



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SEP 30 2014

CERTIFIED MAIL 7011 3500 0003 2064 0420
RETURN RECEIPT REQUESTED

Douglas A. Henderson, Esq.
Troutman Sanders, LLP
600 Peachtree Street, N.E.
Suite 5200
Atlanta, Georgia 30308

Re: Consent Agreement and Final Order
Docket No.: CWA 04-2014-5509(b)

Dear Mr. Henderson:

Enclosed, please find a fully executed copy of the above 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 Section V. Payment.

Thank you for your cooperation in settling this matter. Should you have any questions or concerns, please contact Ms. Suzanne Armor, Associate Regional Counsel, at (404) 562-9701.

Sincerely,

A handwritten signature in blue ink that reads "Denisse D. Diaz".

Denisse D. Diaz, Chief
Clean Water Enforcement Branch
Water Protection Division

Enclosure

cc: Mr. Ed Johnson, Piedmont Branch Regulatory Chief
U.S. Army Corps of Engineers, Savannah District Regulatory Program

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.”

III. Allegations by Complainant

8. This Consent Agreement pertains to the unauthorized deposition of dredged and/or fill material into an unnamed tributary to Nancy Creek, which is a water of the United States, from a construction site known as Camden Paces (“Development”), located at 77 East Andrews Drive, Atlanta, Fulton County, Georgia near latitude 33°50’37” north and longitude 84°22’56” west, during construction of stormwater runoff structures at the Development.

9. Camden USA, Inc. (“Camden USA”) and Camden Development, Inc. (“Camden Development”) (collectively, “Respondents”) are corporations duly organized and existing under the laws of the State of Delaware and are “persons” within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

10. At all times relevant to this action, Camden USA owned the Development.

11. At all times relevant to this action, Camden Development was the operator of the Development.

12. 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 permits issued under, *inter alia*, Section 404 of the CWA, 33 U.S.C. § 1344.

13. 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 (“Corps”), to issue permits for the discharge of dredged or fill material into navigable waters.

14. Pursuant to Section 404(e)(1) of the CWA, 33 U.S.C. § 1344(e)(1), the Corps may issue general permits on a state, regional, or nationwide basis for any category of activities involving discharges of dredged and/or fill material if the Corps determines that the activities in such category are similar in nature, will cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effects on the environment.

15. The Corps is required to reissue such general permits every five (5) years. 33 U.S.C. § 1344(e)(2).

16. The Corps reissued certain nationwide permits (“NWP”), including Nationwide Permit No. 29 (“NWP 29”), effective March 19, 2007 and expiring on March 18, 2012. *See* 72 Fed. Reg. 11,092 (Mar. 12, 2007).

17. In accordance with 33 C.F.R. § 330.6(b), activities authorized by the NWPs issued on March 12, 2007, that had commenced or were under contract to commence by March 18, 2012, have until March 18, 2013 to complete the activity under the terms and conditions of the March 12, 2007 NWPs. *See* 77 Fed. Reg. 10,184 (Feb. 21, 2012).

18. On January 26, 2012, Respondents submitted a completed application to the Corps for coverage under Nationwide Permit No. 29 (“NWP 29”).

19. Respondents identified the associated project impacts as being associated with the installation of a 24-inch by 25-linear foot corrugated metal pipe, concrete headwall, wingwall and a rip-rap splash pad extended downstream from the headwall to prevent erosion. Respondents’ application to the Corps did not identify the installation of rock filter dams in the unnamed tributary to Nancy Creek as a project impact.

20. On February 21, 2012, the Corps authorized Respondents’ proposed activity under NWP 29, provided that Respondents comply with certain conditions, including, but not limited to, complying with the requirements outlined in the “Manual for Erosion and Sediment Control in Georgia” (“Manual”) published by the State Soil and Water Conservation Commission.

21. Discharged dredged and/or fill material, including rock material deposited in the unnamed tributary to Nancy Creek, and stormwater are “pollutants” as defined under Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

22. Mechanical equipment utilized by Respondents, and/or those acting on behalf of Respondents, to place the dredged and/or fill material in the unnamed tributary to Nancy Creek are “point sources” as defined in Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

23. Respondents’ placement of the dredged and/or fill material into the unnamed tributary to Nancy Creek constitutes a “discharge of pollutants” as defined under Section 502(12) of the CWA, 33 U.S.C. § 1362(12).

24. Complainant alleges that Respondents’ activities impacted approximately 75 linear feet of an unnamed tributary of Nancy Creek. Nancy Creek is a perennial stream that flows to Peachtree Creek. Peachtree Creek is a perennial stream that flows to the Upper Chattahoochee River, which is a water of the United States.

25. The Manual requires that any rock filter dams be located as close to the source of sediment as possible and so that they will not cause water to back up on upstream adjacent property. *See* Manual, Ch. 6, § III, at p. 6-117.

26. The Manual also requires that, before structures of any kind are installed in flowing streams, the appropriate agencies and local officials should be contacted. *See Manual, Ch. 6, § III, at p. 6-117.*

27. On June 5, 2013, representatives of the EPA, in conjunction with GAEPD, performed a Compliance Stormwater Evaluation Inspection (“CSWEI”) at the Development to evaluate the treatment and disposal of stormwater in accordance with the CWA, the regulations promulgated thereunder at 40 C.F.R. § 122.26 and the Permit.

28. During the CSWEI, the EPA inspectors provided a copy of an “NPDES Inspection Observation Form” to Camden Development representatives to notify the Respondents of the EPA’s initial concerns regarding the conditions at the Development.

29. As noted on the “NPDES Inspection Observation Form” and in the CSWEI Report, the EPA observed that Respondents, and/or those acting on behalf of the Respondents, discharged dredged and/or fill material into the unnamed tributary to Nancy Creek located at the Development during unauthorized activities associated with the creation of at least three (3) rock filter dams for stormwater runoff control.

30. Although a portion of Respondents’ activities at the Development were authorized under NWP 29, Respondents’ discharge of dredged and/or fill material at the rock filter dams was not authorized under such NWP 29.

31. Complainant alleges that Respondents’ unauthorized activities with respect to the rock filter dams impacted approximately 75 linear feet of the unnamed tributary to Nancy Creek.

32. On September 12, 2013, the EPA and Respondents finalized two Administrative Orders on Consent, Docket Nos. CWA-04-2013-4765 and CWA-04-2013-5765 (AOCs), pursuant to Section 309(a) of the CWA, 33 U.S.C. § 1319(a), whereby Respondents agreed to perform certain injunctive relief. Based on documentation submitted to Complainant by Respondents, Respondents have completed the work required under these two AOCs.

33. Respondents’ placement of the dredged and/or fill material into this water of the United States constituted a “discharge of pollutants” as defined in Section 502(12) of the CWA, 33 U.S.C. § 1362(12).

34. Each discharge by the Respondents 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).

35. Each day the material discharged by the Respondents remained in waters of the United States without the required permit under Section 404 of the CWA, 33 U.S.C. § 1344, constituted a day of violation of Section 301 of the CWA, 33 U.S.C. § 1311.

36. Complainant alleges that Respondents have violated Section 301 of the CWA, 33 U.S.C. § 1311, by discharging pollutants into navigable waters without a valid permit.

IV. Stipulations and Findings

37. Complainant and Respondents 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 Order ("CA/FO") will simultaneously commence and conclude this matter.

38. For the purposes of this CA/FO, Respondents admit the jurisdictional allegations set out above, but neither admits nor denies Complainant's factual allegations set out above.

39. Respondents hereby waive their right to contest the allegations set out above and its right to appeal the Final Order accompanying this Consent Agreement.

40. Respondents consent to the assessment of and agree to pay the administrative penalty as set forth in this CA/FO and consent to the other conditions set forth in this CA/FO.

41. By signing this CA/FO, Respondents certify that the information they have supplied concerning this matter was at the time of submission, and is, truthful, accurate, and complete for each such submission, response and statement. Respondents recognize 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.

42. The EPA 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 Respondents was materially false or inaccurate at the time such information or certification was provided to the EPA.

43. Complainant and Respondents 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.

V. Payment

44. 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, the EPA has determined that four-thousand dollars (\$4,000) is an appropriate civil penalty to settle this action.

45. Respondents 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 names of Respondents and the Docket Number of this CA/FO. 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, Missouri 63197-9000

For other payment options (Ex: Wire Transfers, Overnight Mail, ACH, and On Line), please refer to Attachment A.

46. At the time of payment, Respondents 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
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

and

Ms. Mary Mattox
Clean Water Enforcement Branch
Stormwater and Residuals Enforcement Section
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

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

48. 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 the 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.

VI. General Provisions

49. This CA/FO shall not relieve Respondents of their 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.

50. Issuance of this CA/FO shall not be deemed as prohibiting, altering, or in any way limiting the ability of the EPA to pursue any other enforcement actions available to it under law. Such actions may include, without limitation, any administrative, civil, or criminal action to seek penalties, fines, injunctive, or other appropriate relief, or to initiate an action for imminent and substantial endangerment, under the CWA or any other federal or state statute, regulation, or permit.

51. Except as otherwise set forth herein, this CA/FO constitutes a settlement by Complainant and Respondents of all claims for civil penalties pursuant to the CWA with respect to only those violations alleged in this CA/FO. Except as otherwise set forth herein, compliance with this CA/FO shall resolve the allegations of violations contained herein.

52. Nothing in this CA/FO is intended to nor shall be construed to operate in any way to resolve any criminal liability of Respondents, or other liability resulting from violations that were not alleged in this CA/FO.

53. 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.

54. This CA/FO applies to and is binding upon Respondents and their officers, directors, employees, agents, successors and assigns.

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

56. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this CA/FO.

57. In accordance with 40 C.F.R. § 22.5, the individuals below are authorized to receive service related to this proceeding:

For Complainant:

Suzanne K. Armor
Associate Regional Counsel
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9701

For Respondents:

Douglas A. Henderson, Esq.
Troutman Sanders, LLP
600 Peachtree Street, N.E.
Suite 5200
Atlanta, Georgia 30308-2216

58. 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 proposed CA/FO based on comments received during the public comment period.

59. 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.

60. Effective upon signature of this CA/FO by Respondents, Respondents agree that the time period commencing on the date of its signature and ending on the date the EPA receives from Respondents the payment required by this CA/FO 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 CA/FO and that in any action brought by the EPA related to the matters addressed, Respondents 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 the EPA gives notice to Respondents that it will not make this CA/FO effective, the statute of limitations shall begin to run again commencing ninety days after the date such notice is sent by the EPA.

VII. Release by Respondents

61. Respondents hereby covenant not to sue and agrees not to assert any claims or causes of action against the United States, including any department, agency or instrumentality

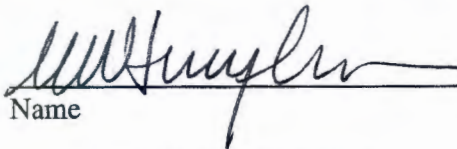
of the United States, with respect to the matters addressed and resolved in this CA/FO, including but not limited to, any claim that any of the matters or actions described in this CA/FO have resulted in a taking of Respondents' property without compensation.

VIII. Effective Date

62. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

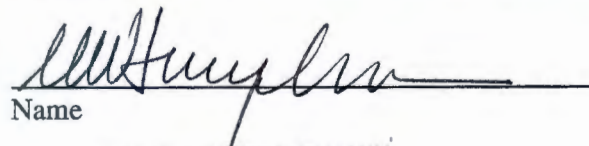
AGREED AND CONSENTED TO:

FOR RESPONDENT CAMDEN USA, INC.


Name _____
WILLIAM W. SENGLMANN
Title SENIOR VICE PRESIDENT-REAL
ESTATE INVESTMENTS

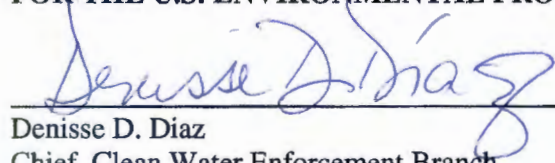
Date: August 13, 2014

FOR RESPONDENT CAMDEN DEVELOPMENT, INC.:


Name _____
WILLIAM W. SENGLMANN
Title SENIOR VICE PRESIDENT-REAL
ESTATE INVESTMENTS

Date: August 13, 2014

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:


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

Date: 9/29/14

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	ADMINISTRATIVE
)	CONSENT AGREEMENT AND
)	FINAL PENALTY ORDER
CAMDEN USA, INC. and)	
CAMDEN DEVELOPMENT, INC.)	DOCKET NO. CWA 04-2014-5509(b)
CAMDEN PACES)	
ATLANTA, FULTON COUNTY, GEORGIA,)	
)	
RESPONDENTS.)	
<hr/>)

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: Sept. 30, 2014



Susan B. Schub
Regional Judicial Officer

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-04-2014-5509(b)** on the parties listed below in the manner indicated:

EPA Internal Mail: Sean Ireland
Clean Water Enforcement Branch
Stormwater and Residuals Enforcement Section
U.S. EPA, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

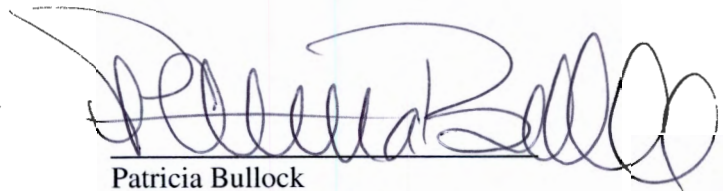
By hand-delivery: Suzanne Armor
Associate Regional Counsel
Office of Environmental Accountability
U.S. EPA, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

By Certified mail,
return receipt requested: Douglas A. Henderson
Troutman Sanders, LLP
600 Peachtree Street, N.E.
Suite 5200
Atlanta, Georgia 30308-2216

James A. Capp, Branch Chief
Watershed Protection Branch
ATTN: Jan Sammons, Unit Manager
Erosion and Sedimentation Unit
Georgia Environmental Protection Division
420 International Parkway
Suite 101
Atlanta, Georgia 30354

Margaret Tanner, Deputy Commissioner
Department of Watershed Management
Office of Watershed Protection
ATTN: Alex Comer
City of Atlanta, 8th Floor
72 Marietta Street, N.W.
Atlanta, Georgia 30303

Dated: 9-30-14



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

ATTACHMENT A
COLLECTION INFORMATION

WIRE TRANSFERS:

Wire transfers should be directed to the Federal Reserve Bank of New York

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

OVERNIGHT MAIL:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: Natalie Pearson
(314) 418-4087

ACH (also known as REX or remittance express):

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, N.W.
Washington, DC 20074
Contact: Jesse White, (301) 887-6548
ABA = 051036706
Transaction Code 22 – checking
Environmental Protection Agency
Account 310006
CTX Format

ONLINE PAYMENT:

There is now an Online Payment Option, available through the Dept. of Treasury. This payment option can be accessed from the information below:

www.pay.gov (Enter sfo 1.1 in the search field Open form and complete the required fields).

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETE BY ORIGINATING OFFICE:

(attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Mary Mattox 8/14/14
[Name] [Date]
in the WPD/CWEB/Municipal and Industrial Section at 404-562-9733
[Office] [Telephone Number]

- Non-SF Judicial Order/Consent Decree. USAO COLLECTS.
Administrative Order/Consent Agreement. FMS COLLECTS PAYMENT.
SF Judicial Order/Consent Decree. FMS COLLECTS.
Other Receivables
This is an original debt.
This is a modification.

PAYEE: Camden USA, Inc. and Camden Development, Inc. Camden Paces, Atlanta, GA
[Name of person and/or Company/Municipality making the Payment]

The Total Dollar Amount of Receivable: \$ 4,000
[If in installments, attach schedule of amounts and respective due dates]

The Case Docket Number: CWA-04-2014-5509(b)

The Site-Specific Superfund (SF) Account Number:

The Designated Regional/Headquarters Program Office: Region 4 Water Protection Division

TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT SECTION:

The IFMS Accounts Receivable Control Number is:
If you have any questions call: in the Financial Management Section,
Telephone Number:

DISTRIBUTION:

A. JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the FINAL JUDICIAL ORDER should be mailed to:

- 1. Debt Tracking Officer Environmental Enforcement Section Department of Justice/RH 1647 P.O. BOX 7611, Benjamin Franklin Station Washington, DC 20044
2. Originating Office (ORC)
3. Designated Program Office

B. ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the ADMINISTRATIVE ORDER should be sent to:

- 1. Originating Office
2. Designated Program Office
3. Regional Hearing Clerk
4. Regional Counsel