

#### UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

### **EXPEDITED SETTLEMENT AGREEMENT**

Docket Number: CWA-07-2008-0055, NPDES No.:IA-8984-8785 -8 4Μ ID: Π3

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 APPROVED BY EPA: 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 Ailliam A. Spratlin the Form.

EPA is authorized to enter into this Consent Agreement Water, Wetlands, and Pesticides Division 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 \$14,350. 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.  $\S 1319(g)(2)$ ; 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 Fines and Penalties Cincinnati Finance Center PO Box 979007 St. Louis, MO 63197-9000

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,

Michael L. Collins ("Respondent") is a "person," within or future civil or criminal violation of the Action other federal statute or regulation. EPA does not avaive it in the to issue a compliance order for any uncorrected deficiencies or violation(s) described in the Form. EPA has determined this Agreement to be appropriate.

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. § 1319(g)(4)(C), and Part 22.

Director

APPROVED BY RESPONDENT: Name (print):

Title (print):

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, IT IS, SO ORDERED;

Robert L. 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	S OF OPERATOR		Telephone Number	NPDES Permit	Number
1	Michael L. Collins		Microconsons ——	402-670-1465	IA-8984-8785	All A Section
	24898 U.S. Highway 6					
	Council Bluffs, lowa 51503		2016 P	Inspector Name:	Lyle Cowles	
			\$ 1 m	Inspector Agency:	US EPA	
		Nicholas III	<u> </u>	Entrance Interview Conducted:		Yes
	<del>-</del>		_	Exit Interview Conducted:		Yes
	LOCATION AND ADDRESS OF SITE			Exit Interview given to:	Michael Collins	
2	Traceview Estates Subdivision			Exit Interview time:	11:30	Date: 10/12/2007
	West of Co. Rd. G-66, N of Brush Ln		**			
	Council Bluffs, Iowa		5			

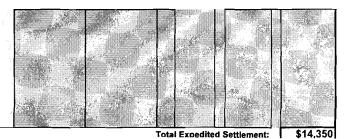
	FACILITY DESCRIPTION / CONTACT NAMES	
	Name of Site Contact (ESO Worksheet recipient):	Michael L. Collins
	Name of Authorized Official (40 CFR 122.22):	Michael L. Collins
!	Inspection Date:	10/12/2007
	Start Construction Date:	05/01/2005
1 }	Estimated Completion Construction Date:	05/01/2009
	If Unpermitted, Number of Months Unpermitted:	
1	Name of Receiving Water Body (Indicate whether 303(d) listed):	Pony Creek
	Acres Currently Disturbed   Acres to be Disturbed in Whole Common Plan:	30.00
	Has Operator Requested Rainfall Erosivity or TMDL Waiver per 44 CFR 122.26(b)(15)?	

		PERMIT COVERAGE	Notes	Citation Reference**	State Citation	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)			Х	\$500.00	=
		SWPPP REVIEW								_
4		SWPPP not prepared (If no SWPPP, leave elements 5 - 30 blank)		CGP 3.1.A	IAGP IV			X \$	5, <b>000</b> .00	=
5		SWPPP prepared but prepared after construction start (# of months = # of violations)		CGP 3.1.A	IAGP IV			X	\$75.00	=
6	l	SWPPP does not identify all potential sources of pollution to include: porta-pottys, fuel tanks, staging areas, waste containers, chemical storage areas, concrete cure, paints, solvents, etc		CGP 3.1.A	IAGP IV(A)(1)			X	\$250.00	
7		SWPPP does not identify all operators for the project site and the areas of the site over which each operator has control	No operators are identified in the SWPPP.	CGP 3.3.A	IAGP IV(D)(7)(A)	Yes	1	x	\$500.00	= \$500
8		SWPPP does not have site description, as follows:								
Γ	Α	Nature of activity in description		CGP 3.3.B.1	IAGP IV(D)(1)(A)			Х	\$100.00	=
Г	В	ntended sequence of major activities	* ************************************	CGP 3.3.B.2	IAGP IV(D)(2)			X	\$100.00	=
		Total disturbed acreage		CGP 3.3.B.3	IAGP IV(D)(1)(B)	,		X	\$100.00	
	_	General location map		CGP 3.3.B.4	IAGP IV(D)(1)(D)	_		X	\$100.00	
	_	Site map		CGP 3.3.C	IAGP IV(D)(1)(D)	_		$\frac{\hat{x}}{x}$	\$500.00	
	:	Site map does not show drainage patterns, slopes, areas of disturbance, locations of major controls, structural practices shown, stabilization practices, offsite materials, waste, porrow or equipment storage ageas, surface	• A	CGP 3.3.C.1-8	IAGP IV(D)(1)(D)			X	\$50.00	=
	1	waters, discharge points, areas of final stabilization (count each omission under 8F as 1 violation)					N 2			
		coation/description industrial activities, like		CGP 3.3.D	N/A	344				
9		SWPPP does not:				76				F 37
		Describe all pollution control measures (e.g. BMPs)	12.85	CGP 3.4.A	IAGP IV(D)(2)			Х	\$750.00	=
	В	Describe sequence for implementation		CGP 3.4.A	IAGP IV(D)(2)			×	\$250.00	=
	С	Detail operator(s) responsible for implementation		CGP 3.4.A	IAGP IV(D)(7)			X	\$250.00	=
10		SWPPP does not describe interim stabilization practices		CGP 3.4.B	IAGP IV(D)(2)(A)(1)			×	\$250.00	=
11	-   £	SWPPP does not describe permanent stabilization practices	N .	CGP 3.4.B	IAGP IV(D)(2)(A)(1)			X	\$250.00	=
12		SWPPP does not describe a schedule to mplement stabilization practices	*	CGP 3.4.B	IAGP IV(D)(2)(A)(1)	. ,		X	\$250.00	=

13	Following dates are not recorded: major grading activities; construction temporarily or permanently ceased; stabilization measures initiated (count each omission under 13 as 1 violation)		CGP 3.4.C.1-3	N/A					
14	SWPPP does not have description of structural practices to divert flows from exposed soils, retain flows, or limit runoff from exposed areas		CGP 3.4.D	IAGP IV(D)(2)(A)(2)			×	\$500.00	=
15	SWPPP does not have a description of measures that will be installed during the construction process to control pollutants in storm water discharges that will occur AFTER construction operations have been completed		CGP 3.4.E	IAGP IV(D)(2)(B)			×	\$500.00	=
16	SWPPP does not describe measures to prevent discharge of solid materials to waters of the US, except as authorized by 404 permit		CGP 3.4.F	IAGP IV(D)(2)(A)(2)			X	\$500.00	=
17	SWPPP does not describe measures to minimize off-site vehicle tracking and generation of dust		CGP 3.4.G	IAGP IV(D)(2)(C)(2)			X	\$500.00	=
18	SWPPP does not include description of construction or waste materials expected to be stored on site w/updates re: controls used to reduce pollutants from these materials		CGP 3.4.H	IAGP IV(D)(2)(C)(1)			X	\$250.00	=
19	SWPPP does not have description of pollutant sources from areas other than construction (asphalt or concrete plants) w/ updates re: controls to reduce pollutants from these materials		CGP 3.4.I	IAGP IV(D)(6)(C)		, 38	X	\$250.00	
20	SWPPP does not identify allowable sources of non-storm water discharges listed in subpart 1.3.B of the CGP	ú₩.	CGP 3.5	IAGP IV(D)(5)			X	\$500.00	=
21	SWPPP does not identify/ensure implementation of pollution prevention measures for non-storm water discharges		CGP 3.5	IAGP IV(D)(5)			×	\$500.00	=
22	Endangered Species Act documentation is not in SWPPP		CGP 3.7	N/A					
23	Historic Properties (Reserved)			N/A					
24	Copy of permit and/or NOI not in SWPPP (count each omission under 24 as 1 violation)	NOI missing	CGP 3.8	IAGP II(C)(1)(G)(3)	No	1	X	\$250.00	
25	SWPPP is not consistent with requirements specified in applicable sediment and erosion site plans or site permits, or storm water management plans or site permits approved by State, Tribal or local officials (e.g., MS4 requirements)		CGP 3.9	IAGP IV(D)(2)(D)			×	\$750.00	=
26	SWPPP has not been updated to remain consistent with changes applicable to protecting surface waters in State, Tribal or local erosion plans		CGP 3.9	N/A					
27	Copies of inspection reports have not been retained as part of the SWPPP for 3 years from date permit coverage terminates		CGP 3.10.G	IAGP V(A)			X	\$500.00	=
28	SWPPP has not been updated/modified to reflect change at site effecting discharge, or where inspections identify SWPPP/BMPs as ineffective, updates to SWPPP regarding modifications to	Failure to show locations of additional silt fences and berms that were added subsequent to initial drafting of the SWPPP. No corrective action required because operator has since corrected this deficiency.	CGP 3.11.C	IAGP(C) & IAGP IV(D)(4)(B)	No	1	X	\$50.00	= \$50
29	Copy of SWPPP not retained on site  A SWPPP not made available upon request		CGP 3.12.A CGP 3.12.C	IAGP V(B)			X	\$500.00 \$500.00	
30	SWPPP not signed/certified		CGP 3.12.D	IAGP VI(G)			x	\$500.00	
	INSPECTIONS								
31	Inspections not performed and documented either 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	20 missed inspections between October 2006 and June 2007	CGP 3.10.A, 3.10.B	IAGP IV(D)(4)	No	20	X	\$250.00	\$5,000
ı	Idocument as one violation i	_	<del></del>	MOD IV/DVA	† <b>-</b>	FALSE	广十	True or	1
-	document as one violation).  No inspections conducted and documented (if True, then leave elements 32-39 blank)	1 4 A		IAGP IV(D)(4)	ļļ	4	١		
	No inspections conducted and documented (if True, then leave elements 32-39 blank)  Number of Inspections expected if performed	1.55		,				False	
-	No inspections conducted and documented (if True, then leave elements 32-39 blank)			IN/A	1	100			

32		Inspections not conducted by qualified personnel		CGP 3.10.D	IAGP IV(D)(4)			Х	\$50.00	=
33	_	All areas disturbed by construction activity or used	4.	CGP 3.10.E	IAGP IV(D)(4)(A)	-	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	X	\$50.00	=
l		for storage of materials and which exposed to precipitation not inspected								
34		All pollution control measures not inspected to	A PAGE	CGP 3.10.E	IAGP IV(D)(4)(A)			Х	\$50.00	=
35		ensure proper operation  Discharge locations are not observed and		CGP 3.10.E	IAGP IV(D)(4)(A)			Х	\$50.00	=
36		inspected For discharge locations that are not accessible,		CGP 3.10,E	N/A		-	Н		
		nearby locations are not inspected			_	_		Ļ	<b>#</b> 50.00	
37		Entrance/exit not inspected for off-site tracking		CGP 3.10.E	IAGP IV(D)(4)(A)			×	\$50.00	=
38		Site inspection report does not include: date, name and qualifications of inspector, weather		CGP 3.10.G	IAGP IV(D)(4)(C)			X	\$50.00	=
		information, location of sediment/pollutant	¥							
		discharge, BMP(s) requiring maintenance, BMP(s) that have failed, BMP(s) that are						П		
		needed, corrective action required including		=				]		
		changes/updates to SWPPP and schedule/dates (count each omission under 38 as 1 violation)								
39		Inspection reports not properly signed/certified	Inspection reports not signed.	CGP 3.10.G	IAGP IV(D)(4)(C)	Yes	1	X	\$50.00	= \$!
		(count each failure to to sign/certify as 1 violation)				Ŀ				
		AVAILABILITY OF RECORDS								
40		Sign/notice not posted	184 A. 84 A.	CGP 3.12.B	N/A			Ц		
-		Does not contain copy of complete NOI  Location of SWPPP or contact person for	₹ 19 19 19 19 19 19 19 19 19 19 19 19 19	CGP 3.12.B CGP 3.12.B	N/A	-		Н		
	_	scheduling viewing times where on-site location						П		
		for SWPPP unavailable not noted on sign		<u> </u>	L	- /	<u> </u>	Ш		
41	_	BEST MANAGEMENT PRACTICES  No velocity dissipation devices located at		TCGP 3.13.F	IAGP			ΙVΙ	\$500.00	
7.		discharge locations or outfall channels to ensure		CGF 3.10.F	IV(D)(2)(B)(2)			$ \hat{\ } $	Ψ500.00	
42		non-erosive flow to receiving water Control measures are not properly:	Silt fence not maintained in lots 3,17, &			# 41	100			1.5
-	Α	Selected, installed and maintained	22; No BMPs in place for lots 4, 10, 11,	CGP 3.13.A	IAGP IV(D)(2)	Yes	17	X	\$500.00	= \$8,50
<b>-</b>	В	Maintenance not performed prior to next	12, 15, 18, & 26; Stabilization not maintained in lots 1, 21, & 33; Main	CGP 3.6.B	N/A			Н		
-		anticipated storm event (count each failure to select, install, maintain each	entrance to site not maintained; Silt basins not maintained or properly.							
		BMP as one violation	installed in NE, North Central or SW	Service Co.		.76				
43		When sediment escapes the site, it is not removed at a frequency necessary to minimize off-site impacts		CGP 3.13.B	N/A					
44		Litter, construction debris, and construction	"	CGP 3.13.C	IAGP	-	-	X	\$500.00	=
-	ĺ	chemicals exposed to storm water are not prevented from becoming a pollutant source			IV(D)(2)(C)(1)			H		
45	_	(e.g. screening outfalls, pickup daily, etc.)		1000					2522.22	
45		Stabilization measures are not initiated as soon as practible on portions of the site where construction		CGP 3.13.D	IAGP IV(D)(2)(A)(1)			Х	\$500.00	=
1		activities have temporarily or permanently ceased within 14 days after such cessation								
þ		*Exceptions:			N/A			Ħ	in the	
-	+	(a) Snow or frozen ground conditions (b) Activities will be resumed within 14 days	e se en la companya de la companya d		N/A N/A			H	7	+
ŀ	_				100					
46		(c) Arid or Semi-arid areas (<20 inches per Common Drainage of 10+ acres does not have a	<u> </u>	CGP 3.13.E.1	IAGP			×	\$1,000.00	=
		sedimentation basin for the 2 year, 24 hour storm, or 3600 cubic ft. storage per acre drained			IV(D)(2)(A)(2)(a)					
-		Where sedimentation basin not attainable, smaller sediment basins, sediment traps, or erosion		CGP 3.13.E.2	IAGP IV(D)(2)(A)(2)(a)			X	\$1,000.00	=
-	В	controls not implemented for downslope Sediment not removed from sediment basin or		CGP 3.6.C	N/A		_	$\forall$		-
		traps when design capacity reduced by 50% or more								
47	7	Common Drainage less than 10 acres does not		CGP 3.13.E.3	IAGP			х	\$500.00	=
	-	have sediment traps, silt fences, vegetative buffer strips, or equivalent sediment controls for all down			IV(D)(2)(A)(2)(b)					
		slope boundaries (not required if sedimentation sediment basin meeting criteria in 46 above)								
-		Sediment not removed from sediment trap when		CGP 3.6.C	N/A			x		-
		design capacity reduced by 50% or more						L		
		SMALL BUSINESS EVALUATION Is the Owner/Operator a Small Business?							<del></del>	
48	- 11	is the Clymerii Ingrator a Small Business?	Yes	i				- 1		- 1

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.



# IN THE MATTER OF Michael L. Collins, Respondent Docket No. CWA-07-2008-0055

### 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 Gonzales Assistant Regional Counsel Region VII United States Environmental Protection Agency 901 N. 5<sup>th</sup> Street Kansas City, Kansas 66101

Original by Certified Mail Return Receipt to:

Michael L. Collins 24898 US Highway 6 Council Bluffs, Iowa 51503

Dated: 7/8/08

Kathy Robinson

Hearing Clerk, Region 7