



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

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

JUL 20 2010

CERTIFIED MAIL 7006 0810 0004 1131 0288
RETURN RECEIPT REQUESTED

Ronald W. Farley, Esq.
Burr & Forman LLP
420 North 20th Street, Suite 3400
Birmingham, Alabama 35203

Re: Consent Agreement and Final Order
Docket No. CWA-04-2010-4512(b)
Villages of Westover
Chelsea, Alabama

Dear Mr. Farley:

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 and the Regional Judicial Officer. Please make note of the provisions under Section IV. Payment.

Should you have any questions or problems, please contact Ms. Amanda Driskell at (404) 562-9735.

Sincerely,

A handwritten signature in black ink that reads "CESAR A. ZAPATA".

Cesar A. Zapata, Acting Chief
Clean Water Enforcement Branch
Water Protection Division

Enclosure

cc: Alabama Department of Environmental Management

Internet Address (URL) • <http://www.epa.gov>

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16
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

HEARING OFFICE

2010 JUL 20 AM 7:02

RECEIVED
EPA REGION 4

IN THE MATTER OF:)
)
) **CONSENT AGREEMENT AND**
) **FINAL ORDER**
)
Westover Development, LLC)
Villages of Westover)
Chelsea, Alabama)
)
RESPONDENT) **DOCKET NO. CWA-04-2010-4512(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. 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 Protection Division, who in turn has delegated this authority to the Chief of the Clean Water Enforcement Branch of EPA, Region 4 ("Complainant").

II. Allegations

3. At all times relevant to this action, Westover Development, LLC ("Respondent"), was a limited liability corporation formed under the laws of the State of Alabama 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, Respondent owned and/or operated a construction site known as Villages of Westover ("Development") located on Highway 51, in Chelsea, Alabama.

5. 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.

6. Section 402 of the CWA, 33 U.S.C. § 1342, established an NPDES Permit Program authorizing 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. Pursuant to Section 402(b) of the CWA, EPA has granted the State of Alabama, through the Department of Environmental Management ("ADEM"), approval to administer the NPDES program.

7. ADEM issued Administrative Code Chapter 335-6-12, *National Pollutant Discharge Elimination System (NPDES) Construction, Noncoal/Nonmetallic Mining and Dry Processing Less Than Five Acres, Other Land Disturbance Activities, and Areas Associated With These Activities*, ("Permit Regulations"), in accordance with Code of Alabama 1975, §§ 22-22-1 to 22-22-14 and §§ 22-22A-1 and 22-22A-16 *et seq.*, as amended, effective March 1, 2003, and revised on September 19, 2006. Regulated facilities must submit a Notice of Registration ("NOR") requesting coverage under the Permit Regulations, and must submit an NOR each year thereafter to maintain coverage unless another length of time not to exceed five (5) years has been approved by ADEM. The Permit Regulations also require that a Construction Best Management Plan ("CBMPP"), designed to minimize pollutant discharges in stormwater runoff to the maximum extent practicable during land disturbance activities, be submitted, fully implemented and effectively maintained.

8. The ADEM Water Division is responsible for the approval of coverage under the Permit Regulations, upon submission of the NOR and CBMPP.

9. On March 19, 2008, Respondent submitted to ADEM an NOR requesting coverage for its Development. A Notice of Coverage was sent to Respondent with an effective date of March 19, 2008, and an expiration date of March 22, 2009.

10. Part 335-6-12-.05(2) of the Permit Regulations requires the maintenance of adequate records to document compliance and to fully implement and regularly maintain effective Best Management Practices ("BMPs") to the maximum extent practicable.

11. Part 335-6-12-.05(3) of the Permit Regulations requires implementation and maintenance of a comprehensive CBMPP and submission of reports and certifications as required.

12. Part 335-6-12-.06(3) of the Permit Regulations requires the Operator to control, suspend, or cease construction or discharge upon reduction in effectiveness, loss or failure of a treatment facility or BMP until the construction BMP/control is restored or an effective alternative BMPs or method of effective treatment is provided.

13. Part 335-6-12-.06(4) of the Permit Regulations requires that all reasonable steps be taken to prevent and/or minimize, to the maximum extent practicable, any discharge which has a reasonable likelihood of adversely affecting the quality of groundwater or surface water receiving the discharges.

14. Part 335-6-12-.10(3) of the Permit Regulations requires the Operator to notify ADEM in writing and submit a revised NOR whenever there is a change in the information contained within the NOR, including a change in control/responsibility for the registered construction site, incomplete information, or incorrect information.

15. Part 335-6-12-.15(2) of the Permit Regulations requires that all required records be kept at the construction site or at an alternative site previously identified to ADEM, provided they are readily available for inspection upon request.

16. Part 335-6-12-.15(11)(a)1-3 of the Permit Regulations requires the Operator to record, at a minimum, the following information for each inspection, measurement, sample taken, laboratory or field measurement, parameter, or analysis performed, observed, or recorded:

- A. The site/facility name and location, registration number, source location, date, time and exact place of sampling, if conducted;
- B. The name of those persons who performed the inspection or obtained the samples or measurements; the dates and times of when the inspection or the analyses were performed; the name(s) of the person(s) who performed the analyses; the analytical techniques or methods used, including source of method and method number; the equipment used, methods used, and calibration procedures; the results of all samples and analyses; and
- C. Any deficiencies noted during the inspection, any corrective action or mitigation needed to correct the deficiencies, and a proposed compliance schedule.

17. Part 335-6-12-.21(2)(a) of the Permit Regulations requires the Operator to implement a comprehensive certified CBMPP appropriate for site specific conditions. The CBMPP shall describe the structural and/or non-structural practices and management strategies to be implemented and maintained at the site.

18. Part 335-6-12-.21(2)(b)1 of the Permit Regulations requires the CBMPP to include a description of appropriate, effective water quality BMPs to be implemented at the site, including the maximum diversion of upgradient or off-site water from the site and minimum duration of disturbed area exposure.

19. Part 335-6-12-.21(2)(b)3 of the Permit Regulations requires the CBMPP to include a description of appropriate, effective water quality BMPs to be implemented at the site, including the proper cleanup/removal or effective stabilization of sediment deposited off-site, and effective remediation of sediment or other pollutant in-stream impacts to the maximum extent practicable.

20. Part 335-6-12-.21(2)(b)5 of the Permit Regulations requires the CBMPP to include a description of appropriate, effective water quality BMPs of all areas not undergoing active disturbance or active construction for longer than thirteen (13) days to prevent/minimize erosion and ensure timely temporary vegetative cover, and to ensure permanent revegetation or cover of all disturbed areas when disturbance is complete.

21. Part 335-6-12-.21(2)(c)2 of the Permit Regulations requires the CBMPP to include the appropriate detailed maps, drawings or descriptions that include the locations of major structural and nonstructural BMPs; locations where permanent stabilization practices will be employed including areas stabilized by buildings, other structures, or other acceptable impervious surfaces; and areas which will be permanently vegetated following construction.

22. Part 335-6-12-.21(2)(e) of the Permit Regulations requires documentation of revisions or additions to the CBMPP.

23. Part 335-6-12-.21(3) of the Permit Regulations requires implementation of additional effective structural and nonstructural BMPs, as necessary, to protect water quality and update the CBMPP.

24. Part 335-6-12-.21(4) of the Permit Regulations requires BMPs to be designed, implemented, and regularly maintained to provide effective treatment of discharges of pollutants in storm water resulting from run off generated by probable storm events expected/predicted during construction disturbance, and during extended periods of adverse weather and seasonable conditions.

25. Part 335-6-12-.21(5)(a) of the Permit Regulations requires BMPs are fully implemented and regularly maintained.

26. Part 335-6-12-.21(5)(b) of the Permit Regulations requires that BMPs are implemented to the maximum extent practicable to prevent offsite sedimentation and deposition of construction site wastes.

27. Part 335-6-12-.21(6) of the Permit Regulations requires remediation of any off-site deposition of sediment and other pollutants, and if required, implement measures to remediate any impacts to the maximum extent practicable.

28. Part 335-6-12-.21(11)(c) of the Permit Regulations that effective BMPs are implemented as necessary to minimize downstream turbidity.

29. Part 335-6-12-.26(2) of the Permit Regulations requires documentation and effective BMPs design, implementation, and consistent maintenance to prevent/minimize discharges of pollutants in storm water runoff.
30. Part 335-6-12-.28(7) of the Permit Regulations requires inspection reports to document facility/site conditions, describe any BMPs deficiencies and maintenance needs, and detail any corrective actions that need to be implemented.
31. Part 335-6-12-.35(1) of the Permit Regulations requires proper operation and maintenance of all BMPs, facilities, systems of treatment and control, and associated appurtenances which are installed or used to achieve compliance.
32. Part 335-6-12-.35(10)(a) of the Permit Regulations requires prompt steps be taken to mitigate and prevent or minimize any adverse impact result from noncompliance with any requirements of the Permit Regulations; determine the nature and impact of the non-complying discharge; and remove, to the maximum extent practical, pollutants deposited offsite or in any water body or storm water conveyance.
33. Part 335-6-12-.35(11)(a) of the Permit Regulations requires the Operator to take all reasonable steps, including cessation of construction, building production or other activities, to prevent or minimize any violation of the Permit Regulations, or to prevent or minimize any adverse impacts.
34. On January 14, 2009, representatives of EPA, in conjunction with ADEM, performed a Compliance Stormwater Evaluation Inspection ("CSWEI") at Respondent's 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 ADEM Permit Regulations.
35. As a result of the CSWEI, EPA determined that stormwater associated with industrial activity was discharged from the Development within the meaning of Section 402(p) of the CWA, 33 U.S.C. § 1342(p), and its implementing regulations.
36. During the CSWEI, EPA inspectors observed the following:
- A. The CBMPP was not available for review as required by Part 335-6-12-.15(2) of the Permit Regulations. A copy of the CBMPP and the CBMPP site map was requested on January 28, 2009. A copy of the CBMPP site map was provided on February 17, 2009.
 - B. Inspection reports were not available for review as required by Part 335-6-12-.15(2) of the Permit Regulations. Copies of the inspection reports were provided on February 17, 2009.
 - C. Silt fencing, storm drain inlet protection, and rock outlet protection at various locations throughout the Development were observed to

be in need of maintenance. Silt fencing at Outfall 1 was down. Silt fencing south of Outfall 3 was leaning and breached in some areas. Silt fencing below and further northeast of Outfall 2 was down, breached, and leaning in places. Silt fencing northeast of Outfall 2 was improperly installed in that it was not trenched in. Silt fencing in the northeastern portion of the Development had been breached, resulting in unauthorized discharges of storm water entering the unnamed tributary ("UT") of Muddy Prong. Silt fencing between the sediment traps on the northeastern portion of the Development was in need of maintenance. Silt fencing southeast of Outfall 4 had been breached, resulting in an unauthorized discharge of sediment. Storm drain inlet protection was in need of maintenance. Some inlets were missing protection all together, others were missing portions of the protection, and some needed to have sediment and debris removed. The series of sediment traps located on the northeastern portion of the Development needed maintenance, sediment removal and/or rock replacement around edges. The rock berm to the east of the last sediment trap was in need of maintenance; the rock was missing and/or displaced. The rock outlet protection at all of the outfalls observed was in need of maintenance; the rock was missing, displaced, and/or needed to be cleaned of debris and sediment. The inlet to Pond 2 was $\frac{3}{4}$ full of sediment. Construction debris, litter, concrete pieces, and wood pallets were being stored in locations throughout the Development without any protection from exposure to storm water. The lack of maintenance and the improper installation of appropriate BMPs are violations of Parts 335-6-12-.05(2), 335-6-12-.06(3), 335-6-12-.06(4), 335-6-12-.21(4), 335-6-12-.21(5)(a), 335-6-12-.26(2), and 335-6-12-.35(1) of the Permit Regulations.

- D. Although the Development had been seeded and mulched in some areas, stabilization was needed at several soil stockpiles and at the slope around Outfall 2. The lack of stabilization is a violation of Parts 335-6-12-.21(2)(b)5, and 335-6-12-.35(1) of the Permit Regulations.
- E. Silt fences had been breached and sediment was observed in the UT of Muddy Prong at three different locations: at the UT of Muddy Prong below Outfall 3; northeast of Outfall 2 where the silt fence had been breached; and further northeast of Outfall 2. The discharge of sediment is a violation of Parts 335-6-12-.21(2)(b)3, 335-6-12-.21(3), 335-6-12-.21(5)(b), 335-6-12-.21(6), 335-6-12-.21(11)(c), 335-6-12-.35(10)(a), and 335-6-12-.35(11)(a) of the Permit Regulations.

- F. The inspection reports noted deficiencies but did not note corrective actions taken or to be taken. There were trends of deficiencies from one inspection to the next with no corresponding documentation of changes made to the CBMPP or corrective actions taken that would ensure that the deficiencies did not continue to occur. The lack of documentation of corrective actions and/or changes made in response to noted deficiencies is a violation of Parts 335-6-12-.05(2), 335-6-12-.15(11)(a)1-3, and 335-6-12-.28(7) of the Permit Regulations.
- G. The number of outfalls on the CBMPP site map did not correlate with the number of discharge points identified on the NOR. The CBMPP site map identifies six outfalls but the NOR only identifies three outfalls. The failure to notify ADEM in writing and submit a revised NOR whenever there is a change in the information contained in the NOR is a violation of Parts 335-6-12-.05(3) and 335-6-12-.10(3) of the Permit Regulations.
- H. The series of sediment traps and the rock berm that was observed during the CSWEI at the northeastern portion of the Development were not identified on the CBMPP site map. The failure to update the CBMPP site map and document revisions or additions to the CBMPP is a violation of Parts 335-6-12-.05(3), 335-6-12-.21(2)(a), 335-6-12-.21(2)(b)1, 335-6-12-.21(2)(c)2 and 335-6-12-.21(2)(e) of the Permit Regulations.

37. Therefore, Respondent has violated Sections 301 and 402(p) of the CWA, 33 U.S.C. §§ 1311 and 1342(p) by failing to comply with the ADEM Permit Regulations, and also for discharges not authorized by the ADEM Permit Regulations.

III. Stipulations and Findings

38. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order ("CA/FO") will simultaneously commence and conclude this matter.

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

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

41. 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.

42. 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.

43. 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.

44. 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

45. 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 that seven thousand five hundred dollars (\$7,500) is an appropriate civil penalty to settle this action.

46. Respondent shall submit payment of the penalty specified in the preceding paragraph **in accordance with the schedule described in Paragraph 48 below** via cashier's or certified checks, payable to the order of "Treasurer, United States of America." The checks 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 979077
St. Louis, Missouri 63197-9000

47. 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, Georgia 30303-8960

and

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

48. Respondent shall pay a civil penalty in the amount of \$7,500 as follows:
- A. Within one (1) month of the effective date of this CA/FO, Respondent shall pay \$937.50;
 - B. Within four (4) months of the effective date of this CA/FO, Respondent shall pay \$937.50 plus three (3) months' interest on \$6,562.50 calculated pursuant to 31 U.S.C. ' 3717;
 - C. Within seven (7) months of the effective date of this CA/FO, Respondent shall pay \$937.50 plus six (6) months' interest on \$5,625 calculated pursuant to 31 U.S.C. ' 3717;
 - D. Within ten (10) months of the effective date of this CA/FO, Respondent shall pay \$937.50 plus nine (9) months' interest on \$4687.50 calculated pursuant to 31 U.S.C. ' 3717;
 - E. Within thirteen (13) months of the effective date of this CA/FO, Respondent shall pay \$937.50 plus twelve (12) months' interest on \$3,750 calculated pursuant to 31 U.S.C. ' 3717;
 - F. Within sixteen (16) months of the effective date of this CA/FO, Respondent shall pay \$937.50 plus fifteen (15) months' interest on \$2,812.50 calculated pursuant to 31 U.S.C. ' 3717;
 - G. Within nineteen (19) months of the effective date of this CA/FO, Respondent shall pay \$937.50 plus eighteen (18) months' interest on \$1,875 calculated pursuant to 31 U.S.C. ' 3717;
 - H. Within twenty-two (22) months of the effective date of this CA/FO, Respondent shall pay \$937.50 plus twenty-one (21) months' interest on \$937.50 calculated pursuant to 31 U.S.C. ' 3717;

49. For purposes of this CA/FO, payments are due at the beginning of each month that a payment is due. One month equals thirty (30) or thirty-one (31) calendar days, with the exception of February which equals twenty-eight (28) calendar days.

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

51. 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), 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

52. 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.

53. 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.

54. 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. Except as otherwise set forth herein, compliance with this CA/FO shall resolve the allegations of violations contained herein. 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. 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.

55. 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.

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

57. 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.

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

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

For Complainant:

Judy Marshall
Associate Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9533

For Respondent:

Ronald W. Farley, Esq.
Burr & Forman LLP
420 North 20th Street, Suite 3400
Birmingham, Alabama 35203
(205) 458-5185

60. 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.

61. 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 Alabama was provided a prior opportunity to consult with Complainant regarding this matter.

VI. Effective Date

62. 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:



Cesar A. Zapata, Acting Chief
Clean Water Enforcement Branch
Water Protection Division

Date: 5/17/10

For RESPONDENT, WESTOVER DEVELOPMENT, LLC:


NAME: John B. DAVIS JR.
TITLE: MANAGING PARTNER

Date: 5/4/10

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:)
)
) **CONSENT AGREEMENT AND**
) **FINAL ORDER**
)
Westover Development, LLC)
Villages of Westover)
Chelsea, Alabama)
)
RESPONDENT) **DOCKET NO. CWA-04-2010-4512(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: July 19, 2010

Susan B. Schub
Susan B. Schub
Regional Judicial Officer

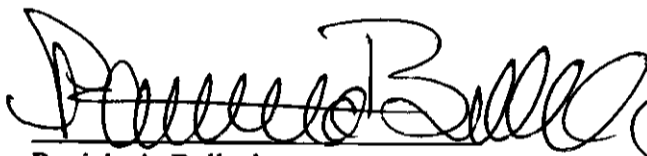
CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the attached **CONSENT AGREEMENT AND FINAL ORDER** in the matter of Westover Development, LLC, **Docket No. CWA-04-2010-4512(b)** (filed with the Regional Hearing Clerk on ~~JUL 20~~ JUL 20 2010), 2010, was served on JUL 20 2010, 2010, in the manner specified to each of the persons listed below.

By hand-delivery: Judy Marshall
Associate Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

**By certified mail,
Return receipt requested:** Ronald W. Farley, Esq.
Burr & Forman LLP
420 North 20th Street, Suite 3400
Birmingham, Alabama 35203

Vernon H. Crockett
Chief, NPDES Enforcement Branch
Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, Alabama 36130-1463



Patricia A. Bullock
Regional Hearing Clerk
Sam Nunn Federal Center
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 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 5/13/10
(Name) (Date)

in the WPD/CWEB/West NPDES Enforcement Section at (404) 562- 9733
(Office) (Telephone Number)

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

Not sent with bill

Other Receivable

Oversight Billing - Cost Package not required

This is an original debt

This is a modification

PAYEE: Westover Developments LLC - Villages of Westover, AL
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 7,500
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: CWA-04-2010-4512(b)

The Site Specific Superfund Account Number: _____
The Designated Regional/Headquarters Program Office: Water Protection Division

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 | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD) |

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM
PROGRAM SPECIFIC INFORMATION
PROGRAM: _____

Case Docket Control Number: CWA-04-2010-4512(b)

Total Amount Due: \$7,500

Full payment due 30 days after issuance date of _____



Installment payments to be paid:

Amount Due:

Date Due:

\$ 937.50

11 month effective date of CA/FD.

\$ 937.50

4 months

\$ 937.50

7 months

\$ 937.50

10 months

937.50

13 months

937.50

16 months

937.50

19 months

937.50

22 months