



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

CERTIFIED MAIL 7099 3400 0003 2827 3681
RETURN RECEIPT REQUESTED

MAR 14 2006

Mr. Thomg Vu
J. T. Future, Incorporated
4750 Candacraig Drive
Alpharetta, GA 30022

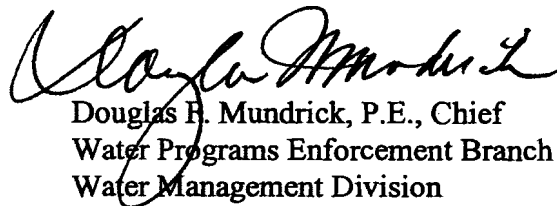
SUBJ: Consent Agreement and Final Order
Docket No. CWA-04-2006-4508(b)
Indian Trail Road Plaza
Norcross, Georgia

Dear Mr. Vu:

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 PAYMENT with respect to payment.

Should you have any questions or concerns, please contact Ms. Susan Pope at (404) 562-9770.

Sincerely,


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

Enclosure

cc: Georgia Environmental Protection
Division

Mr. Vince Pepe, CPESC
Gwinnett County Department of Planning
and Development

23. In lieu of providing the entire Twenty-Four Thousand Dollars (\$24,000.00) in one payment, the Respondent may elect to provide three (3) installment payments. Installment payments are subject to an interest charge of six percent (6%) per annum. Administrative charges will apply for payments over thirty (30) days, as detailed in Paragraph 26, below. Installments are due as follows:

<u>Payment Amount</u>	<u>Payment Date</u>
\$2,000.00	Within 30 days of the effective date of the CA/FO
\$8,120.20	July 1, 2006
\$8,120.20	January 1, 2007

24. 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

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

26. Pursuant to 40 C.F.R. Part 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

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:)

J. T. FUTURE, INC.)
ALPHARETTA, GA)

Respondent.)
_____)

) CONSENT AGREEMENT AND
) FINAL ORDER

) Docket No. CWA-04-2006-4508(b)

HEARING CLERK

2006 MAR 14 AM 11:23

RECEIVED
EPA REGION IV

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. At all times relevant to this action, J. T. Future, Incorporated ("Respondent"), was a corporation duly organized and existing under the laws of the State of Georgia 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 Indian Trail Plaza ("Facility") located at 1300 Indian Trail Road, Norcross, Georgia.

5. To accomplish the objective of the CWA {defined in Section 101(a) of the CWA, 33 U.S.C. § 1251(a), as 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.

identifying the receiving water and areal extent of wetland acreage at the site. These items were not identified on the Plan reviewed during the CSWEI.

D. Part IV.D.2.a.(1) of the Permit by failing to ensure that the Plan contained a description of interim and permanent stabilization measures, including site specific scheduling of the implementation of the measures within fourteen (14) days after construction activity in that portion of the site had temporarily or permanently ceased. No seeding or mulching required by the Plan was observed by the EPA inspector during the CSWEI.

E. Part IV.D.2.a.(3) of the Permit by failing to construction a permanent sedimentation basin as required by the Plan. A temporary sedimentation basin, which needed maintenance by removal of sediments, was observed during the CSWEI; this basin was not contained in the Plan. The underground sedimentation basin required by the Plan had not been constructed at the time of the CSWEI.

F. Part IV.D.3.a.(1), Part IV.D.3.a.(2), and Part IV.D.3.a.(3) of the Permit by failing to ensure that qualified personnel inspected: (a) all areas at the site where petroleum products were stored, used or handled for spills and leaks from vehicles and equipment; (b) all locations where vehicles entered or exited the site for evidence of off-site sediment tracking; and (c) measured rainfall once each twenty-four (24) hour period at the site. Respondent also failed to ensure that qualified personnel inspected the site at least once every seven (7) calendar days and within twenty-four (24) hours of the end of a storm of 0.5 inches or greater. Inspection reports reviewed by EPA did not contain a signature of a qualified inspector or a certification statement.

G. Part IV.D.4 of the Permit by failing to ensure that the Plan contained a description of procedures to ensure the timely maintenance of vegetation, erosion and sediment control measures and other protective measures identified in the Plan. Seeding and mulching in accordance with the Plan were not observed during the CSWEI.

H. Part IV.D.5.c.(1) of the Permit by failing to require sampling of the receiving water, or outfall, or a combination of receiving water and outfall. No sampling data was made available for review by the EPA inspector.

I. Part IV.E.(2) of the Permit by failing to retain copies of all monitoring results. No sampling data was made available for review by the EPA inspector.

J. Part V.L of the Permit by failing to properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which were installed or used by the Permittee to achieve compliance with the conditions of the Permit and with the required Plan. The EPA inspectors observed the lack of maintenance on silt fences and the temporary sedimentation basin located on the northwest portion of the site. The EPA inspector also observed that check dams, rip rap, silt fencing around the site perimeter, the underground sedimentation pond, and stabilization were not installed according to the Plan.

13. Therefore, Respondent violated Sections 301 and 402(p) of the CWA, 33 U.S.C. §§ 1311 and 1342(p), by failing to comply with Parts III.C.1, III.C.2, IV.C, IV.D.1, IV.D.2.a.(1), IV.D.2.a.(3), IV.D.3.a.(1), IV.D.3.a.(2), IV.D.3.a.(3), IV.D.4., IV.D.5.c.(1), IV.E.(2) and V.L of the Permit.

III. Stipulations and Findings

14. 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.

15. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out above and admits the factual allegations set out above.

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

17. 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.

18. 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.

19. 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.

20. 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

21. 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 Twenty-Four Thousand Dollars (\$24,000.00) is an appropriate civil penalty to settle this action.

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

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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.

27. 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

28. 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.

29. 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.

30. 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.

31. 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.

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

33. 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.

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

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

For Complainant:

Adam Sowatzka
Associate Regional Counsel
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960
(404) 562-89527

For Respondent:

Mr. Thomg Vu
J. T. Future, Incorporated
4750 Candacraig Drive
Alpharetta, GA 30022

36. 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.

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

VI. Effective Date

U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 4:



Douglas F. Mundrick, P.E., Chief
Water Programs Enforcement Branch
Water Management Division
U.S. Environmental Protection Agency, Region 4

Date: 1/11/06

For RESPONDENT, J. T. FUTURE, INC.



Thomg Vu, Vice President

Date: 12/12/05

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4


IN THE MATTER OF:)
)) CONSENT AGREEMENT AND
J. T. FUTURE, INC.)) FINAL ORDER
ALPHARETTA, GA))
))
Respondent.)) Docket No.: CWA-04-2006-4508(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: Mar. 13, 2006


Susan B. Schub
Regional Judicial Officer

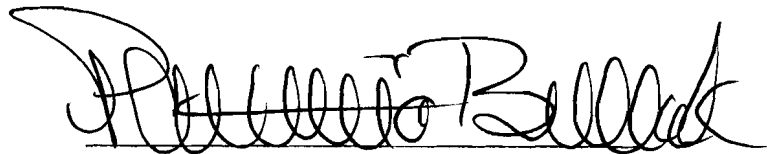
CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the attached **CONSENT AGREEMENT AND FINAL ORDER** in the matter of the **J. T. Future, Inc.**, Docket No. CWA-04-2006-4508(b) (filed with the Regional Hearing Clerk on MAR 14 2006, 2006, was served on MAR 14 2006, 2006, in the manner specified to each of the persons listed below.

By hand-delivery: Adam G. Sowatzka, Esq.
Associate Regional Counsel
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960

**By certified mail,
return receipt requested:** Mr. Thomg Vu
J. T. Future, Incorporated
4750 Candacraig Drive
Alpharetta, GA 30022

Mr. James A. Sommerville, Chief
Program Coordination Branch
Georgia Environmental Protection Division
2 Martin Luther King Jr., Drive, S.E.
East Floyd Tower, Suite 1452
Atlanta, GA 30334-9000



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental
Protection Agency, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960
(404) 562-9511



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

CERTIFIED MAIL 7099 3400 0003 2827 3681
RETURN RECEIPT REQUESTED

MAR 14 2006

Mr. Thomg Vu
J. T. Future, Incorporated
4750 Candacraig Drive
Alpharetta, GA 30022


SUBJ: Consent Agreement and Final Order
Docket No. CWA-04-2006-4508(b)
Indian Trail Road Plaza
Norcross, Georgia

Dear Mr. Vu:

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 PAYMENT with respect to payment.

Should you have any questions or concerns, please contact Ms. Susan Pope at (404) 562-9770.

Sincerely,



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

Enclosure

cc: Georgia Environmental Protection
Division

Mr. Vince Pepe, CPESC
Gwinnett County Department of Planning
and Development

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 3/3/06
(Name) (Date)

in the WMD/WPEB/GES 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: Indian Trail Road Plaza / J.T. Futura, Inc, Newark, GA
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 24,000
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: CWA-04-2006-4508(b)

The Site Specific Superfund Account Number: WMD

The Designated Regional/Headquarters Program Office: _____

TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number is: _____ Date: _____

If you have any questions, please call: Peggy Whitney of the Financial Management Section at: (404) 562-8238.

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)

THIS DOCUMENT HAS A COLORED BACKGROUND & MICROPRINTING. THE REVERSE SIDE OF THIS DOCUMENT HAS AN ARTIFICIAL WATERMARK.

JT FUTURE, INC.
4750 CANDACRAIG DR.
ALPHARETTA, GA 30022

1782

DATE: 04/17/2006

64-0227 / 0611

PAY TO THE
ORDER OF

US Environmental Protection Agency

\$

****8,000.00**

*EIGHT-THOUSAND AND 00/100******

DOLLARS

Main Street Bank
Winder, GA

MEMO Docket No. CWA-04-2006-4503(b)



⑈001782⑈ ⑆061102277⑆ 00 20517 9⑈

Security enhanced document. See back for details.

J T FUTURE INC CONSTRUCTION ACCT

4750 CANDACRAIG DR
ALPHARETTA, GA 30022

115

DATE 1/23/07

64-227/611
21

PAY
TO THE
ORDER OF

US Environmental Protection Agency

\$ 8,120²⁰

Eight thousand one hundred twenty & ²⁰/₁₀₀

DOLLARS



Main Street Bank
Winder, GA

FOR

Doc NO CWA - 04 - 2006 - 4508 (b)

[Signature]

⑈000115⑈ ⑆061102277⑆ 00 24191 9⑈

GUARDIAN & SAFETY