



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

CERTIFIED MAIL 7005 3110 0003 6266 0301
RETURN RECEIPT REQUESTED

Mr. Jeffrey Skeris
LandCraft Management, LLC
7 North Laurens Street, Suite 508
Greenville, SC 29601

SUBJ: Consent Agreement and Final Order
Docket No. CWA-04-2007-4513(b)
Hammett Grove Subdivision
Greer, South Carolina

Dear Mr. Skeris:

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 Administrator. Please make note of the provisions under Paragraph IV. Payment.

Should you have any questions or problems, please contact Maurice Horsey at (404) 562-9764.

Sincerely,

A handwritten signature in black ink that reads "Jim Stewart".

James D. Giattina, Director
Water Management Division

Enclosure

cc: South Carolina Department of Health
and Environmental Control

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:)
)
LANDCRAFT MANAGEMENT, LLC) CONSENT AGREEMENT AND
HAMMETT GROVE SUBDIVISION) FINAL ORDER
GREER, SOUTH CAROLINA)
)
Respondent.) Docket No. CWA-04-2007-4513(b)
)

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EPA REGION IV
2007 JUL 12 PM 1:38
HEARING CLERK

CONSENT AGREEMENT

I. Statutory Authority

1. This is a civil penalty proceeding pursuant to Section 309(g)(2)(B) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(g)(2)(B), 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*, 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)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), 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 ("Complainant").

II. Allegations

3. At all times relevant to this action, LandCraft Management, LLC. ("Respondent"), was 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, Respondent owned and/or operated a construction site known as Hammett Grove Subdivision ("Facility") located at Circle Road, Greer, South Carolina.

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.

6. Section 402 of the CWA, 33 U.S.C. § 1342, establishes 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 storm water, into navigable waters subject to specific terms and conditions. EPA has granted the State of South Carolina, through the South Carolina Department of Health and Environmental Control ("SCDHEC") approval to issue NPDES permits pursuant to Section 402(b) of the CWA.

7. The SCDHEC issued an *NPDES General Permit for Storm Water Discharges From Construction Activities That Are Classified As "Associated With Industrial Activity"*, Permit No. SCR100000 ("Permit") in accordance with the Pollution Control Act (S.C. Code Sections 48-1-10 *et seq.*, 1976) and the CWA. The Permit was effective February 1, 1998, and expired January 31, 2003. The Permit was administratively extended in accordance with Part VI.D of the Permit.

8. The Permit is a South Carolina statewide NPDES general permit governing storm water point source discharges associated with construction activities including clearing, grading and excavation activities except operations that result in the disturbance of less than five (5) acres of total land area which are not part of a larger common plan of development or sale.

9. On June 30, 2004, Respondent submitted a Notice of Intent ("NOI") requesting permit coverage to the SCDHEC. A Notice of Coverage was sent to Respondent with an effective date of October 11, 2004.

10. Part IV.C of the Permit requires the Permittee to modify the Storm Water Pollution Prevention Plan ("SWPPP") whenever there is a change in the design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to surface waters and which has not otherwise been addressed in the SWPPP or if the SWPPP proves to be ineffective in eliminating or significantly minimizing pollutants.

11. Part IV.D.2.a(1) of the Permit requires the Permittee to ensure that stabilization measures shall be initiated as soon as practicable, but in no case more than 14 days after construction activity in that portion of the site has temporarily or permanently ceased, except where construction activity will resume on a portion of the site within 21 days from when the activities ceased.

12. Part IV.D.4(b) of the Permit requires the Permittee to inspect discharge locations or points to ascertain whether erosion control measures are effective in meeting the performance standards set forth in the Permit and the SWPPP.

13. Part IV.D.4(c) of the Permit requires the Permittee to ensure that the SWPPP is revised as appropriate, but in no case later than 7 calendar days following an inspection.

14. Part VI.N of the Permit requires the Permittee to, at all times, operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are

installed or used by the Permittee to achieve compliance with conditions of the Permit and with the requirements of the SWPPP.

15. On September 29, 2005, representatives of EPA, in conjunction with the SCDHEC performed a Compliance Storm Water Evaluation Inspection ("CSWEI") at the Facility. EPA's CSWEI was to evaluate the treatment and disposal of storm water at the Facility in accordance with the CWA, the regulations promulgated thereunder at 40 C.F.R. § 126.26 and the SCDHEC Permit.

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

17. During the CSWEI, EPA inspectors observed the following:

A. Curb inlets lacked protection throughout the site. There were no silt fences installed between the perimeter of the streets and denuded areas of each individual home lot. The lack of curb inlet protection and silt fences increased sedimentation movement and contributed to discharges of sediments into waters of the United States. Rock rip rap aprons from the temporary detention basin (number 4) located at the end of a cul-de-sac also contained sediments which were discharging off-site. The detention basin was in need of maintenance, i.e., re-seeding around its slope. Therefore LandCraft violated Part IV.C of the Permit by failing to amend the plan where there is a significant effect on the potential for the discharge of pollutants to surface waters.

B. Basins lacked temporary vegetation on slopes. Steep slopes and earth banks lacked temporary vegetation; i.e., re-seeding. Therefore LandCraft violated Part IV.D.2.a.(1) of the Permit by failing to initiate stabilization measures as soon as practicable, but in no case more than fourteen (14) days after construction activity in that portion of the site has temporarily or permanently ceased.

C. Sediments were observed on paved streets outside of the construction area. Therefore LandCraft violated Part IV.D.2.c.(2) of the Permit by failing to provide means to minimize the tracking of sediments and the generation of dust from on-site vehicle tracking.

D. Records were not reviewed to ensure that qualified personnel inspected disturbed areas of the construction site and locations where vehicles enter or exit the site at least once every seven (7) calendar days and within twenty-four (24) hours of the end of a storm that is 0.5 inches or greater or that disturbed areas and areas used for storing materials that are exposed to precipitation were inspected for evidence of, or the potential for, pollutants entering the drainage system. Therefore LandCraft violated Part IV.D.4, IV.D.4.(a), and IV.D.4.(b) of the Permit.

E. The Facility's SWPPP, as submitted to the SCDHEC, does not identify Eastwood Construction Company, Inc., and Anderson, Inc., as contractors and/or subcontractors operating at the facility. Therefore LandCraft violated Part IV.E.1 of the Permit by failing to ensure that

the SWPPP clearly identifies, for each measure in the SWPPP, the contractors that are operating on the site.

F. Silt fences were not properly maintained throughout the site. Silt fences were either down and/or overtopped with sediments or undermined from the high velocity of storm water runoff in many areas of the Facility. Therefore LandCraft violated Part VI.N of the Permit by failing to maintain all facilities and systems of treatments of control (and related appurtenances) which are installed or used by the permittee to achieve compliance with conditions of the Permit and with the requirements of the SWPPP.

18. Therefore, Respondent violated Sections 301(a) and 402(p) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(p), by failing to comply with Part IV.C, Part IV.D.2.a.(1), Part IV.D.2.c.(2), Part IV.D., IV.D.4.(a), Part IV.D.4.(b), Part IV.E.1 and Part VI.N of the Permit, and for allowing discharges not authorized by the Permit.

III. Stipulations and Findings

19. 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.

20. 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.

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

22. 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.

23. 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.

24. 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.

25. 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

26. Pursuant to Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), and 40 C.F.R. Part 19, and considering the nature of the violations and other relevant factors, EPA has determined that Forty Thousand Dollars (\$40,000.00) is an appropriate civil penalty to settle this action.

27. 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.

28. In lieu of providing the entire Forty Thousand Dollars (\$40,000.00) 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 31 below. Installments are due as follows:

<u>Payment Amount</u>	<u>Payment Date</u>
\$ 4,000.00	Within 30 days of the effective date of the CA/OF
\$18,710.14	September 15, 2007
\$18,295.89	February 15, 2008

29. 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.

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

31. 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 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 per cent (6%) per annum penalty on any principal amount not paid within ninety (90) days of the due date.

32. 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 per cent (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

33. 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.

34. 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 except for those violations expressly alleged herein.

35. 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.

36. 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.

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

38. 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.

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

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

For Complainant:

Carol F. Baschon
Associate Regional Counsel
Office of Water Legal Support
Environmental Accountability Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960
(404) 562-9533

For Respondent:

Jeffrey Skeris
LandCraft Management, LLC
7 North Laurens St., Ste. 508

Greenville, SC 29601
(864) 421-9388

41. 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.


42. 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

43. 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:

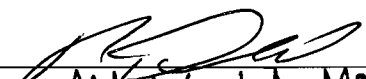
For COMPLAINANT, U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 4:



James D. Giattina, Director
Water Management Division
U.S. Environmental Protection Agency, Region 4

Date: 5/30/07

For RESPONDENT, LANDCRAFT MANAGEMENT, LLC.:



NAME: MATTHEW A. MCDERMOTT
TITLE: MEMBER / MANAGER

Date: MAY 03, 2007

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

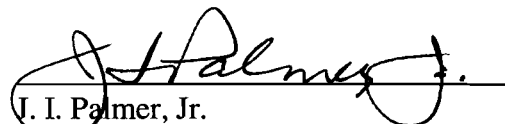
IN THE MATTER OF:)
)
LANDCRAFT MANAGEMENT, LLC) CONSENT AGREEMENT AND
HAMMETT GROVE SUBDIVISION) FINAL ORDER
GREER, SOUTH CAROLINA)
)
RESPONDENT.) DOCKET NO. CWA-04-2007-4513(b)
)

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)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), Respondent is hereby ordered to comply with the terms of the foregoing Consent Agreement.

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: JUL - 3 2007


J. I. Palmer, Jr.
Regional Administrator

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the attached **CONSENT AGREEMENT AND FINAL ORDER** in the matter of **LANDCRAFT MANAGEMENT, LLC, Docket No. CWA-04-2007-4513(b)** (filed with the Regional Hearing Clerk on JUL 12 2007, 2007) was served on JUL 12 2007, 2007, in the manner specified to each of the persons listed below.

By hand-delivery: Carol F. Baschon
Associate Regional Counsel
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960

By certified mail,
return receipt requested: Jeffrey Skeris
LandCraft Management, LLC
7 North Laurens St., Ste. 508
Greenville, SC 29601
(864) 421-9388

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

Date: 7-12-07



Ms. Patricia A. Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
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 7/12/07
(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

Other Receivable

Not sent with bill

This is an original debt

Oversight Billing - Cost Package not required

This is a modification

PAYEE: Landcraft Mgmt, LLC - Hammett Grove SD, Geeser, SC
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 40,000
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: CWA-04-2007-4513(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: _____

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) |
|--|---|

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

Case Docket Control Number: CWA-04-2007-4513(b)

Total Amount Due: 40,000

Full payment due 30 days after issuance date of _____

Installment payments to be paid:

Amount Due:

Date Due:

\$ 4000.00

w/30 days of the signed CA/FO

\$ 18,710.14

9/15/07

\$ 18,295.89

2/15/08

\$ _____
