

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION V



IN THE MATTER OF)
)
A & K Alexander Cranberry Co., LLC,)
Tomah, Wisconsin,)
)
Respondent.)
_____)

DOCKET NO. V-404-A0-13-0

**SECOND AMENDED
ADMINISTRATIVE COMPLIANCE
ORDER ON CONSENT**
A & K Alexander Cranberry., LLC
(Tomah, Wisconsin)
CWA-05-2014-0004

WHEREAS, the United States Environmental Protection Agency (“U.S. EPA”) and A&K Cranberry Co., LLC (“A&K”) (collectively “Initial Parties”) entered into an Administrative Compliance Order on Consent (“ACOC”) in the above-captioned matter with an effective date of November 15, 2013;

WHEREAS, the Initial Parties entered into an Amended ACOC in the above-captioned matter with an effective date of June 12, 2014;

WHEREAS, Paragraph 28 of the ACOC provided, in part, that “[n]o modification shall be made to this Order on Consent without written notification to, and written approval of all parties hereto”

WHEREAS, A&K has entered into an option agreement to sell the property that is subject to the ACOC to Meteor Timber LLC (“Meteor Timber”);

WHEREAS, the United States Army Corps of Engineers issued a permit to Meteor Timber under Section 404 of the Clean Water Act on October 27, 2017, authorizing a project on the property that is subject to the Amended ACOC, which is incorporated by reference as Exhibit No. 1 to this Order;

WHEREAS, the Section 404 permit authorizes the filling of areas identified for wetland restoration as well as areas identified by the United States Environmental Protection Agency as “buffer area” in the Amended ACOC;

WHEREAS, in order to make the requirements of the Amended ACOC applicable to Meteor Timber upon purchase of the property from A&K under the option agreement and to ensure consistency with the Section 404 permit, the Initial Parties and Meteor Timber have agreed to make certain modifications to the ACOC and Amended ACOC, contingent on the purchase of the property and the development of the project authorized by the Section 404 permit;

WHEREAS, the Initial Parties agree that all other terms and conditions of the Amended ACOC shall remain in full force and effect if Meteor Timber does not purchase the property.

THEREFORE, IT IS HEREBY AGREED THAT:

1. If Meteor Timber exercises its option to purchase the land owned by A&K, upon closing of that option purchase agreement, Meteor Timber shall assume responsibility for compliance with the requirements of the ACOC and Amended ACOC, as revised by this Second Amended ACOC, from A&K.

2. Within 270 days of Meteor Timber purchase of the A&K Property, Meteor Timber will complete construction of the 0.321-acre "Wetland Buffer" and complete planting per the Buffer Restoration Protocol included as Exhibit No. 2 to this Second Amended ACOC at the next available planting window – either a fall dormant or spring planting. Meteor Timber shall complete development of an additional 2.359-acres of "Upland Buffer" by September 30, 2021 also per specifications in Exhibit No. 2. The Corps permit, in turn, permits the development of most of the "buffer" area defined in the Amended ACOC. The remnant "buffer" area is colored purple in Attachment A to Exhibit 2. The additional "Wetland Buffer" created by this Second Amended ACOC is colored green in Attachment A to Exhibit 2;

3. In developing the "Wetland Buffer" and "Upland Buffer" required pursuant to Paragraph 2, Meteor Timber shall implement all steps required by the Buffer Restoration Protocol approved by U.S. EPA, a copy of which is included as Exhibit No. 2 to this Second Amended ACOC. The Buffer Restoration Protocol may be revised with the approval of a representative of U.S. EPA.

4. Pursuant to Exhibit No. 2 (Buffer Restoration Protocol), Meteor Timber shall submit As-Built Plans to U.S. EPA-Region 5 at one foot contour intervals that the areas of on-site "Wetland Buffer" and "Upland Buffer" conform to the areas set forth in Attachment A to Exhibit No. 2 and that all actions, except "Wetland and Upland Buffer" plantings, required to be completed under this Second Amended ACOC have been taken. Exhibit No. 2 (including Attachments A and B), are attached hereto and incorporated by reference. As-Built plans shall be submitted no later than 15 days after the completion of earthwork construction unless a later date is authorized by U.S. EPA.

5. Upon completion of the closing set forth in Paragraph 1, all prior references to Exhibit No. 1 in the ACOC shall now refer to Attachment A of Exhibit No. 2 (Buffer Restoration Protocol).

6. This Second Amended ACOC expressly modifies the requirements of the ACOC and Amended ACOC related to the location and amount of buffer area required to be created on the property and ensures consistency between the ACOC and the October 27, 2017 Section 404 permit. All other terms and conditions of the ACOC and the Amended ACOC shall remain in full force and effect.

Dated

4/26/18

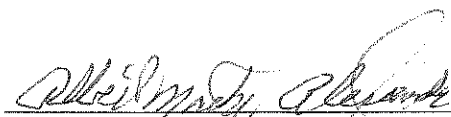
By



Christopher Korleski
Director, Water Division

For Respondent A&K Alexander Co., LLC:

Dated 4/20/18

By 
Albert (Marty) Alexander
Managing Partner

For Meteor Timber LLC:

Dated _____

By _____
Chris Mathis
Managing Director

For Respondent A&K Alexander Co., LLC:

Dated _____

By _____

Albert (Marty) Alexander
Managing Partner

For Meteor Timber LLC:

Dated 4-20-18

By _____

Chris Mathis
Chris Mathis

Managing Director



DEPARTMENT OF THE ARMY
ST. PAUL DISTRICT, CORPS OF ENGINEERS
180 FIFTH STREET EAST, SUITE 700
ST. PAUL, MN 55101-1678

REPLY TO ATTENTION OF
REGULATORY BRANCH

Regulatory File No. MVP-2015-03156-SJW

Chris Mathis
Meteor Timber, LLC
115 Perimeter Center Place, Suite 940
Atlanta, Georgia 30346

OCT 18 2017

Dear Mr. Mathis:

Enclosed is the validated copy of the Department of the Army permit authorizing you to discharge fill material onto the bed of Rudd Creek and into its adjacent wetlands for the construction of a sand processing facility and associated rail infrastructure. The proposed project would result in 16.25 acres of impacts to waters of the United States (WOUS). Please be advised that the authorization hereby granted is contingent on the permittee's compliance with all conditions stated in the permit and its attachments.

This Federal permit does not obviate the need to obtain any other Federal, state or local authorizations required by law.

If you have any questions, please contact Sam Woboril in our Stevens Point field office at (651) 290-5878 or via email at samuel.j.woboril@usace.army.mil. In any correspondence or inquiries, please refer to the Regulatory file number shown above.

Sincerely,

A handwritten signature in black ink, appearing to read "Chad Konickson".

Chad Konickson
Chief, Regulatory Branch

Copy furnished to:
Brad Johnson – WDNR (BradleyA.Johnson@wisconsin.gov)
(IP-WC-2016-42-00902)
Ann Key – Wetlands and Waterways, LLC (ann@wetlandsandwater.com)
Heidi Kennedy – SHE (hkennedy@sehinc.com)

DEPARTMENT OF THE ARMY PERMIT

Permittee Meteor Timber, LLC - % Chris Mathis
Permit No. MVP-2015-03156-SJW

Issuing Office St. Paul District
U.S. Army Corps of Engineers

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description:

You are authorized to discharge permanent fill into 16.25 acres of wetlands and 1145 linear feet on the bed of Rudd Creek for the construction of a sand processing facility and associated infrastructure. The authorized work area is shown on the attached drawings labeled MVP-2015-03156-SJW: Figure 1 of 6 through 6 of 6.

Project Location:

The project site is in Sections 1 and 2, Township 19 North, Range 2 West, Monroe County, Wisconsin.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on December 31, 2020. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

Regulatory Branch (File No. MVP-2015-03156-SJW)

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. Compensatory Mitigation:

- a. As compensation for the unavoidable loss of 16.25 acres of wetlands associated with the proposed project, you shall construct a permittee responsible mitigation site as described in Section 6 of the Wetland Compensatory Mitigation Plan dated August 25, 2017. In accordance with the mitigation ratios outlined in the Corps guidelines for wetland compensatory mitigation in Wisconsin, you shall generate a minimum of 30.97 wetland credits which will be comprised of the following types/amounts: 0.56 credits fresh (wet) meadow, 2.33 shallow marsh/emergent wet meadow, 2.01 credits scrub shrub, and 26.07 credits forested. The proposed permittee responsible mitigation site will generate 40.15 credits through the restoration of 10.22 acres of wooded swamp, rehabilitation of 23.59 acres of wooded swamp, 6.68 acres of sedge meadow, 1.52 acres of emergent (wet) meadow, and the creation of 4.97 acres of wetland buffer, and 3.98 acres of upland buffer.
- b. Excess credits generated by permittee-responsible mitigation are not eligible for sale, transfer, or use for a future proposed project. If a permittee-responsible mitigation site generates more credits than are needed to meet the requirements for mitigation as required by the given permit, those credits may not be used for a future permit or for sale or transfer.
- c. The permittee responsible mitigation site shall be protected in perpetuity through the establishment and recording of a conservation easement which shall include a land preservation agreement between you and the WDNR. The conservation easement shall restrict real estate development, commercial and industrial uses, agricultural activities, timber harvest, and other activities within the preservation areas as mutually agreed upon between the agency and you.
- d. You shall continue to adhere to the requirements within the Administrative Order on Consent (AOC) between Mr. Marty Alexander and the Environmental Protection Agency which was finalized in November 2013 (last amended April 2014). The areas identified as "EPA RESTORATION AREAS" shown on the attached figure labeled MVP-2015-03156-SJW: Page 4 of 6 shall remain protected in perpetuity per the conditions of the aforementioned AOC.

2. Refer to Standard Conditions attachment.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
 - () Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
 - (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).
 - () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
2. Limits of this authorization.
 - a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
 - a. You fail to comply with the terms and conditions of this permit.

Regulatory Branch (File No. MVP-2015-03156-SJW)

- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

Chit 2. Mathis
(PERMITTEE SIGNATURE)

10/16/2017
(DATE)

Christopher T. Mathis
(PERMITTEE PRINTED OR TYPED NAME)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

Samuel L. Calkins
for Samuel L. Calkins
Colonel, Corps of Engineers
District Commander

10/18/17
(DATE)

Regulatory Branch (File No. MVP-2015-03156-SJW)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

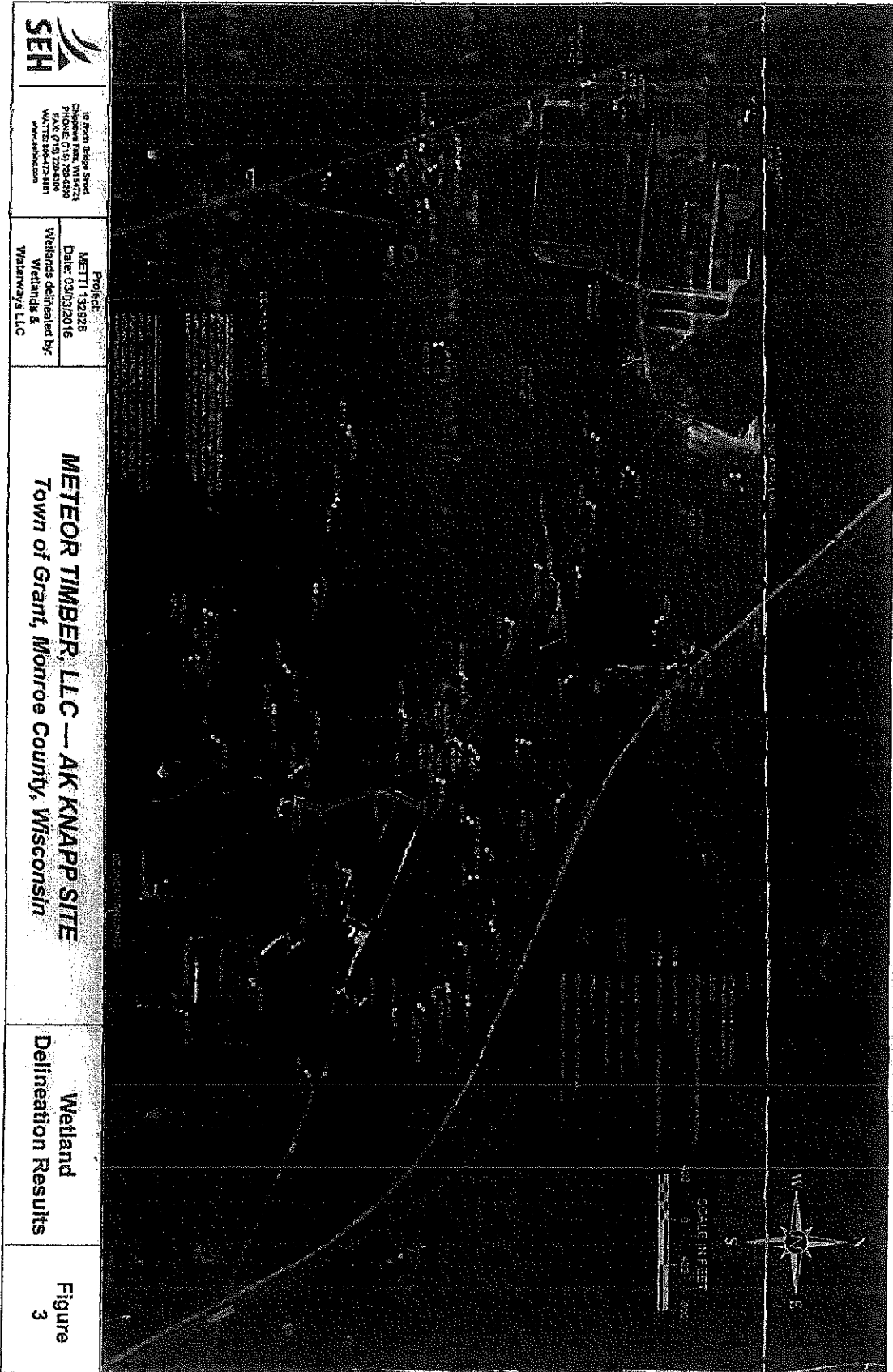
(TRANSFEREE SIGNATURE)

(DATE)

(TRANSFEREE PRINTED OR TYPED NAME)

In addition to general and special conditions, this permit is subject to the following standard conditions, as applicable:

1. All work or discharges to a watercourse resulting from permitted construction activities, particularly hydraulic dredging, must meet applicable Federal, State, and local water quality and effluent standards on a continuing basis.
2. Measures must be adopted to prevent potential pollutants from entering the watercourse. Construction materials and debris, including fuels, oil, and other liquid substances, will not be stored in the construction area in a manner that would allow them to enter the watercourse as a result of spillage, natural runoff, or flooding.
3. If dredged or excavated material is placed on an upland disposal site (above the ordinary high-water mark), the site must be securely diked or contained by some other acceptable method that prevents the return of potentially polluting materials to the watercourse by surface runoff or by leaching. The containment area, whether bulkhead or upland disposal site, must be fully completed prior to the placement of any dredged material.
4. Upon completion of earthwork operations, all exposed slopes, fills, and disturbed areas must be given sufficient protection by appropriate means such as landscaping, or planting and maintaining vegetative cover, to prevent subsequent erosion.
5. All fill (including riprap), if authorized under this permit, must consist of suitable material free from toxic pollutants in other than trace quantities. In addition, rock or fill material used for activities dependent upon this permit and obtained by excavation must either be obtained from existing quarries or, if a new borrow site is opened up to obtain fill material, the State Historic Preservation Officer (SHPO) must be notified prior to the use of the new site. Evidence of this consultation with the SHPO will be forwarded to the St. Paul District Office.
6. If cultural, archaeological, or historical resources are unearthed during activities authorized by this permit, work must be stopped immediately and the State Historic Preservation Officer must be contacted for further instruction.
7. An investigation must be made to identify water intakes or other activities that may be affected by suspended solids and turbidity increases caused by work in the watercourse. Sufficient notice must be given to the owners of property where the activities would take place to allow them to prepare for any changes in water quality.
8. A contingency plan must be formulated that would be effective in the event of a spill. This requirement is particularly applicable in operations involving the handling of petroleum products. If a spill of any potential pollutant should occur, it is the responsibility of the permittee to remove such material, to minimize any contamination resulting from this spill, and to immediately notify the State Department of Natural Resources and the U.S. Coast Guard at telephone number (800) 424-8802.



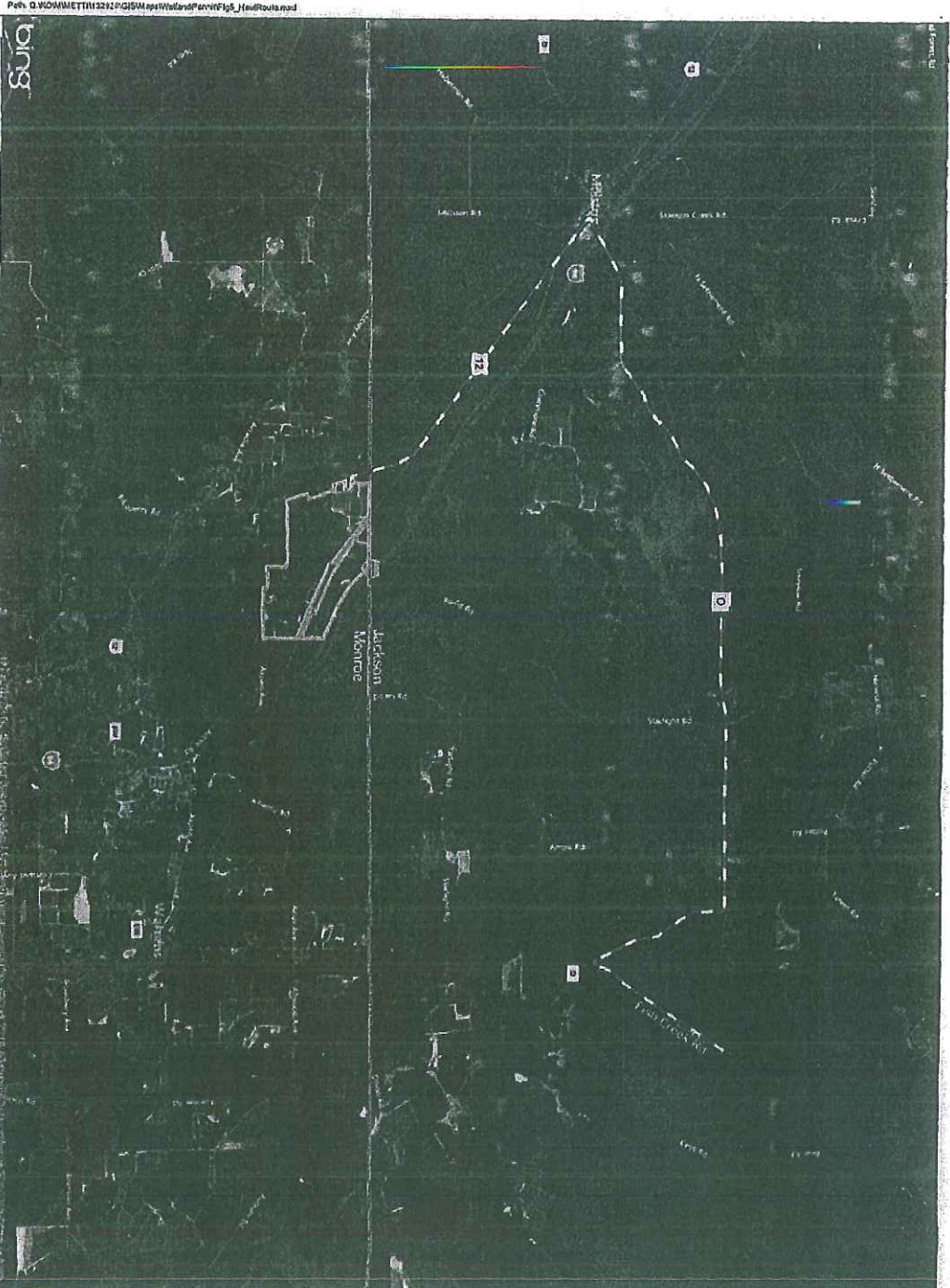
18 Pearl Street
Chapel Hill, NC 27514
PHONE: (714) 724-4300
FAX: (714) 724-4300
WWW: www.seh.com

Project:
METT1132928
Date: 03/03/2016
Wetlands delineated by:
Wetlands &
Waterways LLC

METEOR TIMBER, LLC — AK KNAPP SITE
Town of Grant, Monroe County, Wisconsin

Wetland
Delineation Results

Figure
3



SEH
 18 South, Highway 20 East
 Oshkosh, WI 54901
 Phone: 920.231.2222
 Fax: 920.231.2222
 www.seh.com

Project: METTI-152025
Permit Date: 2/20/15
 Survey and Mapping
 Project: 152025

METEOR TIMBER, LLC — AK KNAPP SITE

Town of Grant, Monroe County, Wisconsin

<p>Legend</p> <ul style="list-style-type: none"> AK Knapp Site Surveyed Property Boundary Mine Sites Haul Route 	<p style="font-size: small;">This map was created using aerial photography and GIS data. The map is not a legal document and should not be used for legal purposes. The map is for informational purposes only. The map is not a legal document and should not be used for legal purposes. The map is for informational purposes only.</p> <p style="text-align: center;">N</p> <p style="text-align: center;">1 0.5 0 1 MILES</p>
Haul Route	Figure 5

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

This preliminary JD finds that there "may be" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

District Office	St. Paul District	File/ORM #	MVP-2015-03156-SJW	PJD Date:	Dec 21, 2015
State	WI		City/County	Warrens/Monroe County	
Nearest Waterbody:	Rudd Creek		Name/Address of Person Requesting PJD	Craig Seaman, CF Meteor Timber, LLC 115 Perimeter Center Place, Suite 940 Atlanta, Georgia 30346	
Location: TRS. Lat/long or UTM:	Sections 1, 2, and 12, Township 19N., Range 2W., Monroe County, Wisconsin.				

Identify (Estimate) Amount of Waters in the Review Area:	Name of Any Water Bodies on the Site Identified as
Non-Wetland Waters: <u>16,500</u> linear ft <u>37.79</u> acres Stream Flow: <u>Perennial</u>	Tidal: _____ Section 10 Waters: <u>Non-Tidal</u>
Wetlands: <u>330</u> acre(s) Cowardin Class: <u>Palustrine, forested</u>	<input checked="" type="checkbox"/> Office (Desk) Determination <input checked="" type="checkbox"/> Field Determination Date of Field Trip: <u>Jun 2, 2015</u>

SUPPORTING DATA: Data reviewed for preliminary JD (check all that apply - checked items should be included in case file and, where checked and requested, appropriately reference sources below):

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Ann Key-Wetlands and Waterways LLC
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - Office concurs with data sheets/delineation report.
 - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps
- Corps navigable waters' study: _____
- U.S. Geological Survey Hydrologic Atlas:
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite quad name: 124K Warrens West
- USDA Natural Resources Conservation Service Soil Survey. Citation: _____
- National wetlands inventory map(s). Cite name: _____
- State/Local wetland inventory map(s): Wisconsin Wetlands Inventory
- FEMA/FIRM maps: _____
- 100-year Floodplain Elevation is: _____
- Photographs:
 - Aerial (Name & Date): 2013 NAIP Air Photos
 - Other (Name & Date): _____
- Previous determination(s). File no. and date of response letter: _____
- Other information (please specify): Wisconsin Surface Water Data Viewer

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

Digitally signed by WOBORIL SAMUEL J. 1309294376 DN: cn=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USA, ou=WOBORIL SAMUEL J., 1309294376, date=2015.11.21.17:59:45Z	Signature and Date of Person Requesting Preliminary JD (REQUIRED, unless obtaining the signature is impracticable)
Signature and Date of Regulatory Project Manager (REQUIRED)	Signature and Date of Person Requesting Preliminary JD (REQUIRED, unless obtaining the signature is impracticable)

EXPLANATION OF PRELIMINARY AND APPROVED JURISDICTIONAL DETERMINATIONS:

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "preconstruction notification" (PCN), or requests verification for a non-separating NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that other form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable.

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
REQUEST FOR APPEAL**

Applicant: Chris Mathis – Meteor Timber, LLC | **File No.: MVP-2015-03156-SJW** | **Date: 9/18/2017**

Attached is:		See Section below
<input checked="" type="checkbox"/>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
	APPROVED JURISDICTIONAL DETERMINATION	D
<input checked="" type="checkbox"/>	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I.- The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cécwo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Samuel J. Woboril – Project Manager
USACE – St. Paul District
2926 Post Road, Suite B
Stevens Point, Wisconsin 54467

(651) 290-5878
samuel.j.woboril@usace.army.mil

If you only have questions regarding the appeal process you may also contact the Division Engineer through:

Administrative Appeals Review Officer
Mississippi Valley Division
P.O. Box 80 (1400 Walnut Street)
Vicksburg, MS 39181-0080
601-634-5820 FAX: 601-634-5816

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:



April 18, 2018

Mr. Greg Carlson
U.S. Environmental Protection Agency
Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

RE: A&K Alexander Cranberry Co., LLC - Buffer Restoration Protocol

Dear Mr. Carlson;

This Buffer Restoration Protocol has been prepared as a requirement of the Second Amended Administrative Compliance Order On Consent (ACOC) initially issued to the A&K Alexander Cranberry Co., LLC. The wetland buffer and upland buffer locations and overall acreages being proposed have been agreed upon between U.S. EPA, A&K Alexander Cranberry Co., LLC, and Meteor Timber, LLC. This Buffer Restoration Protocol incorporates additional requirements applicable to the completion of the activities required under the Second Amended ACOC.

Site Plan

The location of the wetland and upland buffer areas are described below and shown on Attachment A. The wetland buffer area is proposed to include approximately 0.321 acres along the eastern edge of the previously restored A&K Alexander Cranberry Co., LLC wetland restoration site. In addition, approximately 0.055 acres of wetland buffer are proposed to the south of the A&K Alexander Cranberry Co., LLC wetland restoration site and approximately 2.359 acres of upland buffer are proposed to the south and east of the existing A&K Alexander Cranberry Co., LLC. The 0.055 acre wetland buffer area will be maintained as is but is subject to an annual management survey to eliminate any non-native or invasive plant species and to ensure adjacent rail line slopes are stable. The 0.321-acre wetland buffer area will be returned to its natural grade and replanted to achieve a forested wetland and will be maintained to eliminate any non-native or invasive plant species and to ensure adjacent rail line slopes are stable. The upland buffer must be annually managed to eliminate any non-native or invasive plant species after establishment and will be maintained to ensure adjacent stormwater pond slopes are stable. The grade of the upland buffer shall not be greater than a (2) percent slope limit as an average from the east end of the wetland buffer to the east end of the upland buffer.

Erosion Control

Erosion control measures shall be incorporated as follows;

1. Prior to any filling or grading activities associated with the rail construction, erosion control silt fencing will be placed and maintained until upslope vegetation has stabilized along the north edge of the proposed rail line (or south edge of wetland and upland buffer areas).
2. Erosion control silt fencing will be placed and maintained until upslope vegetation has stabilized along the eastern and southern wetland buffer area boundaries.
3. Erosion control silt fencing will be placed and maintained until upslope vegetation has stabilized along the east edge of the upland buffer after its establishment.

Grade Control



Grading associated with construction of the wetland buffer area and adjacent upland buffer slopes shall be conducted as follows and an As-Built Plan prepared and submitted as stated below;

1. The wetland buffer area will be restored to its original surface soils, if present. If the original surface soil is not present, then surface grade and slope will mimic the grade and slope of the adjacent A&K Alexander Cranberry Co., LLC wetland restoration area immediately to the west.
2. Excavation equipment will work from the existing cranberry bed if possible and will avoid unnecessary compaction of any original soil surface uncovered in the wetland buffer area. Mechanized equipment will not be utilized within the wetland buffer area unless no practicable alternative exists, and will be minimized to the greatest extent feasible.
3. Following completion of all grading in the wetland buffer areas, an "As-Built" vertical elevation survey shall be provided to EPA within 15 days of earthwork completion, at one (1) foot elevation contours, excluding the soil mounds.
4. The upland buffer areas adjacent to wetland buffer areas will have no greater than a two (2) percent slope as an average from the east end of the wetland buffer to the east end of the upland buffer. An "As-Built" vertical elevation survey of the upland buffer area shall be provided to EPA within 15 days of earthwork completion, at one (1) foot elevation contours, excluding the soil mounds. The date of the upland buffer As-Built submittal will be by October 15, 2021, or sooner if activities are completed earlier.

Revegetation

The wetland buffer area will be revegetated with tree, shrub and herbaceous species consistent with the plantings conducted on the adjacent A&K Alexander Cranberry Co., LLC wetland restoration area and per the following specifications;

1. Revegetate with *Acer rubrum* (Red Maple) and *Pinus strobus* (White Pine) tree species and *Alnus rugosa* (Speckled Alder), *Ilex verticillata* (Common Winterberry) and *Salix discolor* (Pussy Willow) shrubs and a "fresh wet meadow" seed mix of native herbaceous species (including a cover crop of *Avena sativa* (Wild Oats) and *Lolium multiflorum* (Annual Ryegrass).
2. Tree species must be grown from native Wisconsin seed and must be at least two years old. The source nursery must provide a certification of these two requirements. Tree species will be planted at a rate of 436 trees per acre of ground. Trees shall be marked or tagged to identify planted species. Tree species shall be planted on mounds of native soil consisting of at least five (5) gallons of soil volume. The native soil must have a texture no coarser than sandy loam. The mounds can be created either by hand shovel excavation of wetland buffer area soils and depositing them within arm's reach of the point of excavation in a mound shape or by creating the mounds using on-site soils from adjacent cranberry beds and dikes, if sandy loam in texture or finer.
3. Shrub species must be grown from native Wisconsin seed and must be at least two years old. The source nursery must provide a certification of these two requirements. Shrub species will be planted at a rate of 30 shrubs per acre of ground. Shrubs shall be marked or tagged to identify planted species. Shrub species shall be planted on mounds constructed as described above for trees.
4. The herbaceous seed mix and nurse crop shall be as noted in Attachment B to this Protocol or its substantial equivalent given commercial seed availability, including the rate of seeding. Any change to the seed species must have prior EPA written approval.



5. Revegetation shall occur either in the spring or fall dormant planting windows appropriate for its central Wisconsin location.
6. Revegetation may not commence until EPA has given written approval to site elevations as provided in the As-Built elevation survey.
7. All plant invoices for trees, shrubs and herbs planted at the site shall be sent to EPA within 30 days of their purchase.
8. Upland buffer areas may be planted to a native seed mix of Meteor Timber, LLC's choice.

Monitoring, Management and Site Performance Standards

Monitoring and management of the wetland buffer area shall be conducted consistent with the requirements of the A&K Alexander Cranberry Co., LLC wetland restoration site but with modifications to the timeline due to a later construction date. Details of the required monitoring, management and performance standards for the wetland buffer area are described below. No monitoring or performance standards are required for the upland buffer areas but the areas shall be inspected and managed annually for invasive and/or non-native species.

1. Site revegetation will be monitored biannually for seven (7) years beginning the first full growing season after completion of earth moving and planting. Monitoring shall occur in the month of July. A monitoring report is due in EPA offices by September 15th of the monitoring year or the next business day if September 15th falls on a weekend.
2. The forested wetland buffer area must have at least a 70% survival rate for planted and marked tree and shrub species by the end of the seven (7) year monitoring period. If the 70% survival standard is not met, the site will be replanted to achieve the 70% survival standard in the next appropriate planting window (i.e., Monitoring Year 7 – fall dormant season planting). Planting invoices must be provided to EPA to document the final planting within 30 days of purchase.
3. A compliance determination of the 70% survival standard for planted and marked tree/shrub species will count all planted and marked tree/shrub species in Year 7 monitoring period and compare with the number given by calculating 70% of the original numbers of tree/shrub species planted.
4. Annual site management visits must eliminate by physical or chemical means any non-native/invasive species in all areas. In addition, adjacent rail line (south) or storm water pond (east) slopes must be managed and maintained to prevent those areas from becoming sources of eroded material into the wetland or upland buffers.
5. Monitoring reports will document the occurrence of annual site management visits, the presence and elimination of invasive/non-native species and corrective measures needed or taken to prevent off-site erosion. Monitoring reports will include site ground photographs sufficient to represent the wetland buffer area, rail line and storm water pond slopes facing the upland and wetland buffer areas.

Site Access

Meteor Timber, LLC will allow U.S. EPA staff the right of access to the wetland buffer and upland buffer areas described in this Buffer Restoration Protocol, as well as the A&K Alexander Cranberry Co., LLC wetland restoration areas, upon presentation of EPA credentials, and during business day hours, for the purposes of determining compliance with the Amended ACOC. If necessary, U.S. EPA may collect necessary plant and soil samples.

Scheduling



Construction of the wetland buffer area and associated upland buffer slopes and subsequent monitoring will be conducted pursuant to the timelines specified below.

1. All earthwork associated with the wetland buffer area must be completed within 270 days of the date of transfer of ownership of the property as set forth in Paragraph 1 of the Second Amended ACOC. Revegetation tasks must follow by the next available planting window, either early spring or fall dormant planting windows.
2. All earthwork associated with the upland buffer area may commence in parallel with overall site rail line and plant construction, except that it must be completed no later than September 30, 2021.
3. Four monitoring reports – Years 1, 3, 5 and 7 – are due within the seven year monitoring period.

This Buffer Restoration Protocol has been prepared in coordination with U.S. EPA and reflects all requested construction, revegetation, management and monitoring details.

Please feel free to contact me at (715) 892-4211 or at ann@wetlandsandwater.com or contact Meteor Timber, LLC directly with any comments or questions.

Sincerely,
Wetlands and Waterways, LLC

/s

Ann M. Key, PSS, PWS, CST
WDNR Professionally Assured Wetland Delineator

ATTACHMENT B - A&K Alexander Cranberry Co., LLC Buffer Restoration Protocol - Herbaceous Seed Mix

Nomenclature		Seed Metrics			
Scientific Name	Common Name	Oz/Acre	Seeds/Oz	Seeds/Ac	%Mix
Grasses, Sedges & Bulrushes					
<i>Andropogon gerardii</i>	Big Bluestem	10.00	8,200	82,000	7.35%
<i>Calamagrostis canadensis</i>	Canada Bluejoint	4.00	300,000	1,200,000	2.94%
<i>Avena sativa</i>	Wild Oats	24.00	1,200	28,800	17.65%
<i>Lolium multiflorum</i>	Annual Ryegrass	24.00	13,500	324,000	17.65%
<i>Glyceria grandis</i>	Reed Manna Grass	2.00	70,000	140,000	1.47%
<i>Panicum virgatum</i>	Switchgrass	8.00	18,000	144,000	5.88%
<i>Spartina pectinata</i>	Prairie Cordgrass	2.00	9,000	18,000	1.47%
<i>Carex comosa</i>	Bottlebrush Sedge	3.00	24,000	72,000	2.21%
<i>Carex crinita</i>	Fringed Sedge	3.00	23,000	69,000	2.21%
<i>Carex grayii</i>	Common Bur Sedge	2.00	1,200	2,400	1.47%
<i>Carex hystericina</i>	Porcupine Sedge	3.00	36,000	108,000	2.21%
<i>Carex intumescens</i>	Shining Bur Sedge	2.00	1,300	2,600	1.47%
<i>Carex normalis</i>	Spreading Oval Sedge	3.00	25,000	75,000	2.21%
<i>Carex stipata</i>	Awl Fruited Sedge	3.00	40,000	120,000	2.21%
<i>Carex vulpinoidea</i>	Fox Sedge	1.00	90,000	90,000	0.74%
<i>Scirpus atrovirens</i>	Dark Green Bulrush	1.00	140,000	140,000	0.74%
<i>Scirpus cyperinus</i>	Woolgrass	1.00	180,000	180,000	0.74%
Total		96.00			70.59%
Forbs					
<i>Alisma subcordatum</i>	Mud Plantain	1.00	60,000	60,000	0.74%
<i>Angelica atropurpurea</i>	Angelica	1.00	6,600	6,600	0.74%
<i>Asclepias incarnata</i>	Marsh Milkweed	4.00	4,500	18,000	2.94%
<i>Asclepias incarnata</i>	Common Milkweed	1.00	4,000	4,000	0.74%
<i>Aster novae-angliae</i>	New England Aster	1.00	70,000	70,000	0.74%
<i>Desmodium canadense</i>	Canada Tick Trefoil	2.00	4,500	9,000	1.47%
<i>Eupatorium maculatum</i>	Joe Pye Weed	1.00	6,300	6,300	0.74%
<i>Eupatorium perfoliatum</i>	Boneset	0.50	8,000	4,000	0.37%
<i>Helopsis helianthoides</i>	Ox Eye Sunflower	2.00	16,000	32,000	1.47%
<i>Hypericum ascyron</i>	Great St. Johns Wort	0.50	1,100	550	0.37%
<i>Iris sibirica</i>	Wild Iris	4.00	70,000	28,000	2.94%
<i>Iris versicolor</i>	Blue Flag Iris	4.00	90,000	36,000	2.94%
<i>Liatris pycnostachya</i>	Prairie Blazingstar	2.00	220,000	440,000	1.47%
<i>Lobelia siphilitica</i>	Great Blue Lobelia	0.50	30,000	15,000	0.37%
<i>Mimulus ringens</i>	Monkeyflower	0.25	92,000	23,000	0.18%
<i>Monarda fistulosa</i>	Bergamot	1.00	41,000	41,000	0.74%
<i>Ratibida pinnata</i>	Yellow Coneflower	3.00	95,000	285,000	2.21%
<i>Rudbeckia hirta</i>	Black Eyed Susan	2.00	55,000	110,000	1.47%
<i>Rudbeckia laciniata</i>	Greenhead Coneflower	1.75	66,000	115,500	1.29%
<i>Rudbeckia triloba</i>	Brown Eyed Susan	1.00	80,000	80,000	0.74%
<i>Siphium perfoliatum</i>	Cupplant	1.50	11,000	16,500	1.10%
<i>Solidago rigida</i>	Stiff Goldenrod	1.00	8,000	8,000	0.74%
<i>Verbena hastata</i>	Blue Vervain	1.00	28,000	28,000	0.74%
<i>Vernonia fasciculata</i>	Ironweed	2.00	12,000	24,000	1.47%
<i>Zizia aurea</i>	Golden Alexanders	1.00	12,000	12,000	0.74%
Total		40.00			29.41%

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF)
) DOCKET NO. V-404-AO-13-0
)
A&K Alexander Cranberry Co., LLC,)
Tomah, Wisconsin,)
)
) AMENDED ADMINISTRATIVE
) COMPLIANCE ORDER ON
) CONSENT
Respondent.)
_____)

Whereas the parties entered into an Administrative Compliance Order on Consent (ACOC) in the above captioned matter with an effective date of November 15, 2013;

Whereas paragraph 28 of the ACOC provided in part that, "No modification shall be made to this Order on Consent without written notification to, and written approval of all parties hereto...";

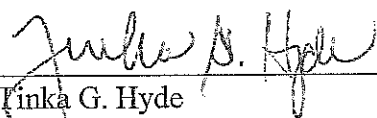
Whereas the parties have agree to make certain modifications to the areas of on-site wetland restoration set forth in Exhibit #1 to the ACOC;

Whereas the parties agree that all other terms and conditions of the ACOC shall remain in full force and effect.

Therefore, **IT IS HEREBY AGREED THAT:**

1. The areas of on-site wetland restoration shall conform to those set forth in Exhibit #1 which is attached hereto and incorporated by reference.
2. All references to Exhibit #1 in the ACOC shall refer to the attached Exhibit #1.
3. All other terms and conditions of the ACOC shall remain in full force and effect.

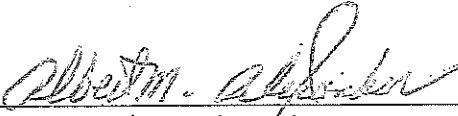
Dated: 6/12/14



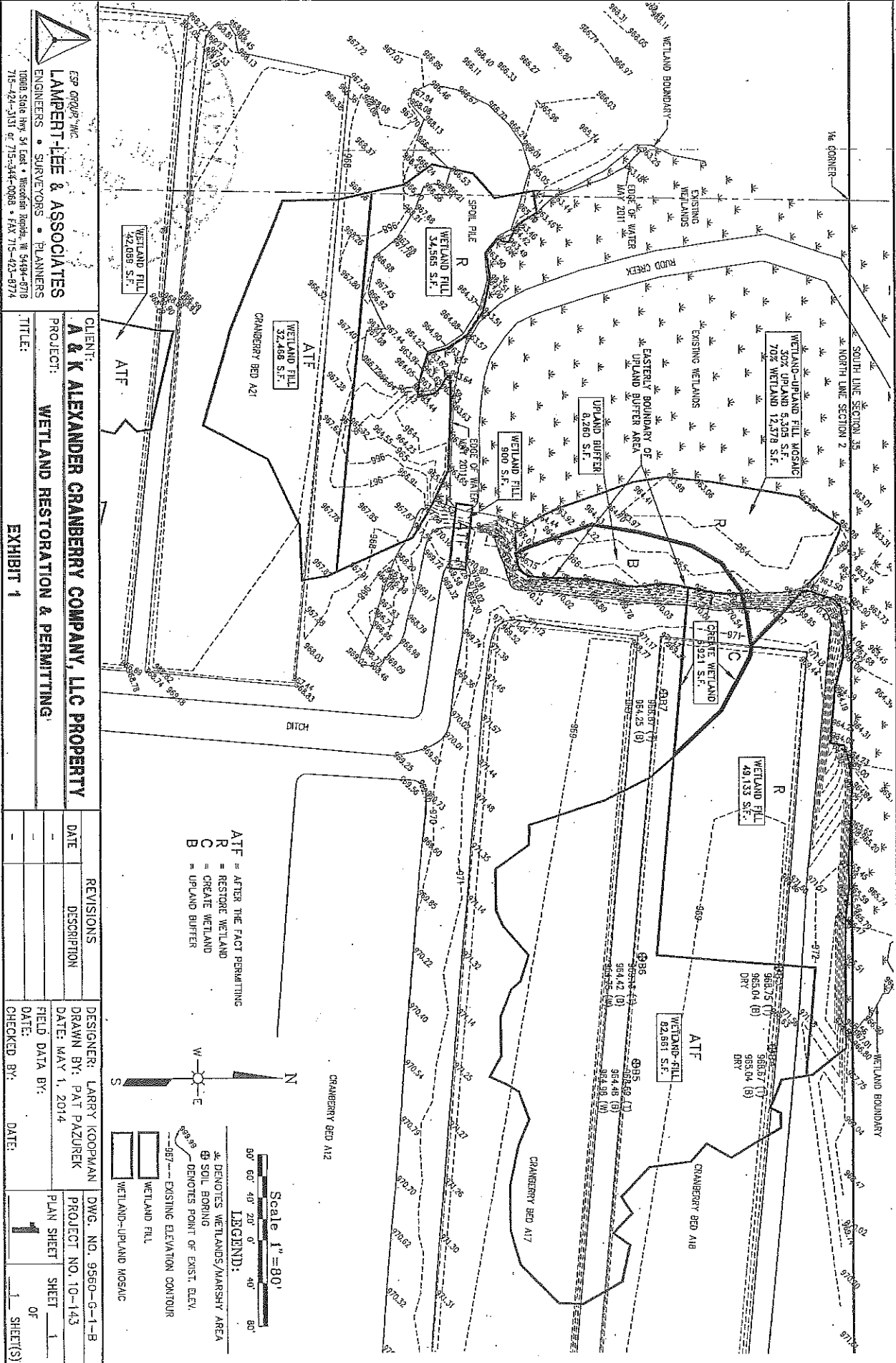
Tinka G. Hyde
Director, Water Division
U.S. Environmental Protection Agency, Region 5


For Respondent A&K Alexander Cranberry Co., LLC:

Dated: 5/27/14



Albert 'Marty' Alexander
Managing Partner









ESP GROUP, INC.
LAMBERT-LEE & ASSOCIATES
 ENGINEERS • SURVEYORS • PLANNERS
 10800 State Hwy 54 East • Woodstock, Rhode Island 04094-0716
 715-423-3331 or 715-344-0088 • FAX 715-423-0774

CLIENT:
A & K ALEXANDER CRANBERRY COMPANY, LLC PROPERTY
PROJECT:
WETLAND RESTORATION & PERMITTING
TITLE:
EXHIBIT 1

REVISIONS		DESIGNER:	DWG. NO.
DATE	DESCRIPTION	LARRY KOOPMAN	9560-G-1-B
		DRAWN BY: PAT PAZUREK	PROJECT NO. 10-143
		DATE: MAY 1, 2014	PLAN SHEET
		FIELD DATA BY:	SHEET 1
		DATE:	OF
		CHECKED BY:	1 SHEET(S)
		DATE:	

ATF = AFTER THE FACT PERMITTING
R = RESTORE WETLAND
C = CREATE WETLAND
B = UPLAND BUFFER

LEGEND:
 SOIL BORING
 DENOTES POINT OF EXIST. ELEV.
 EXISTING ELEVATION CONTOUR
 WETLAND FILL
 WETLAND-UPLAND MOSAIC

Scale 1" = 80'
 80' 40' 20' 0' 40' 80'

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:

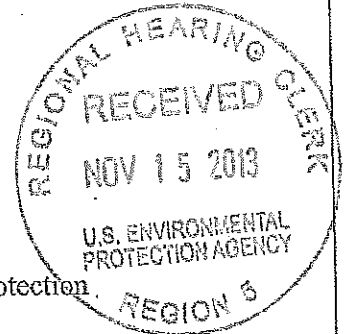
A&K Alexander Cranberry Co., LLC,
Tomah, Wisconsin,

Respondent.

)
) DOCKET NO. V-404-AO-14-01
)
)

) ADMINISTRATIVE COMPLIANCE
) ORDER ON CONSENT
)
)

) CWA-05-2014-0004
)
)



STATUTORY AUTHORITY

1. The Director of the Water Division, United States Environmental Protection Agency ("U.S. EPA"), Region 5, and A&K Alexander Cranberry Co., LLC ("Respondent"), have agreed to this Order on Consent pursuant to Section 309(a) of the Clean Water Act (the "CWA" or "Act"), 33 U.S.C. § 1319(a).
2. Under Section 309(a) of the Act, 33 U.S.C. § 1319(a), the Administrator of U.S. EPA may issue an order to comply to any person who is violating Section 301 of the Act, 33 U.S.C. § 1311. The Administrator has delegated this authority to the Regional Administrator of U.S. EPA, Region 5, who has delegated this authority to the Director, Water Division, U.S. EPA, Region 5.
3. Section 301 of the Act prohibits the discharge of pollutants, including dredged or fill material, into waters of the United States, without a permit issued by the U.S. Army Corps of Engineers ("Corps") under Section 404 of the CWA, 33 U.S.C. § 1344. These permits are called Section 404 permits.
4. Section 404 of the CWA, 33 U.S.C. § 1344, authorizes the Secretary of the Army, acting through the Chief of Engineers of the Corps, to issue permits for the discharge of dredged

or fill material into navigable waters.

5. Each discharge by Respondent of pollutants into navigable waters on the site described in paragraph 8 below without a Section 404 permit constitutes a day of violation of Section 301 of the CWA, 33 U.S.C. § 1311.

6. Each day the discharged material remains in the wetland without a Section 404 permit constitutes a day of violation of Section 301 of the CWA, 33 U.S.C. § 1311.

7. Respondent waives any and all claims for relief and otherwise available rights or remedies to judicial or administrative review which the Respondent may have with respect to any issue of fact or law set forth in this Order on Consent, including, but not limited to, any right of judicial review of the Section 309(a)(3) Compliance Order on Consent under the Administrative Procedure Act, 5 U.S.C. §§ 701-708.

FINDINGS OF VIOLATIONS

8. U.S. EPA finds that Respondent, on various days, discharged an unknown amount of pollutants - namely dredged material, sand, and organic debris - from excavators, bulldozers, and land levelers into approximately 5.6 acres of forested and emergent wetlands abutting Rudd Creek, in the northwest quarter of Section 2, Township 19 North, Range 2 West, Grant Township, Monroe County, Wisconsin (the "Site", see Exhibit #1 for an illustration of impacts), without a Section 404 permit, in violation of Section 301 of the Act, 33 U.S.C. § 1311. The discharges of pollutants occurred intermittently between 2006 and 2010 paralleling cranberry bed construction during the expansion of a cranberry growing operation.

9. Respondent neither admits nor denies any of the factual allegations above.

COMPLIANCE ORDER ON CONSENT REQUIREMENTS

Pursuant to the authority under Section 309(a) of the CWA, 33 U.S.C. 1319(a)(3), IT IS

HEREBY AGREED THAT:

10. Respondent must implement the U.S. EPA-approved, or U.S. EPA-approved with conditions or modifications, Wetland Restoration Plan submitted to U.S. EPA on or about October 8, 2013, to restore the 2.206 acres of filled wetland areas depicted in Exhibit #1 and labeled as "R"

11. By the date specified in the approved Wetland Restoration Plan, Respondent shall commence site restoration activities according to the approved Plan and schedule.

12. By June 30, 2015, Respondent shall submit to U.S. EPA written certification that Respondent has restored the Site as nearly as possible to original conditions and contours according to the approved Wetland Restoration Plan. Respondent's certification must include photographs and/or videotape and "as built" drawings at one foot contours showing that Respondent has completed the restoration activities throughout the Site.

13. Respondent is responsible for obtaining an approval from U.S. EPA, the Corps and the Wisconsin Department of Natural Resources ("WDNR") of the after-the-fact federal and state CWA Section 404 permit filed with the WDNR on September 30, 2013, for 3.63 acres of unpermitted discharges of dredged or fill material remaining in Site wetlands (the "ATF Permit") as identified in Paragraph 8 of the Findings of Violation, above, and labeled "ATF" in Exhibit #1, and as further modified by the wetlands restored according to the approved Wetland Restoration Plan.

14. Respondent must select and propose an adequate amount of wetland mitigation acreage to the Corps and the WDNR for the 3.63 acres subject to the ATF Permit, within 90 days after the effective date of this Order on Consent.

15. If the ATF Permit application is denied in whole or part, then within 30 days after receiving notice of the denial Respondent must submit to U.S. EPA for approval a wetland restoration plan meeting the same standards and criteria as the Restoration plan submitted pursuant to Paragraph 10 for those areas of wetland fill which were denied a permit, and Respondent must then comply with the requirements of this Order on Consent for this wetland restoration plan.

16. During business hours, and upon verbal or written notice to Respondent, Respondent must allow U.S. EPA or Corps representatives access to the Site to determine compliance with this Order on Consent and the CWA.

17. Respondent shall send all submittals required by of this Order on Consent to U.S. EPA, the Corps, and WDNR at these addresses:

Greg Carlson (WW-16J)
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604

Dave Pericak
WDNR
3550 Mormon Coulee Road (Room 104)
La Crosse, WI 54601

Ben Cox, Compliance Coordinator
U. S. Army Corps of Engineers-St. Paul District
180 5th Street East
St. Paul, MN 55101-1678

18. U.S. EPA may use the information Respondent submits for an administrative,

civil, or criminal action.

19. Neither U.S. EPA's issuance of this Order on Consent, nor Respondent's compliance with the Order on Consent, affects Respondent's obligation to comply with the Act, or any other federal statute or regulation, state law, or local or municipal ordinance.

20. Neither U.S. EPA's issuance of this Order on Consent, nor Respondent's compliance with it, relieves Respondent of liability for any penalty, remedy or sanction under Section 309(b), (c), or (g) of the Act, 33 U.S.C. § 1319(b), (c) or (g), for any violation of the Act other than the violations resolved by this Order.

21. This Order on Consent does not affect the right of the U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law other than the violations resolved by this Order.

22. If Respondent violates any terms of this Order on Consent, U.S. EPA may take further enforcement action under Section 309 of the Act, including seeking administrative penalties, civil injunctive relief and penalties, and criminal sanctions. The Debt Collection Improvement Act of 1996 increased the statutory maximum penalty to \$11,000 per day of violation, up to a total of \$157,500, for violations on or after March 15, 2004, until January 12, 2009. The Debt Collection Improvement Act of 1996 again increased the statutory maximum penalty to \$16,000 per day of violation, up to a total of \$177,500, for violations after January 12, 2009. *See* 31 U.S.C. § 3701 and 40 C.F.R. Part 19. U.S. EPA may seek criminal sanctions, including fines and imprisonment, for negligent or knowing violations of the CWA under 33 U.S.C. § 1319(c). Respondent expressly waives its right to assert that such action is barred by any applicable statute of limitation, *see* 28 U.S.C. § 2462.

23. This Order on Consent constitutes a complete and full settlement of, and resolves Respondent's liability with prejudice for, the violations alleged in this Order on Consent.

24. The terms of this Order on Consent bind U.S. EPA and the Respondent and their successors and assigns.

25. Each person signing this Order on Consent certifies he or she has the authority to sign this Order on Consent for the party he or she represents and to bind that party to its terms.

26. Each party agrees to bear its own costs and fees, including attorney's fees, for this action.

27. This Order on Consent constitutes the entire agreement between the parties.

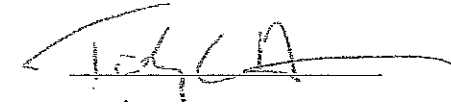
28. No modification shall be made to this Order on Consent without written notification to, and written approval of, all parties hereto and no oral modification of this Order on Consent shall be effective.

29. This Order on Consent is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq., because it seeks collection of information from specific individuals or entities as part of an administrative action.

EFFECTIVE DATE

30. This Order on Consent is effective on the date that the U.S. EPA files it with the Regional Hearing Clerk.

Dated: 11/14/13



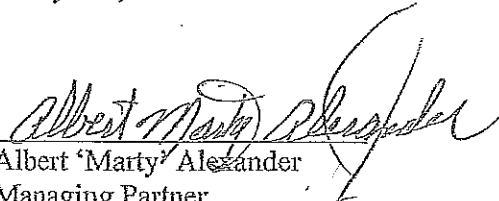
Tinka G. Hyde
Director, Water Division
U.S. Environmental Protection Agency, Region 5



In the Matter of A&K Alexander Cranberry Co., LLC
Docket No. V-404-AO-14-01

For Respondent A&K Alexander Cranberry Co., LLC:

Dated: 11/6/13


Albert 'Marty' Alexander
Managing Partner

