

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY Region 10

1200 Sixth Avenue, Seattle, Suite 900 Washington 98101 EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-10-2018-0296, NPDES Nos. "Unpermitted"

Jim Myatt ("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 Worksheet 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 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 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 APPROVED BY EPA: in the Form.

EPA is authorized to enter into this Consent Agreement and 1 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 I violation(s) alleged in this Agreement for a penalty of \$4,550. (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 r Government, that any deficiencies identified in the Form have been corrected. Respondent shall submit a written report with this Agreement detailing the specific actions taken to correct the violations cited herein.

Respondent certifies that it has 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:

U.S. EPA, Region 10 Fines and Penalties, Cincinnati Finance Center In the Matter of: Jim Myatt Docket No.: CWA-10-2018-0296 P.O. 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 Agreement. 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 upon filing with the Regional Hearing Clerk.

	Date:
Edward J. Kowalski, Director	
Office of Compliance and Enf	orcement
APPROVED BY RESPONDE	ENT:
Name	
(print):	
Title	
(print):	
Signature:	Date:
notice pursuant to Section 30	osed since the issuance of publi 9(g)(4)(A) of the Act, 33 U.S.C has received no comment
Having determined that this A IT IS SO ORDERED:	greement is authorized by law,
	Date:
Richard Mednick Regional Judicial Officer, Reg	ion 10
Regional Judicial Officer, Reg	עו ווטו

Expedited Settlement Offer Worksheet

Deficiencies Form for 2017 SW CGP

Consult instructions regarding eligibility criteria
and procedures prior to use

version 10.3.4



	LEGAL NAME AND MAILING ADDRESS OF OPERATOR	Telephone Number	NPDES Per	mit Number	7
1	Jim Myatt, Land Owner	530-510-1706	"Unpermitte	d"	
1 1	P.O. Box 60				
l	Moab, Utah 83252	Inspector Name:	Matthew Sc	henk	
1		Inspector Agency:	Other		
		Entrance Interview Cor	nducted:	Yes	
		Exit Interview Conduct	e <u>d:</u>	Yes	
	LOCATION AND ADDRESS OF SITE	Exit Interview given to:	Jim Myatt &	Laef & Josh	Wallin
2	Jim Myatt Driveway and Residence	Exit Interview time:	12:00	Date:	12/12/2017
l l'	2173 North Highway 34				
)	Preston, Idaho 83263				
l le					

FACILITY DESCRIPTION / CONTACT NAMES
Name of Site Contact (ESO Worksheet recipient): Jim Myatt & Laef Wallin
Name of Authorized Official (40 CFR 122.22): Jim Myatt
Inspection Date: 12/12/2017
Start Construction Date: 08/01/2017
Estimated Completion Construction Date:
If Unpermitted, Number of Months Unpermitted: 4
Name of Receiving Water Body (Indicate whether 303(d) listed): Foster Reservoir
Acres Currently Disturbed Acres to be Disturbed in Whole Common Plan: 3.00 3.00
Has Operator Requested Rainfail Erosivity or TMDL Waiver per 44 CFR 122.26(b)(15)? No

		****		R	No. of			···········
			Citation	Ċ	Deficien-		Dollar	
	PERMIT COVERAGE	Findings	Reference**	A*	cies		Amount	Tot
3	unpermitted equals number of violations)	Construction began during the first week of August 2017 [p. 3]* and IDEQ inspected on December 12, 2017 for a total of 4 months. Project Owner Jim Myatt listed as sole Operator since SWPPP identifies Mr. Myatt as 24 Hour contact and responsible for erosion control and self-inspections (as well as having control over the specifications and parameters of the construction project).	CWA 301		4	X	\$500.00	= \$2,00
	SWPPP REVIEW							
4	SWPPP not prepared (If no SWPPP, leave elements 5 - 30 blank)		CGP 7.1				\$5,000.00	=
5		SWPPP not prepared until December 2017, 4 months after construction commenced.	CGP 1.4.1		4	×	\$75.00	= \$30
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 7.2.3.g				\$250.00	=
7	SWPPP does not identify all operators for the project site and the areas of the site over which each operator has control	•	CGP 7.2.1				\$500.00	8
8	SWPPP does not have site description, as follows:			X.T	18 19 E		The state of the s	
1	A Nature of activity in description		CGP 7.2.3.a			Т	\$100.00	=
- [B Intended sequence of major activities		CGP 7.2.3.f			П	\$100.00	=
- 1	C Total disturbed acreage		CGP 7.2.3.c				\$100.00	=
ı	D General location map		CGP 7.2.4.a			Т	\$100.00	=
Ī	E Site map		CGP 7.2.4.a			T	\$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 ageas, surface waters, discharge points, areas of final stabilization (count each omission under 8F as 1 violation)		CGP 7.2.4.a	-		x	\$50.00	=
	G Location/description industrial activities, like concrete or asphalt batch plants		CGP 7.2.3.d-e				\$500.00	=
9[SWPPP does not:			77.8			- 19.12.13	

B Describe sequence for implementation C Detail operator(s) responsible for implementation of politication responsible for		AlDonatha all callution control	management (a.m. DA(Da)		CGP 7.2.6		_	\$750.00L	=1	
Colean personnels for implementation Cole 7.2.6 bt \$250.00 =		Albescribe all pollution control	measures (e.g. bivirs)		CGP 7.2.0			\$750.00		
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practices		practices					Ш			
stabilization practices		practices								
activities; construction temporarily or permanently ceased; sublization measures initiated (court each omission under 13 as 1 violation) 14 SWPPP does not have description of structural practicas to divert flows from exposed soils, retain flows, or limit usuff from exposed axies 15 SWPPP does not have a description of measures that will be installed during the construction process to court AFTER construction process to court AFTER construction operations have been completed 16 SWPPP does not describe measures to prevent discharge of soil materials to waters of the U.S, except as authorized by 404 permit. 17 SWPPP does not describe measures to minimize off-size vehicle tracking and generation of dust to the vehicle tracking and generation of dust to which tracking and generation of dust to which tracking and generation of dust to which tracking and generation of outsite to the vehicle tracking and generation of outsite vehicle tracking and generation of outsite to such as the vehicle tracking and generation of outsite vehicle tracking and generation of permit on the vehicle tracking and generation of permit generation generation of permit generation generation of permit generation g		stabilization practices				4.1		·		
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will be installed during the construction process to control pollutants in storm water discharges that will occur AFTER construction operations have been completed 16 SWPPP does not describe measures to prevent discharge of solid materials to waters of the US except as authorized by 404 permit. 17 SWPPP does not describe measures to minimize off-sits vehicle tracking and generation of dust. 18 SWPPP does not induced description of construction or waste materials expected to be stored on site whydrates re-controls used escription of construction or waste materials expected to be stored on site whydrates re-controls used to reduce pollutants from these materials. 19 SWPPP does not have description of pollutant sources from areas other than construction (asphalt or concrete plants) wy updates are: controls used to reduce pollutants from these materials. 20 SWPPP does not identify allowable sources of nonstorm water discharges itseld in subpart 1.3.8 of the CGP 21 SWPPP does not identify allowable sources of nonstorm water discharges itseld in subpart 1.3.8 of the CGP 22 Endangered Species Act documentation is not in SWPPP does not identifylensure implementation of pollution prevention measures for non-storm water discharges itself in subpart 1.3.8 of the CGP 2.9.9 SWPPP does not identifylensure implementation of pollution prevention measures for non-storm water discharges in the subpart 1.3.8 of the CGP 2.9.9 SWPPP is not consistent with requirements specified in applicable sediment and erosion site plants or site permits, or storm water management plans or site permits as its offecting disclate to remain consistent with c		practices to divert flows from flows, or limit runoff from exp	exposed soils, retain osed areas	1				, , , , ,		
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			le upon request				+			
	30	15VVPPP not signed/certified			JCGP 7.2.10	Subtetal 61	/DD:		_	\$30

INSPECTIONS

	Inspections not performed and documented either once every 7 days, or once every 14 days and within 24 hours after storm event greater than 0.25 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).	A minimum of 9 self-inspections were not conducted (at the two-week interval) from the first week of August 2017 to the date of the inspection on December 12, 2017.	CGP 4.2 & 4.7.1	9	×	\$250.00	=	\$2,250
	No inspections conducted and documented (if True, then leave elements 32-39 blank)			TRUE		True or False		
-	Number of Inspections expected if performed every	19				raise		
+	7 days: Number of Inspections expected if performed bi-	9		upare e Naile pro-				
-	weekly: If known, number of days of rainfall of >0.25"			amari () Permi		(A) [73] 543	-	
32	Inspections not conducted by qualified personnel		CGP 4.1			\$50.00	=	
33	All areas disturbed by construction activity or used for storage of materials and which exposed to precipitation not inspected		CGP 4.5.1 & 3	111		\$50.00	=	
34	All pollution control measures not inspected to ensure proper operation		CGP 4.5.2			\$50.00	=	
35	Discharge locations are not observed and inspected		CGP 4.5.5	THE STATE OF THE S		\$50.00	=	
36	For discharge locations that are not accessible, nearby locations are not inspected		CGP 4.5.4 & 6			\$50.00	=	
37	Entrance/exit not inspected for off-site tracking		CGP 4.5.2			\$50.00		
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)	e de la companya de l	CGP 4.7.1	900	×	\$50.00		To the
39	Inspection reports not properly signed/certified (count		CGP 4.7.2		x	\$50.00	=	
	each failure to to sign/certify as 1 violation)							
	AVAILABILITY OF RECORDS							
	AVAILABILITY OF RECORDS Sign/notice not posted A Does not post NPDES ID assigned to NOI B Location of SWPPP or contact person for scheduling		CGP 1.5 CGP 1.5a CGP 1.5.b & c			\$250.00 \$50.00 \$50.00	=	
	Sign/notice not posted A Does not post NPDES ID assigned to NOI		CGP 1.5a CGP 1.5.b & c	Subtatal Page	ords F	\$50.00 \$50.00	=	
	Sign/notice not posted A Does not post NPDES ID assigned to NOI B Location of SWPPP or contact person for scheduling viewing times where on-site location for SWPPP		CGP 1.5a CGP 1.5.b & c	Subtotal Reco	ords D	\$50.00 \$50.00	=	\$
	Sign/notice not posted A Does not post NPDES ID assigned to NOI B Location of SWPPP or contact person for scheduling viewing times where on-site location for SWPPP unavailable not noted on sign BEST MANAGEMENT PRACTICES		CGP 1.5a CGP 1.5.b & c	Subtotal Reco	ords D	\$50.00 \$50.00 Deficiencie	= =	\$
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	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 be considered as full- time equivalents on an annual basis, including			
18	Is the Owner/Operator a Small Business?			
	SMALL BUSINESS EVALUATION		Subtotal BMP Deficiencies	
	A Sediment not removed from sediment trap when design capacity reduced by 50% or more	CGP 2.2.3.a	X	
	vegetative buffer strips, or equivalent sediment controls for all down slope boundaries (not required if sedimentation sediment basin meeting criteria in 46 above)			
7	when design capacity reduced by 50% or more Common Drainage has no sediment traps, silt fences,	CGP 2.2.3	\$500.00 =	
	3 Sediment not removed from sediment basin or traps	CGP 2.2.12.f	\$500.00 =	-
	Where sedimentation basin not attainable, smaller sediment basins, sediment traps, or erosion controls not implemented for downslope boundaries	CGP 2.1.3.2	\$1,000.00	

^{**} NPDES General Permit, 68 FR 39087, issued by EPA on July 1, 2008, http://cfpub.epa.gov/npdes/stormwater/cgp.cfm