

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:)
)
) ADMINISTRATIVE
JERRY O'BRYAN) CONSENT AGREEMENT AND
) FINAL PENALTY ORDER
CURDSVILLE, KENTUCKY)
)
)
RESPONDENT.) Docket No.: CWA-04-2018-5501(b)
_____)

CONSENT AGREEMENT

I. Statutory Authority

1. This is a civil penalty proceeding under Section 309(g)(2)(A) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g)(2)(A), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits*, published at 64 Fed. Reg. 40,176 (July 23, 1999), codified at 40 Code of Federal Regulations (C.F.R.) Part 22 (Part 22).

2. The authority to take this action under Section 309(g)(2)(A) of the CWA, 33 U.S.C. § 1319(g)(2)(A), is vested in the Administrator of the United States Environmental Protection Agency. The Administrator has delegated this authority to the Regional Administrator Region 4, who in turn has redelegated this authority to the Director of the Water Protection Division, who in turn has delegated this authority to the Chief of the Water Enforcement Branch of the Enforcement and Compliance Assurance Division of EPA Region 4 (Complainant).

II. Statutory and Regulatory Background

3. Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), states "[w]henever, on the basis of any information available - the Administrator finds that any person has violated [section 301 of the CWA, 33 U.S.C. § 1311], . . . the Administrator . . . may, after consultation with the State in which the violation occurs, assess a class I civil penalty or a class II civil penalty under [33 U.S.C. § 1319(g)(2)]."

4. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), states "[e]xcept as in compliance with . . . [Section 404 of the CWA, 33 U.S.C. § 1314], the discharge of any [dredged or fill material] by any person shall be unlawful." Section 404 of the CWA, 33 U.S.C. § 1344, authorizes the Secretary of the Army, acting through the Chief of Engineers, U.S. Army Corps of Engineers (COE), to issue permits for the discharge of dredged or fill material into navigable waters.

5. Section 502(12) of the CWA, 33 U.S.C. § 1362(12), defines a “discharge of pollutants” as “[a]ny addition of any pollutant to navigable waters from any point source”

6. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), defines “point source” as “[a]ny discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit [or] discrete fissure . . . from which pollutants are or may be discharged.”

7. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines “navigable waters” as “[t]he waters of the United States, including the territorial seas.”

8. Federal regulations under 40 C.F.R. § 232.2 (1993) defined the term “waters of the United States” to include “wetlands adjacent to waters (other than waters that are themselves wetlands).”

9. Federal regulations under 40 C.F.R. § 232.2 (1993) and 33 C.F.R. § 328.3(b) defined or define “wetlands” as “[t]hose areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.”

III. Allegations

10. The term “Discharge Area” means the jurisdictional waters that have been impacted either through filling or dredging as a result of the unauthorized activities that are the subject of this enforcement action. More specifically, the Discharge Area is approximately 2.1 acres of wetlands adjacent to the Green River and approximately 800 linear feet of an unnamed tributary of the Green River, a traditionally navigable water of the United States, located near latitude 37.731169° N and longitude -87.382159° W, lying west of Curdsville-Delaware Road and adjacent to the Green River, near Curdsville, in Daviess County, Kentucky. The Discharge Area is indicated on the enclosed Exhibits A and B.

11. The term “Site” means the parcel or parcels of land on which the Discharge Area is located.

12. Respondent, Jerry O’Bryan at all times relevant to this Consent Agreement and Final Order, was the owner and/or operator of the Site.

13. Respondent is a person within the definition set forth under section 502(5) of the CWA, 33 U.S.C. § 1362(5).

14. Commencing on or about June 2016 to the present, Respondent, or those acting on behalf of the Respondent, discharged dredged and/or fill material into waters on the Site using earth moving machinery, during unauthorized activities associated with the conversion to agricultural land.

15. Respondent impacted approximately 2.1 acres of jurisdictional wetlands and 800 linear feet of an unnamed tributary (Discharge Area) that are connected to the Green River, a traditional navigable water of the United States.

16. The discharged dredged and/or fill material, including earthen material deposited at the Discharge Area, are “pollutants” as defined under the CWA § 502(6), 33 U.S.C. § 1362(6).

17. The earth moving machinery employed by the Respondent to deposit the dredged and/or fill material at the Discharge Area are “point sources” as defined under the CWA § 502(14), 33 U.S.C. § 1362(14).

18. Respondent’s placement of the dredged and/or fill material at the Discharge Area constitutes a “discharge of pollutants” as defined under the CWA § 502(12), 33 U.S.C. § 1362(12).

19. At no time during the discharge of dredged and/or fill material at the Discharge Area from June 2016 to the present, did the Respondent possess a permit under Section 404 of the CWA, 33 U.S.C. § 1344, authorizing the activities performed by Respondent.

20. Each discharge by the Respondent of pollutants into navigable waters without the required permit issued under Section 404 of the CWA, 33 U.S.C. § 1344, is a violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

21. Each day the material discharged by the Respondent remains in waters of the United States without the required permit under Section 404 of the CWA, 33 U.S.C. § 1344, constitutes a day of violation of Section 301 of the CWA, 33 U.S.C. § 1311.

22. Therefore, the Respondent has violated Section 301 of the CWA, 33 U.S.C. § 1311, due to its discharge of dredged and/or fill material into waters of the U.S. without the required permit under Section 404 of the CWA, 33 U.S.C. § 1344.

IV. Stipulations and Findings

23. Complainant and Respondent (collectively, the “Parties”) have conferred for the purpose of settlement under 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without gathering any evidence or testimony, making of any argument, or adjudicating any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Administrative Consent Agreement and Final Penalty Order (CAFO) will simultaneously commence and conclude this matter.

24. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out above and the factual allegations set out above.

25. Respondent hereby waives his right to contest the allegations set out above and his right to appeal the Final Order accompanying this Consent Agreement.

26. Respondent consents to the assessment of and agrees to pay the administrative penalty as set forth in this CAFO and consents to the other conditions set forth in this CAFO.

27. By signing this CAFO, Respondent certifies that the information he has supplied concerning this matter was at the time of submission, and is, truthful, accurate, and complete for each such submission, response and statement. Respondent realizes that there are significant penalties for submitting false or misleading information, including the possibility of fines and/or imprisonment for knowing submission of such information.

28. Complainant reserves the right to assess and collect any and all civil penalties for any violation described in this Consent Agreement to the extent that any information or certification provided by Respondent was materially false or inaccurate at the time such information or certification was provided to Complainant.

29. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of the CWA.

V. Payment

30. Under Section 309(g)(2)(A) of the CWA, 33 U.S.C. § 1319(g)(2)(A), and 40 C.F.R. § 19, and considering the nature of the violations and other relevant factors, EPA has determined that **three thousand three hundred and forty-six dollars (\$3,346)** is an appropriate civil penalty to settle this action.

31. Respondent shall submit payment of the penalty specified in the preceding paragraph within 30 days of the effective date of this CAFO via a cashier's or certified check, payable to the order of "Treasurer, United States of America." The check shall reference on its face the name of Respondent and the Docket Number of this CAFO. Such payment shall be submitted by U.S. Postal Service to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

For other payment options (EX: wire transfers, overnight mail, ACH and on line) please refer to Attachment A.

32. At the time of payment, Respondent shall send a separate copy of the check, and a written statement that payment has been made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency - Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
R4_Regional_Hearing_Clerk@epa.gov

and

Joel Strange
Enforcement Officer
Surface Water/Ground Water Section
Water Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
Strange.Joel@epa.gov

33. Civil penalty payments under this CAFO are penalties within the meaning of Section 162(f) of the Internal Revenue Code, 26 U.S.C. § 162(f), or of 26 C.F.R. § 1.162-21 and are not tax deductible expenditures for purposes of federal law.

34. Under Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), failure by Respondent to pay the penalty assessed by the CAFO in full by its due date may subject Respondent to a civil action to collect the assessed penalty plus interest (at currently prevailing rates from the effective date of this CAFO), attorney's fees, costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to twenty percent (20%) of the aggregate amount of such penalty and nonpayment penalty which are unpaid as of the beginning of such quarter. In any such collection action, the validity, amount and appropriateness of the penalty and of this CAFO shall not be subject to review.

35. In addition, Respondent has proposed a Supplemental Environmental Project (SEP) which entails the conversion of approximately 281.9 acres of farmland located adjacent to the Green River from conventional farming practices to a soil health management farming system that will significantly reduce the sediment, nutrient, and pesticide runoff from the farm to the Green River. Construction of the SEP will begin within 30 days of the Effective Date of this CAFO and all aspects of the SEP should be implemented within three (3) years of the Effective Date of this CAFO. The SEP is attached to this CAFO as Exhibit C and incorporated by reference.

With regard to the SEP, Respondent certifies the truth and accuracy of each of the following:

- a. That all cost information provided to the EPA in connection with the EPA's approval of the SEP is complete and accurate and that Respondent in good faith estimates that the cost to implement the SEP is \$58,421.24;
- b. That, as of the date of executing this CAFO, Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulation and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum;
- c. That the SEP is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this CAFO;
- d. That Respondent has not received and will not receive credit for the SEP in any other enforcement action;
- e. That Respondent will not receive reimbursement for any portion of the SEP from another person or entity;
- f. That for federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

36. Any public statement, oral or written, in print, film, or other media, made by Respondent making reference to the SEP under this CAFO from the date of its execution of this CAFO shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action by the U.S. Environmental Protection Agency to enforce federal laws."

37. Respondent shall submit a final SEP completion report at the end of the SEP activity. This report should be certified by Respondent. The report should provide evidence of SEP completion.

38. As described in Paragraph 37, above, Respondent shall submit a SEP Completion Report to EPA within thirty (30) days of completing the SEP. The SEP Completion Reports shall contain the following information:

- (a) A detailed description of the SEP as implemented including photographs of the newly constructed water control features;
- (b) A description of any implementation problems encountered and the solutions thereto;

- (c) Itemized costs, documented by copies of invoices, purchase orders, receipts, canceled checks, or wire transfer records that specifically identify and itemize the individual costs associated with the SEP;
- (d) Certification that the SEP has been fully completed;
- (e) A description of the environmental and public health benefits resulting from the implementation of the SEP;
- (f) A statement that no tax returns filed or to be filed by Respondent will contain deductions or depreciations for any expense associated with the SEP; and
- (g) The following statement, signed by the Respondent, under penalty of law, attesting that the information contained in the SEP Completion Report is true, accurate, and not misleading:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

VI. General Provisions

39. This CAFO shall not relieve the Respondent of his obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit. Other than as expressed herein, compliance with this CAFO shall not be a defense to any actions subsequently commenced under federal laws and regulations administered by the Complainant.

40. Nothing in this CAFO shall be construed as prohibiting, altering, or in any way limiting the ability of United States to seek any other remedies or sanctions available by virtue of the Respondent's violation of this CAFO or of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any federal or state statute, regulation or permit.

41. Except as otherwise set forth in this document, this CAFO constitutes a settlement by Complainant and Respondent of all claims for civil penalties under the CWA with respect to only those violations alleged in this CAFO. Except as otherwise set forth in this document, compliance with this CAFO shall resolve the allegations of violations contained in this CAFO. Nothing in this CAFO is intended to nor shall be construed to operate in any way to resolve any criminal liability of the Respondent, or other liability resulting from violations that were not alleged in this CAFO. Other than as expressed in this document, Complainant does not waive

any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.

42. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

43. This CAFO applies to and is binding upon Respondent and any officers, directors, employees, agents, successors and assigns of the Respondent.

44. Any change in the legal status of Respondent including, but not limited to, any transfer of assets of real or personal property, shall not alter Respondent's responsibilities under this CAFO.

45. Each party shall bear its own costs and attorneys' fees in connection with the action resolved by this CAFO.

46. In accordance with 40 C.F.R. Part 22.5, the individuals below are authorized to receive service relating to this proceeding and the parties agree to receive service by electronic means at the following valid email addresses: Suzanne Armor, Associate Regional Counsel, for Complainant EPA at Armor.Suzanne@epa.gov; Jerry O'Bryan, Respondent, at jerrypigs@gmail.com; and Donald Peters for Petitioner, CAPPAD, Inc., at dlp0297@exede.net.

47. The parties acknowledge and agree that this CAFO is subject to the requirements of 40 C.F.R. § 22.45(c)(4), which provides a right to petition to set aside a consent agreement and proposed final order based on comments received during the public comment period.

48. Under Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and 40 C.F.R. § 22.38(b), Complainant represents that the Commonwealth of Kentucky was provided a prior opportunity to consult with Complainant regarding this matter.

49. This CAFO in no way affects the rights of the Complainant as against any person or entity not a party to this CAFO.

50. Effective upon signature of this CAFO by Respondent, Respondent agrees that the time period commencing on the date of its signature and ending on the date EPA receives from Respondent the payment required by this CAFO shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by the EPA related to the matters addressed in this CAFO and that, in any action brought by the EPA related to the matters addressed, Respondent will not assert, and may not maintain, any defense or claim based upon principles of statute of limitations, waiver, laches, estoppel, or other defense based on the passage of time during such period. If EPA gives notice to Respondent that it will not make this CAFO effective, the statute of limitations shall begin to run again commencing ninety days after the date such notice is sent by EPA.

VII. Release by Respondent

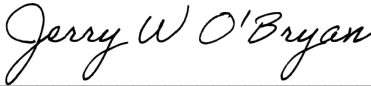
51. Respondent hereby covenants not to sue and agrees not to assert any claims or causes of action against the United States, including any department, agency or instrumentality of the United States, with respect to the matters addressed and resolved in this CAFO, including but not limited to, any claim that any of the matters or actions described in this CAFO have resulted in a taking of Respondent's property without compensation.

VIII. Effective Date

52. Pursuant to 40 C.F.R. § 22.45(c)(4)(viii) and (ix), the effective date of this CAFO shall be 30 days after both the order denying the Petition to Set Aside¹ this CAFO and a this CAFO are filed with the Regional Hearing Clerk, unless further petition for review is filed by a notice of appeal in the appropriate United States District Court, with coincident notice by certified mail to the EPA Administrator and the United States Attorney General. Written notice of appeal also shall be filed with the Regional Hearing Clerk, and sent to the Presiding Officer² and the Parties. If judicial review of the final order is denied, the final order shall become effective 30 days after such denial has been filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

For RESPONDENT:



Jerry O'Bryan

Date: 09/15/2020

For COMPLAINANT, U.S. ENVIRONMENTAL PROTECTION AGENCY:

Mary Jo Bragan
Chief, Water Enforcement Branch
Enforcement and Compliance Assurance Division

Date: _____

¹ On September 24, 2019, Petitioner Community Against Pig Pollution and Disease, Inc. (CAPPAD) filed a Petition to Set Aside (Petition) this CAFO, pursuant to Section 309(g)(4)(C). The Petition Officer denied the Petition in an order filed with the Regional Hearing Clerk and served on all parties and Petitioners on July 28, 2020.

² Pursuant to 40 C.F.R. § 22.3 and 22.4(b), the Presiding Officer in this matter is the Regional Judicial Officer for EPA Region 4.

U.S. EPA Region 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:)
)
) ADMINISTRATIVE
JERRY O'BRYAN) CONSENT AGREEMENT AND
) FINAL PENALTY ORDER
)
CURDSVILLE, KENTUCKY)
)
RESPONDENT.) Docket No.: CWA-04-2018-5501(b)
_____)

FINAL ORDER

In accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits*, 40 C.F.R. Part 22, and authorities delegated to me, the forgoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Under Section 309(g)(2)(A) of the CWA, 33 U.S.C. § 1319(g)(2)(A), Respondent is hereby ordered to comply with the terms of the foregoing Consent Agreement.

U.S. ENVIRONMENTAL PROTECTION AGENCY

Mary S. Walker
Regional Administrator

Date: _____

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order in the matter of: **Docket No. CWA-04-2018-5501(b)** on the parties listed below in the manner indicated:

Via email to all parties at the following email addresses:

To Respondent:

Jerry O'Bryan
6939 Curdsville Delaware Road
Owensboro, Kentucky 42301
jerrypigs@gmail.com

To EPA:

Joel Strange, Enforcement Officer
Strange.Joel@epa.gov
(404) 562-9455

Suzanne K. Armor, Attorney-Advisor
Armor.Suzanne@epa.gov
(404) 562-9701

U.S. EPA
Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

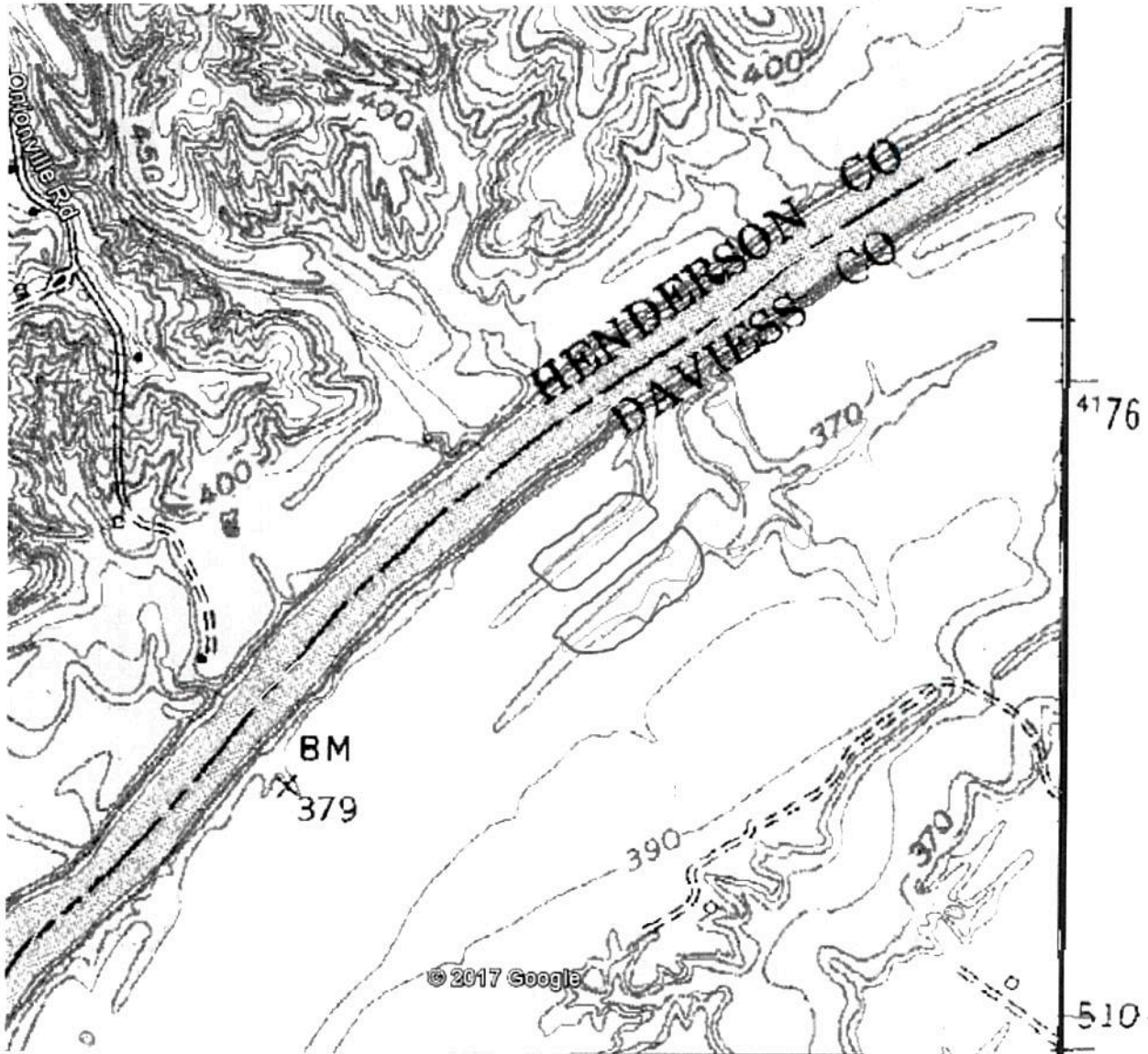
To Petitioner:

Donald Peters, Vice-President
CAPPAD, Inc.
Dlp0297@exede.net
P.O. Box 122
Maple Mount, Kentucky 42356

Dated: _____

Patricia Bullock
Regional Hearing Clerk
U. S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9511

Exhibit A



O'Bryan Site

Mr. Jerry O'Bryan

Daviess County, Kentucky

Exhibit B



O'Bryan Site

Mr. Jerry O'Bryan

Daviess County, Kentucky

Supplemental Environmental Project

**For the Conversion of Conventionally-Tilled Farmland
to a Soil Health Management System**

On

Jerry O'Bryan

Located in Daviess County, Kentucky

CONTENTS

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Section I

PROJECT LOCATION

The Supplemental Environmental Project (SEP) will be conducted on a farm that is currently owned and operated by Jerry O'Bryan in Daviess County, Kentucky. The site is located near the community of Curdsville, and is identified on the Curdsville 7.5 minute USGS quadrangle at 37.729998 degrees North Latitude/-87.382107 degrees West Longitude, NAD83.

The farm is located on the floodplain and terrace landforms along the Green River. The wetland hydrology of the farm is driven by overbank flooding and back-water from the Green River watershed.

The land use of the areas adjacent to the farm consists of agricultural croplands, prior converted wetlands, and areas of bottomland hardwood wetlands.

Section II

PROJECT OVERVIEW

This SEP is being submitted to off-set the penalties associated with the wetland conversion on the area described in the project location of this document.

It was never the intent of Mr. O'Bryan to convert the wetlands identified on his recently acquired farm in Curdsville, KY. He was simply trying to clean up the farm and improve the farming practices so that the farm has the opportunity to reach and sustain its potential and reduce environmental hazards. Aside from restoring the converted wetland acres, Mr. O'Bryan will be implementing conservation practices (water and sediment control basins, grade stabilization structures, terraces, subsurface drainage, grassed waterways, heavy use area management, and no-till farming and cover crops) that will significantly reduce the sediment, nutrient, and pesticide pollutants that have been entering the Green River.

Section III

CONSERVATION PRACTICES AND COST ESTIMATES

A conservation plan map showing the location of the conservation practices, and associated cost estimates is attached. This map will serve as a base map for implementing the following conservation practices:

WATER AND SEDIMENT CONTROL BASIN (CODE 638) - An earth embankment or a combination ridge and channel constructed across the slope of minor watercourses to form a sediment trap and water detention basin with a stable outlet. This practice may be applied as part of a resource management system for one or more of the following purposes: to reduce watercourse and gully erosion, to trap sediment, or to reduce and manage onsite and downstream runoff. Locate Water and Sediment Control Basins to control erosion in drainage ways. Basins may be installed singly or in series as part of system. Adjust the location to fit the topography, maximize storage and accommodate farm equipment and farming operations.

GRADE STABILIZATION STRUCTURE (CODE 410) - A grade stabilization structure is a structure used to control the grade in natural or constructed channels. The purpose of a grade stabilization structure is to stabilize grade, reduce erosion, or improve water quality.

SUBSURFACE DRAIN (CODE 606) - A conduit installed beneath the ground surface to collect and/or convey excess water. This practice may be applied as part of a resource management system to achieve one or more of the following purposes: remove or distribute excessive soil water, or to remove salts and other contaminants from the soil profile. This standard applies to agricultural land where a shallow water table exists and where a subsurface drainage system can mitigate the following adverse conditions caused by excessive soil moisture: poor health, vigor and productivity of plants; poor field trafficability; accumulation of salts in the root zone; health risk and livestock stress due to pests such as flukes, flies, or mosquitoes; or wet soil conditions around farmsteads, structures, and roadways. This standard also applies where collected excess water can be distributed through a subsurface water utilization or treatment area.

TERRACE (CODE 600) - An earth embankment, or a combination ridge and channel, constructed across the field slope. This practice is applied as part of a resource management system for one or more of the following purposes: reduce erosion and trap sediment, or to retain runoff for moisture conservation. This practice applies where: soil erosion caused by water and excessive slope length is a problem, excess runoff is a problem, there is a need to conserve water, the soils and topography are such that terraces can be constructed and reasonably farmed, or a suitable outlet can be provided.

GRASSED WATERWAY (CODE 412) - A shaped or graded channel that is established with suitable vegetation to convey surface water at a non-erosive velocity using a broad and shallow cross section to a stable outlet. This practice is applied in areas where added water conveyance capacity and vegetative protection are needed to prevent erosion and

improve runoff water quality resulting from concentrated surface flow. The purpose of this practice is to: convey runoff from terraces, diversions, or other water concentrations without causing erosion or flooding; prevent gully erosion; protect and improve water quality.

HEAVY USE AREA PROTECTION (CODE 561) - Heavy Use Area Protection is used to stabilize a ground surface that is frequently and intensively used by people, animals, or vehicles. The purpose of a heavy use area protection practice is to provide a stable, non-eroding surface for areas frequently used by animals, people or vehicles; and to protect or improve water quality.

RESIDUE AND TILLAGE MANAGEMENT (CODE 329) - This practice should be applied as part of a conservation management system to: reduce sheet and rill erosion, improve soil organic matter content, reduce CO₂ losses from the soil, reduce soil particulate emissions, reduce energy use, increase plant-available moisture, and provide food and escape cover for wildlife. It applies to all cropland and other land where crops are grown and includes residue management methods practiced during the part of the year from harvest until spring planting.

COVER CROP (CODE 340) - Cover crops are grasses, legumes, and forbs planted for seasonal vegetative cover. This practice is applied to support one or more of the following purposes: reduce erosion from water, maintain or increase soil health and organic matter content, reduce water quality degradation by utilizing excessive soil nutrients, suppress excessive weed pressures and break pest cycles, improve soil moisture use efficiency, and to minimize soil compaction. This practice applies to all lands requiring seasonal vegetative cover for natural resource protection or improvement.

Section IV

SUMMARY

By converting the SEP farm from a conventional-tilled system to a soil health management system, Mr. O'Bryan intends to restore the farm to an environmentally friendly, sustainable ecosystem. The soil health management system that Mr. O'Bryan will be converting the farm to will consist of crop rotations, residue management, utilizing cover crops, and implementing a variety of conservation practices.

It has been well documented that soil health management systems increase soil organic carbon sequestration, improve the development of soil structure and soil aggregate stability, increase water infiltration and available water content, enhance water quality, increase drought resilience, reduce greenhouse gas emissions, and provide wildlife habitat. The residue management and cover crops will eliminate rain drop impact and subsequent erosion, reducing the amount of sediment, nutrient, and pesticide pollutants entering the waters of the Waters of the United States (WOTUS). Increasing soil organic carbon, and improving soil structure development and aggregate stability not only improve water infiltration and available water content in the soil, it enables the bacteria and fungi in soil to break down the contaminants in the soil, preventing contaminants from entering the WOTUS.

The conservation practices to be installed will reduce erosion, trap sediment, retain runoff for moisture conservation, improve runoff water quality, and to protect and improve water quality.

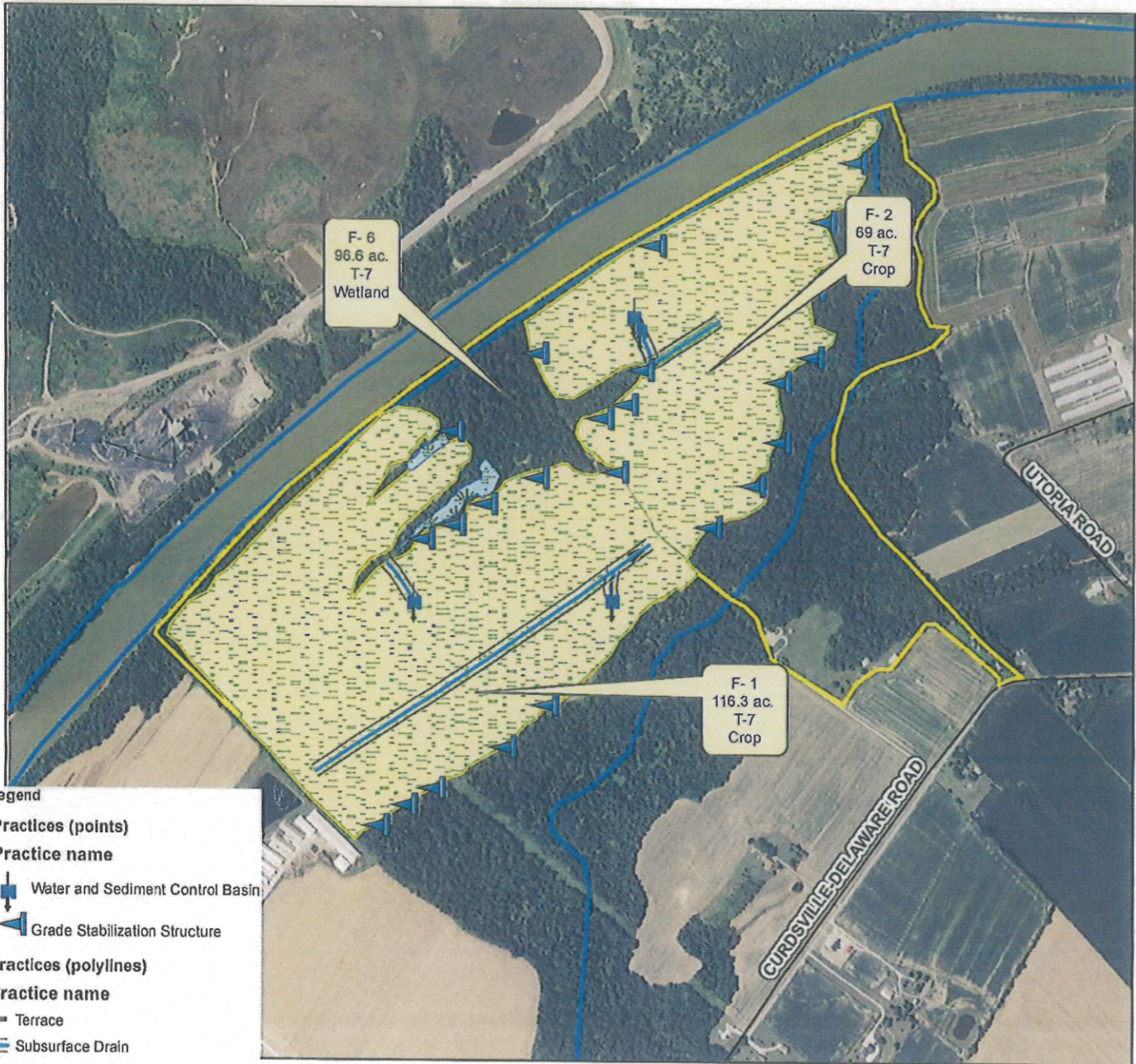
By implementing the sound conservation practices associated with a soil health management system, Mr. O'Bryan will significantly decrease the discharge of sediments and pollutants to the environment, thus reducing environmental hazards and protecting public health.

Conservation Plan Map

Date: 10/11/2016

Customer(s): JERRY W OBRYAN
 Approximate Acres: 281.9
 Legal Description: F- 4844 T-7

Field Office: OWENSBORO SERVICE CENTER
 Agency: USDA-NRCS
 Assisted By: RACHEL Martin



- Legend**
- Practices (points)**
- Practice name**
- Water and Sediment Control Basin
 - Grade Stabilization Structure
- Practices (polylines)**
- Practice name**
- Terrace
 - Subsurface Drain
- Practices (polygons)**
- Practice name**
- Cover Crop
 - Grassed Waterway
 - Heavy Use Area Protection
 - Wetland Restoration
 - CTA-2016
 - Davies Hyro
 - Ditch Cleanout
 - Davies Co rdslcal

Prepared with assistance from USDA-Natural Resources Conservation Service





OWENSBORO SERVICE CENTER
 3100 ALVEY PARK DRIVE WEST
 OWENSBORO, KY 42303
 (270) 684-9286

DAN PORTER
 SUPERVISORY NATURAL RESOURCE MANAGER

Conservation Plan

JERRY W OBRYAN
 6939 CURDSVILLE DELAWARE RD
 OWENSBORO, KY 42301

EPA RESTORATION PLAN
 2016

Crop

Tract 7

Cover Crop(340)

Close-growing grasses, legumes, or small grain will be grown for seasonal protection, soil improvement and nutrient management.

Field	Planned Amount	Month	Year	Applied Amount	Date
1	116.3 ac	10	2017		
2	69. ac	10	2017		
Total:	185.3 ac				

Grade Stabilization Structure(410)

Install a structure to control the grade and head cutting.

Field	Planned Amount	Month	Year	Applied Amount	Date
1	1. no	11	2017		
1	1. no	11	2017		
1	1. no	11	2017		
1	1. no	11	2017		
1	1. no	11	2017		
1	1. no	11	2017		
1	1. no	11	2017		
1	1. no	11	2017		
2	1. no	11	2017		
2	1. no	11	2017		
2	1. no	11	2017		
2	1. no	11	2017		
2	1. no	11	2017		
2	1. no	11	2017		
2	1. no	11	2017		
2	1. no	11	2017		
2	1. no	11	2017		
2	1. no	11	2017		
2	1. no	11	2017		
2	1. no	11	2017		
2	1. no	11	2017		
Total:	21. no				

Grassed Waterway(412)

Shape a natural or constructed channel and establish adapted vegetation for the stable conveyance of runoff water.

Field	Planned Amount	Month	Year	Applied Amount	Date
2	0.45 ac	11	2017		
Total:	0.45 ac				

Heavy Use Area Protection(561)

Protect heavily used areas by providing soil protection with vegetation, surfacing material or mechanical structures.

Field	Planned Amount	Month	Year	Applied Amount	Date
2	400. sq ft	11	2017		
Total:	400. sq ft				

Residue and Tillage Management, No-Till/Strip Till/Direct Seed(329)

Manage organic residue so maximum amounts are left on the soil surface on a year-round basis. Plant crops in narrow slots or narrow tilled strips in previously untilled soil.

Field	Planned Amount	Month	Year	Applied Amount	Date
1	116.3 ac	4	2017		
2	69. ac	4	2017		
Total:	185.3 ac				

Subsurface Drain(606)

Install a subsurface pipe or conduit to collect and/or convey drainage water.

Field	Planned Amount	Month	Year	Applied Amount	Date
1	3100. ft	11	2017		
1	317. ft	11	2017		
1	241. ft	11	2017		
2	800. ft	11	2017		
2	242. ft	11	2017		
Total:	4700. ft				

Terrace(600)

Install terrace(s) at design heights, grades and intervals.

Field	Planned Amount	Month	Year	Applied Amount	Date
1	3100. ft	11	2017		
Total:	3100. ft				

Water and Sediment Control Basin(638)

Install a structure(s) across the slope to trap sediment and detain water for safe release.

Field	Planned Amount	Month	Year	Applied Amount	Date
1	1. no	11	2017		
1	1. no	11	2017		
2	1. no	11	2017		
2	1. no	11	2017		
Total:	4. no				

Protected

Tract: 7

Grade Stabilization Structure(410)

Install a structure to control the grade and head cutting.

Field	Planned Amount	Month	Year	Applied Amount	Date
6	1. no	11	2017		
6	1. no	11	2017		
6	1. no	11	2017		
Total:	3. no				

Wetland Restoration(657)

Construct or restore the necessary facilities to provide the biological benefits of a wetland.

Field	Planned Amount	Month	Year	Applied Amount	Date
6	1.65 ac	11	2017		
6	0.45 ac	11	2017		
Total:	2.1 ac				

CERTIFICATION OF PARTICIPANTS

JERRY W OBRYAN DATE

CERTIFICATION OF:

SUPERVISORY NATURAL RESOURCE MANAGER

DAN PORTER DATE

CONSERVATION DISTRICT

OWENSBORO SOIL & WATER CO DATE

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Jerry O'Bryan -- Mckay Farm

Cost Estimate for Conservation Practices

1. Pipe Outlet Terrace = 3100 feet @ \$1.82/foot=	\$ 5,642.00
2. Grade Stabilization Structures 21 total cattle Panels-4 @ 15 sq ft = 60 sq ft; 17 Cattle Panels at 10 sq ft each = 170 Sq ft. 170 + 60 = 230 sq ft @\$66.37/sq ft	\$ 15,265.10
3. Grade Stabilization Structure (Rock Chute – 3 each) @ \$26.77/ton x 240 ton total	\$ 11,224.80
4. Grassed Waterway with erosion control blanket on 40% (1 each) = 0.45 acres @ \$2780.76/ac	\$ 1,251.34
5. Heavy Use Area (w/w crossing) 20 X 20 = 400 square feet @ 1.32/ sq foot	\$ 528.00
6. Water and Sediment Control Basins 4 total: 2 @ 450 cubic yards And 2 @ 300 cubic yards = 1500 cu yards x \$3.32/cu yd	\$ 4,980.00
7. Subsurface drain—Corrugated Plastic pipe, single wall= 6 inches—Terrace = 3100 feet, waterways = 1350 feet, And WASCObS = 800 feet. Total 5250 feet X \$3.72/foot	\$ 19,530.00
Total:	\$ 58,421.24