

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-07-2006-0249, NPDES No.:IA-8229-8028 ENVIROR TEATAL PROTECTION AGENCY-REGION VII

REGIONAL HEARING CLERK

Dial Highlands Quad Cities, LLC ("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 APPROVED BY EP 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 partless enter into this Agreement in order to settle the civil violation (s) alleged in this Agreement for a penalty of \$12,350. 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, Region 7 P.O. Box 371099M Pittsburgh, PA 15251

This Agreement settles EPA's civil penalty claims against Respondent for the Clean Water Act violation(s) specified in this 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

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. $\S 1319(g)(4)(C)$, and Part 22.

Date: 11/20/06 William A. Spratlin

Director

appropriate.

Water, Wetlands, and Pesticides Division

APPROVED BY RESPONDENT

Signature:

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,

Date Decartes 1,200

IT IS SO ORDERED:

Robert J. Patrick

Regional Judicial Officer

Expedited Settlement Offer Worksheet

Deficiencies Form
Consult instructions regarding eligibility criteria
and procedures prior to use

IA: General Permit No. 2



	LEGAL NAME AND MAILING ADDRESS OF OPERATOR					Telephone Number	NPDE\$ Permit Number				
1	Dial-Highland Quad Cities, L.L.C.			44.44.	,	(402) 493-2800	IA-8229-802	8 _	1. 750		
	11506 Nicholas Street, Suite 200										
	Omaha, NE 68154					Inspector Name:	Joe Joslin		1111		
				* **	1 11 11	Inspector Agency:	US EPA	V 1007			
				.2		Entrance Interview Conducted:	-	Yes			
	•					Exit Interview Conducted:		Yes			
	LOCATION AND ADDRESS OF SITE					Exit Interview given to:			- Holik		
2	The Highlands, 5th Addition		7.1.	7-13-8	1 13/2 4.1	Exit Interview time:	15:00	Date:	04/19/2006		
	Devils Glen Road and Hopewell Avenue			alg to 1	144				, , , , , , , , , , , , , , , , , , , ,		
	Bettendorf, IA 52722										
	·										
	*										

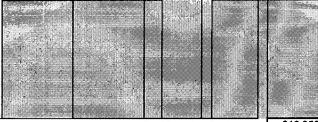
FACILITY DESCRIPTION / CONTACT NAMES	
Name of Site Contact (ESO Worksheet recipient):	Merlin Lawrence
Name of Authorized Official (40 CFR 122.22):	Merlin Lawrence
Inspection Date:	04/19/2006
Start Construction Date:	09/01/2004
Estimated Completion Construction Date:	
If Unpermitted, Number of Months Unpermitted:	
Name of Receiving Water Body (Indicate whether 303(d) listed):	Hopewell Creek
Acres Currently Disturbed Acres to be Disturbed in Whole Common Plan:	28.00
Has Operator Requested Rainfall Erosivity or TMDL Walver per 44 CFR 122.26(b)(15)?	No.

	PERMIT COVERAGE	Notes	Citation Reference**	State Citation Reference***	R C A*	No. of Deficien- cies	Dollar Amount	Total
3	Operator unpermitted formonths (# months unpermitted equals number of violations)	· · · · · · · · · · · · · · · · · · ·	CWA 301	IAC 567-64.6(1)			X \$500.00	=
	SWPPP REVIEW	• • • • • •			1.		1 1	
4			CGP 3.1.A	IAGP IV		de situation	\$5,000.00	=
5	,		CGP 3.1.A	IAGP IV			X \$75.00	=
6		mark .	CGP 3.1.B	N/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	IAGP IV(D)(7)		4	\$500.00	=
8	SWPPP does not have site description, as follows:						1	
	A Nature of activity in description		CGP 3.3.B.1	IAGP IV(D)(1)(A)	T		\$100.00	=
	B Intended sequence of major activities	ang the later	CGP 3.3.B.2	IAGP IV(D)(2)	Ι.		\$100.00	=
	C Total disturbed acreage		CGP 3.3.B.3	IAGP IV(D)(1)(B)			\$100.00	=
	D General location map	The state of the s	CGP 3.3.B.4	IAGP IV(D)(1)(D)			\$100.00	=
' [E Site map		CGP 3.3.C	IAGP IV(D)(1)(D)		6.18	\$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 ageas, surface waters, discharge points, areas of final stabilization (count each omission under 8F as 1 violation)		CGP 3.3.C.1-8	IAGP IV(D)(1)(D)			X \$50.00	=
	G Location/description industrial activities, like concrete or asphalt batch plants		CGP 3.3.D	N/A				
9[
	A Describe all pollution control measures (e.g. BMPs)		CGP 3.4.A	IAGP IV(D)(2)			\$750.00	=
	B Describe sequence for implementation		CGP 3.4.A	IAGP IV(D)(2)			\$250.00	=
	C Detail operator(s) responsible for implementation	**************************************	CGP 3.4.A	IAGP IV(D)(7)	1 /	1 42, 11.	\$250.00	=
10	SWPPP does not describe interim stabilization practices	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	CGP 3.4.B	IAGP IV(D)(2)(A)(1)			\$250.00	=
11	SWPPP does not describe permanent stabilization practices		CGP 3.4.B	IAGP IV(D)(2)(A)(1)			\$250.00	=
12	SWPPP does not describe a schedule to implement stabilization practices		CGP 3.4.B	IAGP IV(D)(2)(A)(1)			\$250.00	=

							_		_
13	Following dates are not recorded: major grading		CGP 3.4.C.1-3	N/A			ľ		1
	activities; construction temporarily or permanently ceased; stabilization measures initiated (count				11.1				
	each omission under 13 as 1 violation)				10.00	and the second	1		
		and the second of					44		
14	SWPPP does not have description of structural		CGP 3.4.D	IAGP			à	\$500.00	=
	practices to divert flows from exposed soils, retain flows, or limit runoff from exposed areas		}	IV(D)(2)(A)(2)					1
15	SWPPP does not have a description of measures		CGP 3.4.E	IAGP IV(D)(2)(B)		a. a.vis 1	11	\$500.00	=
	that will be installed during the construction		İ						
	process to control pollutants in storm water						$ \cdot $		
	discharges that will occur AFTER construction operations have been completed				1.7		\mathbf{I}		
16	SWPPP does not describe measures to prevent		CGP 3.4.F	IAGP IV(D)(2)(C)			T	\$500.00	=
	discharge of solid materials to waters of the US,					*	П		
17	except as authorized by 404 permit SWPPP does not describe measures to minimize	No description of measures in SWPPP	CGP 3.4.G	IAGP	Yes	1	₩	\$500.00	= \$500
	off-site vehicle tracking and generation of dust	:		IV(D)(2)(C)(2)				****	
						- ,45	┵		
18	SWPPP does not include description of construction or waste materials expected to be		CGP 3.4.H	IAGP IV(D)(2)(C)(1)			11	\$250.00	=
	stored on site w/updates re: controls used to			1. (5)(2)(5)(1)		**	П		
	reduce pollutants from these materials						Щ		
19	SWPPP does not have description of pollutant sources from areas other than construction		CGP 3.4.1	N/A			1		
	(asphalt or concrete plants) w/ updates re: controls						1		
	to reduce pollutants from these materials					100	H		
20	SWPPP does not identify allowable sources of	No decoration of non-standard	CGP 3.5	IAGP IV(D)(5)	Yes	1	₩	\$500.00	= \$500
20		No description of non-storm water discharges in SWPPP	CGP 3.5	IAGP IV(U)(5)	162		Н	\$500.00	- \$300
	of the CGP						Ш		
21		No identification of BMPs for non-storm	CGP 3.5	IAGP IV(D)(5)	Yes	1		\$500.00	= \$500
	of pollution prevention measures for non-storm water discharges	water discharges				-			
22	Endangered Species Act documentation is not in	· · · · · · · · · · · · · · · · · · ·	CGP 3.7	N/A			\sqcap		
	SWPPP								
23	Historic Properties (Reserved)			N/A			Ш		
24	Copy of permit and/or NOI not in SWPPP (count		CGP 3.8	IAGP	A 10	20000	X		
	each omission under 24 as 1 violation)			II(C)(1)(G)(3)		85 DB 12	\sqcup		
25	SWPPP is not consistent with requirements specified in applicable sediment and erosion site		CGP 3.9	IAGP IV(D)(2)(D)			П	\$750.00	=
	plans or site permits, or storm water management			Ì		1 1997	П		
	plans or site permits approved by State, Tribal or	, " - »					1		
	local officials (e.g., MS4 requirements)						Ш		
26	SWPPP has not been updated to remain		CGP 3.9	N/A			₩		
	consistent with changes applicable to protecting						Ш		
	surface waters in State, Tribal or local erosion plans								
27	Copies of inspection reports have not been		CGP 3.10.G	IAGP V(A)	97.5	1,947.50	╂┼	\$500.00	=
	retained as part of the SWPPP for 3 years from			,			П	•	
-	date permit coverage terminates		00000110	14.00 0 (0)(4)(0)		1	₩	250.00	A 50
28	SWPPP has not been updated/modified to reflect change at site effecting discharge, or where	Drawing, however, had not been updated to reflect silt fence added at the curb	CGP 3.11.C	IAGP IV(D)(4)(B)	Yes	1	X	\$50.00	= \$50
		line, for those lots adjacent to Star View					Ш		
	,	Drive.					Ш		·
	BMPs not made within 7 days of such inspection (count each omission under 28 as 1 violation)						Ш		
	(**************************************					2	Ш		
29	Copy of SWPPP not retained on site		CGP 3.12.A	IAGP V(B)			\Box	\$500.00	
30	A SWPPP not made available upon request SWPPP not signed/certified		CGP 3.12.C CGP 3.12.D	IAGP V(B)	-		₩	\$500.00 \$500.00	
30	SWY FF Not signed/certified	*	CGF 3.12.D	IAGE VI(G)				\$500.00	-
		•							
	INSPECTIONS	Approximately 20 months with missing	CGP 3.10.A.	IAGP IV(D)(4)	Yes	20	1 √I	\$250.00	= \$5,000
31	HIDSDECTIONS NOT DEPROPMENT AND COCHMOMOR SHOPER I	Min Surgerill to though and this side	3.10.B	TOT IV(D)(4)	0.0	20	^	Ψ2.00,00	_
31		inspection reports.	J. 10.D						1
31	once every 7 days, or once every 14 days and within 24 hours after storm event greater than	inspection reports.	3.10.0				1	j]
31	once every 7 days, or once every 14 days and within 24 hours after storm event greater than 0.5 inches or greater (not required if: temp)					Ì	
31	once every 7 days, or 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		3.10.5						
31	once every 7 days, or 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 and periods in and areas) (Count each failure to inspect and		3.10.5						
31	once every 7 days, or 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 and periods in arid areas) (Count each failure to inspect and document as one violation).		J. 10.5	IACD NUDYA				Tour	
31	once every 7 days, or 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 and periods in arid areas) (Count each failure to inspect and document as one violation). No inspections conducted and documented (if		3.18.E	IAGP IV(D)(4)		FALSE		True or False	
31	once every 7 days, or 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 and periods in arid areas) (Count each failure to inspect and document as one violation). No inspections conducted and documented (if True, then leave elements 32-39 blank) Number of Inspections expected if performed		5.10.5	IAGP IV(D)(4)				True or False	
31	once every 7 days, or 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 and periods in arid areas) (Count each failure to inspect and document as one violation). No inspections conducted and documented (if True, then leave elements 32-39 blank) Number of Inspections expected if performed every 7 days:	84				FALSE			
31	once every 7 days, or 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 and periods in arid areas) (Count each failure to inspect and document as one violation). No inspections conducted and documented (if True, then leave elements 32-39 blank) Number of Inspections expected if performed		5.10.D	IAGP IV(D)(4)		FALSE			- <u> </u>
31	once every 7 days, or 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 and periods in arid areas) (Count each failure to inspect and document as one violation). No inspections conducted and documented (if True, then leave elements 32-39 blank). Number of Inspections expected if performed every 7 days: Number of Inspections expected if performed bi-	84				FALSE			

32	Inspections not conducted by qualified personnel	Unknown		CGP 3.10.D	IAGP IV(D)(4)	Yes	1	\$50.00	= :
33	All areas disturbed by construction activity or used for storage of materials and which exposed to precipitation not inspected	Unknown		CGP 3.10.E	IAGP IV(D)(4)(A)	Yes		\$50.00	:
34	All pollution control measures not inspected to	Silt fence, seeding, clean up	of streets	CGP 3.10.E	IAGP IV(D)(4)(A)	* , * .		\$50.00	=
35	ensure proper operation Discharge locations are not observed and	mentioned. Unknown		CGP 3.10.E	IAGP IV(D)(4)(A)	Yes	~325c.**	\$50.00	= ;
	inspected	esity .			, ,, ,, ,		1,81117,8	, , , ,	
36	For discharge locations that are not accessible, nearby locations are not inspected	i proposition disc		CGP 3.10.E	N/A	8	we to be		
37	Entrance/exit not inspected for off-site tracking	Unknown		CGP 3.10.E	IAGP IV(D)(4)(A)	Yes	1 4	\$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	Name and qualifications of i	spector	CGP 3.10.G	IAGP IV(D)(4)(C)	Yes		X \$50.00	= :
	needed, corrective action required including changes/updates to SWPPP and schedule/dates (count each omission under 38 as 1 violation)		And the second s						
39	Inspection reports not properly signed/certified (count each failure to to sign/certify as 1 violation)			CGP 3.10.G	IAGP IV(D)(4)(C)		1	X \$50.00) = ;
	AVAILABILITY OF RECORDS	 							
40	Sign/notice not posted		\$ 1	CGP 3.12.B	N/A				<u> </u>
	A Does not contain copy of complete NOI B Location of SWPPP or contact person for			CGP 3.12.B	N/A N/A	1.1		1	+
	scheduling viewing times where on-site location for SWPPP unavailable not noted on sign		17/2		_	led.			
	BEST MANAGEMENT PRACTICES		1						
41	No velocity dissipation devices located at	Photo 1		CGP 3, 13,F	IAGP (Yes	g/, 1 =	\$500.00	= \$5
	discharge locations or outfall channels to ensure non-erosive flow to receiving water			1	IV(D)(2)(B)(2)		\$ · ·		
42	Control measures are not properly:	Numerous silt fences and se	diment trap.						
1 ′	A Selected, installed and maintained		ļ.:	CGP 3.13.A	IAGP IV(D)(2)	Yes	. 8	\$500.00	= \$4,0
F	Maintenance not performed prior to next anticipated storm event		3.3	CGP 3.6.B	N/A				
-	(count each failure to select, install, maintain each	,							
43	BMP as one violation When sediment escapes the site, it is not removed	*	5.50	CGP 3.13.B	N/A			7.0	
	at a frequency necessary to minimize off-site impacts		lates to the				. 31		
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.)		. / 1	CGP 3.13.C	IAGP IV(D)(2)(C)(1)			\$500.00	=
45	Stabilization measures are not initiated as soon as practible on portions of the site where construction activities have temporarily or permanently ceased			CGP 3.13.D	IAGP IV(D)(2)(A)(1)			\$500.00	=
	within 14 days after such cessation		100						
	*Exceptions:				N/A				
-	(a) Snow or frozen ground conditions (b) Activities will be resumed within 14 days		4		N/A N/A				
46	(c) Arid or Semi-arid areas (<20 inches per 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	No sedimentation basin sper SWPPP nor has a sediment been implemented at the site does not describe "equivaler	ation basin s. SWPPP	CGP 3.13.E.1	IAGP IV(D)(2)(A)(2)(a)		1	\$1,000.00	= \$1,0
4	A Where sedimentation basin not attainable, smaller sediment basins, sediment traps, or erosion controls not implemented for downslope	controls*		CGP 3.13.E.2	IAGP IV(D)(2)(A)(2)(a)	(2.00) (2.00)	en Jennouwe, J.J.	\$1,000.00	=
E	3 Sediment not removed from sediment basin or traps when design capacity reduced by 50% or more		. <u></u>	CGP 3.6.C	N/A				
47	Common Drainage less than 10 acres does not			CGP 3.13.E.3	IAGP		001030017	\$500.00	=
	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)				IV(D)(2)(A)(2)(b)				
<u> </u>	·			CCDCC	NIA				
	A Sediment not removed from sediment trap when design capacity reduced by 50% or more	j i		CGP 3.6.C	N/A			×	

A small business 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.



Total Expedited Settlement:

\$12,350

* Requires Corrective Action
** NPDES General Permit, 68 FR 39087, issued by EPA on July 1, 2003, http://ctpub.epa.gov/npdes/stormwater/cgp.cfm
*** lowa Department of Natural Resources NPDES General Permit No.2 issued by IDNR on October 1, 2002 - http://www.iowadnr.com/water/stormwater/index.html

IN THE MATTER OF Dial Highlands Quad Cities, LLC, Respondent Docket No. CWA-07-2006-0249

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:

Kristina Kemp Assistant Regional Counsel Region VII United States Environmental Protection Agency 901 N. 5th Street Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Pat Day, President Dial Highlands Quad Cities, LLC 11506 Nicholas Street, Suite 200 Omaha, Nebraska 68154

Dated: 2 1 00

Kathy Robinson

Hearing Clerk, Region 7