

## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY Region 7, 11201 Renner Blvd, Lenexa, KS 66219 EXPEDITED SETTLEMENT AGREEMENT 2017 APR 25 AM 8: 02 Docket Number: CWA-07-2017-0017, NPDES No.: IA-23817-23576

#### Accurate Land Company, Inc., Acadia Subdivision, Plat 1 and Plat 2 is a "person," within the

**Suburyision, Flat 1 and Flat 2** 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.

Attached is an "Expedited Settlement Offer Worksheet 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 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.

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 **§11,000**. 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).

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 thirty (30) days from 1319(g)(4)(A), and EF when the Agreement is effective (i.e. 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 - CFC P.O. Box 979077 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, 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 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.

# APPROVED BY EPA: APPROVED BY EPA: HI 7/17 Karen A. Flournoy

Director Water, Wetlands, and Pesticides Division

### **APPROVED BY RESPONDENT:**

Name (print): Keyin J Johnson Title (print): President Kenn Abbum Signature: Date: 2-5-17

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:

Menllenek Date 4-24-17

Karina Borromeo Regional Judicial Officer



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## 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 OF OPERATOR	Telephone Number	NPDES Permit Number
			IA-23817-23576
	Accurate Land Commpany, Inc. 12035 University Ave., Suite 100 Clive, Iowa 50235	Inspector Name: Inspector Agency: Entrance Interview Conducted:	Erin Trainor US EPA Yes
		Exit Interview Conducted:	Yes
_	LOCATION AND ADDRESS OF SITE	Exit Interview given to:	Mr. Kevin Johnson
		Exit Interview time:	Date:
	Acadia Subdivision, Plat 1 and Plat 2		
	Northwest of the intersection of Meredith Drive and 160th Street		
	Urbandale, Iowa		
	FACILITY DESCRIPTION / CONTACT NAMES Name of Site Contact (ESO Worksheet recipie	ent): Mr. Kevin Johnson	
	FACILITY DESCRIPTION / CONTACT NAMES		
	FACILITY DESCRIPTION / CONTACT NAMES Name of Site Contact (ESO Worksheet recipie Name of Authorized Official (40 CFR 122.		
	FACILITY DESCRIPTION / CONTACT NAMES Name of Site Contact (ESO Worksheet recipie Name of Authorized Official (40 CFR 122.	.22): Mr. Kevin Johnson Date: 10/13/2016	
	FACILITY DESCRIPTION / CONTACT NAMES Name of Site Contact (ESO Worksheet recipio Name of Authorized Official (40 CFR 122. Inspection D	.22): Mr. Kevin Johnson Date: 10/13/2016 Date: 04/13/2016	
	FACILITY DESCRIPTION / CONTACT NAMES Name of Site Contact (ESO Worksheet recipie Name of Authorized Official (40 CFR 122. Inspection D Start Construction D	.22): Mr. Kevin Johnson Date: 10/13/2016 Date: 04/13/2016 Date: 04/13/2016	
	FACILITY DESCRIPTION / CONTACT NAMES Name of Site Contact (ESO Worksheet recipie Name of Authorized Official (40 CFR 122. Inspection D Start Construction D Estimated Completion Construction D	.22): Mr. Kevin Johnson Date: 10/13/2016 Date: 04/13/2016 Date: 04/13/2019 tted: 0	
	FACILITY DESCRIPTION / CONTACT NAMES Name of Site Contact (ESO Worksheet recipie Name of Authorized Official (40 CFR 122. Inspection D Start Construction D Estimated Completion Construction D If Unpermitted, Number of Months Unpermit	.22): Mr. Kevin Johnson Date: 10/13/2016 Date: 04/13/2016 Date: 04/13/2019 tted: 0 ted): Unnamed tributary to Walnut Creek	

		PERMIT COVERAGE	Notes	Citation Reference**	State Citation Reference***	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)			X	\$500.00	=	
		SWPPP REVIEW									
4		SWPPP not prepared (If no SWPPP, leave elements 5 - 30 blank)		CGP 3.1.A	IAGP IV			x	\$5,000.00	=	
5		SWPPP prepared but prepared after construction start (# of months = # of violations)		CGP 3.1.A	IAGP IV(A)(2)			X	\$75.00	=	
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 3.1.A	IAGP IV			×	\$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		CGP 3.3.A	IAGP IV(D)(7)(A)			×	\$500.00	Ξ	
8		SWPPP does not have site description, as follows:									
	Δ	Nature of activity in description		CGP 3.3.B.1	IAGP IV(D)(1)(A)		-	X	\$100.00	=	
ł		Intended sequence of major activities		CGP 3.3.B.2	IAGP IV(D)(2)			X	\$100.00		
ł		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	=	
ł		Site map		CGP 3.3.C	IAGP IV(D)(1)(D)	-		X	\$500.00		
	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 ageas, surface waters, discharge points, areas of final stabilization (count each omission under 8F as 1 violation)		CGP 3.3.C.1-8	IAGP IV(D)(1)(D)			×	\$50.00	-	
	×	Location/description industrial activities, like concrete or asphalt batch plants		CGP 3.3.D	N/A						
9		SWPPP does not:				1. and				Ser Bran	
		Describe all pollution control measures (e.g. BMPs)		CGP 3.4.A	IAGP IV(D)(2)			×	\$750.00		
	В	Describe sequence for implementation		CGP 3.4.A	IAGP IV(D)(2)			×	\$250.00	=	
	С	Detail operator(s) responsible for implementation	- and the second second	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		CGP 3.4.B	IAGP IV(D)(2)(A)(1)			X	\$250.00		
12		SWPPP does not describe a schedule to implement stabilization practices		CGP 3.4.B	IAGP IV(D)(2)(A)(1)			×	\$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	CGP 3.4.D	IAGP IV(D)(2)(A)(2)		×	\$500.00	=	
15	flows, or limit runoff from exposed areas SWPPP does not have a description of measures	CGP 3.4.E	IAGP IV(D)(2)(B)			\$500.00	=	-
13	that will be installed during the construction process to control pollutants in storm water discharges that will occur AFTER construction operations have been completed	001 0.4.2				4000.00		
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)		×	\$250.00		
20	SWPPP does not identify allowable sources of non-storm water discharges listed in subpart 1.3.B of the CGP	CGP 3.5	IAGP IV(D)(5)		×	\$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)	CGP 3.8	IAGP II(C)(1)(G)(3)		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 IV(D)(4)(C) & V(A)		×	\$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 BMPs not made within 7 days of such inspection (count each omission under under 28 as 1 violation)	CGP 3.11.C	IAGP(C) & IAGP IV(D)(4)(B)		×	\$50.00	=	
29	Copy of SWPPP not retained on site	CGP 3.12.A	IAGP V(B)	the state of the s	x	\$500.00		
30	A SWPPP not made available upon request SWPPP not signed/certified	CGP 3.12.C CGP 3.12.D	IAGP V(B) IAGP VI(G) & VI(H)	1	X	\$500.00 \$500.00		\$500
	INSPECTIONS							
31	Inspections not performed and documented once every 7 days (not required if: stabilization with vegetative cover of sufficient density to preclude erosion; runoff unlikely due to winter conditions; construction during arid periods in arid areas) (Count each failure to inspect and document as one violation).	CGP 3.10.A, 3.10.B	IAGP IV(D)(4)		×	\$250.00	=	
	No inspections conducted and documented (if True, then leave elements 32-39 blank) Number of Inspections expected if performed		IAGP IV(D)(4)			True or False		
-	every 7 days:		N/A					
32	Inspections not conducted by swallfast nemocrati	CGP 3.10.D	IAGP IV(D)(4)			\$50.00	-	
32	Inspections not conducted by qualified personnel	000-0.10.0			^	φυυ.00		

-								-	i and	
33		All areas disturbed by construction activity or used		CGP 3.10.E	IAGP IV(D)(4)(A)	-		X	\$50.00 =	
		for storage of materials and which exposed to								
		precipitation not inspected	The second se							
34		All pollution control measures not inspected to		CGP 3.10.E	IAGP IV(D)(4)(A)	1		X	\$50.00 =	
		ensure proper operation				6				
35		Discharge locations are not observed and		CGP 3.10.E	1AGP IV(D)(4)(A)			X	\$50.00 =	
		inspected				Ĩ	1000			
36		For discharge locations that are not accessible,	the second s	CGP 3.10.E	N/A		-1			
50		nearby locations are not inspected		001 0.10.L	100					
37		Entrance/exit not inspected for off-site tracking	the second s	CGP 3.10.E	IAGP IV(D)(4)(A)	-		x	\$50.00 =	1 - 12
51		Entrance/exit not inspected for our-site tracking		CGP 3.10.E	1AGF 1V(D)(4)(A)			$ ^{}$	\$30.00 -	
-										
38		Site inspection report does not include: date,		CGP 3.10.G	IAGP IV(D)(4)(C)		10	X	\$50.00 =	\$50
		name and qualifications of inspector, weather						11		
		information, location of sediment/pollutant								
		discharge, BMP(s) requiring maintenance,								
		BMP(s) that have failed, BMP(s) that are				-1				
		needed, corrective action required including				2 1				
		changes/updates to SWPPP and schedule/dates								
		(count each omission under 38 as 1 violation)		1		1.0				
	_		NUMBER OF STREET			-				
39		Inspection reports not properly signed/certified		CGP 3.10.G	IAGP IV(D)(4)(C)			X	\$50.00 =	
		(count each failure to to sign/certify as 1 violation)					12		11	
	3	AVAILABILITY OF RECORDS								
401				00004400	1.114				T	
40		Sign/notice not posted		CGP 3.12.B	N/A	-		╉╌┼	<u>+</u> +	
	A	Does not contain copy of complete NOI		CGP 3.12.B	N/A	_		$\square$		
	В	Location of SWPPP or contact person for		CGP 3.12.B	N/A					
		scheduling viewing times where on-site location								
	-	for SWPPP unavailable not noted on sign								
	1	DEST MANACEMENT DOACTION								
44		BEST MANAGEMENT PRACTICES	2 40	0000405	IACR				fron col T	
41			6, 10	CGP 3.13.F	IAGP		2	X	\$500.00 =	\$1,00
		discharge locations or outfall channels to ensure			IV(D)(2)(B)(2)			11		
40		non-erosive flow to receiving water	in a state and		-		-			
42		Control measures are not properly:	remaining 18							
	A	Selected, installed and maintained		CGP 3.13.A	IAGP IV(D)(2)		18	X	\$500.00 =	\$9,00
						1. 1.2	-	+	<u></u>	
	B	Maintenance not performed prior to next		CGP 3.6.B	N/A		C.			
		anticipated storm event				-	telle -			
		(count each failure to select, install, maintain each								
		BMP as one violation			and the second	1				
43		When sediment escapes the site, it is not removed		CGP 3.13.B	N/A					
		at a frequency necessary to minimize off-site		3						
	11	impacts	and the second s							the state state
44		Litter, construction debris, and construction		CGP 3.13.C	IAGP			X	\$500.00 =	
- 1		chemicals exposed to storm water are not			IV(D)(2)(C)(1)			11		
- 1		prevented from becoming a pollutant source							11	
-	-	(e.g. screening outfalls, pickup daily, etc.)		-						
45		Stabilization measures are not initiated as soon as		CGP 3.13.D	IAGP			X	\$500.00 =	
	1-3	practible on portions of the site where construction			IV(D)(2)(A)(1)					
- 1	9	activities have temporarily or permanently ceased								
- 1		within 14 days after such cessation						11		
		tr			-	Advantation of	1			-
		*Exceptions:		1000	N/A	1		++		and the second second
		(a) Snow or frozen ground conditions			N/A			++		
		(b) Activities will be resumed within 14 days			N/A					
-	-	(a) Arid or Somi and anno (200 instance)		-	N/A			++		
40	-	(c) Arid or Semi-arid areas (<20 inches per	and the second s	00004054	N/A		No. Carlo com		64.000.001	
46		Common Drainage of 10+ acres does not have a		CGP 3.13.E.1	IAGP			N.	\$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)					
		or oooo cubic it. storage per acre drained								
	•	Where sedimentation basin not attainable, smaller		CGP 3.13.E.2	IAGP		-	X	\$1,000.00 =	
1	~	sediment basins, sediment traps, or erosion		00F 3.13.E.2	IV(D)(2)(A)(2)(a)			1	\$1,000.00 =	
		controls not implemented for downslope							11	
	B	Sediment not removed from sediment basin or		CGP 3.6.C	N/A					
		traps when design capacity reduced by 50% or								
		more								
47		Common Drainage less than 10 acres does not	ALC: CALL STRATEGIES	CGP 3.13.E.3	IAGP		1	X	\$500.00 =	
		have sediment traps, silt fences, vegetative buffer			IV(D)(2)(A)(2)(b)		2			
		strips, or equivalent sediment controls for all down						H		
		slope boundaries (not required if sedimentation								
		sediment basin meeting criteria in 46 above)								
	A	Sediment not removed from sediment trap when		CGP 3.6.C	N/A	100		X		
		design capacity reduced by 50% or more								
			In the second			-	-			
		SMALL BUSINESS EVALUATION	0.5							
48		SMALL BUSINESS EVALUATION Is the Owner/Operator a Small Business?			T	<b>Filter</b>		T		

ettlement:	\$11,000
ettl	ement:

\* Requires Corrective Action \*\* NPDES General Permit, 68 FR 39087, issued by EPA on July 1, 2003, http://cfpub.epa.gov/npdes/stormwater/cgp.cfm \*\*\* Iowa Department of Natural Resources NPDES General Permit No.2 issued by IDNR on October 1, 2012 - http://www.iowadnr.gov/InsideDNR/RegulatoryWater/ NPDESStormWater/Permits,GuidanceForms.aspx

IN THE MATTER Of Accurate Land Company, Inc., Acadia Subdivision, Plat 1 and Plat 2, Respondent Docket No. CWA-07-2017-0017

#### CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy via Email to Complainant:

moreno.sarah@epa.gov sans.cynthia@epa.gov breedlove.dan@epa.gov

Copy via First Class Mail to Respondent:

Mr. Kevin Johnson Registered Agent for Accurate Land Company, Inc. 9500 University Avenue, Suite 2112 West Des Moines, Iowa 50266

E Dated:

Dunoon

Kathy Robinson Hearing Clerk, Region 7