



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-06-2010-1909, NPDES Permit Number: NMR10GP75

FILED

2011 APR 20 AM 10:18

AUI Contractors, 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 at the Angel Fire PID Country Club 1&2 construction project caused or resulted in the violation of its NPDES storm water construction general permit ("SWCGP") issued by EPA on June 30, 2008, by failing to identify all operators for the project site and the areas of the site over which each operator has control; failing to include the total disturbed acreage in the site description in the SWPPP; failing to have a complete site map in the Storm Water Pollution Prevention Plan ("SWPPP"); failing to detail operators responsible for SWPPP implementation; failing to include a schedule for implementation of stabilization practices; failing to update the SWPPP to meet the state specific requirements in Part 10.D.1.b of the SWCGP; failure to properly sign and certify the SWPPP; failure to perform three (3) storm water inspections in a timely fashion; and failure to properly sign and certify storm water inspection reports. During the time period in question (October 2009 to July 2010) there were three (3) rainfall events of one-half (1/2) inch or more that potentially caused discharge(s) of pollutants to waters of the United States.

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 two thousand fifty dollars (\$2050.00). 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) an 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 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, cashier's 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 (signature) Date: 4-4-11
Director
Compliance Assurance and Enforcement Division

APPROVED BY RESPONDENT:

Name (print): Kari Biernacki
Title (print): Vice President
Signature: Kari Biernacki Date: 1/10/11

Public Notice of and reasonable opportunity to comment on the proposed issuance of this Order was provided pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(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: 20 April 2011

Regional Judicial Officer
EPA, Region 6

CERTIFICATE OF SERVICE

I hereby certify that on the 20 day of April, 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. Adam Q. Triolo, President
AUI Contractors, Inc.
P.O. Box 9825
Albuquerque, NM 87119-9825

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

