

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY 08 JAN -2 PM 3: 24

Region 7, 901 North 5th Street, Kansas City, KS 66101

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-07-2007-0060

ENVIRONMENTAL PROTECTION AGENCY-REGION VII REGIONAL HEARING CLERK

("Respondent") is a Rockfire Development, Inc. "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"), 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 \$12,000. Respondent Water, Wetlands, and Pesticides Division consents to the assessment of this penalty, and waives the right to: (1) contest the finding(s) specified in the Form; (2) a hearing APPROVED BY RESPONDENT: 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. More than 40 days have elapsed since the issuance of public with this Agreement detailing the specific actions taken to correct the violations cited herein.

Respondent certifies that, within ten (10) days of this matter. receiving notice from EPA that the Agreement is effective thirty (30) days from the date it is signed by the Appropriate Official, Having determined that this Agreement is authorized by law, Respondent shall submit a bank, cashiers or certified check, IT IS SO ORDERED: 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, Region 7 P.O. Box 371099M Pittsburgh, PA 15251

This Agreement settles EPA's civil penalty claims against Respondent for the Clean Water Act violation(s) specified in this 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:	•
	12/28/07
William A. Spratin	
Director Water Wetlands and Pesticides Division	

Name (print):	RockFixe Bevelopment, Inc.
Title (print):	J.E. Santaularia President
Signature:	Date: Nov 8, 07
	• 1//

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

Date Jan, 2, 2008

Regional Judicial Officer

Expedited Settlement Offer Worksheet

Deficiencies Form

Consult instructions regarding eligibility criteria and procedures prior to use

KS-S-MCST-0110-1



LEGAL NAME AND MAILING ADDRESS OF OPERATOR	Telephone Number	NPDES Permit Number
1 Rockfire Development, Inc.	785-550-5500	
P.O. Box 1753 Lawrence, KS 66044	Inspector Name: Inspector Agency: Entrance Interview Conducted: Exit Interview Conducted:	St.Germain US EPA Yes Yes
LOCATION AND ADDRESS OF SITE	Exit Interview given to:	Steve Younger
2 RockFire at the Lake Subdivision	Exit Interview time:	12:30 Date: 04/18/2007
SE 45th Street Topeka, KS: 66609		

	FACILITY DESCRIPTION / CONTACT NAMES	
	Name of Site Contact (ESO Worksheet recipient):	Jes Santaularia
100	Name of Authorized Official (40 CFR 122.22):	Jes Santaularia
1 67	Inspection Date:	04/18/2007
	Start Construction Date:	
	Estimated Completion Construction Date:	03/01/2008
	If Unpermitted, Number of Months Unpermitted	10
	Name of Receiving Water Body (Indicate whether 303(d) listed):	Lake Shawnee
	Acres Currently Disturbed Acres to be Disturbed in Whole Common Plan	15.00
	Has Operator Requested Rainfall Erosivity or TMDL Waiver per 44 CFR 122.26(b)(15)?	Complete NOTE to be Interested as a second of the complete and the complet

	PERMIT COVERAGE	Notes	Citation Reference**	State Citation Reference***	R C A*	No. of Deficien- cies		Dollar Amount		Total
3	Operator unpermitted formonths (# months unpermitted equals number of violations)		CWA 301	KAR 28-16-153	302	10	X	\$500.00	==	\$5,000
	SWPPP REVIEW	•			Torres and		.			#E 000
4	SWPPP not prepared (If no SWPPP, leave elements 5 - 30 blank)		CGP 3.1.A	KSGP VII p.6		1		\$5,000.00		\$5,000
5	SWPPP prepared but prepared after construction start (# of months = # of violations)		CGP 3.1.A	KSGP VII p.6			X	\$75.00		
6	SWPPP does not identify all potential sources of pollution to include: porta-pottys, fuel tanks, staging areas, waste containers, chemical		CGP 3.1.8	KSGP VII p.8		•		\$250.00	=	
7	storage areas, concrete cure, paints, solvents. SWPPP does not identify all operators for the project site and the areas of the site over which each operator has control		CGP 3.3.A	KSGP VII p.7			100	\$500.00	=	
8	SWPPP does not have site description, as follows:			10000 111 - 3				\$100.00		
	A Nature of activity in description		CGP 3.3.B.1	KSGP VII p.7	50500		╀	\$100.00		
	B Intended sequence of major activities		CGP 3.3.B.2	KSGP VII p.7	SEP 22		╀	\$100.00		
	C Total disturbed acreage		CGP 3.3.B.3	KSGP VII p.7	999		╉┩	\$100.00		
i i	D General location map		CGP 3,3.B.4	KSGP VII p.7	2150)1		╉┉┼	\$500.00		
100	E Site map		CGP 3.3.C	KSGP VII p.7	14838		┪	\$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 yielation)		CGP 3.3.C.1-8	KSGP VII p.7			^	\$30.00		
	G Location/description industrial activities, like concrete or asphalt batch plants		CGP 3.3.D	N/A	1000					
9	SWPPP does not:									
	A Describe all pollution control measures (e.g. BMPs)		CGP 3,4.A	KSGP VII p.7	858			\$750.00		
	B Describe sequence for implementation		CGP 3.4.A	KSGP VII p.7	\$5.40 \$1.40 \$1.40			\$250.00		
	C Detail operator(s) responsible for implementation		CGP 3.4.A	N/A					Ц	
10	SWPPP does not describe interim stabilization practices		CGP 3.4.B	KSGP VII p.7 & p.8				\$250.00	Ш	
11	SWPPP does not describe permanent stabilization practices		CGP 3.4.B	KSGP VII p.7 & p.8	SEA TOX			\$250.00		
12	SWPPP does not describe a schedule to implement stabilization practices		CGP 3.4.B	KSGP VII p.7		Ř		\$250,00	<u> </u>	

		,, , , , , , , , , , , , , , , , , , ,	27/47/2000 p. 100/46/2016 p. 100/2016	00004040	NI/A	12223	1		
13		Following dates are not recorded: major grading activities; construction temporarily or permanently ceased; stabilization measures initiated (count		CGP 3.4.C.1-3	N/A				
1		each omission under 13 as 1 violation)							
14		SWPPP does not have description of structural practices to divert flows from exposed soils, retain		CGP 3.4.D	KSGP VII p.8			\$500.00 =	
15		flows, or limit runoff from exposed areas SWPPP does not have a description of measures that will be installed during the construction		CGP 3.4.E	KSGP VII p.8			\$500.00 =	
***************************************		process to control pollutants in storm water discharges that will occur AFTER construction	and Charles and a charles and a second of the second of th			100 min		***************************************	
16		operations have been completed SWPPP does not describe measures to prevent discharge of solid materials to waters of the US,		CGP 3.4.F	KSGP VII p.8			\$500.00 =	
17		except as authorized by 404 permit SWPPP does not describe measures to minimize	8578 (comp) (5.0786) (6.0797) (6.0797) 	CGP 3.4.G	KSGP VII p.8		┪┼	\$500.00 =	
		off-site vehicle tracking and generation of dust	r de l'estate la colo de la compansión de la colo				44		
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	KSGP VII p.8			\$250.00	
19		SWPPP does not have description of pollutant		CGP 3.4.I	N/A				
		sources from areas other than construction (asphalt or concrete plants) w/ updates re: controls to reduce pollutants from these materials							
20		SWPPP does not identify alliowable sources of non-storm water discharges listed in subpart 1.3.B		CGP 3.5	N/A				
21		of the CGP SWPPP does not identify/ensure implementation of pollution prevention measures for non-storm		CGP 3.5	N/A				
22		water discharges Endangered Species Act documentation is not in SWPPP		CGP 3.7	KSGP VII p.7			\$500,00 =	
23		Historic Properties (Reserved)				1			
24		Copy of permit and/or NOI not in SWPPP (count		CGP 3.8	N/A	1 SEE			
25		each omission under 24 as 1 violation) SWPPP is not consistent with requirements		CGP 3.9	N/A	Then The State of			
		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)							
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			-	
27		Copies of inspection reports have not been retained as part of the SWPPP for 3 years from date permit coverage terminates		CGP 3.10.G	KSGP IX p.9			\$500.00	
28		SWPPP has not been updated/modified to reflect change at site effecting discharge, or where inspections identify SWPPP/BMPs as ineffective,		CGP 3.11.C	KSGP VII p.6		X	\$50.00	=
		updates to SWPPP regarding modifications to BMPs not made within 7 days of such inspection (count each omission under under 28 as 1 violation)							
29		Copy of SWPPP not retained on site		CGP 3.12.A CGP 3.12.C	KSGP VII p.7 KSGP VII p.7	093088 85000 941024	+	\$500.00 = \$500.00 =	
30		A SWPPP not made available upon request SWPPP not signed/certified		CGP 3.12.D	KSGP IX p.10			\$500.00	
	_	INSPECTIONS	I						
31		Inspections not performed and documented either once every 7 days, or once every 14 days and within 24 hours after storm event greater than		CGP 3.10.A, 3.10.B	KSGP VII p.9	8. 480 (100 hb	X	\$250.00	\$2,000
		within 24 nours after storm event greater than 0.5 inches or greater (not required if: temp stabilization; runoff unlikely due to winter conditions; construction during arid periods in arid					\$ 100 M		
	533 533 533 533	areas) (Count each failure to inspect and document as one violation). No inspections conducted and documented (if						True or	
	W. 100	True, then leave elements 32-39 blank)	24				ÄË	False	
	- Si	Number of Inspections expected if performed every 7 days:							
		Number of Inspections expected if performed b weekly:	12						
	7000	If known, number of days of rainfall of >0.5"							1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
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25 In impactions not conducted by qualified personnell (CGP 3.10 INA SCOP VII p. 9 SCO			to a set of the set of	lasebara-Astronomoralisas kuralase, ellas islaske	CGP 3.10.D	N/A	945758	FEED CONTROL STONE	\$50	nnl	-
services to storage of materials and which exposed to propolation for dispected in propolation control measures not impacted to propolation control measures not impacted and propolation control of propolation control of propolation of the services of	اعت		Inspections not conducted by qualified personnel		CGP 3.10.D	INIA		2. P. G. A	φου	.00	
Second Contract Presentation on Contract Contractions of Contract Contrac	33		for storage of materials and which exposed to		CGP 3.10.E	KSGP VII p.9	200		\$50	.00	=
Comparison of the comparison	34	ijai.			CGP 3.10.E	KSGP VII p.9	115574		\$50	.00	=
Expected Secretaria to continue to that are not accessible, GCP 3.10 E RSGP VII p.9 S55.00			ensure proper operation		CCD 2 40 E	KSCD VII 5 0			\$50	00	
Service Serv			inspected			·					
Signature control response of the imperior in report does not include date, name and qualifications of interestics, weather and characters. BMP(s) interestics and characters. BMP(s) interestics on sequence including characters of support of the value of the structure of the support of the characters. BMP(s) interestics on support of including characters on support on property support complete including characters on support on property support complete including characters of the support	36				CGP 3.10.E	KSGP VII p.9			\$50	,00	-
annumber of the protection of Inspection, weather information, location of sedimentary pollutant discharge, BMR(s) requiring maintenance, BMR(s) requiring m	37		Entrance/exit not inspected for off-site tracking		CGP 3.10.E	N/A					
contract or mission under 38 at 1 violation) 39	38		name and qualifications of inspector, weather information, location of sediment/pollutant discharge, BMP(s) requiring maintenance, BMP(s) that have failed, BMP(s) that are		CGP 3.10.G	KSGP VII p.9			X \$50	.00	
AVAILABILITY OF RECORDS		00000 00000 00000 00000 00000 00000 0000	changes/updates to SWPPP and schedule/dates (count each omission under 38 as 1 violation)								
A Dees not contain copy of complete NOI B Location of SWPPP or contact person for scheduling viewing times where on-site location SCGP 3.12.8 NA	39				CGP 3.10.G	KSGP VII p.9			X \$50	.00	**
A Dees not contain copy of complete NOI B Location of SWPPP or contact person for scheduling viewing times where on-site location SCGP 3.12.8 NA			AVAILABILITY OF RECORDS								
CGP 3.12.B N/A SESSIMANAGEMENT PRACTICES	40	199	Sign/notice not posted				(32%	Eroliya e (e ir	<u> </u>		
scheduling viewing times where on-site location for SWPPP unavailable not noted on sign ### STREAM PROCEST							252		\$50	.00	=
No velocity dissipation devices located at dicharge locations or outfall channels to ensure non-erosive flow to receiving water non-erosive flower no		ខ	scheduling viewing times where on-site location		CGP 3.12.5	INIA					
No velocity dissipation devices located at dicharge locations or outfall channels to ensure non-erosive flow to receiving water non-erosive flower no			BERT MANACEMENT BRACTICES	 	•						
A Selected, installed and maintained A Selected, installed and maintained B Maintenance not performed prior to next anticipated storm event Count each feliure to select, install, maintain each BMP as one violation (Count each feliure to select, install, maintain each BMP as one violation When sediment escapes the site, it is not removed at a frequency necessary to minimize off-site impacts I lifter, construction debris, and construction chemicals exposed to storm water are not prevented from becoming a pollutant source (e.g. screening outfalls, pickup daily, etc.) 43 Stabilization measures are not initiated as soon as practible on portions of the site where construction activities have temporarily or permanently ceased within 14 days after such cessation **Exceptions** (a) Snow or frozen ground conditions (b) Activities will be resumed within 14 days (c) Arid or Semi-arid areas (<20 inches per activities) (c) Arid or Semi-arid areas (<20 inches per activities) A Sedimentation basin for the 2 year, 24 hour storm, or 3000 cubic fl. storage per are dreining or control of the site where the provision operation of the site where as a sedimentation basin for the 2 year, 24 hour storm, or 3000 cubic fl. storage per are dreining or control operations of the site where a sediment traps, sediment traps, or erosion controls not implemented for downslope B Sediment not removed from sediment basin or traps when design capably reduced by 50% or more 47 Common Drainage less than 10 acres does not have a sediment traps, silf fences, vegetative buffer strips, or equivalent sediment controls for all down slope boundaries (not required if sedimentation sediment basin meritagion sediment basin meritagion grided by 50% or more A Sediment not removed from sediment traps when	41		No velocity dissipation devices located at discharge locations or outfall channels to ensure		CGP 3.13.F	KSGP VII p.8			\$500	.00	=
B Maintenance not performed prior to next anticipated storm event (count each failure to select, install, maintain each BMP as one violation (count each failure to select, install, maintain each BMP as one violation when the secapes the site, it is not removed at a fequency necessary to minimize off-site impacts unique the secapes the site, it is not removed at a fequency necessary to minimize off-site impacts unique the secapes the site, it is not removed at a fequency necessary to minimize off-site impacts unique the secapes of the secape o	42	ulpi Mai	Control measures are not properly:	P.E. Renards Totaline Vales (6) (4) (8).							
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[200] [200]	47		have sediment traps, silt fences, vegetative buffer strips, or equivalent sediment controls for all down slope boundaries (not required if sedimentation			1			\$500	.00	
		Α			CGP 3.6.C	N/A					
48 Is the Owner/Operator a Small Business?			SMALL BUSINESS EVALUATION		,		1000	manny manager	•		

	······		Total Evene	lited Settlement:	\$12
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.					
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					

http://kdhe.state.ks.us/stormwater/resources/cgp_revision_final.pdf

IN THE MATTER OF Rockfire Development, Inc., Respondent Docket No. CWA-07-2007-0060

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Expedited Settlement Agreement was sent this day in the following manner to the addressees:

Copy hand delivered to Attorney for Complainant:

Kristina Gonzales Assistant Regional Counsel Region VII United States Environmental Protection Agency 901 N. 5th Street Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

RockFire Development, Inc. J.E. Santaularia, President PO Box 1753 Lawrence, Kansas 66044

Dated:

Kathy Robinson

Hearing Clerk, Region 7