



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SEP 30 2015

CERTIFIED MAIL 7014 2870 0000 3318 3333
RETURN RECEIPT REQUESTED

Ms. Glenda T. Cole
President
Bankhead Manufacturing Group, Inc.
1080 Donald Lee Hollowell Parkway
Atlanta, Georgia 30318

Re: Consent Agreement and Final Order
Docket No. CWA-04-2015-4507(b)
Taylor Family Welding Services, Inc., Atlanta, Fulton County, Georgia

Dear Ms. Cole:

Enclosed please find a fully executed copy of the Consent Agreement and Final Order that has been finalized by the U.S. Environmental Protection Agency Region 4 and the Regional Judicial Officer. Please make note of the provisions under Paragraph IV. Payment.

Should you have any questions or problems, please contact Mr. Ahmad Dromgoole at (404) 562-9212 or via email at dromgoole.ahmad@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Denisse D. Diaz".

Denisse D. Diaz, Chief
NPDES Permitting and Enforcement Branch
Water Protection Division

Enclosure

cc: Mr. James Capp
Georgia Environmental Protection Division

Mr. Bert Langley
Georgia Environmental Protection Division

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	
)	CONSENT AGREEMENT AND
TAYLOR FAMILY WELDING)	FINAL ORDER
SERVICES, INC.)	
ATLANTA, GEORGIA)	
)	
RESPONDENT.)	DOCKET NO. CWA-04-2015-4507(b)

CONSENT AGREEMENT

I. Statutory Authority

1. This is a civil penalty proceeding pursuant to 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*, including Subpart I, published at 64 Fed. Reg. 40,176 (July 23, 1999) and codified at 40 Code of Federal Regulations ("C.F.R.") Part 22.

2. The authority to take 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 delegated this authority to the Director of the Water Protection Division of the EPA, Region 4, who in turn has delegated this authority to the Chief of the NPDES Permitting and Enforcement Branch of the EPA, Region 4 ("Complainant").

II. Allegations

3. Taylor Family Welding Services, Inc. ("Respondent") is a corporation duly organized and existing under the laws of the State of Georgia and is therefore a "person" within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

4. At all times relevant to this action, the Respondent owned and/or operated a fabricated metal products facility ("Facility"), as identified by primary Standard Industrial Classification (SIC) Codes 3441 and 3443, located at 1080 Donald L. Hollowell Parkway, Atlanta, Georgia 30318.

5. The Facility is located on approximately 16.2 acres of land which is divided from east to west by railroad tracks. The Facility consists of one primary single-story manufacturing building (referred to herein as the "main building"), one machine shop, two storage buildings,

and one equipment storage shed. A stormwater drain is located at the Facility, and runs generally in a north-south direction to the east of the main building

6. At times relevant to this action, the Facility also operated under secondary SIC Codes 3599 (industrial and commercial machinery), 4953 (construction and demolition debris processing), and 7538 (general automotive repair).

7. The Respondent's corporate name was changed from Bankhead Manufacturing Group, Inc. to Taylor Family Welding Services, Inc. on or about June 9, 2015, following the Respondent's sale of the Facility to Holland, L.P. in April 2015.

8. To accomplish the objective of the CWA, defined in Section 101(a) of the CWA, 33 U.S.C. § 1251(a), to restore and maintain the chemical, physical and biological integrity of the nation's waters, Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants by any person into waters of the United States except as in compliance with a National Pollutant Discharge Elimination System ("NPDES") permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

9. Section 402 of the CWA, 33 U.S.C. § 1342, establishes a NPDES Permit Program authorizing the EPA or authorized states to administer the NPDES Permit Program, including the issuance of NPDES permits allowing for the discharge of pollutants, including stormwater, into navigable waters subject to specific terms and conditions. The EPA has granted the State of Georgia, through the Georgia Environmental Protection Division ("GAEPD"), approval to issue NPDES permits pursuant to Section 402(b) of the CWA.

10. The GAEPD issued the Georgia Storm Water Discharges Associated with Industrial Activity, Permit No. GAR050000, ("Permit") in accordance with the Georgia Water Quality Control Act of 1964 (O.C.G.A. Code Sections 12-5-20 et seq., 1964). The Permit became effective on June 1, 2012, and will expire on May 31, 2017.

11. The GAEPD is responsible for the issuance, compliance and enforcement of the Georgia Water Quality Control Act of 1964 (O.C.G.A. Code Sections 12-5-20 et seq., 1964), and the approval of coverage under the Permit upon submission and approval of a Notice of Intent ("NOI") requesting coverage.

12. Pursuant to Section 402(p)(2)(B) of the CWA, 33 U.S.C. § 1342(p)(2)(B), a NPDES permit is required for any "stormwater discharge associated with industrial activity."

13. "Stormwater discharge associated with industrial activity," as defined at 40 C.F.R. § 122.26(b)(14), means the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant.

14. Pursuant to 40 C.F.R. § 122.26(b)(14)(xi), facilities under SIC Codes 3443 and 3599 are considered to be engaging in “industrial activity” for the purposes of 40 C.F.R. 122.26(b)(14).

15. Stormwater associated with industrial activity is generally discharged from the Facility through two outfalls and sheet flow to the City of Atlanta Municipal Separate Storm Sewer System (MS4) which ultimately discharges to Proctor Creek. .

16. Proctor Creek is a tributary to the Chattahoochee River, which is a “navigable water” and a “water of the United States” as defined by Section 502(7) of the Act, 33 U.S.C. § 1362(7) and its implementing regulation 40 C.F.R. § 122.2.

17. On January 29, 2015, representatives of the EPA, in conjunction with the GAEPD and the City of Atlanta, performed a Compliance Inspection (“CI”) at the Facility to evaluate the Respondent’s compliance with the requirements of Sections 301 and 402(p) of the CWA, 33 U.S.C. §§ 1311 and 1342(p); the regulations promulgated thereunder at 40 C.F.R. § 122.26; and the Permit.

18. The Respondent’s responsible official at the time of the Inspection met the EPA on-site, and provided a Facility tour and the Respondent’s permit history.

19. During the CI, the EPA observed the following:

- a. The Facility had several industrial areas with exposure to stormwater runoff, including vehicle storage and maintenance operations, fueling areas, material storage, abrasion operations, and asphalt milling operations.
- b. The Respondent had failed to submit a NOI requesting coverage under the June 1, 2012 Permit.

20. On February 10, 2015, the EPA issued a Letter of Concern to the Respondent, requesting that the Respondent provide information pertaining to the Facility’s SIC Code(s) and to any current or prior NPDES permit coverage at the Facility.

21. On February 17, 2015, Respondent provided a response to the EPA’s Letter of Concern, confirming that the Facility had previous NPDES Permit coverage for discharges to Proctor Creek.

- a. Respondent had submitted a NOI to GAEPD on October 18, 2001 for NPDES Permit coverage under the 1998 General Permit GAR000000 to

Discharge Storm Water Associated with Industrial Activity (“1998 Permit”).¹ The NOI stated that the Facility discharged to Proctor Creek.

- b. In October 2001, Environmental Planning Specialists, Inc. (“EPS”) prepared a Storm Water Pollution Prevention Plan (“SWPPP”) for the Facility, in accordance with the requirements of the 1998 Permit. The SWPPP identified two stormwater outfalls, Outfalls 001 and 002.
- c. Respondent had submitted a NOI to GAEPD on May 27, 2003 for NPDES Permit coverage under the administratively-extended 1998 Permit. The NOI again stated that the Facility discharged to Proctor Creek.

22. Therefore, Respondent has violated Sections 301 and 402(p) of the CWA, 33 U.S.C. §§ 1311 and 1342, for failure to obtain a valid NPDES Permit for a Facility that has stormwater discharges associated with “industrial activity” as defined by the CWA and its implementing regulations.

III. Stipulations and Findings

23. For the purposes of this CA/FO, the Respondent admits the jurisdictional allegations set out above, but neither admits nor denies the factual allegations set out above and in the AOC.

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

25. The Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CA/FO and consents to the other conditions set forth in this CA/FO.

26. By signing this CA/FO, the Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and is, truthful, accurate, and complete for each such submission, response and statement to the best of its knowledge. The 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.

27. The EPA reserves the right to assess and collect any and all civil penalties for any violation described herein and in the AOC to the extent that any information or certification provided by the Respondent was materially false or inaccurate at the time such information or certification was provided to the EPA.

¹ The 1998 Permit was issued on June 1, 1998 and expired on May 31, 2003.

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

IV. Payment

29. Pursuant to Section 309(g)(2)(A) of the CWA, 33 U.S.C. § 1319(g)(2)(A), and 40 C.F.R. Part 19, and considering the nature of the violations and other relevant factors, the EPA has determined that THIRTY-THOUSAND dollars (\$30,000) is an appropriate civil penalty to settle this action.

30. The Respondent shall submit payment of the penalty specified in the preceding paragraph within thirty (30) days of the effective date of this CA/FO 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 CA/FO. Such payment shall be tendered to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979007
St. Louis, Missouri 63197-9000

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

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

and

Mary Mattox
U.S. Environmental Protection Agency, Region 4
Water Protection Division
Clean Water Enforcement Branch
Municipal and Industrial Enforcement Section
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

32. The penalty amount specified above shall represent civil penalties assessed by the EPA and shall not be deductible for purposes of federal taxes.

33. Pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), failure by the Respondent to pay the penalty assessed by the CA/FO 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 CA/FO), 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 CA/FO shall not be subject to review.

V. General Provisions

34. This CA/FO shall not relieve the Respondent of its 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 CA/FO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by the EPA.

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

36. Except as otherwise set forth herein, this CA/FO constitutes a settlement by Complainant and the Respondent of all claims for civil penalties pursuant to the CWA with respect to only those violations alleged in this CA/FO and in the AOC. Except as otherwise set forth herein, compliance with this CA/FO shall resolve the allegations of violations contained herein and in the AOC. Nothing in this CA/FO 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 CA/FO or in the AOC. Other than as expressed herein, Complainant does not waive any right to bring an enforcement action against the 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.

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

38. This CA/FO applies to and is binding upon the Respondent and its officers, directors, employees, agents, successors and assigns.

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

40. Each party shall bear its own costs and attorney's fees in connection with the action resolved by this CA/FO.

41. The parties acknowledge and agree that this CA/FO 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.

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

VI. Effective Date

43. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

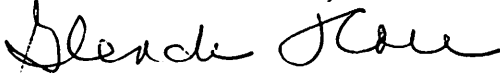
**AGREED AND CONSENTED TO
For COMPLAINANT, U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 4:**



Denisse D. Diaz, Chief
Clean Water Enforcement Branch
Water Protection Division
U.S. EPA, Region 4

Date: 9/30/2015

For the RESPONDENT, TAYLOR FAMILY WELDING SERVICES, INC.



Glenda T. Cole
President

Date: Aug 19, 2015

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:)
)
TAYLOR FAMILY WELDING) CONSENT AGREEMENT AND
SERVICES, INC.) FINAL ORDER
ATLANTA, GEORGIA,)
)
RESPONDENT.) DOCKET NO. CWA-04-2015-4507(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*, including Subpart I, 40 C.F.R. Part 22, and authorities delegated to me, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Pursuant to Section 309(g)(2)(A) of the CWA, 33 U.S.C. § 1319(g)(2)(A), the Respondent is hereby ordered to comply with the terms of the foregoing Consent Agreement.

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: Sep 30, 2015



Regional Judicial Officer

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the attached **CONSENT AGREEMENT AND FINAL ORDER** in the matter of Taylor Family Welding Services, Inc., Docket No. CWA-04-2015-4507(b) (filed with the Regional Hearing Clerk on this 30 day of September, 2015) was served on this 30 day of September, 2015, in the manner specified to each of the persons listed below.

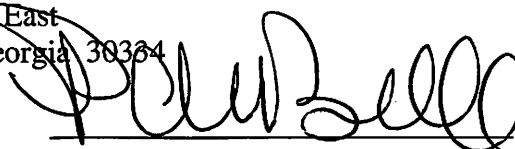
By hand-delivery:

Ms. Suzanne Armor
Associate Regional Counsel
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

By certified mail,
return receipt requested:

Mr Gerald Pouncey, Esq.
Morris, Manning & Martin, LLP
1600 Atlanta Financial Center
3343 Peachtree Road, N.E.
Atlanta, Georgia 30326

Mr. James A. Capp, Chief
ATTN: Frances Carpenter
Watershed Protection Branch
Georgia Environmental Protection Division
2 Martin Luther King Jr. Drive
Suite 1152 East
Atlanta, Georgia 30334



Patricia A. Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9511