



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 8
1595 Wynkoop Street
Denver, Colorado 80202

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EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-08-2015-0004 NPDES No. NDR105826

FILED
EPA REGION VIII
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: 09/30/14

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: 7/30/14

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

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 135th 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, therefor 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 5th, and April 20th. 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 42nd 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.

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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 42nd 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 42nd 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 18th 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 134th 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-08-2015-0004**, 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 to the City of Williston by the State of North Dakota. Under the permit, Respondent was responsible for managing storm water at its construction of water, sewer, storm drain and street improvements at 42nd 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

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. For technical questions, contact Michael Boeglin, Technical Enforcement Program, at boeglin.michael@epa.gov, the same EPA address above, or 303.312.6250. Persons with legal questions may contact Linda Kato, Legal Enforcement Program, at kato.linda@epa.gov, or 303.312.6852.

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.**

October 21, 2014

Date of Publication