

# STATE OF COLORADO

Bill Ritter, Jr., Governor  
James B. Martin, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S.      Laboratory Services Division  
Denver, Colorado 80246-1530      8100 Lowry Blvd.  
Phone (303) 692-2000      Denver, Colorado 80230-6928  
TDD Line (303) 691-7700      (303) 692-3090  
Located in Glendale, Colorado  
<http://www.cdphe.state.co.us>



Colorado Department  
of Public Health  
and Environment

March 5, 2009

Ben Miller, Regulatory Manager  
Aspen Operating, LLC  
2040 W. Hamilton Place  
Sheridan, CO 80110

Certified Mail Number: 7007 0220 0001 0160 6068

**RE: Expedited Settlement Agreement, Number: ES-090305-1  
CDPS Permit No: COR – 03B947**

Dear Mr. Miller:

Enclosed for your records you will find Aspen Operating, LLC's copy of the recently executed Expedited Settlement Agreement ("ESA"). Please be advised that the first page of the ESA was changed in order to place the correct ESA Number on the final document. The ESA is now fully enforceable and constitutes a final agency action.

As specified in the enclosed ESA, Aspen Operating, LLC must, within fifteen (15) calendar days, submit a certified or cashier's check for the amount specified in the ESA to the Water Quality Control Division in order for this matter to be resolved.

If you have any questions, please don't hesitate to contact Danelle Morgan at (303) 692-3176 or by electronic mail at [danelle.morgan@state.co.us](mailto:danelle.morgan@state.co.us).

Sincerely,

Kristi-Ray Beaudin, Legal Assistant  
Water Quality Protection Section  
WATER QUALITY CONTROL DIVISION

cc: Mesa County Health Department

ec: Aaron Urdiales, EPA Region VIII  
Gary Beers, Permits Unit, CDPHE

Enclosure(s)



Colorado Department of Public Health & Environment  
Water Quality Control Division

## EXPEDITED SETTLEMENT AGREEMENT

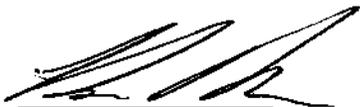
Number: ES-090305-1

The Colorado Department of Public Health and Environment ("Department"), through the Water Quality Control Division ("Division"), issues this Expedited Settlement Agreement ("ESA"), pursuant to the Division's authority under §§25-8-602, 25-8-605 and 25-8-608, C.R.S. of the Colorado Water Quality Control Act (the "Act") §§25-8-101 to 703, C.R.S., and its implementing regulations, with the express consent of Aspen Operating, LLC ("Aspen Operating"). The Division and Aspen Operating may be referred to collectively as "the Parties."

1. Aspen Operating is a "person" as defined under the Water Quality Control Act, §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).
2. Aspen Operating is conducting construction activities for oil and gas production and/or exploration located in Mesa County, Colorado (the "Project").
3. Aspen Operating failed to comply with the provisions of its Colorado Discharge Permit System General Permit for Stormwater Discharges Associated with Construction Activity (the "Permit"), Certification Number COR-03B947 as described in the attached inspection report.
4. The parties enter into this ESA in order to resolve the matter of civil penalties associated with the violation(s) alleged herein and in the attached inspection report for a penalty of \$22,500.00.
5. By accepting this ESA, Aspen Operating neither admits nor denies the violations or deficiencies specified herein and in the attached inspection report.
6. Aspen Operating certifies that all deficiencies identified in the attached inspection report have been corrected and that the Project is currently in full compliance with the terms and provisions of the Permit. Additionally, Aspen Operating has attached to this ESA: (1) a written description detailing how the deficiencies were corrected; and (2) representative photographs documenting the current conditions and the associated BMPs implemented at the Project.
7. Aspen Operating agrees to the terms and conditions of this ESA. Aspen Operating agrees that this ESA constitutes a notice of alleged violation and an order issued pursuant to §§25-8-602, 25-8-605 and 25-8-608, C.R.S., and is an enforceable requirement of the Act. By signing the ESA, Aspen Operating waives: (1) the right to contest the finding(s) specified herein and in the attached inspection report; and (2) the opportunity for a public hearing pursuant to §25-8-603, C.R.S.
8. This ESA is subject to the Division's "Public Notification of Administrative Enforcement Actions Policy," which includes a thirty-day public comment period. The Division and Aspen Operating each reserve the right to withdraw consent to this ESA if comments received during the thirty-day period result in any proposed modification to the ESA.

9. This ESA constitutes a final agency order or action upon the date when the Executive Director or his designee signs the ESA and effectively imposes the civil penalty.
10. Aspen Operating agrees that within fifteen (15) calendar days of receiving the signed and final ESA from the Division, Aspen Operating shall submit a certified or cashier's check drawn to the order of the "Colorado Department of Public Health and Environment," for the amount specified in paragraph 4 above, to:
- Danelle Morgan  
Colorado Department of Public Health and Environment  
Water Quality Control Division  
Mail Code: WQCD-CADM-B2  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530
11. Notwithstanding paragraph 5 above, the violations described in this ESA will constitute part of Aspen Operating's compliance history for purposes where such history is relevant. This includes considering the violations described above in assessing a penalty for any subsequent violations against Aspen Operating. Aspen Operating agrees not to challenge the use of the cited violations for any such purpose.
12. This ESA, when final, is binding upon Aspen Operating and its corporate subsidiaries or parents, their officers, directors, employees, successors in interest, and assigns. The undersigned warrant that they are authorized to legally bind their respective principals to this ESA.

**ACCEPTED BY ASPEN OPERATING, LLC:**



Signature

12/15/08

Date

Ben Miller

Name (printed)

Regulatory Manager

Title

**FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH & ENVIRONMENT:**



Lori M. Gerzina, Section Manager  
Compliance Assurance and Data Management Section  
WATER QUALITY CONTROL DIVISION

Date:

02/27/2009



Danelle Morgan  
CDPHE  
Water Quality Control Division  
Mail Code: WQCD-CADM-B2  
4300 Cherry Creek Drive South  
Denver, CO 80246-1530

December 15, 2008

**RECEIVED**

DEC 18 2008

RE: Aspen Operating, LLC Expedited Settlement

WATER QUALITY CONTROL DIVISION

To Whom It May Concern:

Aspen Operating, LLC accepts the Expedited Settlement as presented by CDPHE. I have included the Settlement Agreement form as well as our consultant, HRL Compliance Solutions, responses to our deficiencies. We would also like to request to change the name on the permit to Aspen Operating, LLC. This would correct the inaccurate name currently on file.

Thank You,

Ben Miller  
Regulatory Manager

744 Horizon Ct. Suite 140  
Grand Junction Co 81506  
Phone: 970-243-3271  
Fax: 970-243-3280

December 12, 2008

Mr. Ben Miller  
Aspen Operating LLC  
2040 West Hamilton Place  
Sheridan, CO 80110

Transmittal letter

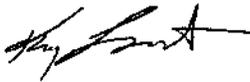
Dear Mr. Miller:

Enclosed you will find the amendments to the Storm Water Management Plan and photo documentation of the current Best Management Practices (BMP). Appendix A contains photos of the current BMPs that are being implemented for the Reeder Mesa compressor station and access road.

If you have any questions or comments, please don't hesitate to contact me at the above number.

*Sincerely;*

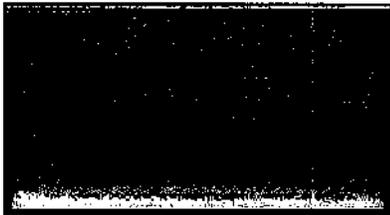
**HRL Compliance Solutions, Inc.**



Kay Lambert  
Storm Water Program Manager

cc: File

Attachments: SWMP amendments  
Appendix A, photo documentation



744 Horizon Ct., Suite 140  
Grand Junction, CO 81506  
Phone: 970-243-3271  
Fax: 970-243-3280

December 12, 2008

Mr. Ben Miller  
Aspen Operating LLC  
2040 West Hamilton Place  
Sheridan, CO 80110

**RE: White Water Development Unit  
Storm Water Management Plan Amendments**

Dear Mr. Miller,

Below please find the amendments to the storm water management plan for the white water development unit required following the audit performed by CDPHE on October 24, 2007.

## **Inspection findings for the storm water management plan**

### **Records Review**

**1.a.** Site Description did not provide an estimate of the total disturbed area of the site, and the area of the site that is expected to undergo clearing, excavation or grading, as required by Part I.C.1.c of the permit. Location of planned sediment basin and other areas to be excavated were not described in the SWMP.

**Amendment:** Total disturbed acreage of the site can be found in the Storm Water Management Plan (SWMP) Appendix B. Location of planned sediment basin can be found on site map as well as 4.1.9 (pg 10) in the SWMP, and Appendix D for installation details.

**1.b.** Site Description did not provide an adequate description of the existing vegetation at the site and an estimate of the percent vegetative ground cover as required by Part I.C.1.e of the permit.

**Amendment:** Existing vegetation and percent cover can be found in the SWMP in section 2.3 Runoff Characteristics and Coefficient (pg 5).

**1.c.** Site Description did not provide the name of the receiving water(s) and the ultimate receiving water(s) as required by Part I.C.1.h of the permit.

**Amendment:** Receiving water(s) can be found in the SWMP, section 1.2 Project Description and Background (pg 2).

**1.d.** Site Map did not clearly identify the construction site boundaries as required by Part I.C.2.a of the permit. Site map did not identify the construction site boundaries in a legend or callout.

**Amendment:** Site map has been corrected by hand, and shows construction boundaries and is also identified in callout (Appendix G in the SWMP).

**1.e.** Site Map did not clearly identify all areas of ground surface disturbance as required by Part I.C.2.b of the permit. Specifically, map did not depict the access road or compressor station areas of soil disturbance in a legend or callout.

**Amendment:** Site map has been updated by hand. All areas of ground disturbance have been identified and labeled on map (Appendix G in the SWMP).

**1.f.** Site Map did not clearly identify areas of cut and fill as required by Part I.C.2.c of the permit.

**Amendment:** Cut and fill areas have been identified by hand on map (Appendix G in the SWMP).

**1.g.** Site Map did not identify all areas used for storage of building materials, equipment, soils or wastes as required by Part I.C.2.d of the permit.

**Amendment:** Storage of materials, equipment and soils has been identified on site map (Appendix G in the SWMP).

**1.h.** Site Map did not adequately identify the location of all structural BMPs as required by Part I.C.2.f of the permit. Specifically straw wattles implemented along the perimeter of the site, nor did it include the location of straw bale BMPs implemented at the southern portion of the site along the access road. Site Map did not clearly identify the proposed location of a sediment detention basin adjacent to the access road.

**Amendment:** Structural BMPs have been identified on site map by hand. BMPs along the access road have been identified and labeled. Proposed sediment basin has been installed and identified on map (Appendix G in the SWMP). (Photo 10, 11 in Appendix A of this document).

**1.i.** Site Map did not adequately identify the location of all non-structural BMPs as required by Part I.C.2.g of the permit. Specifically, the site map did not clearly identify areas of surface roughening along the North Fork and Indian Creek natural drainages that intersect the access road.

**Amendment:** Non-structural BMPs such as surface roughening has been identified and labeled on the site map (Appendix G in the SWMP).

**1.j.** Site Map did not adequately identify the location of nearby springs, streams, wetlands, or other surface waters as required by Part I.C.2.h of the permit.

**Amendment:** Nearby springs, streams and wetlands have been hand labeled on map.

**1.k.** The section in the SWMP on Storm Water Management Controls did not identify a SWMP administrator, a specific individual(s), position or title who is responsible for developing, implementing, maintaining, and revising the SWMP, as required by Part I.C.3a of the permit.

**Amendment:** The SWMP administrator is listed on page 3 of the SWMP. Signature and title of the SWMP administrator is page 21 of the SWMP.

**1.l.** The section in the SWMP on Storm water Management Controls did not clearly describe the relationship between phases of construction and the implementation and maintenance of structural and non-structural controls and measures as required by Part I.C.3.c.3 of the permit.

**Amendment:** Phased BMP implementation and installation is referenced in Appendix B, Site Specific Details and Storm Water Controls in the SWMP.

**1.m.** The section in the SWMP on Storm Water Management Controls did not clearly describe the relationship between phases of construction and the implementation and maintenance of structural and non-structural controls and measures as required by Part I.C.3.c.3 of the permit.

**Amendment:** Phased BMP installation and maintenance is referenced in Appendix B, Site Specific Details and Storm Water Controls in the SWMP.

**1.n.** The section in the SWMP on Storm Water Management Controls did not include Vehicle Tracking Control (VTC). The SWMP shall clearly describe and locate all practices implemented at the site to control potential sediment discharges from vehicle tracking (i.e., minimizing site access, street sweeping, tracking pads, graveled parking, paved area restrictions for vehicles, wash racks,

education, etc.) as required by Part I.C.3.c.6 of the permit. Specifically, the SWMP did not describe the VTC located at the intersection of Kannah Creek Road with the site access road.

**Amendment:** A Vehicle Tracking Pad has been installed at the entrance to the access road, which is identified on the Site Map (Appendix G in the SWMP), and 9.0 Vehicle Tracking Control (pg 23) in the SWMP. (Photo 9, Appendix A of this document)

**1.o.** The section in the SWMP on Final Stabilization and Long-term Storm Water Management did not include a description of the specific practices used to achieve final stabilization of all disturbed areas at the site (i.e. seeding mix and application methods, crimped straw, hydromulch, rolled erosion control products, etc.) and planned practices to control pollutants in storm water discharges that will occur after construction operations have been completed, as required by Part I.C.4 of the permit.

**Amendment:** Description of final stabilization can be found in Appendix B, Site Specific Details and Storm Water Controls. Seed mix, can be found in Appendix E in the SWMP.

## **Facility Inspection**

1. It was observed during the inspection that BMPs were not implemented to prevent the discharge of concrete waste from contributing pollutants to storm water runoff at two locations on top of the mesa, near the compressor pad. The SWMP did not identify concrete washout activities as a pollutant source or prescribe appropriate BMPs as required in Part I.C.3.c.7 and Part I.D.3.c of the permit.

**Amendment:** Waste associated with cement washout areas is listed under 3.0 Potential Pollution Sources (pg 6). BMP installation for concrete washout areas can be found in Appendix D, BMP Description and Installation Details, in the SWMP. (Photo 1, in Appendix A of this document).

2. Adequate BMPs were not implemented to prevent the discharge of sediment from disturbed slope areas, adjacent to the access road at the southern portion of the site. BMPs were not implemented to prevent flow channelization, down slope along the access road and onto adjacent disturbed slopes.

**Amendment:** Two sediment basins have been installed on the southern portion of the site, and will be effective at capturing sediment migrating from disturbed areas of access road. Silt fence, wattles and straw bales have been implemented along the southeast side of access road entrance. See Site Map for locations of BMPs. (Photo 2-5, in Appendix A of this document)

3. BMPs were not implemented to prevent the discharge of sediment from disturbed areas along the access road toward its northern terminus. The surfaces of the slopes were not stabilized, BMPs were not implemented and rill formation was observed on the eastern side of the access road.

**Amendment:** A sediment basin, straw bale barriers, and straw wattles have been installed on the east side of the access road in the areas of concern, please see site map for locations (Appendix G in the SWMP). (Photo 6, 7 in Appendix A of this document)

4. It was observed during the inspection that BMPs were not implemented to prevent the discharge of sediment from disturbed areas along the access road toward its northern terminus.

**Amendment:** A sediment basin has been installed to capture sediment migrating down road bar ditch on the east side of access road. Straw bale barriers and wattles have been installed below sediment basin on the northeast of the access road.

Please see Appendix A for photos of current BMPs for the Reeder Mesa compressor station and access road. Should you or your staff have any questions, concerns or comments, please do not hesitate to call us at your convenience.

Respectfully,



Kay Lambert  
Environmental Scientist  
HRL Compliance Solutions Inc.

cc: Herman Lucero, HRL Compliance Solutions Inc.  
*File*

## **Appendix A**

### **Photos of Current BMPs**

**Facility inspection conducted on October 24, 2007**

2. It was observed that there was no concrete washout area designated for construction activities.

**BMPs Implemented:** A concrete washout area has been implemented with a sign indicating location.



Photo 1

Use of concrete washout is not anticipated for final stages of construction on the compressor station. Berm around washout has been re-established, and wattles have been installed around berm. Should washout be put to use, pit will be lined with 60 mil polyethylene prior to use.

3. It was observed during the inspection that adequate BMPs were not implemented to prevent the discharge of sediment from disturbed slope areas, adjacent to the access road at the southern portion of the site.

**BMPs Implemented:** Straw bales, wattles and silt fence have been installed on the southern portion of the access road to eliminate sediment transport into the nearby culvert which leads under Kannah creek road. A sediment basin has been installed on the southeast side of road, the bar ditch for the access road turns into basin.



Photo 2 Southeast side of access road entrance



Photo 3 Southeast side of access road entrance



Photo 4 Southwest side of access road entrance



Photo 5 Southwest side of access road entrance

A sediment basin has been installed on the southwest side of the access road to capture any sediment migrating from road site.

4 It was observed during the inspection that BMPs were not implemented to prevent the discharge of sediment from disturbed areas along the access road toward its northern terminus. **BMPs Implemented:** A sediment basin has been installed to capture sediment migrating down road bar ditch on the east side of access road. Straw bale barriers and wattles have been installed below sediment basin on the northeast of the access road.

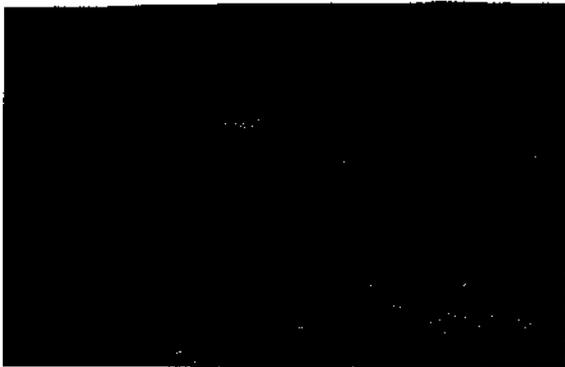


Photo 6 Sediment basin northeast of entrance



Photo 7 Wattles and check dam south of sediment basin

A vehicle tracking pad has been implemented at the entrance of the access road to eliminate sediment transport off site.



Photo 9 Vehicle Tracking Pad at the entrance to the access road off of Kannah Creek Rd.

Sediment basin on the southern side of access road, located at the base of the first drainage.



Photo 10 Sediment basin and straw bale check dam, south side of access road.

Sediment basin located at the bottom of the spoil fill from the access road.

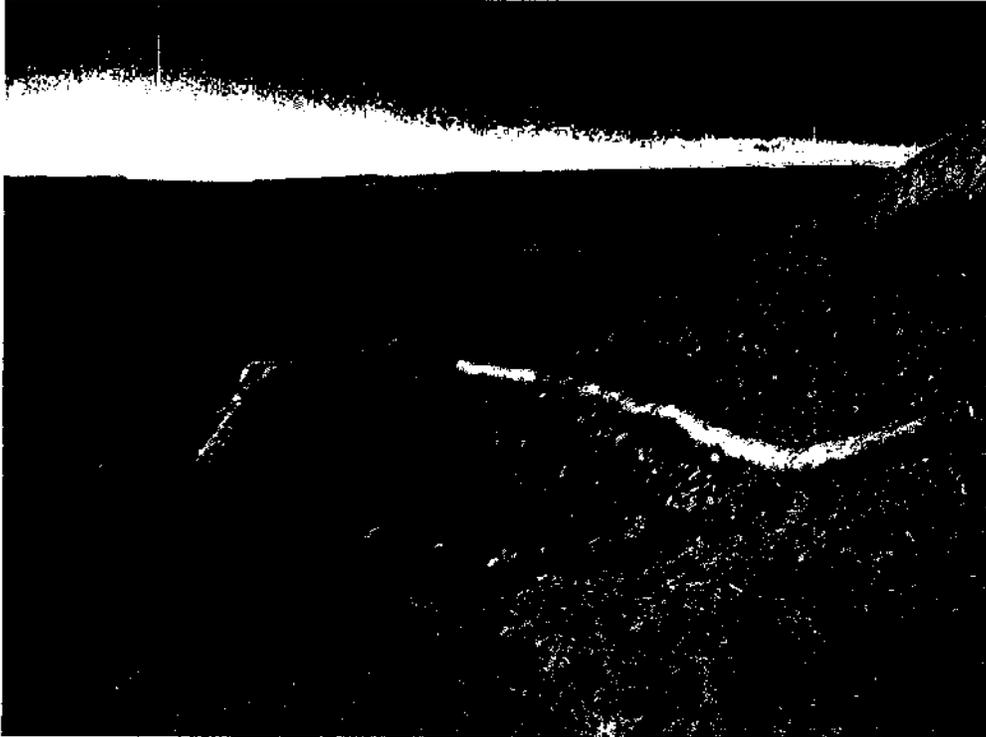


Photo 11 Sediment basin located on the south side of the access road fill, base of the 2<sup>nd</sup> drainage west of access road.