



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 10

1200 Sixth Avenue, Seattle, Suite 900 Washington 98101

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-10-2009-0007, NPDES Nos. IDR10BK90 (The Spires LLC) and IDR10BK91 (Lippert Heavy Equipment Inc.)

RECEIVED

09 JUN -4 PM 4:06  
HEARING CLERK  
EPA -- REGION 10

The Spires LLC and Lippert Heavy Equipment Inc. ("Respondents") are "persons," 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.

U.S. Environmental Protection Agency  
In the Matter of: The Spires Construction Site  
Docket No.: CWA-10-2009-0007  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

Attached is an "Expedited Settlement Offer 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.

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.

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 their National Pollutant Discharge Elimination System ("NPDES") storm water permit issued under Section 402 of the Act, 33 U.S.C. § 1342.

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

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.

APPROVED BY EPA:  
Kimberly A. Ogle Date: 6/4/09  
Kimberly A. Ogle  
Manager, NPDES Compliance Unit

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 \$12,500. 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).

APPROVED BY RESPONDENT:  
Name (print): Clay Hutchison  
Title (print): Manager, The Spires, LLC  
Signature: [Signature] Date: 5/22/09

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.

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.

Respondents certify that they have submitted bank, cashiers, or certified checks, with case name and docket number noted, totaling the amount specified above, payable to the "Treasurer, United States of America," via certified mail, to:

Having determined that this Agreement is authorized by law, IT IS SO ORDERED:  
M. Socorro Rodriguez Date: 6/4/09  
M. Socorro Rodriguez  
Regional Judicial Officer, Region 10



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Region 10

1200 Sixth Avenue, Seattle, Suite 900 Washington 98101

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HEARINGS CLERK EPA -- REGION 10

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Attached is an "Expedited Settlement Offer 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 their 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 \$4,400. 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.

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U.S. EPA, Region 10
In the Matter of: The Spires Construction Site
Docket No.: CWA-10-2009-0007
P.O. Box 371099M
Pittsburgh, PA 15251

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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:

Kimberly A. Ogle Date: 3/4/09
Kimberly A. Ogle
Manager, NPDES Compliance Unit

APPROVED BY RESPONDENT:

Name: Harley Lippert
(print):
Title: Project Manager
(print):
Signature: Harley Lippert Date: 10-9-08

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:

M. Socorro Rodriguez Date: 4/9/09
M. SOCORRO RODRIGUEZ
Regional Judicial Officer, Region 10

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT** in **In the Matter of: The Spires LLC and Lippert Heavy Equipment Inc.**, **DOCKET NO.: CWA-10-2009-0007** was filed with the Regional Hearing Clerk on June 4, 2009.

On June 4, 2009 the undersigned certifies that a true and correct copy of the document was delivered to:


David Allnutt, Esquire  
US Environmental Protection Agency  
1200 Sixth Avenue, ORC-158  
Suite 900  
Seattle, WA 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 on June 8, 2009, to:

Clay Hutchison  
The Spires LLC  
206 North Fourth Avenue  
Suite 177  
Sandpoint, ID 83864

Harley Lippert  
Lippert Heavy Equipment Inc.  
181 Sunnyside Cutoff Road  
Sandpoint, ID 83864

DATED this 8<sup>th</sup> day of June 2009.

  
\_\_\_\_\_  
Carol Kennedy  
Regional Hearing Clerk  
EPA Region 10