



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

CERTIFIED MAIL 7005 3110 0003 6266 0035
RETURN RECEIPT REQUESTED

FEB 23 2007

Mr. Greg Campbell, President
Carolina Pole, Inc.
237 Forestry Road
Eutawville, SC 29048

SUBJ: Consent Agreement and Final Order
Docket No. CWA-04-2007-4505(b)
Carolina Pole, Inc.
Eutawville, South Carolina

Dear Mr. Campbell:

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

Should you have any questions or concerns, please contact Bruce Henry at (404) 562-9754.

Sincerely,

A handwritten signature in black ink, appearing to read "Douglas F. Mundrick".

Douglas F. Mundrick, P.E., Chief
Water Programs Enforcement Branch
Water Management Division

Enclosure

cc: South Carolina Department of Health
and Environmental Control

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:)
)
CAROLINA POLE, INC.) CONSENT AGREEMENT AND
EUTAWVILLE, SOUTH CAROLINA) FINAL ORDER
)
RESPONDENT.) DOCKET NO. CWA-04-2007-4565(b)

RECEIVED
EPA REGION IV
2007 FEB 28 AM 6:45
HEARING CLERK

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. 40176 (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 ("EPA"). 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 Management Division, EPA, Region 4, who in turn has delegated this authority to the Chief of the Water Programs Enforcement Branch, EPA, Region 4 ("Complainant").

II. Allegations

3. Carolina Pole, Inc. ("Carolina Pole") is a corporation duly organized and existing under the laws of the State of South Carolina and, 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, Carolina Pole owned and/or operated a facility located at 237 Forestry Road, Eutawville, South Carolina ("the Facility") which discharges storm water into Sandy Run, a "navigable water" as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

5. The CWA was enacted "to restore and maintain the chemical, physical and biological integrity of the Nation's water." 33 U.S.C. §§ 1251-1386. To accomplish this objective, Section 301(a) of the CWA, 33 U.S.C. § 1311(a), makes unlawful the discharge of

pollutants into waters of the United States by a person except in compliance with certain other enumerated sections of the CWA, including Section 402.

6. Section 402(a) of the CWA, 33 U.S.C. § 1342(a), establishes a system for the issuance of National Pollutant Discharge Elimination System (NPDES) permits by EPA to point sources for discharges of pollutants to waters of the United States. Section 402(b) of the CWA, 33 U.S.C. § 1342(b), permits each state to implement the CWA through its own permit program, so long as the program conforms to federal guidelines approved by the EPA Administrator. The EPA Administrator has authorized the State of South Carolina through the South Carolina Department of Health and Environmental Control (“SCDHEC”) to issue and enforce storm water discharge permits.

7. The SCDHEC issued an *NPDES General Permit for Storm Water Discharges Associated With Industrial Activity (except construction activity)*, Permit No. SCR000000 (“the Permit”) in accordance with the South Carolina Pollution Control Act (S.C. Code Sections 48-1-10 *et seq.*, 1976) and the provisions of the CWA. The Permit became effective July 1, 2005, and expires August 31, 2008. Coverage under this permit is obtained by submitting a Notice of Intent (“NOI”) as required in Part 2 of the Permit or by submitting an annual invoice to SCDHEC for continued coverage.

8. On August 31, 2005, representatives of Science Applications International Corporation, a contractor to EPA, in conjunction with the SCDHEC, performed a Compliance Storm Water Evaluation Inspection (“CSWEI”) of the Carolina Pole Facility located at 237 Forestry Road, Eutawville, South Carolina. EPA’s CSWEI is designed to evaluate the treatment and disposal of storm water at the Facility in accordance with the CWA, the regulations promulgated thereunder and the SCDHEC Permit.

9. As a result of the CSWEI, EPA, Region 4 has determined that Carolina Pole discharged storm water associated with an industrial activity within the meaning of Section 402(p) of the CWA, 33 U.S.C. § 1342(p), and its implementing regulations.

10. The CSWEI revealed that Carolina Pole violated Part 3.3. of the Permit which requires amendment to the Storm Water Pollution Prevention Plan (“SWPPP”) whenever there is a change in design, construction, operation, or maintenance which has a significant effect on the potential for the discharge of pollutants to waters, or if the SWPPP proves to be ineffective in eliminating or adequately minimizing pollutants, or otherwise responsible for failing to meet the requirements of the Permit.

11. The CSWEI revealed that Carolina Pole violated Part 3.4.A. of the Permit which requires the identification of a specific individual or individuals as members of a Storm Water Pollution Prevention Team that are responsible for developing the SWPPP and assisting in its implementation, maintenance, and revision.

12. The CSWEI revealed that Carolina Pole violated Part 3.4.B.1.(a) of the Permit which requires the SWPPP to include a site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under paragraph 3 (Spills and Leaks) of the Permit have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle and equipment maintenance and/or cleaning areas, loading/unloading areas, locations used for the treatment, storage, or disposal of wastes, liquid-storage tanks, processing areas and storage areas.

13. The CSWEI revealed that Carolina Pole violated Part 3.4.B.1.(b) of the Permit which requires the SWPPP to include a site map indicating each area of the facility that generates industrial storm water discharges with a reasonable potential for containing significant amounts of pollutants and a prediction of the direction of flow and an identification of the types of pollutants which are likely to be present in industrial storm water discharges. Factors to consider include the toxicity of chemicals; quantity of chemicals used, produced, or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall also be identified.

14. The CSWEI revealed that Carolina Pole violated Part 3.4.B.3. of the Permit which requires the SWPPP to include a list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility within three (3) years prior to the effective date of this permit.

15. The CSWEI revealed that Carolina Pole violated Part 3.4.B.4. of the Permit which requires the SWPPP to include a summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

16. The CSWEI revealed that Carolina Pole violated Part 3.4.B.5. of the Permit which requires the SWPPP to include a narrative description of the potential pollutant sources at the following areas: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust- or particulate-generating processes; and on-site waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site, for each potential source, any pollutant or pollutant parameters of concern shall be identified.

17. The CSWEI revealed that Carolina Pole violated Part 3.4.C.4. of the Permit which requires the identification of qualified facility personnel to inspect designated equipment and areas of the facility at appropriate intervals. Carolina Pole also violated the Permit requirement

to develop and implement a set of tracking or follow-up procedures to be used to ensure that appropriate actions are taken in response to the inspections and the maintenance of all inspection records.

18. The CSWEI revealed that Carolina Pole violated Part 3.4.C.5. of the Permit which requires the development and implementation of employee training programs to inform personnel responsible for implementing activities identified in the SWPPP, or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the SWPPP.

19. The CSWEI revealed that Carolina Pole violated Part 3.4.C.6. of the Permit which requires the development, implementation and maintenance of record keeping and internal reporting procedures which describe incidents such as spills, or other discharges, along with other information describing the quality and quantity of storm water discharges.

20. The CSWEI revealed that Carolina Pole violated Part 3.4.C.7. of the Permit which requires the certification that the discharge has been tested or evaluated for the presence of non-storm water discharges.

21. The CSWEI revealed that Carolina Pole violated Part 3.4.D. of the Permit which requires qualified personnel to conduct evaluations of site compliance at appropriate intervals, but no less than once a year.

22. The CSWEI revealed that Carolina Pole violated Part 5.2.B. of the Permit which requires the semi-annual monitoring of storm water discharges.

23. The CSWEI revealed that Carolina Pole violated Part 5.2.B.1. of the Permit which requires dischargers of industrial storm water at facilities subject to requirements to report releases into the environment under Section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) to monitor for acute Whole Effluent Toxicity ("WET") which is subject to the reporting requirements set forth in paragraphs 5.3.A.2, 5.3.B, and 5.4.A.5 of this part.

24. The CSWEI revealed that Carolina Pole violated Part 5.2.B.4. of the Permit which requires the monitoring of storm water from areas used for wood treatment, wood surface application, or storage of treated or surface protected wood for: oil and grease, chemical oxygen demand, total suspended solids, and pH. In addition, facilities that use chlorophenolic formulations shall measure pentachlorophenol and acute WET; facilities which use creosote formulations shall measure acute WET. Facilities that use chromium-arsenic formulations shall measure total recoverable arsenic, total recoverable chromium, and total recoverable copper.

25. Carolina Pole has violated a permit condition or limitation implementing any such sections in a permit issued by a State under Section 402(b) of the CWA, 33 U.S.C. § 1342(b) by failing to comply with the SCDHEC Permit.

III. Stipulations and Findings

26. For purposes of this Consent Agreement and Final Order ("CA/FO"), Respondent admits the jurisdictional allegations set out above and neither admits nor denies the factual allegations set out above.

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

28. 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.

29. By signing this CA/FO, 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. 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.

30. EPA reserves the right to assess and collect any and all civil penalties for any violation described herein 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 EPA.

31. Complainant and 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

32. 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, EPA has determined that Two Thousand Five Hundred Dollars (\$2,500) is an appropriate civil penalty to settle this action.

33. 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
Cincinnati Accounting Operations
Mellon Lockbox 371099M
Pittsburgh, PA 15251-7099

34. 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 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, GA 30303-8960

and

Ms. Mary Mattox
U.S. Environmental Protection Agency, Region 4
Water Management Division
Water Programs Enforcement Branch
Gulf Enforcement Section
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960

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

36. Pursuant to 40 C.F.R. Parts 13 and 31 U.S.C. § 3717 *et seq.*, if EPA does not receive payment of the penalty assessed by this CA/FO in full by its due date, interest shall accrue on the unpaid balance from the due date through the date of payment at an annual rate equal to the rate of the current value of funds to the United States Treasury as prescribed and published by the Secretary of the Treasury. If all or part of the payment is overdue, EPA will assess a late-payment handling charge of \$15.00, with an additional delinquent notice charge of \$15.00 for each subsequent thirty (30) day period. EPA will also assess on a monthly basis an up to six percent (6%) per annum penalty on any principal amount not paid within ninety (90) days of the due date.

37. Pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), failure by 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), attorneys 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

38. This CA/FO shall not relieve 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 EPA.

39. 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 Respondent's violation of this CA/FO or of the statutes and regulations upon which this CA/FO is based, or for Respondent's violation of any federal or state statute, regulation or permit.

40. Except as otherwise set forth herein, this CA/FO constitutes a settlement by Complainant and 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 Administrative Complaint. Except as otherwise set forth herein, compliance with this CA/FO shall resolve the allegations of violations contained herein and in the Administrative Complaint. Nothing in this CA/FO is intended to nor shall be construed to operate in any way to resolve any criminal liability of Respondent, or other liability resulting from violations that were not alleged in this CA/FO or in the Administrative Complaint. Other than as expressed herein, 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.

41. 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.

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

43. 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 CA/FO.

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

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

For Complainant:

William T. Jones
Associate Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960
(404) 562-9582

For Respondent:

Greg Campbell, President
Carolina Pole, Inc.
237 Forestry Road
Eutawville, SC 29048
(803) 492-7728

46. 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.

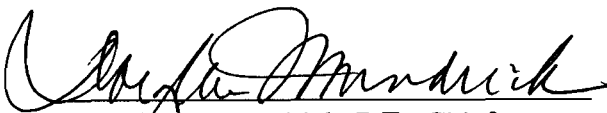
47. Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and 40 C.F.R. § 22.38(b), Complainant represents that the State of South Carolina was provided a prior opportunity to consult with Complainant regarding this matter.

VI. Effective Date

48. 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:

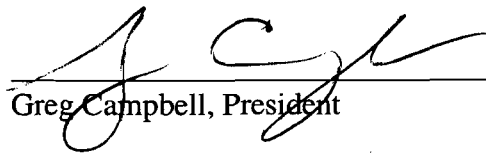
For COMPLAINANT, U.S. ENVIRONMENTAL PROTECTION AGENCY:



Douglas F. Mundrick, P.E., Chief
Water Programs Enforcement Branch
Water Management Division
EPA, Region 4

Date: 1/19/07^{elms}

For RESPONDENT, Carolina Pole, Inc.:



Greg Campbell, President

Date: 11/20/2006

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

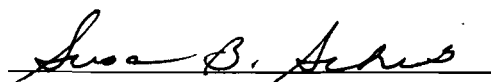
IN THE MATTER OF:)
)
CAROLINA POLE, INC.) CONSENT AGREEMENT AND
EUTAWVILLE, SOUTH CAROLINA) FINAL ORDER
)
RESPONDENT.) DOCKET NO. CWA-04-2007-4505(b)
_____)

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), Respondent is hereby ordered to comply with the terms of the foregoing Consent Agreement.

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 2/27/07


Susan B. Schub
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 Carolina Pole, Inc., Docket No. CWA-04-2007-4505(b) (filed with the Regional Hearing Clerk on **FEB 28 2007**, 2007), was served on **FEB 28 2007**, 2007, in the manner specified to each of the persons listed below.

By hand-delivery: William T. Jones
Associate Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960

By certified mail,
return receipt requested: Greg Campbell, President
Carolina Pole, Inc.
237 Forestry Road
Eutawville, SC 29048

David Wilson, Chief
Bureau of Water
South Carolina Department of Health
and Environmental Control
2600 Bull Street
Columbia, SC 29201



Ms. Patricia A. Bullock
Regional Hearing Clerk
U.S. EPA, Region 4
Sam Nunn Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960
(404) 562-9511

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

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

This form was originated by: Mary Mattox on 1/11/2007

in the WMD/WPEB/GES at (404) 562- 9733

Non-SF Judicial Order/Consent Decree USAO COLLECTS

Administrative Order/Consent Agreement FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree DOJ COLLECTS

Oversight Billing - Cost Package required: Sent with bill

Other Receivable

Not sent with bill

This is an original debt

Oversight Billing - Cost Package not required

This is a modification

PAYEE: Carolina Pole, Inc - Eutawville, SC

The Total Dollar Amount of the Receivable: \$ 2,500

The Case Docket Number: CWA-04-2007-4505(b)

The Site Specific Superfund Account Number:

The Designated Regional/Headquarters Program Office: WMD

TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number is: Date

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 RM 1647 P.O. Box 7611, Benjamin Franklin Station Washington, D.C. 20044

- 2. Originating Office (EAD) 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 to:

- 1. Originating Office 2. Regional Hearing Clerk

- 3. Designated Program Office 4. Regional Counsel (EAD)