

# 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

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Denver, Colorado 80246-1530      8100 Lowry Blvd.  
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Colorado Department  
of Public Health  
and Environment

July 8, 2009

William Mathews, General Counsel  
Badger Midstream Services, LLC  
1200 17<sup>th</sup> Street, Suite 2100  
Denver, CO 80202

Certified Mail Number: 7007 0220 0001 0160 6181

**RE: Expedited Settlement Agreement, Number: ES-090702-2**

Dear Mr. Mathews:

Enclosed for your records you will find Badger Midstream Services, 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.

The Water Quality Control Division acknowledges receipt of Badger Midstream Services, LLC's payment of the settlement amount and will move forward with payment processing.

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

Sincerely,

Danelle Morgan, EPS  
Clean Water Compliance Assurance Unit  
Compliance Assurance Section  
WATER QUALITY CONTROL DIVISION

cc: Garfield County Public Health

ec: Aaron Urdiales, EPA Region VIII  
Gary Beers, Permits Unit, CDPHE  
Dick Parachini, Watershed Program, CDPHE  
Carolyn Schachterle, OPA

*Enclosure(s)*



Colorado Department of Public Health & Environment  
Water Quality Control Division

## EXPEDITED SETTLEMENT AGREEMENT

Number: ES-090702-2

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 Badger Midstream Services, LLC ("BMS"). The Division and BMS may be referred to collectively as "the Parties."

1. BMS 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. BMS is conducting construction activities for an oil and gas production and/or exploration project, located in or near the Town of Mack, Garfield County, Colorado (the "Project").
3. BMS 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-037688 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 \$21,750.00.
5. By accepting this ESA, BMS neither admits nor denies the violations or deficiencies specified herein and in the attached inspection report.
6. BMS 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, BMS 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. BMS agrees to the terms and conditions of this ESA. BMS 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, BMS 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 BMS 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.

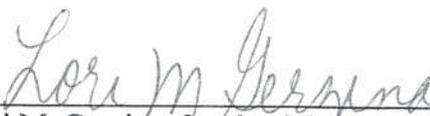
9. This ESA constitutes a final agency order or action upon the date when the Executive Director or his designee signs the ESA and effectively imposes the civil penalty.
10. BMS agrees that within fifteen (15) calendar days of receiving the signed and final ESA from the Division, BMS shall submit a certified 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 BMS'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 BMS. BMS agrees not to challenge the use of the cited violations for any such purpose.
12. This ESA, when final, is binding upon BMS 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 BADGER MIDSTREAM SERVICES, LLC:**

  
\_\_\_\_\_  
Signature APR 22, 2009  
Date

William Matthews General Counsel  
\_\_\_\_\_  
Name (printed) Title

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

  
\_\_\_\_\_  
Lori M. Gerzina, Section Manager Date: July 2, 2008  
Compliance Assurance Section  
WATER QUALITY CONTROL DIVISION