



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
INDUSTRIAL STORMWATER ESA

FILED

Mar 27, 2025

3:14 pm

U.S. EPA REGION 4
HEARING CLERK

IN THE MATTER OF:

WARREN AND GRIFFIN, INC.

Respondent

DOCKET NO.: CWA-04-2024-1000(b)

Expedited Settlement Agreement and Final Order
Pursuant to Clean Water Act Section 309(g)(2)(A)

NPDES Permit No. Unpermitted

The undersigned representatives of the United States Environmental Protection Agency (EPA) and Warren and Griffin, Inc. (Respondent) enter into this Expedited Settlement Agreement (ESA or Agreement) to resolve Respondent's civil penalty liability for allegedly discharging industrial stormwater without a permit at the Site. On August 8, 2023, representatives of the EPA inspected the Respondent's facility at 189 Supply Road, Williams, South Carolina 29493 (Site). Observations indicated operations at the facility were allegedly responsible for discharges of industrial stormwater without a permit at the Site.

Based on information obtained during the EPA inspection, the EPA finds that: (1) Respondent, who is the owner and operator of the Site, discharged industrial stormwater from the Site without authorization by any permit issued pursuant to the Clean Water Act (Act) in violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a), as further described in the enclosed "Industrial Stormwater Non-Filer Inspection Findings and Alleged Violations Form" (Alleged Violations Form) (Enc. A); (2) Respondent is a "person" as defined in Section 502(5) of the Act, 33 U.S.C. § 1362(5). The Alleged Violations Form is hereby incorporated into this Agreement by reference.

The EPA also finds, and Respondent admits, that the EPA has jurisdiction over this matter pursuant to Sections 301(a) and 309(g) of the Act, 33 U.S.C. §§ 1311(a) and 1319(g). Respondent neither admits nor denies the factual allegations alleged in the Alleged Violations Form or otherwise stated herein.

The EPA is authorized to enter into this Agreement under the authority vested in the Administrator by Section 309(g) (2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), and by 40 C.F.R. §§ 22.13(b) and 22.18. And in accordance with the EPA's September 8, 2016, Supplemental Guidance to the 1995 Interim Clean Water Act Settlement Penalty Policy for Violations of the Industrial Stormwater Requirements, the EPA is assessing a penalty of \$20,000 for the violations described in the Alleged Violations Form.

The parties enter into this Agreement to settle the civil violations alleged in this Agreement for a penalty of \$20,000. Respondent consents to the assessment of this penalty and waives the right to: (1) contest the alleged violations specified in the Alleged Violations Form; (2) a hearing pursuant to Section 309(g)(2) of the Act, 33 U.S.C. § 1319(g)(2); (3) appeal the Final Order; and (4) judicial review pursuant to CWA § 309 (g)(8), 33 U.S.C. § 1319(g)(8). The civil penalty will be due within thirty (30) days of the Effective Date of this Expedited Settlement Agreement and Final Order and shall be made in accordance with the attached Expedited Settlement Agreement Payment Instructions (Payment Instructions) (Enc. B), incorporated herein by reference. Respondent agrees to bear its own costs and attorney's fees related to this ESA.

Failure by Respondent to pay the penalty assessed by this ESA and Final Order in full by its due date may subject Respondent to a civil action to collect the assessed penalty plus interest, attorney's fees, costs and an additional quarterly nonpayment penalty pursuant to Section 309(g)(9)(B) of the Act, 33 U.S.C. § 1319(g)(9)(B). In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review. Pursuant to Section 309(g)(1) of the Act, 33 U.S.C. § 1319(g)(1), and 40 C.F.R. § 22.38(b), the State of South Carolina was provided a prior opportunity to consult with the EPA regarding this matter.

By signing this Agreement, Respondent certifies that: (1) the alleged violations listed in the Alleged Violations Form have been corrected, and Respondent has submitted true and accurate documentation to the EPA of such correction; and (2) consistent with Section 162(f)(1) of the Internal Revenue Code, 26 U.S.C. § 162(f)(1), Respondent will not deduct penalties paid under this Agreement for federal tax purposes.

This Agreement, upon incorporation into the Final Order and full satisfaction by the parties, shall be a complete and full resolution of Respondent's liability for federal civil penalties for the violations of Section 301(a) of the Clean Water Act alleged in the Alleged Violations Form. This Agreement does not affect the

right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law or to issue an administrative compliance order, e.g., for any uncorrected violations listed in the Alleged Violations Form. Nothing in this Agreement shall relieve Respondent of the duty to comply with the Act and any regulation, order, or permit issued pursuant to the Act.

In accordance with Section 309(g)(1) of the Act, 33 U.S.C. 1319(g)(1), and 40 C.F.R. § 22.38, prior to requesting that the EPA Regional Judicial Officer issue the Final Order, the EPA will provide a copy of the Agreement to the State of South Carolina for the purposes of consultation with South Carolina on the appropriateness of this Agreement. In accordance with Section 309(g)(4) of the Act, 33 U.S.C. § 1319(g)(4), and 40 C.F.R. § 22.45, the EPA will provide public notice of this Agreement and a reasonable opportunity for the public to comment on the proposed issuance of this Agreement prior to issuance of the Final Order.

If Respondent does not sign and return this ESA as presented within 30 calendar days of the date of its receipt, or within an extension timeframe approved by the EPA, this proposed ESA is withdrawn without prejudice to the EPA's ability to file any other

enforcement action for the violations identified in the Alleged Violations Form.

The parties consent to service of this ESA and Final Order by e-mail to the e-mail addresses provided by the parties in the Certificate of Service.

This Agreement is binding on the parties signing below. Each person signing this Agreement certifies that he or she has the authority to sign for the party who he or she represents and to bind that party to its terms. The ESA and Final Order are effective the date of filing with the Regional Hearing Clerk. Once the ESA is signed by the Regional Judicial Officer, the original ESA will be filed with the Regional Hearing Clerk. A copy of the filed ESA will be emailed to Respondent.


Attachments:

1. Alleged Violations Form (Enc. A)
2. Payment Instructions (Enc. B)
3. Certificate of Service

APPROVED BY RESPONDENT:

Name (print): GARY HEADDEN

Title (print): MANAGER

Signature:  Date: 7/16/24

APPROVED BY THE EPA:

Keriema S. Newman
Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4

FINAL ORDER

Having determined that this Agreement is authorized by law, the foregoing Expedited Settlement Agreement is hereby incorporated into the Final Order.

IT IS SO ORDERED:

Regional Judicial Officer

ENCLOSURE A
Industrial Stormwater Non-Filer Inspection
Findings and Alleged Violations

1. To accomplish the objective of the Clean Water Act (CWA), as 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 point source discharge of pollutants into navigable waters except as in compliance with, *inter alia*, a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.
2. Section 402 of the CWA, 33 U.S.C. § 1342, establishes an NPDES Permit Program authorizing the U.S. Environmental Protection Agency (EPA) or authorized states to administer the NPDES Permit Program, including the issuance of NPDES permits allowing for the discharge of pollutants into navigable waters subject to specific terms and conditions. The EPA has granted the state of South Carolina through the South Carolina Department of Health and Environmental Control (SCDHEC) approval to issue NPDES permits pursuant to Section 402(b) of the CWA.
3. Warren and Griffin, Inc. (Respondent) owns and operates a Timber Products facility located at 189 Supply Road, Williams, South Carolina 29493 (Facility).
4. Pursuant to Section 402(p)(2)(B) of the CWA, 33 U.S.C. § 1342(p)(2)(B), an NPDES permit is required for "a [storm water] discharge associated with industrial activity," which "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 at an industrial plant." 40 C.F.R. § 122.26(b)(14). Further, under 40 C.F.R. § 122.26(b)(14)(ii), "[t]he following categories of facilities are considered to be engaging in 'industrial activity' for purposes of paragraph (b)(14): ... Facilities classified within Standard Industrial Classification 24, Industry Groups ... 242 through 249."
5. The Facility is identified as belonging to Industry Group 2421 (Sawmills and Planing Mills, Generally), which is a more specific subcategory of Industry Group 242 (Sawmills and Planing Mills).
6. Section 402(p)(2)(B) of the CWA, 33 U.S.C. § 1342(p)(2)(B), and its implementing regulations at 40 C.F.R. § 122.26(b)(14)(vi), require that an industrial facility discharging stormwater into navigable waters of the United States must obtain an NPDES permit.
7. On August 8, 2023, representatives of the EPA performed a Compliance Stormwater Evaluation Inspection (CSWEI) at the Facility to evaluate the Respondent's compliance with the requirements of Section 301(a) of the CWA, 33 U.S.C. § 1311(a); and the regulations promulgated thereunder at 40 C.F.R. § 122.26.
8. On October 11, 2023, the EPA issued an Inspection Report to the Respondent. The Inspection Report documented that in the August 8, 2023, CSWEI, the EPA inspectors observed the following:
 - A. The Facility had outdoor industrial processes, including but not limited to, loading, and unloading operations, material storage, and waste material storage activities with potential exposure and contribution to stormwater contamination.

- B. The Facility had a stormwater pathway leaving the Site and entering a ditch near the railway leading to Hog Branch Stream. The flow pattern and drainage pathway from the Site to Hog Branch Stream were subsequently verified by a desk assessment using Google Earth.
 - C. Respondent's industrial activity at the Facility, which includes timber processing, is classified under SIC Code 2421. Facilities operating under SIC Code 2421, industrial Sector A, are required to obtain a general NPDES permit coverage for their stormwater discharges.
 - D. The Respondent did not have an NPDES permit at the time of the CSWEI and did not submit a Notice of Intent for permit coverage until January 22, 2024, after the violation alleged in this action occurred.
9. Section 402(p)(2)(B) of the CWA, 33 U.S.C. § 1342(p)(2)(B), and its implementing regulations at 40 C.F.R. § 122.26(b)(14)(vi), as referenced above, require an industrial facility discharging stormwater into navigable waters of the United States to obtain an NPDES permit. In the EPA Supplemental Guidance to the 1995 Clean Water Act Settlement Policy for Violations of the Industrial Stormwater Requirements¹, 0.5 inches during a 24-hour period is used as the general benchmark for likely stormwater runoff to result in a discharge. According to rain data available from the National Weather Service² for this area, fifty-eight (58) months during the period of August 2018 to August 2023 had one or more daily rain events greater than 0.5 inches. Due to the hydrology of the Facility, in which significant portions of the site are covered in tightly packed material, the EPA has determined that from August 2018 to August 2023, stormwater associated with Respondent's industrial activities discharged offsite into Hog Branch Stream. Hog Branch Stream drains to the southeast where it joins Buckhead Creek. Buckhead Creek flows to the southwest and into the Little Salkehatchie River. The Little Salkehatchie River is situated approximately 5 miles from the Facility.
10. 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."
11. The Little Salkehatchie River is a traditionally navigable water of the United States, and a "navigable water," or "water of the United States," as defined by Section 502(7) of the CWA, 33 U.S.C. § 1362(7) and its implementing regulation 40 C.F.R. § 120.2(a).
12. Hog Branch Stream and Buckhead Creek, as relatively permanent or continuously flowing tributaries to the Little Salkehatchie River, are also "waters of the United States" within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7) and 40 C.F.R. § 120.2(a).
13. Respondent has violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a), by discharging stormwater from the Facility for a period of 58 months (for the period between August 2018 and August 2023) without proper authorization into waters of the United States.

¹ <https://epa.gov/sites/default/files/2016-09/documents/industrialswpenaltyguidance.pdf>

² www.weather.gov/unr/precipitation-past

Enclosure B

**Expedited Settlement Agreement and Final Order
Payment Instructions**

Payment shall be in a single payment, due no later than 30 calendar days from the effective date of the Final Order. If the due date for the payment falls on a weekend or federal holiday, then the due date is the next business day. Payment must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day.

The payment shall be made by cashier's check, certified check, or electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: Treasurer, United States of America, and the Facility name and docket number for this matter shall be referenced on the face of the check. If Respondent sends payment by standard U.S. Postal Service delivery, the payment shall be addressed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979078
St. Louis, Missouri 63197

If Respondent sends payment by non-standard mail delivery (FedEx, DHL, UPS, USPS certified, registered, etc.) the payment shall be sent to:

U.S. Environmental Protection Agency
Government Lockbox 979078
3180 Rider Trail South
Earth City, Missouri 63045

If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, New York 10045
Beneficiary: Environmental Protection Agency

If paying by ACH, Respondent shall remit payment to:

U.S. Treasury REX / Cashlink ACH Reciever
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737
REX (Remittance Express): 1-866-234-5681

If paying with a debit card or credit card:

Online payment can be accessed via www.pay.gov, entering 1.1 in the form search box on the left side of the screen, opening the form, and following the directions on the screen. No username, password, or account number is necessary for this option.

Respondent shall send proof of payment within 24 hours of payment, to:

Regional Hearing Clerk
R4_Regional_Hearing_Clerk@epa.gov

and

Lonnie Dorn
Dorn.lonnie@epa.gov

CERTIFICATE OF SERVICE

I hereby certify that the foregoing "Expedited Settlement Agreement" and "Final Order," in the Matter of **Warren and Griffin, Inc., Docket Number CWA-04-2024-1000(b)** were filed and copies of the same were emailed to the parties as indicated below.

Via email to all parties at the following email addresses:

To Respondent: Gary Headden, Site Manager
Warren and Griffin, Inc.
189 Supply Road
Williams, South Carolina 29493
headdengr@musc.edu
843-562-8279

To EPA: Lonnie Dorn, Enforcement Officer
Dorn.Lonnie@epa.gov
706-355-8683

Andrew Teodorescu, Attorney-Advisor
Teodorescu.andrew@epa.gov
404-562-8309

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