

# STATE OF COLORADO

Bill Ritter, Jr., Governor  
Martha E. Rudolph, Executive Director

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

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Colorado Department  
of Public Health  
and Environment

October 6, 2010

Mr. Morris King, Registered Agent  
BAC, Inc.  
P.O. Box 374  
Grand Lake, CO 80447

**Certified Mail Number: 7007 0220 0001 0159 6321**

**RE: Expedited Settlement Agreement, Number: ES-101006-1  
CDPS Permit No: COR-03F271**

Dear Mr. King:

Enclosed for your records you will find BAC, Inc.'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, BAC, Inc. 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 Michael Harris at (303) 692-3598 or by electronic mail at [michael.harris@state.co.us](mailto:michael.harris@state.co.us).

Sincerely,

Russell Zigler, Legal Assistant  
Compliance Assurance Section  
WATER QUALITY CONTROL DIVISION

cc: Grand County Public Health

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-101006-1

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 BAC, Inc. ("BAC"). The Division and BAC may be referred to collectively as "the Parties."

1. BAC 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. BAC is conducting construction activities to build a commercial development, located in or near the Town of Grand Lake, Grand County, Colorado (the "Project").
3. BAC 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-03F271, 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 \$2,875.00.
5. By accepting this ESA, BAC neither admits nor denies the violations or deficiencies specified herein and in the attached inspection report.
6. BAC 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, BAC has attached to this ESA: (1) a written description detailing how the deficiencies were corrected; (2) representative photographs documenting the current conditions and the associated Best Management Practices implemented at the Project; and (3) a written certification stating that a complete and effective Stormwater Management Plan has been fully developed and implemented at the Project, and all inspections are being conducted as required by the Permit.
7. BAC agrees to the terms and conditions of this ESA. BAC 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, BAC 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 BAC 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. BAC agrees that within fifteen (15) calendar days of receiving the signed and final ESA from the Division, BAC 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:

Michael Harris  
 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 BAC'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 BAC. BAC agrees not to challenge the use of the cited violations for any such purpose.
12. This ESA, when final, is binding upon BAC 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 BAC, INC.:**

	7/24/10
Signature	Date
Morris King	Project Mgr
Name (printed)	Title

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

	Date: 10/6/10
Lori M. Gerzina, Section Manager Compliance Assurance Section WATER QUALITY CONTROL DIVISION	

### Stormwater Inspection Report

Permittee: BAC	Cert. No. COR-03 F271	Date: 09/1/2009
Facility: Grand Camp	Industrial Type: Construction	Receiving Water: Shadow Mountain Lake
Facility Address: US 34 & Mary Drive, Grand Lake, Grand County, Colorado		
Persons present: Jared Richardson (PG Environmental, LLC)		
Facility Representative(s)/Title(s): Jeff Green (Development Manager, BAC) (not present)	Inspector(s): Jared Richardson (PG Environmental, LLC)	

#### Inspection Findings

The PG Inspector held a closing conference via telephone with Mr. Jeff Green (Development Manager, BAC) at the conclusion of the inspection. During the closing conference, the inspector reviewed the inspection findings with the Facility Representatives and instructed the representatives to correct all findings. Pursuant to all provisions of the Colorado Discharge Permit System General Permit for Stormwater Discharges Associated with Construction Activity (the permit), the findings listed below must be corrected.

#### Records Review

Note: The permit certification effective date was 6/30/2009. The date that construction started and land-disturbing activities began at the site was not provided to the PG inspector.

1. A copy of the Stormwater Management Plan (SWMP) was not retained onsite. The CDPS General Permit requires that a SWMP be developed and retained on site as required by Part I.D.5.b of the permit. A written explanation must be provided to the Division describing why the SWMP was not retained on site, including a description of what steps will be taken to ensure that the SWMP will be retained on site in the future.
2. Inspection records were not available for review at the time of the inspection. If inspections have been conducted, a copy of the inspection records for the past three months must be submitted to the Division. If inspections have not been conducted, a written explanation of this fact must be submitted to the Division, including a description of what steps will be taken to ensure that inspections are conducted in the future.

Note: Inspections must be conducted at least once every 14 days and within 24 hours after the end of any precipitation or snowmelt event that causes surface erosion, except during winter snow pack conditions where melting does not exist, or when all construction activities are completed. During winter snow pack conditions where melting does not exist, inspections do not need to be conducted; however, the dates when snow cover occurred, date when construction activities ceased, and date when melting conditions began must be documented for this exception. When all construction activities are completed but final stabilization has not been achieved due to a vegetative cover that has not become established, inspections must be conducted at least once a month and the SWMP must be amended to indicate those areas that will be inspected in accordance with this reduced schedule. For more detailed information on the required inspection frequency see Part I.D.5 of the permit.

#### Facility Inspection

Note: All Best Management Practices (BMPs) mentioned in the following findings must be selected, installed, implemented and maintained according to good engineering, hydrologic and pollution control practices outlined in the SWMP. These BMPs must be adequately designed to provide control for all potential pollutant sources associated with construction activity to prevent pollution or degradation of State waters.

Note: The facility inspection was conducted without an on-site facility representative. No construction equipment or activities were occurring at the time of the inspection; however, it was observed that construction related activity had previously taken

place.

3. It was observed during the inspection that BMPs were not adequately installed and maintained to prevent the discharge of sediment from a large expanse of disturbed slope located up-gradient and west of the drainage pipe located under the US 34 roadway (see attached Photograph 1) and subsequently to Shadow Mountain Lake (State waters). The silt fence BMPs implemented on the slope were not installed and maintained in accordance with good engineering, hydrologic and pollution control practices. Specifically, the silt fence BMP was not properly entrenched in the ground to retain sediment and was not tightly abutting along the surface of the slope (see attached Photographs 2 and 3). In addition, the silt fence BMP utilized adjacent to the drainage pipe inlet was down in this area and had sediment accumulation over one-half the effective height of the silt fence BMP (see attached Photographs 5 and 6). Furthermore, the upgradient disturbed slope was unstabilized and evidence of previous erosion (e.g., rill formations) (see attached Photographs 1 through 4) had contributed sediment to the down-gradient drainage pipe and drainage pipe outlet (see attached Photographs 7 and 8), and sediment and debris accumulation was observed in the conveyance channel adjacent to and downgradient of the drainage pipe outlet (see attached Photographs 8 and 9). As a result, there was a discharge of sediment from the large expanse of disturbed slope beyond the down-gradient drainage pipe to the west. Adequate BMPs must be implemented to prevent the discharge of sediment from the large expanse of disturbed slope beyond the down-gradient drainage pipe to the west and subsequently to Shadow Mountain Lake (State waters), and sediment in the drainage pipe and conveyance channel must be removed and the area remediated appropriately.
4. It was observed during the inspection that BMPs were not adequately maintained at the vehicle tracking control pad, located at site entrance off of Mary Drive roadway. Sediment was visible in the rock pad, and the rock had become thin and sparse in areas (see attached Photograph 10). As a result, there was a potential for sediment to be transported to Mary Drive roadway, a public roadway. All BMPs implemented on the site must be inspected and maintained in good and effective operating condition to prevent the transport of sediment offsite to Mary Drive roadway.
5. It was observed during the inspection that adequate BMPs were not implemented to prevent the discharge of sediment from the areas of disturbance offsite to the north. The silt fence utilized along the north of the project (see attached Photographs 11 and 12) was not installed according to good engineering, hydrologic and pollution control practices. Specifically, the silt fence was installed backwards with the stakes placed on the direction of flow side. As a result, there was a potential for discharge of sediment from the areas of disturbance offsite to the north. Adequate BMPs must be implemented to prevent discharge of sediment from the areas of disturbance offsite to the north.
6. It was observed during the inspection that adequate BMPs for waste management and disposal had not been implemented to prevent the contribution of pollutants to stormwater runoff at the site. Specifically, construction materials were observed scattered throughout the site, uncovered, and disorganized (see attached Photograph 12). Adequate BMPs for waste management and disposal must be implemented to prevent the contribution of pollutants to stormwater runoff.

**Site Photographs**

BAC  
Grand Camp  
Grand County, Colorado

Photograph date: 09/1/2009



Photograph 1 – Drainage pipe inlet under US 34 roadway and evidence of erosion (e.g., rill formations) from upgradient disturbed slope area.



Photograph 2 – Silt fence BMP not properly entrenched and evidence of erosion (e.g., rill formation) and undercutting of the BMP was observed.



Photograph 3 – Silt fence BMP not tightly abutting and evidence of undercutting and erosion (e.g., rill formations).



Photograph 4 – Evidence of erosion on the disturbed slope area upgradient of the drainage pipe inlet.

**Site Photographs**

BAC  
Grand Camp  
Grand County, Colorado

Photograph date: 09/1/2009



Photograph 5 – Silt fence BMPs not adequately maintained adjacent to drainage pipe inlet.



Photograph 6 – Unmaintained silt fence BMP with sediment and debris accumulation over 1/4 the effective height of the silt fence.



Photograph 7 – Sediment and debris accumulation in the drainage pipe outlet end under US 34 roadway.



Photograph 8 – Sediment and debris accumulation in drainage pipe outlet and conveyance channel.

**Site Photographs**

BAC  
Grand Camp  
Grand County, Colorado

Photograph date: 09/1/2009



Photograph 9 -- Vantage point of conveyance channel outlet.



Photograph 10 -- Adequate tracking control BMPs were not maintained for the access point to/from Mary Drive roadway.



Photograph 11 -- Silt fence BMP not properly installed (e.g., backwards/ stakes on wrong side) along northern perimeter of site.



Photograph 12 -- Silt fence BMP not properly installed (e.g., backwards/ stakes on wrong side) along northern perimeter of site.

**Site Photographs**

EAC  
Grand Camp  
Grand County, Colorado

Photograph date: 09/1/2009



Photograph 13 – Adequate Waste Management and Disposal practices had not been implemented for the site.