



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 7, 901 North 5th Street, Kansas City, Kansas 66101
EXPEDITED STORM WATER SETTLEMENT AGREEMENT
Docket Number: CWA-07-2004-0284
NPDES No. NER-100988

Rec'd
DEC 03 2004

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

Celebrity Homes, Inc., (herein the "Respondent")
is a "person," within the meaning of § 502(5) of the Act, 33
U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

Attached is a "Findings and Alleged Violations Form"
(herein the "Form"), which is hereby incorporated by
reference. By its signature, Complainant ("EPA") finds that
Respondent has committed the violation(s) set forth in the
Form.

Respondent had an unauthorized discharge of storm
water in violation of Section 301(a) of the Clean Water Act
("the Act" or "CWA"), 33 U.S.C. § 1311, and/or failed to
comply with its National Pollutant Discharge Elimination
System ("NPDES") storm water permit authorized under
Section 402 of the Act, 33 U.S.C. § 1342, as noted on the
attached Form.

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 the allegations and any
"person" who "discharges pollutants" from a "point source"
to "waters of the United States". Respondent neither admits
nor denies the allegation(s) specified in the Form.

EPA is authorized to enter into this Consent
Agreement and Final Order ("CAFO") 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 CFR
§ 22.13(b). The parties enter into this CAFO in order to
settle the civil violation(s) specified in the Form for a penalty
of \$7,650. Respondent consents to the assessment of this
penalty, and waives the right to contest the allegation(s)
specified in the Form, and waives the right to appeal.

Additionally, Respondent certifies, subject to civil
and criminal penalties for making a false statement to the
United States Government, that it has corrected any
deficiencies identified in the Form, and to the best of its
knowledge, is in compliance with the NPDES permitting
program. Within ten (10) days of the effective date of this
CAFO Respondent shall submit a bank, cashiers or certified
check for the amount specified above, payable to the
"Treasurer, United States of America" to:

U.S. EPA, Region 7
Docket No.: CWA-07- 2004-0284
P.O. Box 371099M
Pittsburgh, PA 15251

Respondent shall write the docket number of this case on
the penalty payment check. This CAFO, and later, a
photocopy of your check, is to be returned to the address at
the top of this document, ATTN: Sally McDaniel.

This CAFO settles EPA's civil penalty claims against
Respondent for the CWA violation(s) described in the Form.

However, 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, and does not waive
its right to issue a compliance order for the violation(s)
described in the Form. EPA has determined this CAFO to
be in the public interest, and Respondent agrees.

This CAFO is binding on the parties signing below
and effective thirty (30) days from the date it is signed by
the Regional Judicial Officer unless a petition to set aside
the Order is filed by a commenter pursuant to §309(g)(4)(C)
of the Act, 33 U.S.C. §1319(g)(4)(C) and Part 22. If
Respondent does not sign and return this CAFO as
presented within thirty (30) days of the date of its receipt,
the proposed CAFO is withdrawn without prejudice to EPA's
ability to issue any order or file any enforcement action for
the violation(s) identified in the Form.

APPROVED BY EPA:

Leo J. Alderman
Director
Water, Wetlands, and Pesticides Division
Date: 01/21/05

APPROVED BY RESPONDENT in accordance with 40 CFR
§122.22:

Name (print): CELEBRITY HOMES INC.
Title (print): President
Signature: [Handwritten Signature]

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

Robert L. Patrick
Regional Judicial Officer
Date: Jan 25, 2005

Expedited Settlement Offer Worksheet Findings and Alleged Violations

*Consult instructions regarding eligibility criteria
and procedures prior to use*
Version: NER100000



| | | |
|--|-------------------------|----------------------------|
| 1 Legal Name and Mailing Address of Operator | Telephone Number | NPDES Permit Number |
| Celebrity Homes, Inc. 14002 L Street Omaha, NE 68137 | 402-933-9610 | NER-100988 |

2 Location and Address of Site

Grayhawk Two (SID 468)
144th & Eagle Run Road
Omaha, NE 68102

| | |
|--|----------------------------------|
| Name of Site Contact (ESO Worksheet recipient): | Troy Schaben, P.E. |
| Name of Authorized Official (40 CFR 122.22) | Loren Johnson |
| Inspection Date: | 5/12/2004 |
| Start Construction Date: | 9/00/2000 |
| Estimated Completion Construction Date: | |
| If Unpermitted, Number of Months Unpermitted: | |
| Name of Receiving Water Body (Indicate whether 303(d) listed): | Tributary to Big Papillion Creek |
| Acres Disturbed (whole common plan): | 55 |
| Is Site Eligible for Rainfall Erosivity or TMDL Waiver per 40 CFR 122.26(b)(15)? | No |

| | Nebraska Citation Reference* | National Permit Citation Reference** | No. of Violations | Violation Amount | Settlement Offer |
|---|------------------------------|--------------------------------------|--------------------------------|------------------|------------------|
| 3 Operator(s) in control of site specifications unpermitted for _____ months (# of months = # of violations) | CNR 119-2 | CWA 301 | <input type="text"/> | \$500.00 | |
| 4 Operator(s) in control of day-to-day activities unpermitted for _____ months (# of months = # of violations) | CNR 119-2 | CWA 301 | <input type="text"/> | \$500.00 | |
| 5 SWPPP not prepared (If no SWPPP, leave elements 6 - 31 blank) | NEGP D(1)(a) | CGP 3.1.A | <input type="text"/> | \$4,000.00 | |
| 6 SWPPP prepared but prepared after construction start (# of months = # of violations) | NEGP D(1)(b) | CGP 3.1.A | <input type="text"/> | \$75.00 | |
| 7 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... | N/A | CGP 3.1.B | <input type="text"/> | \$250.00 | |
| 8 SWPPP does not identify all operators for the project site and the areas of the site over which each operator has control | NEGP NOI | CGP 3.3.A | <input type="text" value="1"/> | \$500.00 | |
| 9 SWPPP does not have site description, as follows: | | | | | |
| A Nature of activity in description | NEGP D(2)(b) | CGP 3.3.B.1 | <input type="text"/> | \$100.00 | |
| B Intended sequence of major activities | NEGP D(2)(b) | CGP 3.3.B.2 | <input type="text" value="1"/> | \$100.00 | |
| C Total disturbed acreage | NEGP NOI | CGP 3.3.B.3 | <input type="text"/> | \$100.00 | |
| D General location map | N/A | CGP 3.3.B.4 | <input type="text"/> | \$100.00 | |
| E Site map | NEGP D(2)(a) | CGP 3.3.C | <input type="text"/> | \$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 areas, surface waters, discharge points, areas of final stabilization (count each omission under 9F as 1 violation) | NEGP D(2)(a) | CGP 3.3.C.1-8 | <input type="text" value="3"/> | \$50.00 | |
| G. Location/description industrial activities, like concrete or asphalt batch plants | N/A | CGP 3.3.D | <input type="text"/> | \$500.00 | |
| 10 SWPPP does not: | | | | | |
| A Describe all pollution control measures (e.g. BMPs) | NEGP D(3) | CGP 3.4.A | <input type="text" value="1"/> | \$750.00 | |
| B Describe sequence for implementation | NEGP D(2)(b) | CGP 3.4.A | <input type="text" value="1"/> | \$250.00 | |

| | | | | |
|---|--------------|---------------|----------------------------|----------|
| C Detail operator(s) responsible for implementation | NEGP NOI | CGP 3.4.A | <input type="checkbox"/> | \$250.00 |
| 11 SWPPP does not describe interim stabilization practices | NEGP D(3) | CGP 3.4.B | <input type="checkbox"/> | \$250.00 |
| 12 SWPPP does not describe permanent stabilization practices | NEGP D(3) | CGP 3.4.B | <input type="checkbox"/> | \$250.00 |
| 13 SWPPP does not describe a schedule to implement stabilization practices | NEGP D(2)(b) | CGP 3.4.B | <input type="checkbox"/> | \$250.00 |
| 14 Following dates are not recorded: major grading activities; construction temporarily or permanently ceased; stabilization measures initiated (count each omission under 14 as 1 violation) | N/A | CGP 3.4.C.1-3 | <input type="checkbox"/> | \$250.00 |
| 15 SWPPP does not have description of structural practices to divert flows from exposed soils, retain flows, or limit runoff from exposed areas | NEGP D(3) | CGP 3.4.D | <input type="checkbox"/> 1 | \$500.00 |
| 16 SWPPP does not have a description of measures that will be installed during the construction process to control pollutants in storm water discharges that will occur AFTER construction operations have been completed | NEGP D(3) | CGP 3.4.E | <input type="checkbox"/> 1 | \$500.00 |
| 17 SWPPP does not describe measures to prevent discharge of solid materials to waters of the US, except as authorized by 404 permit | NEGP D(3) | CGP 3.4.F | <input type="checkbox"/> 1 | \$500.00 |
| 18 SWPPP does not describe measures to minimize off-site vehicle tracking and generation of dust | NEGP D(2)(f) | CGP 3.4.G | <input type="checkbox"/> 1 | \$500.00 |
| 19 SWPPP does not include description of construction or waste materials expected to be stored on site w/updates re: controls used to reduce pollutants from these materials | NEGP D(2)(e) | CGP 3.4.H | <input type="checkbox"/> 1 | \$250.00 |
| 20 SWPPP does not have description of pollutant sources from areas other than construction (asphalt or concrete plants) w/ updates re: controls to reduce pollutants from these materials | NEGP D(2)(d) | CGP 3.4.I | <input type="checkbox"/> | \$500.00 |
| 21 SWPPP does not identify allowable sources of non-storm water discharges listed in subpart 1.3 B of the CGP | N/A | CGP 3.5 | <input type="checkbox"/> | \$500.00 |
| 22 SWPPP does not identify/ensure implementation of pollution prevention measures for non-storm water discharges | NEGP D(2)(d) | CGP 3.5 | <input type="checkbox"/> 1 | \$500.00 |
| 23 Endangered Species Act documentation is not in SWPPP | N/A | CGP 3.7 | <input type="checkbox"/> | \$500.00 |
| 24 Historic Properties (Reserved) | N/A | CGP 1.3.C.7 | <input type="checkbox"/> | \$500.00 |
| 25 Copy of permit and/or NOI not in SWPPP (count each omission under 25 as 1 violation) | N/A | CGP 3.8 | <input type="checkbox"/> | \$250.00 |
| 26 SWPPP is not consistent with requirements specified in applicable sediment and erosion site plans or site permits, or storm water management plans or site permits approved by State, Tribal or local officials (e.g., MS4 requirements) | NEGP D(4) | CGP 3.9 | <input type="checkbox"/> | \$750.00 |
| 27 SWPPP has not been updated to remain consistent with changes applicable to protecting surface waters in State, Tribal or local erosion plans | NEGP D(1)(e) | CGP 3.9 | <input type="checkbox"/> | \$250.00 |
| 28 Copies of inspection reports have not been retained as part of the SWPPP for 3 years from date permit coverage terminates | NEGP D(6) | CGP 3.10.G | <input type="checkbox"/> | \$500.00 |
| 29 SWPPP has not been updated/modified to reflect change at site effecting discharge, or where inspections identify SWPPP/BMPs as ineffective, updates to SWPPP regarding modifications to BMPs not made within 7 days of such inspection (count each omission under 29 as 1 violation) | NEGP D(1)(e) | CGP 3.11.C | <input type="checkbox"/> 1 | \$50.00 |
| 30 Copy of SWPPP not retained on site | NEGP D(1)(c) | CGP 3.12.A | <input type="checkbox"/> | \$500.00 |
| A SWPPP not made available upon request | NEGP D(1)(d) | CGP 3.12.C | <input type="checkbox"/> | \$500.00 |
| 31 SWPPP not signed/certified | N/A | CGP 3.12.D | <input type="checkbox"/> | \$500.00 |
| 32 Inspections not performed either once every 7 days, or once every 14 days and within 24 hours after storm event greater than 0.5 inches or greater (not required if: temp stabilization; runoff unlikely due to winter conditions; construction during arid periods in arid areas) | NEGP D(5) | CGP 3.10.A,B | <input type="checkbox"/> | \$75.00 |
| 33 Inspections not conducted by qualified personnel | N/A | CGP 3.10.D | <input type="checkbox"/> | \$500.00 |
| 34 All areas disturbed by construction activity or used for storage of materials and which exposed to precipitation not inspected | NEGP D(5) | CGP 3.10.E. | <input type="checkbox"/> | \$50.00 |
| 35 All pollution control measures not inspected to ensure proper operation | NEGP D(5) | CGP 3.10.E. | <input type="checkbox"/> | \$500.00 |
| 36 Discharge locations are not observed and inspected | NEGP D(5) | CGP 3.10.E. | <input type="checkbox"/> 1 | \$50.00 |
| 37 For discharge locations that are not accessible, nearby locations are not inspected | NEGP D(5) | CGP 3.10.E. | <input type="checkbox"/> | \$50.00 |
| 38 Entrance/exit not inspected for off-site tracking | NEGP D(5) | CGP 3.10.E. | <input type="checkbox"/> | \$500.00 |
| 39 Site inspection report does not include: date, name and qualifications of inspector, weather information, location of sediment/pollutant | NEGP D(5) | CGP 3.10.G | <input type="checkbox"/> 1 | \$50.00 |

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 39 as 1 violation)

| | | | | | |
|----|---|--------------|--------------|--------------------------------|------------|
| 40 | Inspection reports not properly signed/certified (count each failure to sign/certify as 1 violation) | N/A | CGP 3.10.G | <input type="text"/> | \$50.00 |
| 41 | Sign/notice not posted | N/A | CGP 3.12.B | <input type="text"/> | \$250.00 |
| | A Does not contain copy of complete NOI | N/A | CGP 3.12.B | <input type="text"/> | \$50.00 |
| | B Location of SWPPP or contact person for scheduling viewing times where on-site location for SWPPP unavailable not noted on sign | N/A | CGP 3.12.B | <input type="text"/> | \$50.00 |
| 42 | No velocity dissipation devices located at discharge locations or outfall channels to ensure non-erosive flow to receiving water | NEGP D(3) | CGP 3.13.F | <input type="text"/> | \$500.00 |
| 43 | Control measures are not properly: | | | | |
| | A Selected | NEGP D(3) | CGP 3.13.A | <input type="text" value="2"/> | \$500.00 |
| | B Installed | NEGP D(3) | CGP 3.13.A | <input type="text" value="3"/> | \$500.00 |
| | C Maintained | NEGP D(5) | CGP 3.13.A | <input type="text" value="1"/> | \$500.00 |
| | 1. Maintenance not performed prior to next anticipated storm event (count each failure of operator to properly select, install, or maintain each BMP as 1 violation) | NEGP D(5) | CGP 3.6.B | <input type="text"/> | \$250.00 |
| 44 | When sediment escapes the site, it is not removed at a frequency necessary to minimize off-site impacts | N/A | CGP 3.13.B | <input type="text"/> | \$500.00 |
| 45 | Litter, construction debris, and construction chemicals exposed to storm water are not prevented from becoming a pollutant source (e.g. screening outfalls, pickup daily, etc.) | NEGP D(2)(e) | CGP 3.13.C | <input type="text"/> | \$500.00 |
| 46 | Stabilization measures are not initiated as soon as practicable on portions of the site where construction activities have temporarily or permanently ceased within 14 days after such cessation | NEGP D(3)(c) | CGP 3.13.D | <input type="text"/> | \$500.00 |
| | *Exceptions: | | | | |
| | (a) Snow or frozen ground conditions | N/A | CGP 3.13.D.1 | | |
| | (b) Activities will be resumed within 14 days | N/A | CGP 3.13.D.2 | | |
| | (c) Arid or Semi-arid areas (<20 inches per year) | N/A | CGP 3.13.D.3 | | |
| 47 | Common Drainage of 10+ acres does not have a sedimentation basin for the 2 year, 24 hour storm, or 3600 cubic ft. storage per acre drained | NEGP D(3)(e) | CGP 3.13.E.1 | <input type="text"/> | \$1,000.00 |
| | A Where sedimentation basin not attainable, smaller sediment basins, sediment traps, or erosion controls not implemented for downslope boundaries | NEGP D(3)(e) | CGP 3.13.E.2 | <input type="text"/> | \$1,000.00 |
| | B Sediment not removed from sediment basin or traps when design capacity reduced by 50% or more | NEGP D(5) | CGP 3.6.C | <input type="text"/> | \$500.00 |
| 48 | Common Drainage less than 10 acres does not have sediment traps, silt fences, vegetative buffer strips, or equivalent sediment controls for all down slope boundaries (not required if sedimentation sediment basin meeting criteria in 47 above) | NEGP D(3)(a) | CGP 3.13.E.3 | <input type="text"/> | \$500.00 |
| | A Sediment not removed from sediment trap when design capacity reduced by 50% or more | NEGP D(5) | CGP 3.6.C | <input type="text"/> | \$500.00 |

Total Expedited Settlement: **\$7,650**

*Nebraska General Permit NER100000, issued by NDEQ on July 9, 1997, extended on August 1, 2002; Code of Nebraska Rules

** NPDES General Permit, 68 FR 39087, issued by EPA on July 1, 2003, <http://cfpub.epa.gov/npdes/stormwater/cgp.cfm>

IN THE MATTER OF Celebrity Homes, Inc., Respondent
Docket No. CWA-07-2004-0284

CERTIFICATE OF SERVICE

I certify that the foregoing Expedited Storm Water Settlement Agreement was sent this day in the following manner to the addressees:


Copy hand delivered to
Attorney for Complainant:

Kristina Kemp
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Celebrity Homes, Inc.
14002 L Street
Omaha, Nebraska 68137

Dated: 1/26/05


Kathy Robinson
Regional Hearing Clerk