



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 10

1200 Sixth Avenue, Suite 900, Seattle, Washington 98101

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-10-2016-0151, NPDES No. IDR12G241/"Unpermitted"

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HEARINGS CLERK
EPA -- REGION 10

Brighton Development, Inc. and Cartwright Ranch, LLC ("Respondents") are 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.

Attached is an "Expedited Settlement Offer Worksheet 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.

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 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 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.

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 \$5,350. 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).

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.

Respondents certify that they have submitted 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, Region 10
Fines and Penalties, Cincinnati Finance Center
In the Matter of: Brighton Development, Inc. & Cartwright Ranch, LLC
Docket No.: CWA-10-2016-0151
P.O. Box 979077
St. Louis, MO 63197-9000

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.

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

APPROVED BY EPA:

Date: 8/23/2016

Edward J. Kowalski, Director
Office of Compliance and Enforcement

APPROVED BY RESPONDENT: CARTWRIGHT RANCH, LLC

Name
(print): A. ENNIS DALE

Title
(print): SR. V.P.

Signature: C. Ennis Dale Date: 9/23/16

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:

Date: 9/27/16

M. Socorro Rodriguez
Regional Judicial Officer, Region 10



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 10

1200 Sixth Avenue, Suite 900, Seattle, Washington 98101

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

APPROVED BY EPA:

[Signature of Edward J. Kowalski]

Edward J. Kowalski, Director
Office of Compliance and Enforcement

Date: 8/23/2016

APPROVED BY RESPONDENT:

Brighton Development, Inc.

Name

(print): Jonathan D. Wardle

Title

(print): President, Brighton Development, Inc.

Signature:

[Signature of Jonathan D. Wardle]

Date: 9/26/16

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:

[Signature of M. Socorro Rodriguez]
M. Socorro Rodriguez
Regional Judicial Officer, Region 10

Date: 9/27/16

Handwritten signature

2/25/18

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: Brighton Development, Inc. and Cartwright Ranch, LLC – Neville Ranch #1 – Cartwright Ranch, Docket No.: CWA-10-2016-0151**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered to:


Chris Gebhardt, NPDES Compliance Officer
U.S. Environmental Protection Agency
1200 Sixth Avenue, OCE-101
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 to:

Jonathan D. Wardle
President, Brighton Development, Inc.
12601 West Explorer Drive, Suite 200
Boise, Idaho 83713

A. Ennis Dale
Senior Vice President
Cartwright Ranch, LLC
435 East Shore Drive, Suite 120
Eagle, Idaho 83616

DATED this 27 day of September, 2016

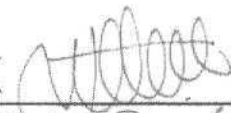


Signature
Teresa Young
Regional Hearing Clerk
EPA Region 10

Corrective Actions Report

	Deficiencies Discovered During July 19, 2016 Inspection by U.S. Environmental Protection Agency	Corrective Actions Taken to Remedy Deficiencies
1.	(Deficiency #3) Operator unpermitted for 10 months at time of inspection	Cartwright Ranch, LLC was identified in the Storm Water Pollution Prevention Plan as an operator, but a Notice of Intent was not filed by Cartwright at the time of ground-breaking (September 17, 2015). The land which Cartwright should have been covering with an NOI, "Phase No. 2," was sold to Brighton on July 25, 2016, thus relinquishing Cartwright from needing to file a new NOI.
2.	(Deficiency #8.F.) Site map does not show drainage patterns, slopes, areas of disturbance, locations of major controls, structural practices shown, stabilization practices, offsite materials, waste, borrow or equipment storage areas, surface waters, discharge points, areas of final stabilization	Required annotations have been added to the site map illustrating when BMPs were installed/relocated/removed, as well as when stabilization measures were implemented to areas of the site.
3.	(Deficiency #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 BMPs not made within 7 days of such inspection	SWPPP (corrective action report) has been updated to reflect when actions were taken to modify and/or install BMPs.
4.	(Deficiency #32) Inspections not conducted by qualified personnel	All inspections were conducted by individuals who received "responsible person" qualification training from the City of Boise to identify and manage erosion control aspects of construction sites. Documentation describing the course material of the trainings has been added to the SWPPP binder.
5.	(Deficiency #38) Site inspection report does not include: date, name and qualifications of inspector, weather information, location of sediment/pollutant discharge, BMP(s) requiring maintenance, BMP(s) that have failed, BMP(s) that are needed, corrective action required	Inspection reports have been updated to reflect when actions were taken to maintain and/or install BMPs.

X



Jon Wardie
Brighton Development, Inc. *President*

**Expedited Settlement Offer Worksheet
Deficiencies Form**
Consult instructions regarding eligibility criteria
and procedures prior to use

version 10.3.4

LEGAL NAME AND MAILING ADDRESS OF OPERATOR		Telephone Number	NPDES Permit Number
1	Brighton Development, Inc. 12601 West Explorer Drive, Suite 200 Boise, Idaho 83713	Cartwright Ranch, LLC 435 East Shore Drive, Suite 120 Eagle, Idaho 83616	208-577-1000 IDR12G241/Unpermitted
LOCATION AND ADDRESS OF SITE		Inspector Name: Patrick Stoll Inspector Agency: US EPA Entrance Interview Conducted: Yes Exit Interview Conducted: Yes Exit Interview given to: Daniel Frisby et al. Exit Interview time: Date:	
2	Neville Ranch #1 - Cartwright Ranch Outside Main City Limits (Northwest of Boise, East of Eagle) Boise, Idaho 83714		

FACILITY DESCRIPTION / CONTACT NAMES	
Name of Site Contact (ESO Worksheet recipient):	Daniel Frisby, Development Estimator
Name of Authorized Official (40 CFR 122.22):	Daniel Frisby/Tom Bobo
Inspection Date:	7/19/2016
Start Construction Date:	9/17/2015
Estimated Completion Construction Date:	5/1/2016
If Unpermitted, Number of Months Unpermitted:	10 months for Cartwright Ranch, LLC
Name of Receiving Water Body (Indicate whether 303(d) listed):	Dry Creek, a tributary of the Boise River
Acres Currently Disturbed Acres to be Disturbed in Whole	46
Requested Rainfall Erosivity or TMDL Waiver per 44 CFR 122.26(b)(15)?	No

PERMIT COVERAGE	Findings	Citation Reference*	Requires Corrective Action	Violations
3 Operator unpermitted for _____ months (# months unpermitted equals number of)		CWA 301	Y	Y
SWPPP REVIEW				
4 SWPPP not prepared (if no SWPPP, leave elements 5 - 30 blank)		CGP 5.1	*	*
5 SWPPP prepared but prepared after construction start (# of months = # of)		CGP 5.1	*	*
6 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 5.1	*	*
7 SWPPP does not identify all operators for the project site and the areas of the site over which each operator has control		CGP 5.2.A	*	*
8 SWPPP does not have site description, as follows:				
A Nature of activity in description		CGP 5.2.B.1	*	*
B Intended sequence of major activities		CGP 5.2.B.2	*	*
C Total disturbed acreage		CGP 5.2.B.3	*	*
D General location map		CGP 5.2.B.4	*	*
E Site map		CGP 5.2.C	*	*
F Site map does not show drainage patterns, slopes, areas of disturbance, locations of major controls, structural practices shown, stabilization practices offsite materials, waste, borrow or equipment storage areas, surface waters, discharge points, areas of final stabilization (count each omission under BE as 1 violation)		CGP 5.2.C.1-8	Y	Y
G Location/description industrial activities like concrete or asphalt batch plants		CGP 5.2.E	*	*
9 SWPPP does not				
A Describe all pollution control measures (e.g. BMPs)		CGP 5.3.A	*	*

	B	Describe sequence for implementation		CGP 5.3.A	*	*
	C	Detail operator(s) responsible for implementation		CGP 5.3.A	*	*
10		SWPPP does not describe interim stabilization practices		CGP 5.3.B	*	*
11		SWPPP does not describe permanent stabilization practices		CGP 5.3.B	*	*
12		SWPPP does not describe a schedule to implement stabilization practices		CGP 5.3.B	*	*
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 5.3.C.1-3	*	*
14		SWPPP does not have description of structural practices to divert flows from exposed soils, retain flows, or limit runoff from exposed areas		CGP 5.3.A	*	*
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 3.1.E	*	*
16		SWPPP does not describe measures to prevent discharge of solid materials to waters of the US, except as authorized by 404 permit		CGP 3.1.F	*	*
17		SWPPP does not describe measures to minimize off-site vehicle tracking and generation of dust		CGP 3.1.B	*	*
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 3.1.F.1	*	*
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 3.1.G	*	*
20		SWPPP does not identify allowable sources of non-storm water discharges listed in subpart 1.3.B of the CGP		CGP 3.2	*	*
21		SWPPP does not identify/ensure implementation of pollution prevention measures for non-storm water discharges		CGP 3.2	*	*
22		Endangered Species Act documentation is not in SWPPP		CGP 5.5	*	*
23		Historic Properties (Reserved)				
24		Copy of permit and/or NOI not in SWPPP (count each omission under 24 as 1 violation)		CGP 5.7	*	*
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 5.8	*	*
26		SWPPP has not been updated to remain consistent with changes applicable to protecting surface waters in State, Tribal or local erosion plans		CGP 5.8	*	*
27		Copies of inspection reports have not been retained as part of the SWPPP for 3 years from date permit coverage terminates		CGP 5.9	*	*

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 BMPs not made within 7 days of such inspection (count each omission under 28 as 1 violation)		CGP 5.10 A	Y	Y
29	Copy of SWPPP not retained on site		CGP 5.11 A	*	*
	A SWPPP not made available upon request		CGP 5.11.C	*	*
30	SWPPP not signed/certified		CGP 5.11.D	*	*
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)		CGP 4 A, 4 B	*	*
	No inspections conducted and documented (if True, then leave elements 32-39 blank)			TRUE	*
	Number of Inspections expected if performed every 7 days:	43			
	Number of Inspections expected if performed bi-weekly	21			
	If known, number of days of rainfall of >0.5"				
32	Inspections not conducted by qualified personnel		CGP 4 D	Y	Y
33	All areas disturbed by construction activity or used for storage of materials and which exposed to precipitation not inspected		CGP 4 E	*	*
34	All pollution control measures not inspected to ensure proper operation		CGP 4 E	*	*
35	Discharge locations are not observed and inspected		CGP 4 E	*	*
36	For discharge locations that are not accessible, nearby locations are not inspected		CGP 4 E	*	*
37	Entrance/exit not inspected for off-site tracking		CGP 4 E	*	*
38	Site inspection report does not include: date, name and qualifications of inspector, weather information, location of sediment/pollutant discharge, BMP(s) requiring maintenance, BMP(s) that have failed, BMP(s) that are needed, corrective action required.		CGP 4 G	Y	Y
39	Inspection reports not properly signed/certified (count each failure to sign/certify as 1 violation)		CGP 4 G	*	*
AVAILABILITY OF RECORDS					
40	Sign/notice not posted		CGP 5.11 B	*	*
	A Does not contain copy of complete NOI		CGP 5.11 B.1	*	*
	B Location of SWPPP or contact person for scheduling viewing times where on-site location for SWPPP unavailable not noted on sign		CGP 5.11 B.2	*	*
BEST MANAGEMENT PRACTICES					
41	No velocity dissipation devices located at discharge locations or outfall channels to ensure non-erosive flow to receiving water		CGP 3.1 D	*	*
42	Control measures are not properly:				
	A Selected, installed and maintained		CGP 3	*	*
	B Maintenance not performed prior to next anticipated storm event		CGP 3.6 B	*	*

	(count each failure to select, install, maintain each BMP as one violation)				
43	When sediment escapes the site, it is not removed at a frequency necessary to minimize off-site impacts		CGP 3.1.B	*	*
44	Litter, construction debris, and construction chemicals exposed to storm water are not prevented from becoming a pollutant source (e.g. screening outfalls, pickup daily, etc.)		CGP 3.1.F.3	*	*
45	Stabilization measures are not initiated as soon as practicable on portions of the site where construction activities have temporarily or permanently ceased within 14 days after such cessation		CGP 3.1.H.2	*	*
	*Exceptions:				
	(a) Snow or frozen ground conditions				
	(b) Activities will be resumed within 14 days				
	(c) Arid or Semi-arid areas (<20 inches				
46	Common Drainage of 10+ acres does not have a sedimentation basin for the 2 year, 24 hour storm, or 3600 cubic ft. storage per acre drained		CGP 3.1.A.1	*	*
	A Where sedimentation basin not attainable, smaller sediment basins, sediment traps, or erosion controls not implemented for		CGP 3.1.A.2	*	*
	B Sediment not removed from sediment basin or traps when design capacity reduced by 50% or more		CGP 3.6.C	*	*
47	Common Drainage less than 10 acres does not have sediment traps, silt fences, vegetative buffer strips, or equivalent sediment controls for all down slope boundaries (not required if sedimentation sediment basin meeting criteria in 46 above)		CGP 3.1.A.3	*	*
	A Sediment not removed from sediment trap when design capacity reduced by 50% or more		CGP 3.6.C	*	*
SMALL BUSINESS EVALUATION					
48	Is the Owner/Operator a Small Business?				
	A <i>small business</i> 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 employ				
				Total Expedited Settlement:	\$5,350
* NPDES General Permit, 68 FR 39087, issued by EPA on July 1, 2008, http://cfpub.epa.gov/npdes/stormwater/cgp.cfm					



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

AUG 23 2016

OFFICE OF
COMPLIANCE AND ENFORCEMENT

Reply To: OCE-133

CERTIFIED MAIL –
RETURN RECEIPT REQUESTED

John Tippetts
Director
Idaho Department of Environmental Quality
1410 North Hilton
Boise, Idaho 83706

Re: Brighton Development, Inc. and Cartwright Ranch, LLC
Docket Number CWA-10-2016-0151

Dear Mr. Tippetts:

This is to advise you of a penalty action which Region 10 of the U.S. Environmental Protection Agency (EPA) plans to initiate in the State of Idaho. The proposed action will address alleged violations of the Clean Water Act by Brighton Development, Inc. and Cartwright Ranch, LLC at their construction site, Neville Ranch #1 – Cartwright Ranch, located outside main city limits (Northwest of Boise, East of Eagle), Boise, Idaho. EPA is proposing a penalty of \$5,350 in this case via the enforcement process outlined in the agency's Expedited Settlement Offer Policy.

Please consider this an opportunity to provide EPA with any comments the Idaho Department of Environmental Quality may have regarding this action. Any comments or questions you may have regarding this action may be directed to Chris Gebhardt of my staff at 206-553-0253. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Edward J. Kowalski".

Edward J. Kowalski
Director

cc: Tyler Fortunati
Idaho Department of Environmental Quality
State Office

