

# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

### EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-07-2009-0051, NPDES No.:IA9J4794-1145941 10: 27

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 \$6,050. 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. Having determined that this Agreement is authorized by law, with this Agreement detailing the specific actions taken to correct IT IS SO ORDERED 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 Cincinnati Finance Center PO Box 979077 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 EPA does not waive its rights to take any enforcement action against Respondent for any other past, present,

Art Camenzind ("Respondent") is a "person," within the or future civil or criminal violation of the Act or of any other federal statute or regulation in the highest 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: villiam A. Spratlin

Director

Water, Wetlands, and Pesticides Division

APPROVED BY RESPONDENT:

Name (print): Att CAMENZING

Title (print): Hethesamane Barden

Signature: Allan Concerned Date: 6-23-09

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.

Latrak Date Dug 14, 2009

Robert L. Patrick

Regional Judicial Officer

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(our)

### Expedited Settlement Offer Worksheet

Deficiencies Form

Consult instructions regarding eligibility criteria and procedures prior to use

IA: General Permit No. 2



LEGAL NAME AND MAILING ADDRESS OF OPERATOR	Telephone Number	NPDES Permit Number
1 Art Camenzind	(402) 571-0522	IA-14794-14594
10406 State Street		
Omaha, NE 68112-1054	Inspector Name:	Margie St. Germain
	Inspector Agency:	US EPA
	Entrance Interview Conducted:	Yes
	Exit Interview Conducted:	No
LOCATION AND ADDRESS OF SITE	Exit Interview given to:	
2 Art Camenzind Development, aka Gethsemone Garden Church	Exit Interview time:	Date:
Wallace St and East Lake Manawa Dr		
Council Bluffs, IA		

	FACILITY DESCRIPTION / CONTACT NAMES	-
	Name of Site Contact (ESO Worksheet recipient):	Art Camenzind
	Name of Authorized Official (40 CFR 122.22):	Art Camenzind
	Inspection Date:	11/19/2008
	Start Construction Date:	04/03/2008
	Estimated Completion Construction Date:	12/31/2010
	If Unpermitted, Number of Months Unpermitted:	
	Name of Receiving Water Body (Indicate whether 303(d) listed):	Mosquito Creek
14	Acres Currently Disturbed   Acres to be Disturbed in Whole Common Plan:	10:00
. 3	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 Deficien- cies	Dolla Amoun	-	Ţotal
3	Operator unpermitted for1months (# months unpermitted equals number of violations)		CWA 301	IAC 567-64.6(1)			X \$500.0	]=	\$500
	SWPPP REVIEW	•							
4	SWPPP not prepared (If no SWPPP, leave elements 5 - 30 blank)	and and the state of the stat	CGP 3.1.A	IAGP IV			\$5,000.0	) =	
5	SWPPP prepared but prepared after construction start (# of months = # of violations)		CGP 3.1.A	IAGP IV	(4) (4) (4) (4)		\$75.0	) =	
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		CGP 3.1.B	N/A					
7	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	IAGP IV(D)(7)			\$500.00	) =	
8	SWPPP does not have site description, as follows:	Surface waters not shown in site map.							
A	Nature of activity in description		CGP 3,3.B,1	IAGP IV(D)(1)(A)			\$100.0	) =	
	Intended sequence of major activities		CGP 3.3.B.2	IAGP IV(D)(2)			\$100.0	) =	~~~~
	Total disturbed acreage		CGP 3.3.B.3	IAGP IV(D)(1)(B)	300	AVENEZ	\$100.0	7	
	General location map	lan allediagus languagus badilum ka	CGP 3.3.B.4	IAGP IV(D)(1)(D)	2000	5	\$100.0		
	Site map		CGP 3.3.C	IAGP IV(D)(1)(D)	200	200 (SQL 2018)	\$500.00		
	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 ageas, surface waters, discharge points, areas of final stabilization (count each omission under 8F as 1 violation)		CGP 3.3.C.1-8	IAGP IV(D)(1)(D)		1	X \$50.00		\$50
G	Location/description industrial activities, like concrete or asphalt batch plants		CGP 3.3.D	N/A		800000			
9	SWPPP does not:	7 (1) (1) (1) (1) (1) (1) (1) (1) (1) (1)							
Α	Describe all pollution control measures (e.g. BMPs)		CGP 3.4.A	IAGP IV(D)(2)			\$750.0	7=	
В	Describe sequence for implementation		CGP 3.4.A	IAGP IV(D)(2)			\$250.00	) =	
C	Detail operator(s) responsible for implementation	alan pinggalaga matagi interp	CGP 3.4.A	IAGP IV(D)(7)			\$250.00	) =	
10	SWPPP does not describe interim stabilization practices		CGP 3.4.B	IAGP IV(D)(2)(A)(1)	7.236		\$250.00	=	
11	SWPPP does not describe permanent stabilization practices	The Company of State (School General)	CGP 3.4.B	IAGP IV(D)(2)(A)(1)	14183		\$250.0	) =	
12	SWPPP does not describe a schedule to implement stabilization practices	20 THE RESERVE OF THE PROPERTY	CGP 3.4.B	IAGP IV(D)(2)(A)(1)			\$250.0	=	

		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						
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	IAGP IV(D)(2)(A)(2)				\$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	IAGP IV(D)(2)(B)				\$500,00	=	
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	IAGP IV(D)(2)(C)		a de la come Alconogra		\$500.00	=	
17		SWPPP does not describe measures to minimize off-site vehicle tracking and generation of dust		CGP 3.4.G	IAGP IV(D)(2)(C)(2)				\$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	Description not annotated in SWPPP.	CGP 3.4.H	IAGP IV(D)(2)(C)(1)		1	Х	\$250.00	122	\$250
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 3.4.1	N/A						
20		SWPPP does not identify allowable sources of non-storm water discharges listed in subpart 1.3.B of the CGP		CGP 3.5	IAGP IV(D)(5)				\$500.00	=	
21		SWPPP does not identify/ensure implementation of pollution prevention measures for non-storm water discharges		CGP 3.5	IAGP IV(D)(5)				\$500.00	=	
22	T	Endangered Species Act documentation is not in SWPPP		CGP 3.7	N/A						
23		Historic Properties (Reserved)		5 E 0 T 1	N/A						
24		Copy of permit and/or NOI not in SWPPP (count each omission under 24 as 1 violation)		CGP 3.8	IAGP II(C)(1)(G)(3)						
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	IAGP IV(D)(2)(D)				\$750.00	1	
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	IAGP V(A)				\$500.00	<b>*</b>	
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)	SWPPP had not been updated/modified to reflect changes.	CGP 3.11.C	IAGP IV(D)(4)(B)		T	X	\$50.00	=	\$50
29		Copy of SWPPP not retained on site  A SWPPP not made available upon request	SWPPP not made readily available.	CGP 3.12.A CGP 3.12.C	IAGP V(B)	60566 8228	1 1	X	\$500.00 \$500.00		\$500 \$500
30	_	SWPPP not signed/certified	SWPPP not signed/certified.	CGP 3.12.D	IAGP VI(G)	No		X	\$500,00		\$500
		INSPECTIONS			1.4.0m ii //5.\/4.\	SECOND	BUCKNESSBARANA	1 1	6050 00		
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 0.5 inches or greater (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	IAGP IV(D)(4)				\$250.00	-	,
7 (2) 7 (2) 7 (2)		No inspections conducted and documented (if True, then leave elements 32-39 blank)  Number of inspections expected if performed	32		IAGP IV(D)(4)				True or False		-
inik:		every 7 days: Number of Inspections expected if performed bi-	16		N/A						
		weekly:  If known, number of days of rainfall of >0.5"									

32		Inspections not conducted by qualified personnel		CGP 3.10,D	IAGP IV(D)(4)				\$50.00	=	
33		All areas disturbed by construction activity or used		CGP 3.10.E	IAGP IV(D)(4)(A)			H	\$50.00	┢	
		for storage of materials and which exposed to precipitation not inspected					2040 00				
34	10000	All pollution control measures not inspected to ensure proper operation		CGP 3,10,E	IAGP IV(D)(4)(A)				\$50.00	=	
35		Discharge locations are not observed and	Palanet II. Caldie areas para consequente Seut	CGP 3.10.E	IAGP IV(D)(4)(A)	22.00			\$50.00	=	
36		inspected For discharge locations that are not accessible,		CGP 3.10.E	N/A	\$259 \$259				$\top$	
37		nearby locations are not inspected  Entrance/exit not inspected for off-site tracking		CGP 3.10.E	IAGP IV(D)(4)(A)				\$50.00	=	
)			The Sant Security Record Control of the Security	CGP 3.10.G	IAGP IV(D)(4)(C)		3	<b> </b> _	\$50.00	+	\$150
38		Site inspection report does not include: date, 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 needed, corrective action required including changes/updates to SWPPP and schedule/dates (count each omission under 38 as 1 violation)	Inspection reports does not include qualifications of inspector. BMPs that are needed, or correctly eactions,					^			
39		Inspection reports not properly signed/certified (count each failure to to sign/certify as 1 violation)	Inspection reports not properly signed/certified.	CGP 3.10.G	IAGP IV(D)(4)(C)		5 p <b>.</b> (6)	ľ	\$50.00		\$50
	1	AVAILABILITY OF RECORDS									
40		Sign/notice not posted		CGP 3.12.B	N/A		**************************************	$\prod$		Ŧ	
		Does not contain copy of complete NOI Location of SWPPP or contact person for		CGP 3.12.B CGP 3.12.B	N/A N/A	6.00					
		scheduling viewing times where on-site location for SWPPP unavailable not noted on sign			1						
E				L	<u> </u>	Louise	192510000000100000	<u>.I.</u>			
41		BEST MANAGEMENT PRACTICES  No velocity dissipation devices located at discharge locations or outfall channels to ensure non-erosive flow to receiving water	Sediment basin with unprotected discharge structure, storm water outfall structures unprotected.	CGP 3.13.F	IAGP IV(D)(2)(B)(2)	2 III 2 II 2	2	X	\$500.00	=	\$1,000
42		Control measures are not properly: Selected, installed and maintained	Perimeter silf fence missing; 2 water inlets unprotected; construction entrances not maintained resulting in	CGP 3,13.A	IAGP IV(D)(2)		4	×	\$500.00	=	\$2,000
	В	Maintenance not performed prior to next	trackout.	CGP 3.6.B	N/A	4000				$\top$	
		anticipated storm event (count each failure to select, install, maintain each									
		BMP as one violation									
43		When sediment escapes the site, it is not removed at a frequency necessary to minimize off-site impacts		CGP 3.13.B	N/A						
44		Litter, construction debris, and construction chemicals exposed to storm water are not prevented from becoming a pollutant source (e.g. screening outfalls, pickup daily, etc.)	Sand bags in the concrete ditch	CGP 3.13.C	IAGP IV(D)(2)(C)(1)			X	\$500.00	=	\$500
45		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		CGP 3.13.D	IAGP IV(D)(2)(A)(1)				\$500.00	H	-
		*Exceptions:			N/A			H		#	
		(a) Snow or frozen ground conditions (b) Activities will be resumed within 14 days			N/A N/A						
		(c) Arid or Semi-arid areas (<20 inches per			N/A						
46		Common Drainage of 10+ acres does not have a sedimentation basin for the 2 year, 24 hour storm, or 3600 cubic ft. storage per acre drained		CGP 3.13.E.1	IAGP IV(D)(2)(A)(2)(a)				61,000.00		
The second		Where sedimentation basin not attainable, smaller sediment basins, sediment traps, or erosion controls not implemented for downslope	andin divillació devid aguaza de el mala d Las especies de propietar aguaza de el minero de el	CGP 3.13.E,2	IAGP IV(D)(2)(A)(2)(a)			\$	1,000.00	=	
		controls not implemented for downstope Sediment not removed from sediment basin or traps when design capacity reduced by 50% or more		CGP 3.6.C	N/A		anderseler All 1990 Align All Align Align				
47		Common Drainage less than 10 acres does not have sediment traps, silt fences, vegetative buffer strips, or equivalent sediment controls for all down slope boundaries (not required if sedimentation sediment basin meeting criteria in 46 above)		CGP 3.13.E.3	IAGP IV(D)(2)(A)(2)(b)				\$500.00	=	
		Sediment not removed from sediment trap when design capacity reduced by 50% or more	sine semiles subseques actions on Actions programmed about an institution	CGP 3.6.C	N/A		26 (20				
		SMALL BUSINESS EVALUATION									

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	\$6,050

\* Requires Corrective Action

\*\* NPDES General Permit, 68 FR 39087, issued by EPA on July 1, 2003, http://cfpub.epa.gov/npdes/stormwater/cgp.cfm
\*\*\* lowa Department of Natural Resources NPDES General Permit No.2 issued by IDNR on October 1, 2002 - http://www.iowadnr.com/water/stormwater/index.html

## IN THE MATTER OF Art Camenzind, Respondent Docket No. CWA-07-2009-0051

#### 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:

Sarah LaBoda Assistant Regional Counsel Region VII United States Environmental Protection Agency 901 N. 5<sup>th</sup> Street Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Art Camenzind 10406 State Street Omaha, Nebraska 68112-1054

Dated: 8 14 09

Kathy Robinson

Hearing Clerk, Region 7