



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 WYNKOOP STREET
DENVER, CO 80202-1129

Phone 800-227-8917

<http://www.epa.gov/region08>

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FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: CWA-08-2016-0017

IN THE MATTER OF:

KANYON SPECIALTY CONTRACTORS, INC.)

FINAL ORDER

RESPONDENT)

Pursuant to 40 C.F.R. §22.13(b) and §22.18(b)(2) and (3), of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order.

The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon filing this Consent Agreement and Final Order.

SO ORDERED THIS 7th DAY OF November, 2016.

Elyana Sutin
Regional Judicial Officer



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 8
1595 Wynkoop Street
Denver, Colorado 80202

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EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-08-2016-0017, NPDES Permit No. NDR-108508

FILED
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HEARING CLERK

Kanyon Specialty Contractors, Inc. ("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. Part 122.2.

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 69197-9000
In the Matter of: Kanyon Specialty Contractors, Inc.

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-08-2016-0017

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 claim 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 deficiency 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(a), 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 thirty (30) days from the date it is signed by the Regional Judicial Officer, unless a petition to set aside the Order approving this Agreement is filed by a commenter pursuant to section 309(g)(4)(C) of the Act, 33 U.S.C. § 1319(g)(4)(C), or a hearing is requested under section 309(g)(4) of the Act, 33 U.S.C. § 1319(g)(4).

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. Part 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 \$5,100.00. 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).

APPROVED BY EPA:

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] Date: 9/12/16
Stephanie DeJong, Acting Unit Chief
NPDES Enforcement Program
Office of Enforcement, Compliance
And Environmental Justice

Respondent certifies that, within ten (10) days of receiving notice from EPA that the Agreement is effective (the effective date is thirty (30) days from the date it is signed by the Regional Judicial Officer), Respondent shall submit a bank, cashier's 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:

[Signature] Date: 9/20/16
James H. Eppers, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
And Environmental Justice

APPROVED BY RESPONDENT:

Name (print): MARTY McCuskey

Title (print): GMR

Signature: Marty McCuskey Date: 9-7-16

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

Hon. Elyana R. Sutin
Regional Judicial Officer

Date: _____

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

**PUBLIC NOTICE OF PROPOSED COMBINED COMPLAINT AND CONSENT
AGREEMENT AND OPPORTUNITY TO COMMENT**

Summary: The EPA is providing notice of the opportunity to comment on a proposed Expedited Settlement Agreement (Agreement). The Agreement settles allegations by the EPA that Kanyon Specialty Contractors, Inc., has violated a permit issued pursuant to the Clean Water Act (CWA) (permit number NDR108508) at the 2nd Avenue West Frontage Road Realignment project in Williston, North Dakota.

Background: The EPA alleges that Kanyon Specialty Contractors, Inc., has failed to have a complete and updated stormwater pollution prevention plan (SWPPP) and site map, failed to conduct all required self-inspections, failed to keep all inspection records on-site with the SWPPP, failed to ensure staff are trained, and failed to implement required stormwater controls to minimize discharges of sediment and other pollutants into waters of the United States. Kanyon Specialty Contractor, Inc., has agreed to pay a civil-administrative penalty of \$5,100 to resolve its civil penalty liability for these alleged violations.

The addresses of the EPA and Kanyon Specialty Contractors, Inc., are listed below.

Kanyon Specialty Contractors Inc.: Kanyon Specialty Contractors, Inc., 12274 26F Street, Watford City, North Dakota is identified in the Agreement as the Respondent.

EPA: EPA Region 8, 1595 Wynkoop Street, Denver, Colorado, 80202-1129. The EPA is identified in the Agreement as the Complainant.

The EPA is authorized by section 309(g) of the CWA, 33 U.S.C. § 1319(g), to issue an order assessing a civil administrative penalty for violations of certain CWA requirements, after providing (1) an opportunity for the person to be assessed the penalty to request a hearing to contest the penalty, and (2) notification to the public of its rights to submit written comments and to participate in any hearing.

PUBLIC COMMENTS

The EPA encourages the public to comment on the Agreement. The EPA will accept comments at the address listed below for a period of forty (40) days after the publication of this notice. Any person submitting written comments has a right to participate in a hearing, if one is held. The CCCA will be available for review at <http://yosemite.epa.gov/oa/rhc/epaadmin.nsf> and between 9:00 a.m. and 4:00 p.m. on business days at the address listed below.

Please submit written comments to:

Melissa Haniewicz (8RC)
Regional Hearing Clerk
U.S. EPA, Region 8
1595 Wynkoop Street
Denver, CO 80202-1129
Telephone: (303) 312-7059

Please also reference the EPA Docket Number for this matter: [insert]

FOR FURTHER INFORMATION: Any person wishing (1) to comment upon the proposed penalty assessment or upon any other aspect of this matter or (2) to obtain any other information on this proceeding should contact the Regional Hearing Clerk identified above.

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMBINED COMPLAINT AND CONSENT AGREEMENT** in the matter of **KANYON SPECIALTY CONTRACTORS, INC.**; **DOCKET NO.:** **CWA-08-2016-0017** was filed with the Regional Hearing Clerk on September 20, 2016. The **FINAL ORDER** was filed with the Regional Hearing Clerk on November 7, 2016.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Abigail Dean, Enforcement Attorney. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt on November 7, 2016, to:

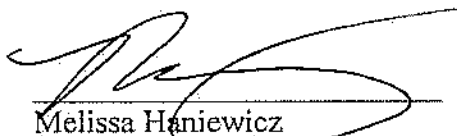
Respondent

Marty McCuskey, Project Superintendent
Kanyon Specialty Contractors, Inc.
12274 26F Street
Watford City, North Dakota 58854

And emailed to:

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

November 7, 2016


Melissa Haniewicz
Regional Hearing Clerk

