



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2010 JUN 29 AM 10: 08

1595 WYNKOOP STREET
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: CWA-08-2010-0008

KIEWIT BUILDING GROUP, INC.
7200 S. Alton Way, Suite A-300
Englewood, CO 80112

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FINAL ORDER

RESPONDENT

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 29th DAY OF June, 2010.

Elyana R. Sutin
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2010 JAN 29 AM 10:08

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:

Kiewit Building Group
7200 S. Alton Way, Suite A-300
Englewood, CO 80112

Respondent.

Proceeding under section 309(g) of the
Clean Water Act, 33 U.S.C. §1319(g)

CONSENT AGREEMENT

Docket No. CWA-08-2010-0008

Complainant United States Environmental Protection Agency, Region 8 (EPA) and Kiewit Building Group Inc. (Respondent) (collectively referred to as, the parties) hereby consent and agree as follows:

1. On February 24, 2010, EPA issued an Administrative Complaint (Complaint) alleging that Respondent violated the terms of the Final NPDES General Permit for Storm Water Discharges for Construction Activities (Federal CGP), in violation of § 301 of the Clean Water Act (the Act), 33 U.S.C. § 1311(a). The Complaint proposed that Respondent pay an administrative civil penalty for the violations alleged therein, pursuant to § 309(g) of the Act, 33 U.S.C. § 1319(g).

2. The parties have agreed to settle this matter without the necessity of a hearing, according to the terms of this Consent Agreement (Agreement).

3. For the purpose of this proceeding, Respondent admits the jurisdictional allegations in the Complaint, neither admits nor denies the specific factual allegations in the Complaint, and waives its right to contest the allegations in the Complaint and its right to appeal the final order in this matter.

4. Except as set forth in paragraph 3 of this Agreement, Respondent denies the legal conclusions set forth in the Complaint.

5. This Agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's successors and assigns. Any change in the ownership or corporate status 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. This Agreement contains all terms of the settlement agreed to by the parties.

6. Respondent consents and agrees to pay a civil penalty in the amount of Twenty Thousand Eight Hundred Dollars (\$20,800.00) in the manner described below:

a. Payment is due within 30 calendar days from the date written on the final order, issued by the Regional Judicial Officer, that adopts this Agreement. If the due date for the payment falls on a weekend or legal federal holiday, then the due date is the next business day. Payment must be received by 11:00 AM Eastern Daylight Time to be considered received that day.

b. Payment shall be made by one of the following methods:

i. **Payment by cashier's or certified check:**

A cashier's or certified check, including the name and docket number of this case, for this amount, payable to "Treasurer, United States of America," to:

Regular Mail:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Overnight Mail:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

ii. **Wire Transfer:**

Wire transfers should be directed to the Federal Reserve Bank of New York with the following information:

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"

iii. **On Line Payment:**

This option is available through the Department of Treasury.
www.pay.gov
Enter sfo 1.1 in the search field
Open form and complete the required fields.

- c. A copy of the check or record of payment if sent by other means shall be sent simultaneously to:

Elizabeth Fagen
NPDES Enforcement Unit
Technical Enforcement Program (8ENF-W-NP)
U.S. EPA Region 8
1595 Wynkoop St.
Denver, CO 80202-1129

And

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

- d. In the event payment is not received by the specified due date, interest accrues 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 first late day, 30 days of interest will have accrued).
- e. In addition, a handling charge of Fifteen Dollars (\$15) shall be assessed the 31st day from the due date of any payment, and for each subsequent 30-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. Payments are first applied to outstanding handling charges, 6% penalty interest, and late interest. The remainder is then applied to the outstanding principal amount.
- f. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

7. Nothing in this Agreement shall relieve Respondent of the duty to comply with the Act and its implementing regulations.

8. Failure by the Respondent to comply with any of the terms of this Agreement shall constitute a breach of this Agreement and may result in referral of the matter to the Department of Justice for enforcement of this Agreement and for such other relief as may be appropriate.

9. Nothing in this Agreement 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 the Respondent's failure to perform pursuant to the terms of this Agreement.

10. The parties agree to submit this Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.


11. Each party shall bear its own costs and attorney fees in this matter.

12. This Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete, full and final civil settlement of this matter and associated violations alleged in the Complaint.

In the Matter of: Kiewit Building Group
Docket No. CWA-08-2010-0008

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,
Complainant.

Date: 6/28/10

By: 
Darcy O'Connor, Acting Director
Water Enforcement Program

Date: 6/28/10

By: David Rull
Michael T. Risner, Director
David Rochlin, Supervisory Enforcement Attorney
Legal Enforcement Program

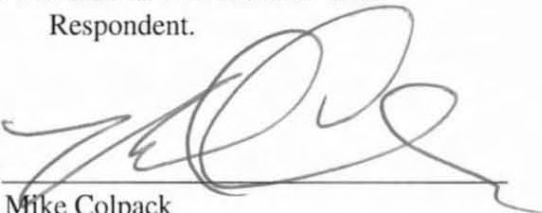
Date: 6/24/10

By: Wendy I. Silver
Wendy I. Silver, Senior Attorney
Legal Enforcement Program

In the Matter of: Kiewit Building Group
Docket No. CWA-08-2010-0008

KIEWIT BUILDING GROUP INC.
Respondent.

Date: 6-21-10

By: 
Mike Colpack
Senior Vice-President

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **KIEWIT BUILDING GROUP; DOCKET NO.: CWA-08-2010-0008** was filed with the Regional Hearing Clerk on June 29, 2010.


Further, the undersigned certifies that a true and correct copy of the documents were delivered Wendy I. Silver, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt requested and e-mailed on June 29, 2010.

Ronald M. Eddy, #10899
Sherman and Howard, LLC.
633 Seventeenth Street, Suite 3000
Denver, CO 80202
reddy@shermanhoward.com

E-mailed to:

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

June 29, 2010


Tina Artemis
Paralegal/Regional Hearing Clerk

