

**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY  
UTAH DIVISION OF WATER QUALITY**

<b>IN THE MATTER OF MOUNTAIN VISTA DEVELOPMENT, LLC C/O Derek Kent Ellis 668 East 12225 South, Ste. 201 Draper, UT 84020</b>	<b>SETTLEMENT AGREEMENT  Docket No. I20-09</b>
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This Administrative Settlement Agreement (hereinafter "**Settlement**") is between the Director of the Utah Division of Water Quality ("**Director**") and Mountain Vista Development, LLC ("**Respondent**") pursuant to the Director's authority to administer the Utah Water Quality Act. The **Director** and **Respondent** are sometimes referred to hereinafter as "**the Parties**."

1. The **Director** has authority to administer the Utah Water Quality Act ("the **Act**") pursuant to Utah Code Section 19-1-105(1)(e), and has authority to enforce rules through the issuance of orders, as specified in Utah Code Sections 19-5-106(2)(d) and 19-5-111. The **Director** also has authority to settle any civil action initiated to compel compliance with the **Act** and implementing regulations pursuant to Utah Code Section 19-5-106(2)(k).
2. **Respondent** is a "person" as that term is defined in Utah Code Section 19-1-103(4).
3. This **Settlement** is entered into for the purposes of avoiding further administrative enforcement based upon the following findings and violation[s]:
4. On or about July 6, 2019 **Respondent** submitted a Notice of Intent (NOI) to the **Director** for coverage under the General Permit for Storm Water Discharges from Construction Activities and was issued coverage under that Utah Pollution Discharge Elimination System (UPDES) permit, Construction General Permit (CGP) number UTR379421, covering **Respondent's** construction activities at the Moenave subdivision construction site located near Springdale in Washington County, Utah.
5. On or about March 13, 2020, an inspector for the Utah Division of Water Quality was performing a routine storm water inspection at the Moenave subdivision. The inspector noted a large amount of sediment and debris suspended in runoff from a recent rainstorm coming from several construction lots in the subdivision. The sediment-laden water flowed down into two storm drains, which then flowed into catch basins that empty into a detention pond and then flowed into a wash which connects to the North Fork of the Virgin River. There was also flow leaving multiple lots at the bottom of Trapper Circle which entered a storm drain inlet, into a rock-lined detention pond, into a pipe which exits at the Virgin River.
6. On or about March 13, 2020, the inspector was contacted by several residents who informed him there had recently been previous discharges of sediment from the construction sites in the subdivision. The inspector contacted representatives of Mountain Vista and informed them of the discharge by voice message. The inspector also called the operator contact on the NOI, but the operator claimed they were not working on this project, and had never been involved with its operation. He also contacted a representative of the Town of Springdale, who confirmed that Mountain Vista was the contractor on this construction site and that the catch basin

discharged into the North Fork of the Virgin River.

7. On or about March 18, 2020, the Town of Springdale provided copies of email correspondence showing the town had notified Mountain Vista of potential issues of storm water drainage and sediment discharges in the Moenave subdivision at least four separate times from August 22, 2016 to February 28, 2017.
8. On or about March 20, 2020 the operator provided the inspector with a copy of the site SWPPP and the corresponding self-inspection reports. Upon review the inspector found that the operator listed in the SWPPP was the same operator who claimed they never worked on the project. The self-inspection reports had not been properly retained, and only records from April 2, 2019 forward were retained, the rest were only metadata indicating that an inspection was performed. Corrective actions performed by the operator were not completed within 7 days for the following self-inspection report dates; August 29, 2019, November 21, 2019, and February 27, 2020. An inspection report for January 30, 2020 did not properly identify what deficiencies were and how corrective actions would be taken, while noting that deficiencies existed onsite.
9. In response to the discharge, the **Director** sent a copy of the UPDES inspection report and issued a Notice of Violation and Compliance Order Docket No. I20-09 (NOV/CO) to **Respondent** on April 2, 2020.
10. The **Parties** voluntarily enter into this **Settlement** to resolve the NOV/CO issued to the **Respondent** without the necessity of further administrative or judicial proceedings.
11. **Respondent** understands and agrees that a penalty in the amount of \$5,000.00 is appropriate based on the application of DWQ's penalty policy contained in Utah Administrative Code R317-1-8 as applied to the violation(s) under the circumstances specified herein. This proposed settlement and penalty is subject to a thirty (30) day notice and comment period as provided for in Utah Administrative Code R305-7-402. The **Parties** each reserve the right to withdraw from this **Settlement** if comments received during the notice period result in a modification to the terms and conditions.
12. By entering into this **Settlement**, **Respondent** neither admits nor denies the findings, violations or deficiencies specified herein.
13. Respondent agrees to the terms, conditions and requirements of this **Settlement**. By signing this **Settlement**, Respondent understands, acknowledges and agrees that it waives: (1) the opportunity for an administrative hearing pursuant to Utah Code Section 19-1-301; (2) the right to contest the finding(s) in Notice of Violation and Compliance Order, Docket No. I19-05; and (3) the opportunity for judicial review.
14. The **Parties** mutually agree that this **Settlement** is entered in good faith and is an appropriate means to resolve the matters specified herein.
15. This **Settlement** will be final after the thirty day notice and comment period, on the date the **Director** signs the **Settlement**,
16. **Respondent** agrees that within fifteen (15) calendar days of receiving the signed and final **Settlement** from the **Director**, Respondent shall submit a certified or cashier's check written to the Division of Water Quality in the amount specified in paragraph 8, above and hand deliver or send by certified mail to:

Division of Water Quality  
PO Box 144870  
Salt Lake City, Utah 84114-4870

17. Notwithstanding paragraph 12 above, the violations described herein will constitute part of **Respondent's** compliance history where such history is relevant, including any subsequent violations. **Respondent** understands and agrees that this **Settlement** is not and cannot be raised as a defense to any other action to enforce any federal, state or local law.
18. This **Settlement**, when final, is binding upon **Respondent** and any corporate subsidiaries or parents, their officers, directors, employees, successors in interest, and assigns. The undersigned warrants that it is authorized to legally bind their respective principals to this **Settlement**.

ACCEPTED BY MOUNTAIN VISTA DEVELOPMENT, LLC:

Name (print) Eric Balazs  
Title (print) President  
Signature   
Date 8/4/2020

DIVISION OF WATER QUALITY

Erica Brown Gaddis, PhD  
Director

Date \_\_\_\_\_