



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 10

1200 Sixth Avenue, Seattle, Washington 98101

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-10-2008-0024

NPDES Nos. IDR10AR26, IDR10AY71 & IDR10B524

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HEARINGS CLERK
EPA -- REGION 10

City Creek Estates, LLC and Johnson Excavation Equipment, Inc. ("Respondents") are "persons," 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.

U.S. EPA, Region 10
In the Matter of: City Creek Estates, Division # 1
Docket No.: CWA-10-2008-0024
P.O. Box 371099M
Pittsburgh, PA 15251

Attached is an "Expedited Settlement Offer 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.

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.

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. § 1342.

This Agreement is binding on the parties signing below and effective upon filing with the Regional Hearing Clerk.

EPA finds, and Respondents admit, that Respondents are 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." Respondents neither admit nor deny the deficiencies specified in the Form.

APPROVED BY EPA:

[Signature] Date: 7/20/07
Kimberly A. Ogle
Manager, NPDES Compliance Unit

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 \$5,950. Respondents consent to the assessment of this penalty, and waive 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).

APPROVED BY RESPONDENT:

Name (print): RON MILLER
Title (print): Developer
Signature: [Signature] Date: 8-18-07

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.

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:

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

[Signature] Date: 10/29/07
Richard G. McAllister
Regional Judicial Officer, Region 10

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT** in **In the Matter of: City Creek Estates, LLC and Johnson Excavation Equipment, Inc.**, **DOCKET NO.: CWA-10-2008-0024** was filed with the Regional Hearing Clerk on October 29, 2007.


On October 29, 2007 the undersigned certifies that a true and correct copy of the document was delivered to:

David Allnutt, Esquire
U.S. Environmental Protection Agency
1200 Sixth Avenue, ORC-158
Suite 900
Seattle, Washington 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 October 29, 2007 to:

Ron Miller, Developer
City Creek Estates
1556 City Creek Road
Pocatello, ID 83204

DATED this 29th day of October 2007.



Carol Kennedy
Regional Hearing Clerk
EPA Region 10

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Postage	\$	10/29/07
Certified Fee		Postmark Here
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Sent To	Ron Miller, Developer City Creek Estates 1556 City Creek Road Pocatello, ID 83204	
Street, Apt. No., or PO Box No.		
City, State, ZIP+4		

PS Form 3800, June 2002 See Reverse for Instructions

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PS Form 3800, January 2002 See Reverse for Instructions