

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2014 SEP 26 AM 11:00

FILED  
EPA REGION VIII  
HEARING CLERK

In the Matter of:	)	<b>COMBINED</b>
	)	<b>COMPLAINT AND</b>
	)	<b>CONSENT AGREEMENT</b>
Alan Kruckenberg Construction, Inc.	)	
	)	
	)	
Respondent.	)	Docket No. <b>CWA-08-2014-0035</b>

Complainant, United States Environmental Protection Agency, Region 8, and Respondent, Alan Kruckenberg Construction, Inc., are agreeing and consenting to settle on the following terms:

**A. PRELIMINARY MATTERS**

1. The EPA has jurisdiction over these matters pursuant to sections 308 and 309(a) of the Federal Water Pollution Control Act (Clean Water Act), as amended. 33 U.S.C. §§ 1318 and 1319(a). The rules for this proceeding are the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits" (Rules of Practice), 40 C.F.R. part 22, a copy of which has been provided to Respondent.
2. This Combined Complaint and Consent Agreement (CCCA) is 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).
3. For the purposes of this proceeding, Respondent admits the jurisdictional allegations and neither admits nor denies the factual allegations. Respondent consents to the assessment of the civil penalty and waives any right to a hearing or appeal before any tribunal and to contest any issue of law or fact set forth herein.
4. Complainant asserts that settlement of this matter is in the public interest, and the parties agree that entry of this CCCA without further litigation and without adjudication of any issue of fact or law is the most appropriate means of resolving this matter.
5. This CCCA, upon incorporation into a final order, applies to and is binding upon the EPA and upon Respondent, and Respondent's employees, agents, successors and assigns. Any

change in ownership of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this agreement.

6. This CCCA contains all terms of the settlement agreed to by the parties.

**B. GENERAL ALLEGATIONS**

7. Respondent is a corporation, incorporated in the State of Utah,

8. Respondent is engaged in constructing a housing development known as "On the Hill" located at 2940 E 3300 S in Millcreek, Utah (the Site).

9. Respondent is a "person" within the meaning of section 502(5) of the Clean Water Act, 33 U.S.C. § 1362(5).

10. The Site encompasses approximately 3.03 acres.

11. Construction activities began at the Site on approximately January 2, 2008.

12. Respondent has had day-to-day responsibility for construction at the Site.

13. The runoff and drainage from the Site is "storm water" as defined in 40 C.F.R. § 122.26(b)(13).

14. Storm water contains "pollutants" as defined by section 502(6) of the Act, 33 U.S.C. § 1362(6).

15. Storm water, snow melt, surface drainage and runoff water have been leaving the Site and have flowed into Mill Creek via the Salt Lake County municipal separate storm sewer system (MS4).

16. Mill Creek is a "navigable water" as defined by section 502(7) of the Act, 33 U.S.C. § 1362(7), and a "water of the United States" as defined by 40 C.F.R. § 122.2.

17. Each storm water discharge from the Site is the "discharge of a pollutant" as defined by section 502(12) of the Act, 33 U.S.C. § 1362(12), and 40 C.F.R. § 122.2.

18. Each storm water discharge from the Site is a discharge from a "point source" as that term is defined in section 502(14) of the Act, 33 U.S.C. § 1362(14), and 40 C.F.R. § 122.2. In order to restore and maintain the integrity of the nation's waters, section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), among other things, prohibits the discharge of any pollutant by any person into waters of the United States except in compliance with a permit issued pursuant to section 402 of the Clean Water Act, 33 U.S.C. § 1342.

19. Section 402 of the Clean Water Act, 33 U.S.C. § 1342, establishes the National Pollutant Discharge Elimination System (NPDES) program, under which the EPA and, upon

receiving authorization, states may permit discharges of pollutants into navigable waters, subject to specific terms and conditions. "Navigable waters" means the waters of the United States, 33 U.S.C. § 1362(7).

20. Construction activity including clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre and less than five acres is considered small construction activity. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres is small construction activity. 40 C.F.R. § 122.26(b)(15).
21. Any person who discharges storm water associated with small construction activity to waters of the United States is required to seek NPDES permit coverage and to comply with the permit. 40 C.F.R. § 122.26(c).
22. The Utah Department of Environmental Quality (UDEQ) was approved by the EPA to administer the NPDES program on July 7, 1987. 52 Fed. Reg. 27578-2757, July 22, 1987. A permit issued by UDEQ under Utah's EPA-approved NPDES program is known as an UPDES permit.
23. Effective July 1, 2008, the UDEQ issued an NPDES general permit (UPDES Permit No. UTR-300000, referenced as the Permit) authorizing discharges of storm water associated with construction activities including small construction activity, if done in compliance with its terms and conditions. Dischargers may apply for authorization to discharge under the Permit by submitting a notice of intent for coverage to the UDEQ.

### **C. ALLEGED VIOLATIONS**

24. On March 6, 2012, the EPA inspectors conducted a Site visit as part of an inspection of the Salt Lake County MS4 program. At that time, the Site was not covered under the Permit.
25. The EPA inspectors observed evidence of pollutants discharged from the Site to Mill Creek via storm drains.
26. As a follow-up to the Site visit, on April 23, 2012, the EPA sent Respondent a letter of violation indicating the finding that the Site was not covered under the Permit. The letter of violation indicated a permit was required. The letter of violation requested a copy of the notice of intent to be covered under the Permit, a copy of the storm water pollution prevention plan (SWPPP) required by the Permit and photos of the storm water controls at the Site.

27. On May 21, 2012, Respondent submitted a notice of intent (NOI) to the UDEQ indicating Respondent's intent to have construction at the Site covered by the Permit. Effective May 21, 2012, Respondent was authorized to discharge storm water at the Site in accordance with the requirements of the Permit.
28. The Site was covered under the Permit or a permit issued prior to the current Permit from December 27, 2007, through January 2, 2010 (permit number UTR109270); March 19, 2010, through March 19, 2011 (permit number UTR339512); May 21, 2012, through June 30, 2012 (permit number UTR360406); and June 28, 2013, through June 28, 2104 (permit number UTR360406).
29. The Site was not covered under the Permit or a permit issued prior to the current Permit from January 3, 2010, through March 18, 2010, and March 20, 2011, through May 20, 2012, during which time the Respondent discharged without a permit.
30. In a letter dated May 21, 2012, Respondent sent to the EPA a copy of the NOI, SWPPP and photos of the storm water controls at the Site.
31. On June 13, 2012, the EPA sent a letter to Respondent indicating the SWPPP did not meet the requirements of the Permit. An updated SWPPP was requested. As of June 13, 2012, no updated SWPPP was received by the EPA.
32. On August 22, 2012, the EPA and UDEQ inspectors conducted a storm water inspection at the Site to determine compliance with the Permit. No Site representatives could be located at the Site. As part of the inspection, Jeff Kruckenberg was called by the EPA inspector from the Site and interviewed.
33. The inspection found the Respondent failed to install and maintain best management practices (BMPs) as required by the Permit. The following BMP deficiencies were identified in the inspection report:
  - a. Not all BMPs had been kept in effective operating condition. The filter fabric in the storm drain on the south side of Keepler Lane had fallen out in one corner such that it was not in effective operating condition. The rock sock on the south side of Marley Place had been run over by a subcontractor's truck and broken causing the rocks to spill out of the rock sock. The other rock sock on the north side of Marley Place also was broken causing the rocks to spill out of the rock sock.
  - b. There was no vehicle tracking control, and vehicle sediment track-out was observe in Marley Place. Jeff Kruckenberg stated during the phone call on August 22, 2012, that a grading subcontractor had been at the site the day prior to the inspection.

- c. Concrete washout was observed on the ground. There were no controls to prevent stormwater from picking-up pollutants from the concrete washout and transporting these pollutants off-site.
- 34. Section 3.1 of the Permit states, “As a condition of this Permit, Permittees must implement the SWPPP as written or modified from commencement of construction until final stabilization is complete and [a notice of termination] has been submitted.”
- 35. Section 3.5.3 of the Permit states, “Maintenance. All vegetation, erosion and sediment control measures and other protective measures identified in the SWPPP shall be maintained in effective operating condition.”
- 36. Section 3.5.2.a.1 of the Permit requires the description and implementation of controls to address the following minimum components:

“If sediments escape the construction site, off-site accumulations of sediment must be removed at a frequency sufficient to minimize the possibility of offsite impacts such as fugitive sediments washing into storm sewers by the next rain or posing a safety hazard to users of public streets.”
- 37. Section 3.5.2.c of the Permit states, “2) Off-site Tracking. Off-site vehicle tracking of sediments and the generation of dust shall be minimized.”
- 38. The SWPPP states in section 12, “All temporary and permanent erosion and sediment control BMPs shall be maintained and repaired as needed to assure continued performance of their intended function.” The SWPPP also states that inlet protection and wattles are to be inspected following storm events and at a minimum every 14 days, and if bypassing is observed, the BMP is to be repaired or realigned.
- 39. The SWPPP states in section 12, “All temporary and permanent erosion and sediment control BMPs shall be maintained and repaired as needed to assure continued performance of their intended function.” The SWPPP also stated that inlet protection and wattles are to be inspected following storm events and at a minimum every 14 days, and if bypassing is observed, the BMP is to be repaired or realigned.
- 40. The SWPPP states in section 4.2 that sediment in the street from track-out shall be removed on a daily basis.
- 41. Section 11.2 of the SWPPP states that wastes, including concrete waste, shall be managed to prevent contamination in runoff. A concrete waste management BMP specification sheet indices concrete washout shall occur off-site or using a designated on-site area.

42. Jeff Kruckenberg stated during the phone call on August 22, 2012, that the SWPPP had not been updated since it was sent to the EPA on May 21, 2012. Jeff Kruckenberg was notified verbally that the SWPPP did not meet many of the requirements of the Permit.
43. On October 22, 2012, the EPA sent Respondent an inspection report for the August 22, 2012 inspection requesting among other items an updated SWPPP that met the requirements of the Permit. The SWPPP had not been updated since 2008; a SWPPP revision documentation form in the SWPPP did not indicate any modifications have ever been made. The following SWPPP deficiencies were identified in the inspection report:
  - a. No runoff coefficient was included in the SWPPP;
  - b. The SWPPP did not include a current copy of the Permit;
  - c. The SWPPP has not been signed;
  - d. The SWPPP did not include a description of the control method used along the perimeter of Lot 17 where the soil was cut back from the sidewalk (photo 561);
  - e. The Site was less than 10 acres, and there was no silt fences or equivalent along the downslope/sideslope portions of the lots, except for along Lot 17;
  - f. The SWPPP did not discuss allowable non-storm water discharges (e.g. irrigation drainage);
  - g. The SWPPP delegated several SWPPP implementation duties to Wilding Engineering, but Jeff Kruckenberg indicated he or someone from Alan Kruckenberg Construction implemented the SWPPP; and
  - h. The SWPPP did not identify the self-inspection schedule.
44. Section 3.1 of the Permit states, “As a condition of this Permit, Permittees must implement the SWPPP as written or modified from commencement of construction until final stabilization is complete and [a notice of termination] has been submitted.”
45. Section 3.5.1 of the Permit requires all SWPPPs to contain, “[a]n estimate of the runoff coefficient of the site after construction activities are completed and existing data describing the soil or the quality of any discharge from the site” and “[a] copy of this Permit.”
46. Section 3.2.1 of the Permit states, “A copy of the SWPPP, including a copy of the Permit, the NOI, and any amendments to the SWPPP, shall be retained on-site at the site which generates the storm water discharge in accordance with this Part 3.2 and with Part 5.10 of this Permit. If the site is inactive or does not have an onsite location adequate to store the copy of the SWPPP, reasonable local access to a copy of the SWPPP during normal working hours (e.g., at a local library or government building), must be provided and the location of the SWPPP, along with a contact phone number, shall be posted on site at a publicly-accessible location.”

47. Section 3.2.6 of the Permit states, “All SWPPPs must be signed and certified in accordance with Part 5.16 of this Permit.”
48. Section 3.3.1 of the Permit states, “The Permittee shall amend the SWPPP whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the discharge of pollutants to the waters of the State and which has not otherwise been addressed in the SWPPP.”
49. Section 3.5.2 of the Permit states, “Each plan shall include a description of appropriate controls and measures that will be implemented.... The description and implementation of controls shall address the following minimum components:
- a. Erosion and Sediment Controls...
    - 2) Structural Practices. The permittee shall provide a description of structural practices that divert flows from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable....
      - B. Less Than 10 Acre BMP Requirement. For drainage locations serving less than 10 acres, sediment basins and/or sediment traps should be used. At a minimum, silt fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries (and those side slope boundaries deemed appropriate as dictated by individual site conditions) of the construction area unless a sediment basin providing storage for 3,600 cubic feet of storage per acre drained is provided.”
50. Section 3.5.5 of the Permit states, “Except for flows from fire-fighting activities, sources of non-storm water listed in Part 1.5 of this Permit that are combined with storm water discharges associated with industrial activity must be identified in the SWPPP. The SWPPP shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.”
51. Section 3.3.3 of the Permit states, “The Permittee shall amend the SWPPP whenever a new owner/operator becomes responsible for implementing all or part of the SWPPP, as further described in Part 3.4 and Part 4.3 of this Permit.”
52. Section 3.5.4 of the Permit states, “Inspections must be conducted in accordance with one of the two schedules listed below. The Permittee shall specify in its SWPPP which schedule it will be following.



- 1) At least once every 7 calendar days; or
  - 2) At least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater.”
53. In a response dated November 11, 2012, a response to the EPA’s inspection report was provided. No updated SWPPP was included in the response.
54. On June 18, 2013, the EPA issued Respondent an Administrative Order for Compliance (Order), Docket Number CWA-08-2013-0021, pursuant to section 309(a)(3) of the Act, 33 U.S.C. 1319(a)(3), which ordered Respondent to update the SWPPP to meet Permit requirements.
55. The EPA received an updated SWPPP on August 19, 2013, which included the missing items required by the Permit. Respondent failed to have an adequate SWPPP from at least May 21, 2012, through August 1, 2013, the date of the updated SWPPP.

**D. CIVIL PENALTY**

56. Section 309(g)(2)(A) of the Clean Water Act, 33 U.S.C. § 1319(g)(2)(A), authorizes the EPA to assess a civil administrative penalty for any violation of various provisions of the Clean Water Act, including but not limited to sections 301 and 308 of the Clean Water Act, 33 U.S.C. §§ 1311 and 1318, and for any violation of a condition or limitation of a permit issued under section 402 of the Clean Water Act, 33 U.S.C. § 1342. The amount of the penalty that the EPA can assess is up to \$16,000 per day for each day from January 12, 2009, through December 6, 2013, during which a violation continues. For violations that occurred from January 12, 2009, through December 6, 2013, the maximum total penalty is \$177,500. These amounts have been adjusted for inflation by 40 C.F.R. part 19.
57. Section 309(g)(3) of the Clean Water Act, 33 U.S.C. § 1319(g)(3), requires the EPA to take into account the following factors in assessing a civil administrative penalty: the nature, circumstances, extent and gravity of the violation(s) and, with respect to the violator, ability to pay, any prior history of such violations, degree of culpability, any economic benefit or savings gained from the violation, and such other factors that justice may require.

Nature, Circumstances, Extent, and Gravity of Violations

58. The EPA observed evidence and took photographs of evidence that storm water had run off the Site, which discharged to Mill Creek via the Salt Lake County MS4. Respondent had not sought nor obtained a permit to discharge pollutants to a water of the United States from January 3, 2010, through March 18, 2010, and March 20, 2011, through May 20, 2012, despite being aware of the Permit and NOI process. BMPs that were not



installed or maintained per Permit conditions and implementation of a SWPPP that met Permit conditions would have minimized pollutant discharges from the Site.

59. The EPA and states with authorized NPDES programs rely on permits to implement the controls needed to prevent water pollution. Respondent's failure to seek permit authorization jeopardizes the integrity of the EPA's and UDEQ's programs to control storm water pollution.

#### Prior Compliance History

60. Prior to issuing this Agreement, the EPA Region 8 issued the Order described in paragraph 55. The Order is the first enforcement action the EPA Region 8 issued to Respondent regarding noncompliance with the storm water requirements. UDEQ has not issued any enforcement actions to Respondent regarding noncompliance with the storm water requirements.

#### Degree of Culpability

61. Respondent was aware of its obligation to obtain coverage under the Permit, because a previous permit discussed in Paragraph 28, *supra*, had been obtained by Respondent for the Site.
62. The EPA's storm water program has been in place since 1990. Respondent has been incorporated since 1996. With its longstanding experience in the construction business, Respondent should have been aware of the applicable storm water requirements.
63. In 1990, the EPA promulgated Phase I of its storm water program (55 Fed. Reg. 47990-48091, November 16, 1990). Phase I required NPDES permit authorization for storm water discharges from construction activity disturbing five or more acres of land, either by itself or in conjunction with other parts of a common development (55 Fed. Reg. 48066). In 1999, the EPA extend this requirement to storm water discharges from construction activity disturbing between one and five acres of land (64 Fed. Reg. 68722, 68839, December 9, 1999).
64. Additionally, UDEQ has conducted numerous training and outreach activities over the past several years to increase the regulated community's awareness of storm water control requirements.
65. Therefore, Respondent should have been fully aware of its responsibilities to meet the requirements related to storm water control.

Economic Benefit

66. Respondent received an economic benefit from its failure to obtain permit authorization and failure to fully comply with the requirements in the Permit. Respondent received benefits by failing to submit a timely application for a permit and pay associated permit fees, failing to keep the SWPPP updated, failing to fully implement the SWPPP, and failing to install and maintain BMPs as required by the Permit.

Ability to Pay

67. The EPA did not reduce the proposed penalty due to this factor.

Other Matters that Justice may Require

68. The EPA made no penalty adjustments regarding other matters.

Penalty

69. Respondent consents and agrees to pay a civil penalty in the amount of \$27,000 payable in quarterly installments of \$3,375. Respondent consents to the issuance of a final order and consents to the payment of a civil penalty of twenty-seven thousand dollars (\$27,000). Respondent shall pay an initial installment of three thousand three hundred seventy-five dollars (\$3,375) within thirty (30) days of the effective date of the Final Order in this matter. The remainder of the penalty shall be paid quarterly thereafter in **seven installments** of three thousand three hundred seventy-five dollars (\$3,375) due on the first day of each calendar quarter following the initial installment (January 1, April 1, July 1, and October 1).
70. Payments shall be made in the manner described below:
- a. Payment shall be made according to the instructions on the attached document entitled Attachment 1 Collection Information, which is incorporated herein by reference. A copy of the check or evidence or wire transfer shall be sent simultaneously to:

Stephanie DeJong, Environmental Scientist  
Water Technical Enforcement Program, NPDES Unit (8ENF-W-NP)  
U.S. EPA, Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129

and

Tina Artemis, Regional Hearing Clerk (8RC)  
U.S. EPA Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129

- b. In the event payment is not received by the specified due date, interest will accrue from the date of the Final Order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received, (i.e., on the 1st late day, 30 days of interest accrues).
- c. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 31st day from the date of the Final Order, and each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6 %) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., the 121st day from the date the Final Order is signed for the initial installment). Payments are first applied to outstanding handling charges, 6 % penalty interest, and late interest. The remainder is then applied to the outstanding principal amount.
- d. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or tax credit.

**E. TERMS AND CONDITIONS**

- 71. Nothing in this CCCA shall relieve Respondent of the duty to comply with the Clean Water Act and its implementing regulations.
- 72. Failure by Respondent to comply with any of the terms of this CCCA shall constitute a breach of the CCCA and may result in referral of the matter to the Department of Justice for enforcement of this Agreement and for such other relief as may be appropriate.
- 73. Nothing in this CCCA shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this CCCA.
- 74. The undersigned Respondent certifies that she/he is fully authorized to enter into and be bound by the terms and conditions of this CCCA.
- 75. Respondent waives any and all claims for relief, and otherwise available rights to judicial or administrative review or other remedies which the Respondent may have, with respect to any issue of fact or law or any terms and conditions set forth in this CCCA, including any right of judicial review under the Administrative Procedure Act, 5 U.S.C. sections 701 through 708.

76. In accordance with 40 C.F.R. § 22.45, the EPA will provide public notice of this action. The EPA may modify or withdraw its consent to this CCCA if comments received disclose facts or considerations which indicate that the CCCA is inappropriate, improper, or inadequate.
77. If comments received during the public comment period do not require modification of or withdrawal from this CCCA by the EPA, the parties agree to submit this CCCA to the Regional Judicial Officer, with a request that it be incorporated into a final order.
78. Each party shall bear its own costs and attorney fees in connection with this matter.
79. This CCCA, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, resolve Respondent's liability for Federal civil penalties for the violations alleged herein.

**UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8**

Date: SEP 26 2014

By: *Eduardo A. Sierra*  
for Suzanne J. Bohan  
Acting Assistant Regional Administrator  
Office of Enforcement, Compliance &  
Environmental Justice  
U.S. EPA Region 8

**Alan Kruckenberg Construction, Inc.**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Alan Kruckenberg, President  
Alan Kruckenberg Construction, Inc.  
6782 S 1300 E  
Salt Lake City, UT 84121

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78. Each party shall bear its own costs and attorney fees in connection with this matter.
79. This CCCA, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, resolve Respondent's liability for Federal civil penalties for the violations alleged herein.

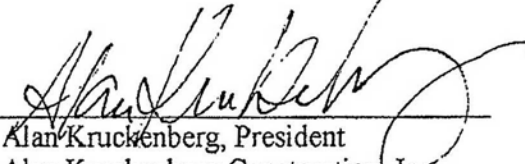
**UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Suzanne J. Bohan  
Acting Assistant Regional Administrator  
Office of Enforcement, Compliance &  
Environmental Justice  
U.S. EPA Region 8

**Alan Kruckenberg Construction, Inc.**

Date: 9/16/2014

By:   
Alan Kruckenberg, President  
Alan Kruckenberg Construction, Inc.  
6782 S 1300 E  
Salt Lake City, UT 84121

UNITED STATES  
 ENVIRONMENTAL PROTECTION AGENCY  
 REGION 8

FILED  
 EPA REGION VIII  
 HEARING CLERK

In the Matter of:	)	
	)	Motion to File pdf Signature
Alan Kruckenberg Construction, Inc.	)	
	)	
	)	Docket No. <b>CWA-08-2014-0035</b>
Respondent.	)	

Comes Now Complainant, the United States Environmental Protection Agency (EPA), Region 8, and Respondent, Alan Kruckenberg Construction, Inc. requesting that the Regional Judicial Officer (RJO) accept the filing of Respondent's pdf signature page. Respondent agrees to send the original signature page to Complainant, and Complainant will replace the pdf'd signature page with the RJO's office upon receipt from Respondent. The Parties request that the RJO grant this Motion to File a pdf Signature.

Respectfully submitted this 26<sup>th</sup> day of September, 2014.

*Brenda L. Morris*

Brenda L. Morris, Attorney  
 U.S.EPA Region 8  
 1595 Wynkoop St.  
 Denver, CO 80202-1129



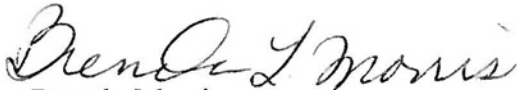
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the original and one true and correct copy of the Motion to File a Pdf Signature Page was hand-carried to the Regional Hearing Clerk:

Tina Artemis, Region 8 Hearing Clerk  
U.S. Environmental Protection Agency  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

And that a true copy of the same was sent via CERTIFIED MAIL/RETURN RECEIPT REQUESTED to:

Alan Kruckenberg, President  
Alan Kruckenberg Construction, Inc.  
6782 S 1300 E  
Salt Lake City, UT 84121

  
Brenda Morris

Date September 26, 2014

## **COLLECTION INFORMATION**

Payment is due on the due dates described in paragraph 70. If the due date falls on a weekend or legal Federal holiday, then the due date is the next business day. Payments must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day.

The payment shall be made by remitting a cashier's or certified check, including the name and docket number of this case, for the amount, payable to "Treasurer, United States of America," (or be paid by one of the other methods listed below) and sent as follows:

### **CHECK PAYMENTS:**

US Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, MO 63197-9000

### **WIRE TRANSFERS:**

Wire transfers should be directed to the Federal Reserve Bank of New York

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York NY 10045  
Field Tag 4200 of the Fedwire message should read " D 68010727 Environmental  
Protection Agency "

**OVERNIGHT MAIL:**

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101

Contact: Natalie Pearson  
314-418-4087

**ACH (also known as REX or remittance express)**

Automated Clearinghouse (ACH) for receiving US currency  
PNC Bank  
808 17th Street, NW  
Washington, DC 20074  
Contact – Jesse White 301-887-6548  
ABA = 051036706  
Transaction Code 22 - checking  
Environmental Protection Agency  
Account 310006  
CTX Format

**ON LINE PAYMENT:**

There is now an On Line Payment Option, available through the Dept. of Treasury.  
This payment option can be accessed from the information below:

WWW.PAY.GOV  
Enter sfo 1.1 in the search field

Open form and complete required fields.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 8  
1595 Wynkoop Street, Denver, CO 80202-1129**

**PUBLIC NOTICE  
OPPORTUNITY FOR PUBLIC COMMENT ON A  
COMBINED COMPLAINT AND CONSENT AGREEMENT BETWEEN  
ALAN KRUCKENBERG CONSTRUCTION, INC.  
AND THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
TO RESOLVE ALLEGED VIOLATIONS OF  
THE CLEAN WATER ACT**

**PURPOSE OF PUBLIC NOTICE**

The purpose of this notice is to solicit written comments on the Combined Complaint and Consent Agreement (CCCA) between Alan Kruckenberg Construction, Inc (Respondent), and the United States Environmental Protection Agency (EPA), bearing Docket #CWA-08-2014-0035. The EPA alleged that the Respondent violated the requirements of the Clean Water Act (CWA) by failing to seek and obtain a discharge permit for the discharge of regulated stormwater to "Waters of the United States" and failing to comply with the requirements of its discharge permit at times when the discharge of regulated stormwater was authorized by a permit. Specifically, the EPA alleged that during times when the Respondent had obtained a permit, the Respondent failed to have an adequate stormwater pollution prevention plan, failed to install required stormwater controls to control pollutants in stormwater, and failed to maintain stormwater controls. The CCCA is entered into by the parties for the purpose of simultaneously commencing and concluding this matter, as authorized by Title 40 of the Code of Federal Regulations (40 C.F.R.), Section 22.13(b) and executed pursuant to 40 C.F.R. § 22.18(b)(2) and (3). In the CCCA, Respondent agrees to pay a penalty of \$27,000. The alleged violations took place at a housing development known as "On the Hill" located at 2940 E 3300 S in Millcreek, Utah. The CCCA is issued under the National Pollutant Discharge Elimination System (NPDES) provisions of the CWA. These regulations govern the discharge of wastewater to "Waters of the United States". The addresses of EPA and respondent are listed here.

Respondent: Alan Kruckenberg Construction, Inc., 6782 S 1300 E, Salt Lake City, UT 84121.

EPA: Assistant Regional Administrator, Office of Enforcement, Compliance & Environmental Justice, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129.

EPA desires to receive written comments from any interested party having knowledge of the alleged violations or who can provide any information useful to ensure that any penalty assessed is appropriate.

## **PUBLIC COMMENTS**

Written comments on the CCCA are encouraged and will be accepted at the address listed below for a period of forty (40) days after the publication of this notice. Written comments submitted by the public as well as information submitted by Respondent will be available for public review, subject to the provisions of law restricting the disclosure of confidential information. Any person submitting written comments has a right to participate in a hearing, if one is held. The complaint is available for review between 9:00 a.m. and 4:00 p.m. at the address listed below and on the internet at: <http://yosemite.epa.gov/oa/rhc/epaadmin.nsf>.

Please submit written comments to:

Tina Artemis (8RC)  
Regional Hearing Clerk  
U.S. EPA, Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202-1129.  
Telephone: (303) 312-6765

**FOR FURTHER INFORMATION:** Persons wishing to receive a copy of other documents in this proceeding (such as the regulations in 40 C.F.R. part 22, which establish procedures for the hearing), or to comment upon the proposed penalty assessment or upon any other aspect of the matter, should contact the Regional Hearing Clerk identified above. No action will be taken by the EPA to finalize a settlement in this matter until 40 days after this public notice.