



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 7, 11201 Renner Blvd, Lenexa, KS 66219

EXPEDITED SETTLEMENT AGREEMENT 2016 JUL 26 AM 8:01

Docket Number: CWA-07-2016-0035, NPDES No.: NER-104731

Celebrity Homes, Inc. d/b/a Hanover Falls

Residential Construction 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 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 \$3,100. 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 ten (10) days of receiving notice from EPA that the Agreement is effective 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 979009
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:

Karen A. Flournoy 5/9/16
Date:
Karen A. Flournoy
Director
Water, Wetlands, and Pesticides Division

APPROVED BY RESPONDENT:

Name (print): LOREN JOHNSON
Title (print): VICE PRESIDENT CELEBRITY HOMES INC.
Signature: [Signature] Date: 5/2/16

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:

Karina Borromeo Date July 25, 2016
Karina Borromeo
Regional Judicial Officer

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



NER100000

LEGAL NAME AND MAILING ADDRESS OF OPERATOR		Telephone Number	NPDES Permit Number
1	Celebrity Homes, Inc. d/b/a Hanover Falls Residential Construction 14002 L Street, Omaha, NE 68137	(402) 896-3100	NER104731
		Inspector Name:	Lyle Cowles
		Inspector Agency:	US EPA
		Entrance Interview Conducted:	Yes
		Exit Interview Conducted:	Yes
		Exit Interview given to:	Loren Johnson, Gene Graves, Patrick
		Exit Interview time:	Date: 11/20/2015
LOCATION AND ADDRESS OF SITE			
2	16055 Military Road Bennington, NE 68007		

FACILITY DESCRIPTION / CONTACT NAMES	
Name of Site Contact (ESO Worksheet recipient):	Loren Johnson, Vice President - Celebrity Homes, Inc.
Name of Authorized Official (40 CFR 122.22):	Loren Johnson, Vice President - Celebrity Homes, Inc.
Inspection Date:	11/16/2015
Start Construction Date:	03/24/2006
Estimated Completion Construction Date:	03/24/2011
If Unpermitted, Number of Months Unpermitted:	NA
Name of Receiving Water Body (Indicate whether 303(d) listed):	unnamed tributary to North Branch of West Papillion Creek
Acres Currently Disturbed   Acres to be Disturbed in Whole Common Plan:	12.00   142.00
Has Operator Requested Rainfall Erosivity or TMDL Waiver per 44 CFR 122.26(b)(15)?	No

PERMIT COVERAGE	Notes	Citation Reference**	State Citation Reference***	R C A*	No. of Deficiencies	Dollar Amount	Total
3 Operator unpermitted for <u>0</u> months (# months unpermitted equals number of violations)	Permit obtained prior to construction activities	CWA 301	CNR 119-2		0	X \$500.00 =	
<b>SWPPP REVIEW</b>							
4 SWPPP not prepared (if no SWPPP, leave elements 5 - 30 blank)	SWPPP prepared	CGP 3.1.A	NEGP D(1)(a)			\$5,000.00 =	
5 SWPPP prepared but prepared after construction start (# of months = # of violations)	NA	CGP 3.1.A	NEGP D(1)(b)		0	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...	NA	CGB 3.1.B	N/A		0		
7 SWPPP does not identify all operators for the project site and the areas of the site over which each operator has control	NA	CGP 3.3.A	N/A		0		
8 SWPPP does not have site description, as follows:							
A Nature of activity in description		CGP 3.3.B.1	N/A		0		
B Intended sequence of major activities		CGP 3.3.B.2	NEGP D(2)(b)		0	\$100.00 =	
C Total disturbed acreage		CGP 3.3.B.3	NEGP D(2)(a)		0	\$100.00 =	
D General location map		CGP 3.3.B.4	NEGP D(2)(a)		0	\$100.00 =	
E Site map		CGP 3.3.C	NEGP D(2)(a)		0	\$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 areas, surface waters, discharge points, areas of final stabilization (count each omission under 8F as 1 violation)		CGP 3.3.C.1-8	NEGP D(2)(a)		0	X \$50.00 =	
G Location/description industrial activities, like concrete or asphalt batch plants		CGP 3.3.D	N/A		0		
9 SWPPP does not:							
A Describe all pollution control measures (e.g. BMPs)		CGP 3.4.A	NEGP D(3)		0	\$750.00 =	
B Describe sequence for implementation		CGP 3.4.A	NEGP D(2)(b)		0	\$250.00 =	
C Detail operator(s) responsible for implementation		CGP 3.4.A	N/A		0		
10 SWPPP does not describe interim stabilization practices		CGP 3.4.B	NEGP D(3)(c)		0	\$250.00 =	
11 SWPPP does not describe permanent stabilization practices		CGP 3.4.B	NEGP D(3)(c)		0	\$250.00 =	
12 SWPPP does not describe a schedule to implement stabilization practices		CGP 3.4.B	NEGP D(3)(b)		0	\$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	0			
14	SWPPP does not have description of structural practices to divert flows from exposed soils, retain flows, or limit runoff from exposed areas		CGP 3.4.D	NEGP D(3)(a)	0	\$500.00	=	
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 3.4.E	N/A	0			
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	N/A	0			
17	SWPPP does not describe measures to minimize off-site vehicle tracking and generation of dust		CGP 3.4.G	NEGP D(2)(f)	0	\$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	N/A	0			
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	N/A	0			
20	SWPPP does not identify allowable sources of non-storm water discharges listed in subpart 1.3.B of the CGP		CGP 3.5	N/A	0			
21	SWPPP does not identify/ensure implementation of pollution prevention measures for non-storm water discharges		CGP 3.5	N/A	0			
22	Endangered Species Act documentation is not in SWPPP		CGP 3.7	N/A	0			
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	N/A	0			
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	NEGP D(4)	0	\$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	0			
27	<b>Copies of inspection reports have not been retained</b> as part of the SWPPP for 3 years from date permit coverage terminates		CGP 3.10.G	NEGP D(6)	0	\$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	NEGP D(1)(e)	0	X \$50.00	=	
29	Copy of SWPPP not retained on site		CGP 3.12.A	NEGP D(1)(c)	0	\$500.00	=	
	A SWPPP not made available upon request		CGP 3.12.C	NEGP D(1)(d)	0	\$500.00	=	
30	SWPPP not signed/certified		CGP 3.12.D	N/A	0			
<b>INSPECTIONS</b>								
31	Inspections not performed and documented either once every 7 days, or once every 14 days and <b>within 24 hours after storm event greater than 0.5 inches or greater</b> (not required if: temp stabilization; 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	NEGP D(5)	0	X \$250.00	=	
	No inspections conducted and documented (if True, then leave elements 32-39 blank)			NEGP D(5)			True or False	
	Number of Inspections expected if performed every 7 days:	503		N/A				
	Number of Inspections expected if performed bi-weekly:	251		N/A				
	If known, number of days of rainfall of >0.5"			NEGP D(5)				



A *small business* 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 employees should be considered as full-time equivalents on an annual basis, including contract employees (see 40 CFR 372.3). A full time employee unit is 2000 hours worked per year.

Total Expedited Settlement:

**\$3,100**

\* Requires Corrective Action

\*\* NPDES General Permit, 68 FR 39087, issued by EPA on July 1, 2003, <http://cfpub.epa.gov/npdes/stormwater/cgp.cfm>

\*\*\* Authorization to Discharge under the state of Nebraska NPDES, NPDES Permit Number NER100000, Issued by NDEQ on August 1, 2002 - <http://www.ndeq.state.ne.us>

IN THE MATTER Of Celebrity Homes, Inc. d/b/a Hanover Falls Residential Construction,  
Respondent  
Docket No. CWA-07-2016-0035

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 emailed to Attorney for Complainant:

moreno.sarah@epa.gov  
tipton.lantz@epa.gov

Copy by First Class Mail to Respondent:


Gale Larsen

Registered Agent for Celebrity Homes, Inc.

1809 South 189<sup>th</sup> Street

Omaha, Nebraska 68130

Dated: 7/26/16

  
Kathy Robinson  
Hearing Clerk, Region 7