

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4 (MODEL)**

IN THE MATTER OF:

Re-Tek, Inc.

Respondent

DOCKET NO.: CWA-04-2020-0401(b)

Industrial Stormwater Expedited Settlement Agreement
Pursuant to Clean Water Act Section 309(g)(2)(A)

Permit No.: "Non-Filer"

Re-Tek, 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.

On or about July 22, 2019, at 3320 Cleaton Road, Central City, Kentucky, the Respondent had unauthorized discharge(s) of stormwater in violation of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311, as described on the attached "Industrial Stormwater Non-Filer Inspection Findings, Alleged Violations, and Proposed Penalty Form" ("Violations Form"), Enclosure A, which is incorporated herein by reference. By its signature, Complainant ("EPA") finds that Respondent is responsible for the alleged violations specified in the Violations Form.

The EPA finds, and Respondent admits, that Respondent is subject to Section 301 of the Act, 33 U.S.C. § 1311, and that the 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 specific alleged violations specified in the Violations Form.

The EPA is authorized to enter into this Expedited Settlement Agreement and Final Order ("ESA") under the authority vested in the Administrator of the 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 to settle the civil violations alleged in this Agreement for a penalty of \$20,000. Respondent consents to the assessment of this penalty and waives the right to: (1) contest the findings specified in the Violations Form; (2) appeal the Final Order; (3) a hearing pursuant to Section 309(g)(2) of the Act, 33 U.S.C. § 1319(g)(2); and (4) 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 the Respondent has taken corrective actions that will prevent future unauthorized discharges and has addressed the alleged violations identified in the Violations Form by either a) developing and implementing a Stormwater Pollution Prevention Plan and submitting to the permit authority a Notice of Intent to be covered by the applicable industrial stormwater permit; or b) acting to meet eligibility requirements for a waiver from industrial stormwater permit requirements as allowed by the permit authority and submitting the relevant forms (such as the Non-Exposure Certification form) to the permit authority.

Respondent agrees to pay the penalty assessed within thirty (30) calendar days of the effective date of this Agreement. Instructions for making the penalty payment are enclosed with this Agreement as Enclosure B, which is incorporated herein by reference. Failure by Respondent to pay the penalty assessed by this ESA in full by its due date may subject Respondent to a civil action to collect the assessed penalty plus interest, attorney's fees, and costs, pursuant to Clean Water Act § 309(g)(9), 33 U.S.C. § 1319(g)(9). In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review. Any payment made pursuant to this ESA is a penalty within the meaning of Section 162(f) of the Internal Revenue Code, 26 U.S.C. § 162(f), and, therefore, Respondent shall not claim it as a tax-deductible expenditure for purposes of federal, state, or local law.

This ESA settles the EPA's civil penalty claims against Respondent for the alleged Clean Water Act violations specified in this Agreement. The 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. The EPA does not waive its right to issue a compliance order for any uncorrected alleged violation(s) described in the Violations Form. The EPA has determined this ESA to be appropriate.

This ESA is binding on the parties signing below. Each person signing this ESA certifies that he or she has the authority to sign for the party who he or she represents and to bind that party to its terms. The ESA is effective upon filing with the Regional Hearing Clerk. If Respondent does not sign and return this ESA within thirty (30) calendar days of the date of its receipt, the proposed ESA will be withdrawn without prejudice to the EPA's ability to file another enforcement action for the noncompliance identified in the Violations Form, unless an extension has been granted by the EPA.

APPROVED BY RESPONDENT:

Name
(print): JOHN W. BOHEMAN II

Title
(print): COMMGR/V.P.

Signature: [Signature] Date: 7/6/20

APPROVED BY EPA:

Date: _____
Mary Jo Bragan, Chief, Water Enforcement Branch
Enforcement and Compliance Assurance Division

FINAL ORDER

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

Date: _____
Tanya Floyd
Regional Judicial Officer