



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 6, P.O. Box 50625, Dallas, Texas 75250-0625

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-06-2010-1878, NPDES Permit Number: NM78100052

FILED

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TLC Company, Inc. ("Respondent") 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, the Environmental Protection Agency, Region 6 ("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.

Respondent's activities caused or resulted in the violation of their NPDES permit issued by EPA on June 30, 2008, by failing to have a complete site map in the Storm Water Pollution Prevention Plan (SWPPP); failing to document all activities on the site in the SWPPP; failing to update the SWPPP to meet the state specific requirements in Part 10.D.1.b of the EPA permit; failing to modify the SWPPP after BMPs have been added/modified within seven days; and failing to maintain/install needed BMPs on site. During the time period in question (December 2009 to April 2010) there was one (1) rainfall event of one-half inch or more that potentially caused discharge(s) of pollutants to waters of the U.S.

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 Expedited Settlement Agreement ("ESA") 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 ESA in order to settle the civil violation(s) alleged in this Agreement for a penalty of one thousand one hundred fifty dollars (\$1150.00). 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 is 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 along with this ESA detailing the specific actions taken to correct the violations cited herein.

Respondent understands that this ESA is effective upon filing with the Regional Hearing Clerk, pursuant to 40 C.F.R. § 22.31(b). Within thirty (30) days of filing this ESA, Respondent shall submit via certified mail: 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, to:

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

This ESA settles and resolves EPA's civil penalty claim against Respondent for violations of the Act alleged in this Agreement. EPA does not waive its right to take enforcement action against Respondent for any other past, present, or future civil or criminal violation of the Act or of any other violation of 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 ESA to be appropriate.

This ESA is binding on the parties signing below and effective upon filing.

APPROVED BY EPA:

John Blevins

John Blevins
Director
Compliance Assurance and
Enforcement Division

Date: 11/05/10

APPROVED BY RESPONDENT:

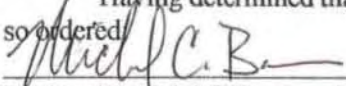
Name (print): Dale Armstrong

Title (print): President

Signature:  Date: 8/31/10

Public Notice of and reasonable opportunity to comment on the proposed issuance of this Order was provided pursuant to Section 309(g)(4)(A), and EPA received no comments concerning this matter.

Having determined that this ESA is authorized by law, it is so ordered.

 Date November 15, 2010
Regional Judicial Officer Revised 02-19-10-MAM

CERTIFICATE OF SERVICE

I hereby certify that on the 15 day of November, 2010, the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, U.S. EPA, Region 6 (6RC-D), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and that a true and correct copy was placed in the United States mail, by certified mail, return receipt requested, addressed to the following:

Mr. Dale Armstrong-President
TLC Company, Inc.
5000 Edith Blvd. NE
Albuquerque, NM 87107

with a copy, first class postage prepaid, to

Mr. Glenn Saums
Acting Bureau Chief
Surface Water Quality Bureau
New Mexico Environment Department
P.O. Box 5469
Santa Fe, NM 87502-5469

