

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

In the Matter of)
)
Atkinson Developers, LLC)
Francis M. Atkinson, Jr.)
Aynor, South Carolina 28306)
)
Respondents.)
_____)

Docket No. CWA-04-2010-55

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2015 MAY 19 AM 7:10

ORDER TO SHOW CAUSE

Complainant, the Director of the Water Protection Division, U.S. Environmental Protection Agency (EPA), Region 4, has moved for entry of a Default Order against Respondents, Atkinson Developers, LLC, and Francis M. Atkinson, Jr., for their failure to file an Answer in this matter.

Complainant initiated this administrative action on June 22, 2010, alleging that Respondent violated the requirements of the Sections 301 and 404 of the Clean Water Act (CWA), 33 U.S.C. §§ 1311 and 1344. Specifically, Complainant alleges that Respondent discharged dredged and/or fill material into jurisdictional wetlands using earth moving equipment without a permit issued under Section 404 of the CWA. Complainant requests the Presiding Officer assess a civil penalty against Respondent in the amount of \$157,500. To date, Respondents have not filed an Answer in this matter.

This proceeding is governed by the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, ("Consolidated Rules of Practice"); 40 C.F.R. Part 22. Section 22.17 of the Consolidated Rules of Practice provides in part:

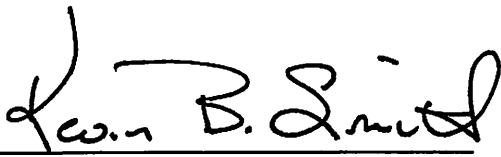
(a) *Default.* A party may be found to be in default: after motion, upon failure to file a timely answer to the complaint. ... Default by respondent constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the complaint and a waiver of respondent's right to contest such factual allegations...

(c) *Default order.* When the Presiding Officer finds that a default has occurred, he shall issue a default order against the defaulting party as to any or all parts of the proceeding unless the record shows good cause why a default order should not be issued. If the order resolves all outstanding issues and claims in the proceeding, it shall constitute the initial decision under these Consolidated Rules of Practice. The relief proposed in the complaint or in the motion for default shall be ordered unless the requested relief is clearly inconsistent with the record of the proceeding or the Act.

In view of the gravity and consequences of a default, Respondents Atkinson Developers, LLC, and Francis M. Atkinson, Jr., are ORDERED, on or before **June 1, 2015**, to show cause why it should not be held in default and to answer the Complaint. Respondents should state for the record what "good cause" exists, if any, for their failure to respond to the Complaint. Failure on the part of Respondents to file a timely response to this Order could subject them to the assessment of the full amount of the proposed civil penalty of \$157,500.

SO ORDERED.

Dated: MAY 19 2015



Acting Regional Judicial Officer

**In the Matter of Atkinson Developers, LLC, and Francis M. Atkinson, Jr.
Docket No. CWA-04-2010-5515**

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the original and a true correct copy of the foregoing Order to Show Cause and have served the parties below in the manner indicated:

Copy via Interoffice mail to:
Attorney for Complainant

Ms. Wilda W. Cobb
Associate Regional Counsel
U. S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, GA 30303

Copy via First Class Certified Mail
Return Receipt Requested to:

Mr. Francis M. Atkinson, Jr.
Atkinson Developers, LLC
4368 Green Sea Road South
Aynor, SC 29511

Dated: 5-19-15

By: 

Ms. Patricia Bullock
Regional Hearing Clerk
U. S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, GA 30303

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

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, \$300

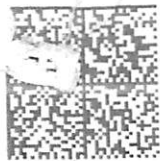
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CERTIFIED MAIL™



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ZIP 30303 \$006.48⁰
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*Mr. Francis M. Atkinson, Jr.
Atkinson Developers, LLC
4368 Gwynne
Aynor*

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*2924-02508-39-39



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OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Francis M. Atkinson, Jr.
Atkinson Developers, LLC
4368 Green Sea Rd South
Aynor, SC
29511

2. Article Number

(Transfer from service)

7010 1060 0002 1702 7055

PS Form 3811, February 2004

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A. Signature

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Agent

Addressee

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