

STATE OF COLORADO

John W. Hickenlooper, Governor
Christopher E. Urbina, MD, MPH
Executive Director and Chief Medical Officer

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
Located in Glendale, Colorado (303) 692-3090
<http://www.cdphe.state.co.us>



Colorado Department
of Public Health
and Environment

February 28, 2012

Certified Mail Number: 7007 0220 0001 0162 1948

Mr. Richard J. Olguin, President & Registered Agent
Rock Creek, Inc.
P.O. Box 6
Ignacio, CO 81137

RE: Expedited Settlement Agreement, Number: ES-120227-2
CDPS Permit No: COR-030000
CDPS Certification No: COR-03D270

Dear Mr. Olguin:

Enclosed for your records you will find Rock Creek'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, Rock Creek 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 Russ Zigler at (303) 692-3546 or by electronic mail at russell.zigler@state.co.us.

Sincerely,

Joe Campbell
Water Pollution Control Compliance and Enforcement
WATER QUALITY CONTROL DIVISION

cc: San Juan Basin Health Department
Enforcement File

ec: Natasha Davis, EPA Region VIII
 Tom Schaffer, Engineering Section, CDPHE
 Dick Parachini, Watershed Program, CDPHE
 Michael Beck, Financial Solutions Unit, CDPHE

Enclosure(s)



Colorado Department of Public Health & Environment
Water Quality Control Division

EXPEDITED SETTLEMENT AGREEMENT

Number: ES-120227-2

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 Rock Creek, Inc. (“Rock Creek”). The Division and Rock Creek may be referred to collectively as “the Parties.”

1. Rock Creek 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. Rock Creek is conducting construction activities to build a commercial development, located at 1001 Goddard Avenue, Town of Ignacio, La Plata County, Colorado (the “Project”).
3. Rock Creek 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-03D270, as described in the attached inspection report. Additionally, Rock Creek failed to submit a written response explaining how the findings in the attached inspection report were corrected, as requested in the attached compliance advisory.
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 \$4,875.00.
5. By accepting this ESA, Rock Creek neither admits nor denies the violations or deficiencies specified herein and in the attached inspection report.
6. Rock Creek 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, Rock Creek 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 Best Management Practices implemented at the Project.
7. Rock Creek agrees to the terms and conditions of this ESA. Rock Creek 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, Rock Creek 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 Rock Creek 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. Rock Creek agrees that within fifteen (15) calendar days of receiving the signed and final ESA from the Division, Rock Creek 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:

Russell Zigler
 Colorado Department of Public Health and Environment
 Water Quality Control Division
 Mail Code: WQCD-CAS-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 Rock Creek'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 Rock Creek. Rock Creek agrees not to challenge the use of the cited violations for any such purpose.
12. This ESA, when final, is binding upon Rock Creek 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 ROCK CREEK, INC.:

Rock Creek INC.
Richard Olguin _____ *1-9-12*
 Signature Date

Richard Olguin _____ *President*
 Name (printed) Title

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH & ENVIRONMENT:

Lori M. Gerzina _____ Date: *02/27/12*
 Lori M. Gerzina, Section Manager
 Compliance Assurance Section
 WATER QUALITY CONTROL DIVISION

STATE OF COLORADO

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July 19, 2011

Richard Olguin, President
Rock Creek Inc.
P.O. Box 318
Ignacio, CO 81137

CERTIFIED NO: 7007 0220 0001 0148 3621

Re: Facility Inspection/**Compliance Advisory**
Rock Creek Complex
CDPS Permit No. COR03D270
La Plata County

Dear Mr. Olguin,

An inspection of the above-referenced facility was conducted by the Water Quality Control Division (Division) on June 20, 2011. The inspection procedure consists of two parts: a review of records, and an on-site facility inspection. Findings associated with the inspection are detailed in the enclosed inspection report.

The Division expects Rock Creek Inc. to correct the findings noted in the enclosed inspection report and submit an explanation on how each finding was corrected. Pursuant to Part II.B.2 of the Colorado Discharge Permit System General Permit for Stormwater Discharges Associated with Construction Activity (Permit), Rock Creek Inc. must submit the requested materials to the Colorado Department of Public Health and Environment, WQCD-P-B2, 4300 Cherry Creek Drive South, Denver, CO 80246-1530, Attn: Matt Czahor, by **August 14, 2011**.

Note: All applications, reports, and other information requested by the Division must be signed in accordance with the provisions of sections 61.4(1)(e) and (f) of Regulation No. 61, and must contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

This Compliance Advisory is intended to advise you of possible violations of the Colorado Water Quality Control Act, its implementing regulations and permits, so that you may take appropriate steps to avoid or mitigate formal enforcement action. This Compliance Advisory does not constitute a Notice of Violation or Cease and Desist Order and is not subject to appeal. However, the issuance of this Compliance Advisory does not limit or preclude the Division from pursuing its enforcement options. The Division is currently evaluating the facts and if a formal enforcement action is deemed necessary, you may be issued a Notice of Violation / Cease and Desist Order that may include the assessment of penalties.

Rock Creek Inc.
Page 2

If you have any questions, please call me at (303) 692-3575. Thank you for your time and cooperation.

Sincerely,

Matt Czahor
Environmental Protection Specialist
Stormwater and Statewide Permits Unit
WATER QUALITY CONTROL DIVISION

cc: Natasha Davis, EPA region 8
Pat Senecal, Town of Ignacio
San Jaun Basin Health Department
File Copy

Stormwater Inspection Report

Permittee: Rock Creek Inc.	Cert. No.: COR03D270	Date(s): 6/20/2011
Facility: Rock Creek Complex	Industrial Type: Construction	Receiving Water: Rock Creek
Facility Address: 1001 Goddard Ave., Ignacio		
Persons present: Richard Olguin (Rock Creek Inc., President)		
Legally Responsible Person(s)/Title(s): Richard Olguin (Rock Creek Inc., President)		Inspector(s): Matt Czahor

Inspection Findings

The WQCD inspector held a closing conference at the conclusion of the inspection. During the closing conference, the inspector reviewed the inspection findings with the facility representative and instructed the representative to correct all findings. Pursuant to all provisions of the Colorado Discharge Permit System General Permit for Stormwater Discharges Associated with Construction Activity (Permit), the findings below must be corrected.

Records Review

Note: The inspection records were reviewed and found to adequate.

1. The Permit certification effective date was February 5, 2008 and the date construction activity began was on or about January, 2007, as provided by Richard Olguin.
2. A copy of the stormwater management plan (SWMP) was retained onsite. The SWMP was reviewed and found to be inadequate for the following reason(s):
 - a) The SWMP Stormwater Management Controls section did not include installation and implementation specifications for the Structural and Non-Structural Practices for Erosion and Sediment Control that were identified in the SWMP, as required by Part I.C.3.c.2 of the Permit. The SWMP must include installation and implementation specifications for all Structural and Non-Structural Practices for Erosion and Sediment Control identified in the SWMP. The SWMP must be updated to include this information.
 - b) The SWMP Stormwater Management Controls included an inadequate section for Materials Handling and Spill Prevention, as required by Part I.C.3.c.4 of the Permit. The SWMP did not include spill clean-up and response procedures. The SWMP must be updated to include this information.
 - c) The SWMP did not include a Final Stabilization and Longterm Stormwater Management section as required by Part I.C.4 of the Permit. The SWMP makes reference to plans for permanent landscaping. However, these plans were not included in the SWMP and were not available at the time of the inspection. If a separate "Landscape Plan" is developed to meet the SWMP requirement for Final Stabilization and Longterm Stormwater Management then it must be referenced and maintained with the SWMP. It also must be developed in accordance with Part I.C.4 of the Permit. The SWMP must be updated to include this information.

Facility Inspection

Finding #2 Photographs # 1 and 2	<input checked="" type="checkbox"/> No BMP(s) implemented	<input type="checkbox"/> Inadequate BMP implemented
	<input type="checkbox"/> Inadequate BMP installation	<input type="checkbox"/> Inadequate BMP maintenance
Location:	From a point just south of the stockpile extending south along the entire eastern boundary of the site and the entire south boundary of the site.	
Description:	Disturbed fill slopes were located along the site boundary described above. BMPs were not implemented to manage stormwater runoff from these disturbed fill slopes. Stormwater runoff from these slopes discharges to the south and east into the road side ditch. The road side ditch discharges to Rock Creek.	
Requirement:	BMPs must be implemented for interim and/or final stabilization of the fill slopes according to installation and implementation specifications outlined in the SWMP. Also, BMPs must be inspected and maintained in effective operating condition.	

Finding #3 Photographs # 1 and 2	<input checked="" type="checkbox"/> No BMP(s) implemented <input type="checkbox"/> Inadequate BMP installation	<input type="checkbox"/> Inadequate BMP implemented <input type="checkbox"/> Inadequate BMP maintenance
Location:	The entire disturbed land area located up-gradient from, and encompassed by, the site boundary described above in finding 2.	
Description:	BMPs were not implemented to manage stormwater runoff from the disturbed land area described above. Stormwater runoff from these area discharges to the south and east into the road side ditch. The road side ditch discharges to Rock Creek.	
Requirement:	BMPs must be implemented for this disturbed area according to installation and implementation specifications outlined in the SWMP. Also, BMPs must be inspected and maintained in effective operating condition.	

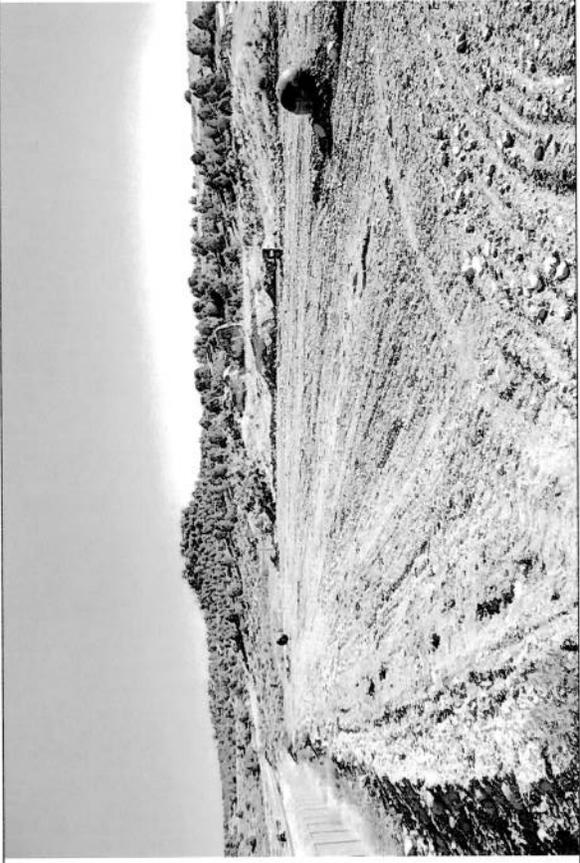
Site Photographs

Rock Creek Inc.
Rock Creek Complex
La Plata County, Colorado

Photograph date: 6/20/2011



Photograph 1



Photograph 2

Site Photographs

Rock Creek Inc.
Rock Creek Complex
La Plata County, Colorado

Photograph date: 6/20/2011