



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 10

1200 Sixth Avenue, Seattle, Washington 98101

AMENDED EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-10-2009-0014, NPDES Nos. IDR10BW10 / Unpermitted

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RECEIVED CLERK EPA - REGION 10

Eagle Creek Partners, LLC and Upham Construction ("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. EPA, Region 10
Fines and Penalties, Cincinnati Finance Center
In the Matter of: Eagle Creek Partners, LLC & Upham Construction
Docket No.: CWA-10-2009-0014
P.O. Box 979077
St. Louis, MO 63197-9000

Attached is an "Amended 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:

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 ~~37,250~~. 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).

Kimberly A. Ogle Date: 11/4/08
Kimberly A. Ogle
Manager, NPDES Compliance Unit

APPROVED BY RESPONDENT:

Name (print): Rick Upham

Title (print): President

Signature: [Signature] Date: 12-2-08

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:

Richard G. McAllister Date: 1/23/09
Richard G. McAllister
Regional Judicial Officer, Region 10



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 10

1200 Sixth Avenue, Seattle, Washington 98101

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HEARINGS CLERK EPA - REGION 10

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APPROVED BY EPA:

Kimberly A. Ogle Date: 11/4/08
Kimberly A. Ogle
Manager, NPDES Compliance Unit

APPROVED BY RESPONDENT:

Name (print): JOHN M. DONOHUE
Title (print): MANAGER

Signature: [Signature] Date: 12-3-08

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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Having determined that this Agreement is authorized by law, IT IS SO ORDERED:

Richard G. McAllister Date: 1/23/09
Richard G. McAllister
Regional Judicial Officer, Region 10

U.S. EPA, Region 10
1200 Sixth Avenue, Suite 900, ORC-158
Seattle, WA 98101
Attn: Regional Hearing Clerk

U.S. EPA, Region 10
Fines and Penalties, Cincinnati Finance Center
In the Matter of: Eagle Creek Partners, LLC
and Upham Construction
Docket No.: CWA-10-2009-0014
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Eagle Creek Partners, LLC & Upham Construction
Docket Number: CWA-10-2009-0014
Report Detailing Corrective Actions

December 1, 2008

This memo serves as a report detailing the actions taken to correct the deficiencies identified by the EPA in the *Amended Deficiencies Form* received November 4, 2008 in the case referenced above.

Deficiency: #3 - Operator unpermitted for 1 month.

Corrective Action: Upham Construction has applied for and now has active CGP permit coverage. Tracking number IDR10BY18.

Deficiency: #4 - SWPPP not prepared.

Corrective Action: A complete SWPPP has been developed. It is based on the SWPPP template provided by the EPA. The SWPPP is available on-site during construction operations and will be kept at Benchmark Associates during the winter months when there is no construction activity.

Deficiency: #40 - Sign/Notice not posted

Corrective Action: The proper signs and notices are now posted at the entrance to the site.

Deficiency: #42 - Control measures not properly selected, maintained or installed. Three deficiencies were identified here: construction entrance, silt fence and irrigation pump.

Corrective Action: A construction stabilization has been installed as shown on the site plan. The silt fence has been repaired. The irrigation pump is installed and no further disturbance will occur in that area. The areas that were disturbed have been permanently stabilized.

We regret these deficiencies and worked to correct them immediately.

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **Amended Expedited Settlement Agreement in In the Matter of: Eagle Springs Partners, LLC and Upham Construction, DOCKET NO.: CWA-10-2009-0014** was filed with the Regional Hearing Clerk on January 23, 2009.

On January 23, 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 January 23, 2009, to:

Eagle Creek Partners, LLC
10900 NE Fourth Street
Suite 1000
Bellevue, Washington 98004

Upham Construction
202 Crazy Horse Drive
Haile, Idaho 83333

DATED this 23rd day of January 2009.



Carol Kennedy
Regional Hearing Clerk
EPA Region 10