



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 7

11201 Renner Boulevard, Lenexa, Kansas 66219

EXPEDITED SETTLEMENT AGREEMENT

Construction Stormwater Violations

Docket Number: CWA-07-2024-0095, NPDES No. MORA23892

Penalty Amount: \$4,920, Inspection Date: January 30, 2024

FILED

September 30, 2024

3:48PM

U.S. EPA REGION 7
HEARING CLERK

Newkirk Novak Construction Partners, 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 Worksheet” (“Settlement Worksheet”), which is incorporated by reference. By its signature, Complainant (“EPA”) finds that Respondent is responsible for the alleged violations specified in the Settlement Worksheet.

Respondent failed to comply with the condition(s) or limitation(s) of a duly issued permit pursuant to Section 402 of the Act, 33 U.S.C. § 1342, and Section 301(a) of the Act, 33 U.S.C. § 1311(a).

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 alleged violations specified in the Settlement Worksheet or this Expedited Settlement Agreement and Final Order (“Agreement”).

EPA is authorized to enter into this 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) and § 22.18(b)(2)-(3). The parties enter into this Agreement to settle the civil violation(s) alleged in this Agreement for a penalty of \$4,920. Respondent consents to the assessment of this penalty and waives the right to: (1) contest the finding(s) specified in the Settlement Worksheet; (2) a hearing pursuant to Section 309(g)(2) of the Act, 33 U.S.C. § 1319(g)(2); (3) appeal pursuant to Section 309(g)(8), 33 U.S.C. § 1319(g)(8); and (4) appeal the final order pursuant to 40 C.F.R. § 22.18(b)(2).

Additionally, Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that the alleged violations identified in the Settlement Worksheet have been corrected. Respondent shall submit a written report and other documentation with this Agreement detailing the specific actions taken to correct the alleged violations cited herein. This documentation may include monitoring, inspection and maintenance reports, documentation of corrective actions, certification records, and other records required for compliance with permit documentation and recordkeeping conditions.

Respondent certifies that, within thirty (30) days after the effective date of the Final Order, Respondent will submit electronic payment via: www.pay.gov or 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. Environmental Protection Agency
In the Matter of: Newkirk Novak Construction
Partners, Inc.**

Docket No.: CWA-07-2024-0095

P.O. Box 979078

St. Louis, MO 63197-9000

A copy of the check or other information confirming payment shall simultaneously be emailed to the following:

R7_Hearing_Clerk_Filings@epa.gov and to
moreno.sarah@epa.gov.

Respondent agrees that consistent with section 162(f)(1) of the Internal Revenue Code, 26 U.S.C. § 162(f)(1), it will not deduct the penalties paid under this Agreement for federal tax purposes.

This Agreement settles EPA’s civil penalty claims against Respondent for the alleged Clean Water Act (CWA) 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 CWA or of any other federal statute or regulation. EPA does not waive its right to issue a compliance order for any uncorrected alleged violation(s) described in the Settlement Worksheet. EPA has determined this Agreement to be appropriate.

Prior to requesting that an EPA Regional Judicial Officer issue the Final Order, EPA will provide a copy of the Agreement to the state of Missouri for the purposes of consultation with Missouri Department of Natural Resources on the appropriateness of this Agreement. EPA will also provide public notice of this Agreement and a reasonable opportunity for public comment on it. EPA will address any comments on the Agreement in accordance with section 309(g)(1) and (4)(A) of the Act, 33 U.S.C. § 1319(g)(1) and (4)(A), and 40 CFR §§ 22.38 and 22.45.

This Agreement is binding on the parties signing below. Each party signing this Agreement 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 Expedited Settlement Agreement and Final Order are effective the date it is filed with the Regional Hearing Clerk.

Respondent consents to service of this Expedited Settlement Agreement and Final Order to the email address(es) provided herein.

APPROVED BY RESPONDENT:

Name
(print): Ben Vanderau

Title
(print): Operations Manager

Email: ben.vanderau@newkirknovak.com

Signature:  Date: 7/25/24

APPROVED BY EPA:

Date: _____
David Cozad
Director
Enforcement and Compliance Assurance Division

More than 40 days have elapsed since providing the Agreement to Missouri and the issuance of public notice pursuant to Section 309(g)(1) and (4)(A) of the Act, 33 U.S.C. § 1319(g)(1) and (4)(A), and EPA has received no comments concerning this matter.

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

Date: _____
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 7