



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region08

Ref: 8ENF-L

NOV 10 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Beth S. Ginsberg
Stoel Rives, LLP
600 University Street
Suite 3600
Seattle, Washington 98101-4109

Re: Combined Complaint and Consent Agreement

Dear Ms. Ginsberg:

Enclosed with this letter please find the signed combined complaint and consent agreement (CCCA), which settles the Environmental Protection Agency's (EPA's) proposed administrative penalty action against Kilgore Companies, LLC (Kilgore) for failure to follow certain provisions of its National Pollutant Discharge Elimination System (NPDES) Permits UTR001024 and UTR260253 in violation of the Clean Water Act (CWA).

A 40-day public comment period will be provided as an opportunity to comment on the proposed settlement, as required by § 309(g)(4) of the Clean Water Act, 33 U.S.C. § 1319(g)(4). After the public comment period is over (assuming that there are no comments that warrant revising the CCCA) the CCCA will be filed with EPA's Regional Hearing Clerk. We will then request the Regional Judicial Officer to sign a final order approving the CCCA. You will receive a copy of the final order and CCCA soon after the Regional Judicial Officer signs the final order.

Within 30 days of the date the Regional Judicial Officer signs the final order, Kilgore should make its payment, following the directions in the CCCA. Please note that Kilgore does not have to pay the penalty at this time; the 30-day deadline begins after the Regional Judicial Officer signs the final order. If you have any questions, the most knowledgeable people on my staff are Brenda Morris, Enforcement Attorney, at (303) 312-6891 and Stephanie DeJong, Environmental Scientist, at (303) 312-6362.

Sincerely,

A handwritten signature in blue ink that reads "for Suzanne J. Bohan".

Suzanne J. Bohan
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosure

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY 2015 NOV 10 PM 3: 19
REGION 8

FILED
EPA REGION VIII
HEARING CLERK

In the Matter of:)
Kilgore Companies, LLC) **COMBINED COMPLAINT AND**
7057 West 2100 South) **CONSENT AGREEMENT**
Magna, Utah 84044)
Respondent.) Docket No. **CWA-08-2016-0003**

Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondent, Kilgore Companies, LLC, are agreeing and consenting to settle on the following terms:

A. PRELIMINARY MATTERS

1. The EPA has jurisdiction over these matters pursuant to sections 308 and 309(a) of the Federal Water Pollution Control Act (Act), as amended. 33 U.S.C. §§1318 and 1319(a). The rules for this proceeding are the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits" (Rules of Practice), 40 C.F.R. part 22, a copy of which has been provided to Respondent.
2. This Combined Complaint and Consent Agreement (CCCA) is 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).
3. For the purposes of this proceeding, Respondent admits the jurisdictional allegations and neither admits nor denies the factual allegations. Respondent consents to the assessment of the civil penalty and waives any right to a hearing or appeal before any tribunal and to contest any issue of law or fact set forth herein.
4. Complainant asserts that settlement of this matter is in the public interest, and the parties agree that entry of this CCCA without further litigation and without adjudication of any issue of fact or law is the most appropriate means of resolving this matter.
5. This CCCA, upon incorporation into a final order, applies to and is binding upon the EPA and upon Respondent, and Respondent's employees, agents, successors and assigns. Any change in ownership of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this agreement.
6. This CCCA contains all terms of the settlement agreed to by the parties.

B. STATUTORY AND REGULATORY FRAMEWORK

7. Section 301(a) of the Act, 33 U.S.C. §1311(a), prohibits the discharge of any pollutant into waters of the United States except as in compliance with a permit issued pursuant to section 402 of the Act, 33 U.S.C. §1342.
8. Section 402 of the Act, 33 U.S.C. §1342, establishes a National Pollutant Discharge Elimination System (NPDES) program, under which the EPA and, upon receiving authorization, states may permit discharges of pollutants into navigable waters, subject to specific terms and conditions.
9. "Navigable waters" means the waters of the United States, 33 U.S.C. §1362(7).
10. Section 308 of the Act, 33 U.S.C. §1318, requires owners and operators of point sources to submit information to the EPA as needed to carry out the objectives of the Act, including the NPDES program.
11. 40 C.F.R. §122.26(b)(14)(iii) defines the term "storm water discharge associated with industrial activity" to include facilities classified as "Standard Industrial Classifications (SIC) 10 through 14 (mineral industry) including active or inactive mining operations ... exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, by products or waste products located on the site of such operations... ."
12. 40 C.F.R. §122.21 requires persons who discharge or propose to discharge "storm water associated with industrial activity" to apply for an individual permit or seek coverage under a promulgated storm water general permit.
13. The EPA has approved the State of Utah's NPDES program pursuant to section 402(b) of the Act, 42 U.S.C. §1342(b).
14. The Utah Department of Environmental Quality (UDEQ) was approved by the EPA to administer the NPDES program on July 7, 1987. 52 Fed. Reg. 27578-27579, July 22, 1987. A permit issued by UDEQ under Utah's EPA-approved NPDES program is known as an UPDES permit.
15. Section 309(g)(2)(B) of the Act, 33 U.S.C. §1319(g)(2)(B), authorizes the assessment of a Class II civil penalty of up to \$16,000.00 per day of violation of section 301 of the Act, 33 U.S.C. §1311, and per day per violation of any condition or limitation in a permit issued pursuant to section 402 of the Act. 33 U.S.C. §1342, up to a maximum for all violations of \$177,500.00.

C. GENERAL ALLEGATIONS

16. Respondent is a corporation, incorporated in the State of Delaware and licensed to do business in the State of Utah. The Respondent's agent for service of process in the State of Utah is the Corporation Service Company, 10 E. South Temple, Suite 850, Salt Lake City, UT 84133.
17. Since July 2010, Respondent has owned and operated Parley's Canyon Aggregate Pit, an aggregate production facility or sand and gravel pit, located at mile post exit 131 on Interstate 80, Salt Lake City, Utah (the Facility).
18. Respondent is a "person" within the meaning of section 502(5) of the Act, 33 U.S.C. §1362(5).
19. At all times relevant to this action, Respondent was engaged in industrial activity at the Facility.
20. Operations at the Facility involve drilling, blasting, and loading the rock with a front-end loader into a haul truck, and transporting the rock to a crushing area. Sand and gravel are stored at the Facility.
21. On March 7, 2012, inspectors from the EPA and the UDEQ, Division of Water Quality conducted several site visits at various industrial facilities within Salt Lake County, Utah as part of a municipal separate storm sewer system (MS4) inspection of Salt Lake County's MS4 program.
22. One of the industrial sites visited was the Facility covered under Utah's Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Discharges (the Permit) (UTR001024), which expired December 31, 2012. Although an on-site inspection was not conducted, inspectors were able to make and document observations relative to the Facility's condition regarding storm water compliance. Photographs were taken.
23. Respondent was subject to the conditions in the Permit (UTR001024), which expired December 31, 2012.
24. Subsequent to the expiration of Permit (UTR001024), Respondent obtained, and is currently operating under the conditions in Permit (UTR260253) which is valid from January 1, 2013, and expiring on December 31, 2017.
25. On March 4 and March 8, 2013, the UDEQ inspectors conducted additional site visits at the Facility from the public right of way and documented observations of discharge of pollutants. Photographs were taken.

26. On June 18, 2012, and July 23, 2013, the EPA sent Respondent requests for information pursuant to section 308 of the Act, 33 U.S.C. §1318.
27. On July 29, 2012, and September 13, 2013, Respondent submitted its responses to the EPA information requests.
28. The runoff and drainage from the Facility is “storm water” as defined in 40 C.F.R. §122.26(b)(13).
29. Storm water contains “pollutants” as defined by section 502(6) of the Act, 33 U.S.C. §1362(6).
30. Based on visual observations of discharges on March 7, 2012, by EPA and UDEQ; March 4, 2013, and March 8, 2013, by UDEQ, and rain data gathered from NOAA’s website collected at the Mountain Dell Reservoir, the EPA alleges that the Facility discharged storm water on at least 59 days between July 2010 and September 2013.
31. Storm water, snow melt, and surface drainage and runoff water have been leaving the Facility and have flowed into Parley’s Creek, a tributary to the Jordan River.
32. Parley’s Creek and the Jordan River are “navigable waters” as defined by section 502(7) of the Act, 33 U.S.C. §1362(7), and “waters of the United States” as defined by 40 C.F.R. §122.2.
33. Each storm water discharge from the Facility is a “discharge of a pollutant” as defined by section 502(12) of the Act, 33 U.S.C. §1362(12), and 40 C.F.R. §122.2.
34. Each storm water discharge from the Facility is a discharge from a “point source” as that term is defined in section 502(14) of the Act, 33 U.S.C. §1362(14), and 40 C.F.R. §122.2. In order to restore and maintain the integrity of the nation’s waters, section 301(a) of the Act, 33 U.S.C. §1311(a), among other things, prohibits the discharge of any pollutant by any person into waters of the United States except in compliance with a permit issued pursuant to section 402 of the Act, 33 U.S.C. §1342.

D. ALLEGED VIOLATIONS

35. Based on the site visits on March 7, 2012, March 4, 2013, and March 8, 2013, and the information provided by Respondent on July 29, 2012, and September 13, 2013, as described in detail in the Kilgore Companies, LLC (Respondent) Findings of Violation, Attachment A to this CCCA, EPA alleges that the Respondent’s regulated industrial activity at the Facility was deficient for the following reasons:
 - a. Failure to keep the storm water management plan (SWPPP) on-site (Permit Part III.B.1);
 - b. Failure to implement the SWPPP (Permit Part III);

- c. Failure to include required elements in SWPPP (Permit Part III and Appendices II.J.3.a.2.a and II.J.3.a.3);
 - d. Failure to implement control measures (Permit Part III and Appendix II.J.3.a.j.);
 - e. Failure to maintain control measures (Permit Part III and Appendix II.J.3.a.j);
 - f. Failure to conduct and report benchmark monitoring (Permit Appendix II.J.5.a and b);
 - g. Failure to conduct visual monitoring (Permit Appendix II.J.5.c);
 - h. Failure to conduct routine inspections (Permit Appendix II.J.3.a.3.e); and
 - i. Failure to conduct comprehensive site evaluations (Permit Appendix II.j.3.a.4).
36. During the site visits, the EPA and UDEQ inspectors observed and discovered the Respondent's failure to maintain straw wattles along the access road under Interstate 80.
37. Based on the responses to information requests, the EPA discovered the Respondent's failure to include best management practices (BMPs) and other required items on the site map, failure to include a maintenance schedule for the detention pond in the SWPPP, failure to conduct or report benchmark monitoring, failure to conduct visual monitoring, failure to conduct or to document quarterly inspections, and failure to conduct or to document annual comprehensive site evaluations in violation of its Permit.
38. The Respondent's failures described above constitute violations of the Permit and of section 301 of the Act, 33 U.S.C. §1311.

E. CIVIL PENALTY

39. Section 309(g)(2)(A) of the Act, 33 U.S.C. §1319(g)(2)(A), authorizes the EPA to assess a civil administrative penalty for any violation of various provisions of the Act, including but not limited to sections 301 and 308 of the Act, 33 U.S.C. §§1311 and 1318, and for any violation of a condition or limitation of a permit issued under section 402 of the Act, 33 U.S.C. §1342. The amount of the penalty that the EPA can assess is \$16,000 per violation from January 12, 2009, through December 6, 2013. For violations that occurred from January 12, 2009, through December 6, 2013, the maximum total penalty is \$37,500. These amounts have been adjusted for inflation by 40 C.F.R. Part 19.
40. Section 309(g)(3) of the Act, 33 U.S.C. §1319(g)(3), requires the EPA to take into account the following factors in assessing a civil administrative penalty: the nature, circumstances, extent and gravity of the violation(s) and, with respect to the violator, ability to pay, any prior history of such violations, degree of culpability, any economic benefit or savings gained from the violation, and such other factors that justice may require.

Nature, Circumstances, Extent, and Gravity of Violations

41. As mentioned above, the EPA and UDEQ observed evidence and took photographs of evidence that storm water has run off the Facility, into a storm drain, and discharged to Parley's Creek. Prior to the EPA sending information requests, Respondent had not

implemented many of the Permit requirements, failed to maintain BMPs pursuant to Permit conditions, failed to implement a SWPPP, and failed to conduct inspections and evaluations which would have minimized pollutant discharges from the Facility.

42. The EPA and states with authorized NPDES programs rely on permits to implement the controls needed to prevent water pollution. Respondent's failure to comply with the Permit jeopardizes the integrity of EPA's and UDEQ's programs to control storm water pollution.

Prior Compliance History

43. This CCCA is the first enforcement action EPA has issued to Respondent regarding noncompliance with the storm water requirements. UDEQ has not issued any enforcement actions to Respondent regarding noncompliance with the storm water requirements.

Degree of Culpability

44. The EPA's storm water program has been in place since 1990. Prior to Respondent's purchase of the Facility in July 2010, the Facility was owned and operated by Harper-Kilgore, LLC. Personnel who work for Respondent were involved in the sand and gravel business and have longstanding experience in the business. Respondent should have been aware of the applicable storm water requirements.
45. In 1990, the EPA promulgated Phase I of its storm water program (55 Fed. Reg. 47990-48091, November 16, 1990). Phase I required NPDES permit authorization for storm water discharges from ten categories of Industrial Activities, including category three, "Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations..." (55 Fed. Reg. 48066).
46. The EPA is aware of ten sites owned and operated by Respondent in Utah that conduct industrial activity, and are permitted under the same general permit as the Facility. Respondent had sought and obtained coverage from UDEQ under the Permit prior to the site visits and information requests.
47. Additionally, UDEQ has conducted numerous training and outreach activities over the past several years to increase the regulated community's awareness of storm water control requirements.
48. UDEQ had met with a representative from Respondent regarding consolidating coverage for the ten sites owned and operated by Respondent in 2012.
49. Therefore, Respondent should have been fully aware of its responsibilities to the storm water control requirements of the Act and the Permit.

Economic Benefit

50. Respondent received an economic benefit from its failure to fully comply with the requirements in the Permit. Respondent received benefits by failing to timely develop an adequate SWPPP, failing to fully implement the SWPPP, failing to implement and maintain BMPs, and failing to conduct inspections, comprehensive site evaluations, visual monitoring, and benchmark monitoring.

Ability to Pay

51. The EPA did not reduce the proposed penalty due to this factor.

Other Matters that Justice may Require

52. The EPA made penalty adjustments in recognition of the Respondent's cooperativeness and good faith negotiation efforts regarding this matter.

Penalty

53. Respondent consents and agrees to pay a civil penalty in the amount of \$75,000 payable within sixty days of the effective date of the CCCA.
54. Payments shall be made in the manner described below:
- a. Payment shall be made according to the instructions on the attached document entitled Attachment B, Collection Information, which is incorporated herein by reference. A copy of the check or evidence of wire transfer shall be sent simultaneously to:

Stephanie DeJong, Environmental Scientist
Water Technical Enforcement Program, NPDES Unit (8ENF-W-NP)
U.S. EPA, Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

and

Tina Artemis, (8RC)
Regional Hearing Clerk
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

- b. In the event payment is not received by the specified due date, interest will accrue from the date of the Final Order, not the due date, at a rate established by the

Secretary of the Treasury pursuant to 31 U.S.C. §3717, and will continue to accrue until payment in full is received, (i.e., on the 1st late day, 30 days of interest accrues).

- c. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 31st day from the date of the Final Order, and each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6 %) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., the 121st day from the date the Final Order is signed for the initial installment). Payments are first applied to outstanding handling charges, 6 % penalty interest, and late interest. The remainder is then applied to the outstanding principal amount.
- d. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or tax credit.

F. TERMS AND CONDITIONS

- 55. Nothing in this CCCA shall relieve Respondent of the duty to comply with the Act and its implementing regulations.
- 56. Failure by Respondent to comply with any of the terms of this CCCA shall constitute a breach of the CCCA and may result in referral of the matter to the Department of Justice for enforcement of this CCCA and for such other relief as may be appropriate.
- 57. Nothing in this CCCA shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this CCCA.
- 58. The undersigned signatory for Respondent certifies that he is fully authorized to enter into and be bound by the terms and conditions of this CCCA.
- 59. Respondent waives any and all claims for relief, and otherwise available rights to judicial or administrative review or other remedies which the Respondent may have, with respect to any issue of fact or law or any terms and conditions set forth in this CCCA, including any right of judicial review under the Administrative Procedure Act, 5 U.S.C. sections 701 through 708.
- 60. In accordance with 40 C.F.R. section 22.45, the EPA will provide public notice of this action. The EPA may modify or withdraw its consent to this CCCA if comments received disclose facts or considerations which indicate that the CCCA is inappropriate, improper, or inadequate.

61. If comments received during the public comment period do not require modification of or withdrawal from this CCCA by the EPA, the parties agree to submit this CCCA to the Regional Judicial Officer, with a request that it be incorporated into a final order.
62. Each party shall bear its own costs and attorney fees in connection with this matter.
63. This CCCA, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, resolve Respondent's liability for Federal civil penalties for the violations alleged herein.

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8**

Date: _____

11/10/15

By: _____




Suzanne J. Bohan
Assistant Regional Administrator
Office of Enforcement, Compliance &
Environmental Justice

Kilgore Companies, LLC

Date: _____

9/30/2015

By: _____


Jason Kilgore, President
Kilgore Companies, LLC
7057 West 2100 South
Magna, Utah 84044

Kilgore Companies LLC (Respondent) Findings of Violation

According to the July 19, 2012 response to a Section 308 Information Request, Respondent has owned Parley's Pit (the Facility) since July 2010. This is the start date for many of the violations discussed below.

No SWPPP on-site, failure to implement SWPPP, and SWPPP Not in Compliance with Permit

No SWPPP on-site and failure to implement SWPPP

When the first Section 308 Information Request was sent on June 18, 2012, Respondent provided a SWPPP on July 19, 2012 that was prepared for Harper Contracting Inc., the previous owner. Respondent did not implement the SWPPP. Multiple self-inspection reports submitted as part of the second Section 308 Information Request indicated the SWPPP was not on the site. The March 29, 2013 self-inspection report indicated the SWPPP was brought to the site and given to the site operators. There was no SWPPP on-site from July 2010 until March 2013.

Part III.B.1 of the Permit requires the SWPPP to "be retained onsite at the facility that generates storm water discharge...For inactive facilities, the plan may be kept at the nearest office for the permittee." The Facility is an active facility.

Part III of the Permit requires the SWPPP to be implemented as a condition of the Permit.

Failure to include required elements in SWPPP

The SWPPP provided on September 13, 2013 had the following deficiencies:

- a. The site map did not include haul and access roads.
 1. Appendix II.J.3.a.2.a states, "The map also must show areas where the following activities take place: fueling, vehicle and equipment maintenance and/or cleaning, loading and unloading, material storage (including tanks or other vessels used for liquid or waste storage), material processing, and waste disposal, haul roads, access roads, and rail spurs."
- b. The site map did not include the best management practices (BMPs) (straw wattles) and outfalls along the access road under I-80.
 1. Appendix II.J.3.a.2.a states, "Drainage. The plan must contain a map of the site that shows ... structural or nonstructural features that control pollutants in storm water runoff and process wastewater discharges...In addition, the map must indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls."
- c. No maintenance schedule was included for the facility detention pond shown on the site map.
 1. Appendix II.J.3.a.3 states, "Measures and Controls. Following completion of the source identification and assessment phase, the permittee must evaluate, select, and describe the pollution prevention measures, BMPs, and other controls that will be implemented at the facility. The permittee must assess the applicability of the following BMPs for their site:

discharge diversions, drainage/storm water conveyance systems, runoff dispersions, sediment control and collection mechanisms, vegetation/soil stabilization, and capping of contaminated sources. In addition, BMPs include processes, procedures, schedules of activities, prohibitions on practices, and other management practices that prevent or reduce the discharge of pollutants in storm water runoff.

a) The pollution prevention plan must discuss the reasons each selected control or practice is appropriate for the facility and how each will address the potential sources of storm water pollution. The plan also must include a schedule specifying the time or times during which each control or practice will be implemented. In addition, the plan should discuss ways in which the controls and practices relate to one another and, when taken as a whole, produce an integrated and consistent approach for preventing or controlling potential storm water contamination problems...

c) Preventive Maintenance. The maintenance program requires periodic removal of debris from discharge diversions and conveyance systems. These activities should be conducted in the spring, after snowmelt, and during the fall season. Permittees using ponds to control their effluents frequently use impoundments or sedimentation ponds as their [best available technology (BAT)/best control technology (BCT)]. Maintenance schedules for these ponds must be provided in the pollution prevention plan.”

Failure to Implement and Maintain Control Measures

Control measures not implemented or maintained

The straw wattles along the I-80 underpass were not maintained. This was observed on three occasions: March 7, 2012 by EPA and UDEQ; March 4, 2013 by UDEQ; and March 8, 2013 by UDEQ. The BMPs were not operating, and sediment was observed discharging into a storm drain. This was documented with photos. In addition, no documentation of corrective actions were provided to indicate any BMPs were maintained.

Appendix II.J.3.a.j of the Permit states regarding the SWPPP that, “The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained.”

Part III of the Permit requires the SWPPP to be implemented as a condition of the Permit.

Failure to Conduct or Report Benchmark Monitoring; Failure to Conduct Visual Monitoring

Failure to conduct benchmark and visual monitoring

Respondent failed to conduct sampling in year 4 of the Permit (2011). No sample data was provided for 2011. In addition, quarterly visual monitoring was required and was not conducted. There were 13 quarterly visual monitoring events that were not conducted between June 2010 and September 2013.

Appendix II.J.5.a and b of the Permit required sampling in years 2 and 4 of the Permit (2009 and 2011), and this monitoring was required to be reported. Respondent did not own the site in 2009.

Appendix II.J.5.c of the Permit states, “Quarterly Visual Examination of Storm Water Quality. Mineral mining and processing facilities covered under this sector shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examinations must be made at least once in each designated period [described in (1), below] during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

1) Visual Monitoring Periods. Examinations shall be conducted in each of the following periods for the purposes of visually inspecting storm water quality associated with storm water runoff or snow melt: January through March; April through June; June through September; and October through December....”

Failure to Inspect or Document Inspections

Routine Inspections

Quarterly inspections are required by the Permit. Monthly inspections began on August 27, 2012. Eight quarterly inspections were not conducted.

Appendix II.J.3.a.3.e states, “Inspections.

(1) Facilities, Areas and Frequency. Operators of active facilities are required to conduct quarterly visual inspections of all BMPs. Temporarily and permanently inactive operations are required to perform annual inspections. The inspections shall include...

(2) Inspection Period and Conditions. The inspection must be made at least once in each designated period during daylight hours unless there is insufficient rainfall or snow-melt to produce a runoff event. Inspections shall be conducted in each of the following periods for the purposes of inspecting storm water quality associated with storm water runoff and snow melt: January through March (storm water runoff or snow melt); April through June(storm water runoff); July through September (storm water runoff); October through December (storm water runoff or snow melt).”

Comprehensive Site Evaluations

No comprehensive site compliance evaluations had been conducted, although the SWPPP discusses one. The information request was pulled from an online source in December 2013 provided as part of the response to the July 23, 2013 Section 308 Information Request. A comprehensive site evaluation was required to have been conducted by July

2011, July 2012, and July 2013. These three comprehensive site evaluations were not conducted.

Appendix II.J.3.a.4 states, “Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan, but, in no case less than once a year.”

COLLECTION INFORMATION

Payment is due on the due date described in paragraph 53. If the due date falls on a weekend or legal Federal holiday, then the due date is the next business day. Payments must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day.

The payment shall be made by remitting a cashier's or certified check, including the name and docket number of this case, for the amount, payable to "Treasurer, United States of America," (or be paid by one of the other methods listed below) and sent as follows:

CHECK PAYMENTS:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

WIRE TRANSFERS:

Wire transfers should be directed to the Federal Reserve Bank of New York

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

OVERNIGHT MAIL:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: Craig Steffen, 513-487-2091

ACH (also known as REX or remittance express)

Automated Clearinghouse (ACH) for receiving US currency

PNC Bank

808 17th Street, NW

Washington, DC 20074

Contact – Jesse White 301-887-6548

ABA = 051036706

Transaction Code 22 - checking

Environmental Protection Agency

Account 310006

CTX Format

ON LINE PAYMENT:

There is now an On Line Payment Option, available through the Dept. of Treasury.

This payment option can be accessed from the information below:

WWW.PAY.GOV

Enter sfo 1.1 in the search field

Open form and complete required fields.

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

**PUBLIC NOTICE
OPPORTUNITY FOR PUBLIC COMMENT ON A
COMBINED COMPLAINT AND CONSENT AGREEMENT BETWEEN
KILGORE COMPANIES, LLC
AND THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
TO RESOLVE ALLEGED VIOLATIONS OF
THE CLEAN WATER ACT**

PURPOSE OF PUBLIC NOTICE

The purpose of this notice is to solicit written comments on the Combined Complaint and Consent Agreement (CCCA) between Kilgore Companies, LLC (Respondent), and the United States Environmental Protection Agency (EPA), bearing Docket # **CWA-08-2016-0003**. The EPA alleged that the Respondent violated the requirements of the Clean Water Act (CWA) by failing to comply with the requirements of its stormwater discharge permit at the Parley's Canyon Aggregate Pit, a sand and gravel pit, located at mile post exit 131 on Interstate 80 east of Salt Lake City, Utah (the facility). Specifically, the EPA alleged that the Respondent failed to keep the storm water management plan (SWPPP) on-site, failed to implement the SWPPP, failed to include required elements in SWPPP, failed to implement discharge control measures, failed to maintain discharge control measures, failed to conduct and report sampling, failed to conduct visual monitoring of discharges, failed to conduct routine inspections of the facility, and failed to conduct comprehensive site evaluations at the facility. The CCCA is entered into by the parties for the purpose of simultaneously commencing and concluding this matter, as authorized by Title 40 of the Code of Federal Regulations (40 C.F.R.), Section 22.13(b) and executed pursuant to 40 C.F.R. § 22.18(b)(2) and (3). In the CCCA, Respondent agrees to pay a penalty of \$75,000. The CCCA is issued under the National Pollutant Discharge Elimination System (NPDES) provisions of the CWA. These regulations govern the discharge of wastewater to "Waters of the United States". The addresses of EPA and respondent are listed here.

Respondent: Kilgore Companies, LLC, 7057 West 2100 South, Magna, Utah 84044

EPA: Assistant Regional Administrator, Office of Enforcement, Compliance & Environmental Justice, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129.

EPA desires to receive written comments from any interested party having knowledge of the alleged violations or who can provide any information useful to ensure that any penalty assessed is appropriate.

PUBLIC COMMENTS

Written comments on the CCCA are encouraged and will be accepted at the address listed below for a period of forty (40) days after the publication of this notice. Written comments submitted by the public as well as information submitted by Respondent will be available for public review, subject to the provisions of law restricting the disclosure of confidential information. Any person submitting written comments has a right to participate in a hearing, if one is held. The complaint is available for review between 9:00 a.m. and 4:00 p.m. at the address listed below and on the internet at: <http://yosemite.epa.gov/oa/rhc/epaadmin.nsf>.

Please submit written comments to:

Tina Artemis (8RC)
Regional Hearing Clerk
U.S. EPA, Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129.
Telephone: (303) 312-6765

FOR FURTHER INFORMATION: Persons wishing to receive a copy of other documents in this proceeding (such as the regulations in 40 C.F.R. part 22, which establish procedures for the hearing), or to comment upon the proposed penalty assessment or upon any other aspect of the matter, should contact the Regional Hearing Clerk identified above. No action will be taken by the EPA to finalize a settlement in this matter until 40 days after this public notice.