



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 10, 1200 Sixth Avenue, Suite 155, Seattle, Washington 98101
EXPEDITED SETTLEMENT AGREEMENT

Construction Stormwater Violations

Docket Number: CWA-10-2025-0073, NPDES No. WAR312688

Penalty Amount: \$1,020, Inspection Date: February 13, 2024

KM2 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 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 ("Agreement").

This Agreement constitutes a Consent Agreement and Final Order, which EPA is authorized to enter 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 to settle the civil violation(s) alleged in this Agreement for a penalty of \$1,020. 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); and (3) appeal pursuant to Section 309(g)(8), 33 U.S.C. § 1319(g)(8). By signing this Agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the Agreement. Respondent also agrees to bear its own costs and attorney's fees related to this Agreement.

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:

Regional Hearing Clerk
U.S. EPA, Region 10
Fines and Penalties, Cincinnati Finance Center
In the Matter of: KM2 Contractors, Inc.
Docket No.: CWA-10-2025-0073
P.O. Box 979077
St. Louis, MO 63197-9000

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 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 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 Washington for the purposes of consultation with Washington 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 and becomes effective when the Final Order is executed and filed with the Regional Hearing Clerk pursuant to 40 C.F.R. § 22.31(b).

APPROVED BY RESPONDENT:

Name

(print): _____

Title
(print): _____

Signature: _____ Date: _____

APPROVED BY EPA:

Edward J. Kowalski, Director
Enforcement and Compliance Assurance Division

More than 40 days have elapsed since providing the Agreement to Washington 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.

Nicolas Haddad, Case Officer
Enforcement and Compliance Assurance Division

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

Regional Judicial Officer
Region 10
U.S. Environmental Protection Agency

Expedited Settlement Offer Worksheet
Findings and Alleged Violations
*Consult instructions regarding eligibility criteria
and procedures prior to use*

Version: 2021 Washington State Construction Stormwater General Permit



	LEGAL NAME AND MAILING ADDRESS OF OPERATOR		Telephone Number	NPDES Permit Number				
1	KM2 Contractors, Inc.		(206) 553-2140	WAR312688				
	10515 20th Street SE		Case Officer Name:	Nicolas Haddad				
	Lake Stevens, WA 98258		Agency:	US EPA Region 10				
			Entrance Interview Conducted:	Yes				
			Exit Interview Conducted:	Yes				
	LOCATION AND ADDRESS OF SITE		Exit Interview given to:	Mark Villwock				
2	Fagerlie Subdivision		Exit Interview date / time:	2/13/24				
	12014 20th Street SE							
	Lake Stevens, WA 98258							
	FACILITY DESCRIPTION / CONTACT NAMES							
3	Name of Site Contact (ESO Worksheet recipient):		Patrick McCourt					
	Name of Authorized Official (40 CFR 122.22):		Patrick McCourt					
	Inspection Date:		02/13/2024					
	Start Construction Date:		09/11/2023					
	Estimated Completion Construction Date:		09/11/2025					
	If Unpermitted, Number of Months Unpermitted:		N/A					
	Name of Receiving Water Body (Indicate whether 303(d) listed):		Pilchuck River					
	Acres Disturbed Acres for Whole Common Plan:		12.55 acres disturbed					
Operator Requested Rainfall Erosivity or TMDL Waiver (44 CFR 122.26(b)(15))			No					
	PERMIT COVERAGE	Findings	CGP Citation	RCA*	No. of Deficiencies	Multi- ply	Penalty Amount	Total
4	Operator discharged stormwater without a permit on one or more days during _____ months (# of months with an unauthorized discharge equals number of violations)		CWA 301; S1.B.1				\$600.00	\$0
	USE OF CATIONIC TREATMENT CHEMICALS (WHERE APPLICABLE)							
5	Proper notice was not provided for use of cationic treatment chemicals prior to submittal of the NOI. NOTE that this applies only to the failure to provide notice in the absence of a discharge to a storm drain or water.		S9.D.9.i				\$300.00	\$0
	PUBLIC NOTICE OF PERMIT COVERAGE							
6	A Notice not published as required. (If no sign/notice published, leave element B blank.)		S2.B				\$300.00	\$0
	B Notice was missing one or more elements required by the Permit. (Count each omission under B as one violation.)		S2.B.1-6				\$60.00	\$0
	SWPPP REVIEW							
7	No SWPPP prepared at time of inspection. (If no SWPPP, leave elements 8 - 21 blank)		S9				\$6,000.00	\$0

8		SWPPP prepared after construction start (# of months = # of violations with a maximum penalty of \$6,000). NOTE that elements 9 - 21 only apply to the months when the operator had a SWPPP. The maximum penalty for all SWPPP violations is \$6,000.		S3.B; S9					\$1,000.00	\$0
9	A	SWPPP does not list all operators for the project site and the areas of the site over which each operator has control.		S9.B.1.a; S.9.B.1.d; S.9.B.2					\$600.00	\$0
	B	SWPPP does not identify stormwater team and respective responsibilities.		S4.B.1.b; S4.B.3					\$300.00	\$0
10		SWPPP does not include:								
	A	Description of the nature of construction activities.		S9.B.1.d; S9.B.2					\$120.00	\$0
	B	The size of the property; the total area expected to be disturbed by the construction activities; the maximum area expected to be disturbed at any one time including onsite and offsite construction support activity areas.		S9.E; S9.E.4					\$120.00	\$0
	C	A description of any onsite/offsite construction support activities.		S1.C.2; S9.E.6					\$600.00	\$0
	D	A description and projected schedule for each portion of the site that includes all elements/dates required by the Permit. (Count each omitted category as one violation.)		S9.B.1.d; S9.B.2					\$300.00	\$0
	E	A list and description of all pollutant-generating activities.		S9.B.2					\$300.00	\$0
	F	Public Emergencies: Required information for public emergency situations. NOTE that operator has 30 days to complete SWPPP after commencing construction.		S5.F					\$300.00	\$0
11		Site Map								
	A	Site map not included in SWPPP.		S9.E					\$600.00	\$0
	B	Site map does not include all elements required by the Permit. (Count each omission as one violation up to \$600.)	At the time of the inspection, the SWPPP site map did not contain 1) all locations of structural and non-structural BMPs or 2) the locations of water quality sampling stations/discharge locations.	S9.E.1-11	Yes	2	X		\$60.00	\$120
12		SWPPP does not:								
	A	Identify all authorized non-storm water discharges that will or may occur.		S9.E.8; S1.C.3					\$600.00	\$0
	B	Describe the specific controls to be implemented to meet the effluent limits for erosion and sediment controls. (Count one violation for each missing control measure up to a maximum of \$900.)		S9.A.1; S9.D.4					\$300.00	\$0
		For each specific erosion and sediment control identified in the SWPPP, include all information required by the Permit. (Count 1 violation for each control with incomplete information.)		S9.D.4.a-f			X		\$100.00	\$0
	C	Describe the specific controls to be implemented to meet the effluent limits for pollution prevention. (Count one violation for each missing control measure up to a maximum of \$900.)		S9.A.2; S9.C.4; S9.D.9			X		\$300.00	\$0
		For each specific pollution prevention control measure identified in the SWPPP, include all information required by the Permit. (Count each control with incomplete information as 1 violation.)		S9.D.9.a-j			X		\$100.00	\$0
	D	Describe the specific controls to be implemented to meet the effluent limits for construction dewatering.		S9.D.10			X		\$300.00	\$0
		For each specific dewatering control measure identified in the SWPPP, include all information required by the Permit. (Count each control with incomplete information as 1 violation.)		S9.D.10.a-d			X		\$300.00	\$0
	E	Document for sites affected by unforeseen circumstances that delay initiation and/or completion of Vegetative Stabilization the circumstances and the schedule for initiating and completing stabilization.		S9.D.5; S9.D.8					\$300.00	\$0
13	A	SWPPP does not describe the procedures for Inspection, Maintenance and Corrective Action.		S9.B.2; S9.D.12					\$600.00	\$0

	B	Description of Inspection, Maintenance and Corrective Action procedures does not include all information required by the Permit. (Count each applicable omission as one violation.)		S4.B.2.c.2; S4.B.4.g a-l; S9.B.1.e			X	\$120.00	\$0
14		SWPPP does not include documentation that required personnel were, or will be, trained in accordance with Permit requirements.		S4.B.1				\$300.00	\$0
15		Threatened and Endangered Species Act documentation is not included in SWPPP.		N/A				\$600.00	\$0
16		Historic Properties documentation is not included in SWPPP.		N/A				\$600.00	\$0
17		SWPPP does not document contacts, where applicable, with UIC regulatory authority regarding compliance with SDWA UIC Requirements for Certain Subsurface Stormwater Controls.		S3.D				\$600.00	\$0
18		SWPPP not signed/dated/certified.		S9.D.12.c				\$600.00	\$0
19		Copy of NOI and relevant correspondence, acknowledgement letter received from NeT, or Permit (can be electronic) not included as part of SWPPP. (Count each omission as one violation.)		S5.C			X	\$300.00	\$0
20		Copy of SWPPP is not retained on site or otherwise easily accessible.		S5.C; S5.G.1.c				\$600.00	\$0
21	A	SWPPP (including site map) has not been updated/modified as required by the Permit. (Count each omission as one violation.)		S9.D.12.c			X	\$60.00	\$0
	B	SWPPP modifications do not meet record keeping, approval or notification requirements. (Count each omission as 1 violation.)		S9.B.2			X	\$60.00	\$0
22		INSPECTIONS							
	A	Number of Inspections required if performed every 7 days:							
	B	Number of Inspections required if performed every 14 days:							
	C	If known, and if applicable, number of days of rainfall of > 0.25" :							
	D	Number of inspections required under a reduced frequency							
	E	TOTAL number of required inspections							
	F	TOTAL number of inspections conducted/documented							
23	A	All required inspections were not conducted and timely documented. (If NO inspections were conducted and documented, then leave elements 24-28 blank)		S4.B.1.b; S4.B.4				True or False	
	B	Inspections not performed and timely documented. (Count each failure to inspect and document as one violation.)		S4.B.2			X	\$300.00	\$0
24		Inspections not conducted by qualified personnel. (Count each inspection conducted without qualified personnel as one violation.)		S4.B			X	\$60.00	\$0
25		Areas to be inspected and signs and conditions to be checked for: Failed to inspect all required areas as identified in the Permit or to check for signs of erosion or sedimentation or to check for conditions that could lead to spills, etc. (Count each omission as one violation.)		S4.B.3			X	\$60.00	\$0
26		Site inspection report does not include all information required by the Permit. (Count each omission as one violation.)		S4.B.4.a-m			X	\$60.00	\$0
27	A	Inspection reports not properly signed/certified. (Count each failure to sign/certify as one violation.)		S4.B.4.m			X	\$60.00	\$0
	B	Copies of inspection reports have not been retained onsite or at easily accessible location.		S5.G.1.d				\$600.00	\$0
		BEST MANAGEMENT PRACTICES							
		General Maintenance Requirements:							
28	A	Failure to ensure that all stormwater controls are maintained and remain in effective operating condition (i.e., all routine maintenance-and corrective actions are-performed within the timeframes required by the Permit). (Count each failure to timely maintain each control as one violation.)	At the time of inspection, three sections of silt fence were in need of maintenance.	S3.C.2; S9.D.11	Yes	1	X	\$300.00	\$300

	B	Failure to complete a Corrective Action report when required in accordance with Permit requirements. (Count each missing/deficient report as 1 violation.)		S5.F			X	\$300.00	\$0
	C	Corrective Action Reports not properly signed. (Count each failure to sign as one violation.)		5.4.3			X	\$60.00	\$0
		Control measures are not properly selected, installed or maintained:							
29		Failure to provide a 50-ft undisturbed natural buffer or equivalent erosion and sediment control when a water of the US is located within 50 feet of the site's earth disturbances. (Count each failure as one violation.)		S9.D.1.a; S9.D.4.a			X	\$600.00	\$0
30		Failure to direct stormwater to vegetated areas to maximize infiltration and filtering (unless infeasible). (Count each failure as one violation.)		S9.D.4.e			X	\$600.00	\$0
31		Failure to install sediment controls along all perimeter areas of the site that will receive pollutant discharges (or, for linear construction sites where such controls are infeasible, to implement other appropriate practices). (Count each failure as one violation.)							
	A	If Common Drainage is 10+ acres		S9.D.4			X	\$1,200.00	\$0
	B	If Common Drainage is less than 10 acres		S9.D.4			X	\$600.00	\$0
32		Failure to minimize sediment trackout in accordance with Permit requirements. (Count each failure as one violation.)		S9.D.2.d			X	\$600.00	\$0
33		Failure to properly manage stockpiles or land clearing debris piles composed of sediment and/or soil. (Count each failure as one violation.)	The inspectors observed an exposed and unworked stockpile near the diverted drainage channel from a 20th Street SE roadside catch basin.	S9.D.5.a; S9.D.5.f	Yes	1	X	\$600.00	\$600
34		Failure to minimize dust through appropriate application of water or other dust suppression techniques. (Count each failure as one violation.)		S9.D.5.a			X	\$600.00	\$0
35		Failure to minimize disturbances of "steep slopes". (Count each failure as one violation.)		S9.D.6			X	\$600.00	\$0
36		Failure to preserve native topsoil (unless infeasible). (Count each failure as one violation.)		S9.D.5.i; S9.D.1.b			X	\$600.00	\$0
37		Failure to minimize soil compaction in areas where final vegetative stabilization will occur or where infiltration practices will be installed. (Count each failure as one violation.)		S9.D.5.i; S9.D.13.b			X	\$600.00	\$0
38		Failure to protect storm drain inlets by installing inlet protection measures that remove sediment from discharges prior to entry into a storm drain inlet. (Count each failure as one violation.)		S9.D.7			X	\$600.00	\$0
39		Failure to use erosion controls and velocity dissipation devices within and along the length of any stormwater conveyance channel and at any outlet to slow down runoff to minimize erosion. (Count each failure as one violation.)		S9.D.3; S9.D.8			X	\$600.00	\$0
40		Failure to properly design or locate sediment basin or similar impoundment in accordance with Permit requirements. (Count each failure as one violation.)		S9.D.3.b; S9.D.4.f; S9.D.13.a			X	\$1,200.00	\$0
41		Failure to comply with Permit requirements for use of treatment chemicals.- (Count each failure as one violation.)		S9.D.9.b/l; S9.D.5.a			X	\$200.00	\$0
42		Failure to initiate and complete stabilization measures within the deadlines required by the Permit. (Count each failure as one violation.)		S9.D.8.b; S9.D.5; S9.D.11.b			X	\$600.00	\$0
43		Final Stabilization Criteria not achieved as required.		S10.A				\$1,200.00	\$0
44		Other needed control measures not properly selected or installed. (Each omission is 1 violation.)		S3.B; S4.B.1.b; S9.B.2.b			X	\$600.00	\$0
		Pollution Prevention Requirements							

45	Failure to provide effective controls for equipment and vehicle fueling and maintenance activities. (Count each failure as one violation.)		S9.D.2.a; S9.D.9.b-c; S1.D.5			X	\$600.00	\$0
46	Failure to effectively minimize the discharge of pollutants from equipment and vehicle washing. (Count each failure as one violation.) NOTE that discharges of soaps, solvents or detergents to a storm drain or receiving water are not eligible for an ESA.		S9.D.2.a; S9.D.9.b-c; S9.D.2.c; S1.D.6			X	\$600.00	\$0
47	Failure to implement appropriate controls to prevent/minimize the discharge of pollutants from any of the following: building materials/products; landscaping chemicals and materials; petroleum products and other chemicals; hazardous and toxic waste; construction and domestic wastes; and/or sanitary wastes. (Count each failure as one violation.) NOTE that any nonallowable, non-stormwater discharges to a storm drain or receiving water are not eligible for an ESA.		S1.D; S7; S9.D.9.a-c			X	\$600.00	\$0
48	Failure to provide effective controls for concrete washout. NOTE that nonallowable, non-stormwater discharges to a storm drain or water are not eligible for an ESA.		S9.D.9.f-h; S1.D.1				\$1,000.00	\$0
49	Failure to provide effective controls for washing applicators/containers for stucco, paint, form release oils, curing compounds or other materials. (Count each failure as one violation.) NOTE that nonallowable, non-stormwater discharges to a storm drain or receiving water are not eligible for an ESA.		S1.D.2; S9.D.9.f			X	\$600.00	\$0
50	Failure to comply with requirements for application of fertilizers.		S9.D.9.e				\$600.00	\$0
51	Failure to comply with Permit requirements for construction dewatering in order to minimize the discharge of pollutants. (Count each failure as 1 violation.) Use of waters of the US as part of the treatment area is not eligible for an ESA.		S9.D.10			X	\$600.00	\$0
	SMALL BUSINESS EVALUATION							
52	Is the Owner/Operator a Small Business?						Yes or No	
	A <i>small business</i> 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 Settlement:								\$1,020
	ADJUSTMENT FOR REPEAT VIOLATOR:							
54	For Repeat Violators, the Expedited Settlement Amount should be adjusted upward using the appropriate Escalation Factor. Enter either 0.25 (1st time Repeat Violator) or 0.5 (2nd or more times) into Column G. <u>Leave this row blank if this is not a Repeat Violator.</u>	Adjustment for Repeat Violator:				X	\$1,020.00	\$0

Total Expedited Settlement Amount	\$1,020
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*RCA: Requires Corrective Action