near drainage ditches, and as per plan
<u>Inspection Frequency</u>	Daily onsite. Weekly with inspection reports, and within 24 hours of any .5" precipitation event, or as soon as field conditions allow access.
<u>Phases of project used</u>	Grubbing/Subgrade thru completion of project. May be removed after vegetative buffer, or other ground stabilization exists and is effective
<u>ESC Measure</u>	Swale/Filter Berms
<u>Location</u>	Near areas where job easement ends.
<u>Inspection Frequency</u>	Daily onsite. Weekly with inspection reports, and within 24 hours of any .5" precipitation event, or as soon as field conditions allow access.
<u>Phases of project used</u>	Swale/Filter Berms will be installed concurrently with work progress. It will be mainly used during grubbing and subgrade phases, and kept in place until final grading and seeding occurs.
<u>ESC Measure</u>	Inlet Protection *Temporary iron covers will be used to cover catch basins after installation, and prior to the casting grate installation. Once the grate is installed, fabric will be used as a temporary BMP, until dandy bags are installed for our final BMP.
<u>Location</u>	Catch basin curb inlets
<u>Inspection Frequency</u>	Daily onsite. Weekly with inspection reports, and within 24 hours of any .5" precipitation event, or as soon as field conditions allow access.
<u>Phases of project used</u>	During storm water pipe and catch basin installation. We will have the BMP's installed (iron plate, filter fabric, and dandy bags in that order) within 2 days of installation.
<u>ESC Measure</u>	Erosion control blankets
<u>Location</u>	Near slopes running towards water conveyance systems.
<u>Inspection Frequency</u>	Daily onsite. Weekly with inspection reports, and within 24 hours of any .5" precipitation event, or as soon as field conditions allow access.
<u>Phases of project used</u>	Erosion control blankets will be installed after finish grade around water conveyance systems, such as the multi plate near the intersection of University and Fairground Road, and near 42nd and 11th Ave E.
<u>ESC Measure</u>	Seeding
<u>Location</u>	Boulevards in between sidewalk and curb. Sloped berms on 42nd.
<u>Inspection Frequency</u>	Daily onsite. Weekly with inspection reports, and within 24 hours of any .5" precipitation event, or as soon as field conditions allow access.
<u>Phases of project used</u>	Seeding will not occur until the project is nearing completion. After a majority of pipe has been installed, and earthwork is complete. Seeding will take place after all areas are to finish grade.
<u>ESC Measure</u>	Brooming/Upkeep/Maintenance/Trash Clean up
<u>Location</u>	Brooming will take place on roads exiting the job site. It will also be used to clean roads after pavement has been replaced. Trash clean up and general maintenance will be ongoing from start to completion of the project.
<u>Inspection Frequency</u>	Daily onsite. Weekly with inspection reports, and within 24 hours of any .5" precipitation event, or as soon as field conditions allow access.
<u>Phases of project used</u>	These measures will be used through completion of the project.
<u>ESC Measure</u>	Rip Rap
<u>Location</u>	As per plan, at the outfall near the intersection of 42nd ST E, and 11th Ave E.
<u>Inspection Frequency</u>	Daily onsite. Weekly with inspection reports, and within 24 hours of any .5" precipitation event, or as soon as field conditions allow access.
<u>Phases of project used</u>	Rip rap will be installed near the mouth of the culvert, after the culvert end section is installed at 11th Ave E.

\*\* If temporary stabilization is in place, or runoff becomes unlikely due to winter conditions, inspection frequencies will lessen or halt.

**U.S. ENVIRONMENTAL PROTECTION AGENCY REGION 8**  
**1595 Wynkoop Street, Denver, CO 80202-1129**

**PUBLIC NOTICE OF PROPOSED ADMINISTRATIVE PENALTY ASSESSMENT AND OPPORTUNITY TO COMMENT ON CLEAN WATER ACT CONSENT AGREEMENT**

Purpose of Public Notice

The purpose of this notice is to announce the United States Environmental Protection Agency's (EPA's) intention to enter into a Consent Agreement and Final Order with:

**Knife River Corporation**  
**5654 134<sup>th</sup> Avenue NW**  
**Williston, North Dakota 58801**

for alleged violations of the Clean Water Act (CWA) on the Little Muddy River and adjacent wetlands in Williston, North Dakota, and to give the public the opportunity to comment on the proposed consent agreement.

Process Information

Under the CWA, EPA is authorized to issue orders assessing civil penalties for violations of the CWA. 33 U.S.C. § 1319(g). EPA may issue such an order after the commencement of an administrative penalty proceeding. As required by law, EPA is hereby providing public notice of the proposed consent agreement. 33 U.S.C. § 1319(g)(4)(A) and 40 C.F.R. § 22.45(b).

Administrative enforcement proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. part 22. The procedures through which the public may submit written comment on a proposed consent agreement and participate in a proceeding are set forth in 40 C.F.R. § 22.45. The proposed consent agreement has been entered into by the parties for the purpose of simultaneously commencing and concluding this matter as authorized by 40 C.F.R. § 22.13(b) and executed pursuant to 40 C.F.R. § 22.18(b)(2) and (3). The deadline for submitting public comment on a proposed consent agreement is forty (40) days after the date of public notice.

Case Summary.

The case against Knife River Corporation (Respondent), Docket No. CWA-08-2014-0001, was filed on October 2, 2014. The complaint that initiated this case was combined with a consent agreement for a penalty of \$7,650 for violations of the storm water discharge permit issued by the State of North Dakota. As the operator under the permit, Respondent was responsible for managing storm water at its construction of water, sewer, storm drain and street improvements at 42<sup>nd</sup> Street East and University Avenue in Williston, North Dakota. The permit violations occurred in July 2014 and were discovered during an EPA inspection on July 15, 2014. The Respondent had failed to install and maintain storm water best management practices, failed to meet permit requirements for a Storm Water Pollution Prevention Plan, and failed to conduct site inspections to assess the effectiveness of best management practices. Potential discharges of storm water pollutants from Respondent's construction operations flowed toward the Little Muddy River and adjacent wetlands. The Little Muddy River is, and was at all relevant times, a water of the United States.

!! Further Information and Comments

Further Information and Comments

Persons wishing to receive a copy of any documents filed in these proceedings, comment upon the proposed consent agreement, or otherwise participate in any of the proceedings should contact the Regional Hearing Clerk, Tina Artemis, U.S. Environmental Protection Agency, Region 8 (8RC), 1595 Wynkoop Street, Denver, Colorado 80202-1129, telephone: 303.312.6765. Written comments on this proposed consent agreement must

be directed to the Regional Hearing Clerk by the deadline set forth above in this public notice.

The case docket for this proceeding is located in the EPA - Region 8 office identified above and the file will be open for public inspection during normal business hours. Written comments submitted by the public are available as part of the case docket, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, no final order assessing a penalty in these proceedings will be issued prior to **40 calendar days after publication of this notice.**

**December 5, 2014**

Date of Publication

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT**, in the matter of **KNIFE RIVER CORPORATION; DOCKET NO.: CWA-08-2015-0004**, was filed with the Regional Hearing Clerk on October 2, 2014; **THE FINAL ORDER** was filed on January 26, 2015.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Linda Kato, 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, domestic return receipt on January 26, 2015, to:

Andy Cramer, Vice President  
Knife River Corporation  
5654 134<sup>th</sup> Avenue NW  
Williston, ND 58801

And emailed to:

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

January 26, 2015



Tina Artemis  
Paralegal/Regional Hearing Clerk