



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

SEP 29 2014

CERTIFIED MAIL 7011 3500 0003 2064 0437  
RETURN RECEIPT REQUESTED

Douglas A. Henderson, Esq.  
Troutman Sanders, LLP  
600 Peachtree Street, N.E.  
Suite 5200  
Atlanta, Georgia 30308

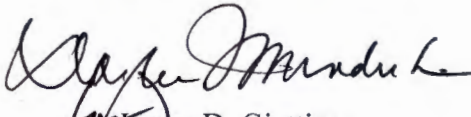
Re: Consent Agreement and Final Order  
Docket No.: CWA 04-2014-4508(b)

Dear Mr. Henderson:

Enclosed please find a fully executed copy of the above Consent Agreement and Final Order that has been finalized by the U.S. Environmental Protection Agency and the Regional Administrator. Please make note of the provisions under Section IV. Payment.

Thank you for your cooperation in settling this matter. Should you have any questions or concerns, please contact Ms. Suzanne Armor, Associate Regional Counsel, at (404) 562-9701 or via email at armor.suzanne@epa.gov.

Sincerely,

  
James D. Giattina  
Director  
Water Protection Division

Enclosure

cc: Mr. James A. Capp  
Georgia Environmental Protection Division

Ms. Margaret Tanner  
City of Atlanta, Department of Watershed Management



6. To accomplish the objective of the CWA, defined in Section 101(a) of the CWA, 33 U.S.C. § 1251(a), to restore and maintain the chemical, physical and biological integrity of the nation's waters, Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants by any person into waters of the United States except as in compliance with, *inter alia*, a National Pollutant Discharge Elimination System ("NPDES") permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

7. Section 402 of the CWA, 33 U.S.C. § 1342, establishes a NPDES Permit Program authorizing the EPA or authorized states to administer the NPDES Permit Program, including the issuance of NPDES permits allowing for the discharge of pollutants, including stormwater, into navigable waters subject to specific terms and conditions. The EPA has granted the State of Georgia, through the Georgia Environmental Protection Division ("GAEPD"), approval to issue NPDES permits pursuant to Section 402(b) of the CWA.

8. GAEPD issued the Permit, in accordance with the Georgia Water Quality Control Act (O.C.G.A. Code Sections 12-5-20 *et seq.*, 1964), the Georgia Rules and Regulations for Water Quality Control, Chapter 391-3-6, and the CWA. The Permit under which Respondents discharged from the Development was effective August 1, 2008, and expired on July 31, 2013.<sup>1</sup> Coverage under the Permit is obtained by submittal of a Notice of Intent ("NOI") to GAEPD.

9. The Permit is a Georgia statewide NPDES general permit governing stormwater point source discharges associated with construction activities including clearing, grading and excavation activities except operations that result in the disturbance equal to or greater than one acre of total land area which are not part of a larger common plan of development or sale.

10. On October 15, 2012, Camden Development submitted an NOI to GAEPD to acquire authorization to discharge under the Permit.

11. On June 5, 2013, representatives of the EPA, in conjunction with GAEPD, performed a Compliance Stormwater Evaluation Inspection ("CSWEI") at the Development to evaluate the treatment and disposal of stormwater in accordance with the CWA, the regulations promulgated thereunder at 40 C.F.R. § 122.26 and the Permit.

12. As a result of the CSWEI, the EPA determined that stormwater associated with construction activity was discharged from the Development within the meaning of Section 402(p) of the CWA, 33 U.S.C. § 1342(p), and its implementing regulations into an unnamed tributary to Nancy Creek, a water of the United States.

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<sup>1</sup> GAEPD reissued the NPDES General Permit to Discharge Storm Water Associated with Construction Activity for Common Developments (GAR100003), effective September 24, 2013 and expiring July 31, 2018 ("2013 Permit"). Camden Development submitted an NOI to GAEPD to acquire authorization to discharge under the 2013 Permit on October 21, 2013.

13. Respondents' activities impacted an unnamed tributary of Nancy Creek. Nancy Creek is a perennial stream that flows to Peachtree Creek. Peachtree Creek is a perennial stream that flows to the Upper Chattahoochee River, which is a water of the United States.

14. During the CSWEI, the EPA inspectors provided a copy of an "NPDES Inspection Observation Form" to Camden Development representatives to notify the Respondents of the EPA's initial concerns regarding the conditions at the Development.

15. The EPA identified the following allegations through its review of documentation provided by the Respondents and from observations made at the Development:

A. Silt fences near the crossing of the easterly unnamed stream at the Development needed maintenance of both the downstream and upstream sides of the stream crossing, as required by Parts V.D and V.L of the Permit.

B. The silt fence downstream of crossing of the easterly unnamed stream at the Development had sediment overtopping the silt fence and sediment was deposited in the stream, in violation of Parts V.D and V.L of the Permit.

C. The silt fence near the northern podium area (SS-2 manhole) was more than half full of sediment, in violation of Parts V.D. and V.L of the Permit.

D. Sediment had been deposited in the unnamed tributary to Nancy Creek and in the two unnamed streams at the Development, in violation of Part V.D of the Permit.

E. The silt fence near SS-1 needed maintenance, as required by Part V.L of the Permit.

F. Silt fencing in an area between the rock wall and stream on the north side of the Development was more than half full of sedimentation, in violation of Parts V.D. and V.L of the Permit.

G. Portions of the construction exit installed at the Development did not have the minimum thickness of six inches required by the Manual. Off-site vehicle tracking of dirt, soils and sediment was observed on East Andrews Drive, in violation of Part IV.D.3.c(2) of the Permit.

H. Of the seven (7) pipe slope drains denoted in the Plan, only three (3) were actively being used at the Development, in violation of Part V.L of the Permit.

I. One (1) of the drain inlets at the Development was full of sediment and in need of maintenance, in violation of Part V.L of the Permit.

J. Stockpiles of soil on the east and northeast sides of the Development and near the detention vault were not stabilized within fourteen (14) days of construction activity, as required by Part IV.D.3.a(1) of the Permit.

K. Stockpiles of soil with slopes steeper than 2.5:1 and with heights of ten feet or greater were not stabilized with appropriate erosion control matting or blankets, as required by Part III.D.1 and the Manual.

L. On several occasions, daily reports were either not completed, or were incomplete for inspections of both petroleum areas and at the construction exit, as required by Part IV.D.4.a(1) of the Permit.

M. On several occasions, inspections were not conducted weekly and after qualifying rain events, as required by Part IV.D.4.a(2) of the Permit. In addition, the rainfall amount recorded on some inspections was not always complete and, in some instances, failed to state what, if any, previous compliance issues had been corrected, as required by Parts IV.D.4.a(4) and (5) of the Permit.

N. Field documentation was not presented to indicate that sampling had been conducted within forty-five (45) minutes of a qualifying event, as required by Part IV.D.6.d(1) of the Permit.

O. Certain sampling was not conducted at each area of the Development as required by Part IV.D.6.d(3)(a) of the Permit.

16. On September 12, 2013, the EPA and Respondents finalized two Administrative Orders on Consent, Docket Nos. CWA-04-2013-4765 and CWA-04-2013-5765 (AOCs), pursuant to Section 309(a) of the CWA, 33 U.S.C. § 1319(a), whereby Respondents agreed to perform certain injunctive relief. Based on documentation submitted to Complainant by Respondents, Respondents have completed the work required under these two AOCs.

17. Complainant alleges that Respondents have violated Sections 301 and 402(p) of the CWA, 33 U.S.C. §§ 1311 and 1342(p), by failing to comply with the Permit.

### **III. Stipulations and Findings**

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

19. For the purposes of this CA/FO, Respondents admit the jurisdictional allegations set out above, but neither admit nor deny the factual allegations set out above.

20. Respondents hereby waive their right to contest the allegations set out above and its right to appeal the Final Order accompanying this Consent Agreement.

21. Respondents consent to the assessment of and agree to pay the administrative penalty as set forth in this CA/FO and consent to the other conditions set forth in this CA/FO.

22. By signing this CA/FO, Respondents certify that the information they have supplied concerning this matter was at the time of submission, and is, truthful, accurate, and complete for each such submission, response and statement. Respondents recognize 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.

23. The EPA reserves the right to assess and collect any and all civil penalties for any violation described in this Consent Agreement to the extent that any information or certification provided by Respondents was materially false or inaccurate at the time such information or certification was provided to the EPA.

24. Complainant and Respondents 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**

25. Under 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, the EPA has determined that forty-five thousand dollars (\$45,000) is an appropriate civil penalty to settle this action.

26. Respondents 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 names of Respondents and the Docket Number of this CA/FO. Such payment shall be submitted by U.S. Postal Service to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

For other payment options (Ex: Wire Transfers, Overnight Mail, ACH, and On Line), please refer to Attachment A.

27. At the time of payment, Respondents 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  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

and

Ms. Mary Mattox  
Clean Water Enforcement Branch  
Stormwater and Residuals Enforcement Section  
U.S. Environmental Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

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

29. Pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), failure by the Respondent to pay the penalty assessed by the CA/FO in full by its due date may subject the 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**

30. This CA/FO shall not relieve Respondents of their 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 the EPA.

31. Issuance of this CA/FO shall not be deemed as prohibiting, altering, or in any way limiting the ability of the EPA to pursue any other enforcement actions available to it under law.

Such actions may include, without limitation, any administrative, civil, or criminal action to seek penalties, fines, injunctive, or other appropriate relief, or to initiate an action for imminent and substantial endangerment, under the CWA or any other federal or state statute, regulation, or permit.

32. Except as otherwise set forth herein, this CA/FO constitutes a settlement by Complainant and Respondents 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.

33. Nothing in this CA/FO is intended to nor shall be construed to operate in any way to resolve any criminal liability of Respondents, or other liability resulting from violations that were not alleged in this CA/FO.

34. 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.

35. This CA/FO applies to and is binding upon Respondents and their officers, directors, employees, agents, successors and assigns.

36. Any change in the legal status of Respondents, including but not limited to any transfer of assets of real or personal property, shall not alter Respondents' responsibilities under this CA/FO.

37. Each party shall bear its own costs and attorney's fees in connection with the action resolved by this CA/FO.

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

For Complainant:

Suzanne K. Armor  
Associate Regional Counsel  
U.S. Environmental Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
(404) 562-9701



For Respondents:

Douglas A. Henderson, Esq.  
Troutman Sanders, LLP  
600 Peachtree Street, N.E.  
Suite 5200  
Atlanta, Georgia 30308-2216

39. 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 proposed CA/FO based on comments received during the public comment period.

40. 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.

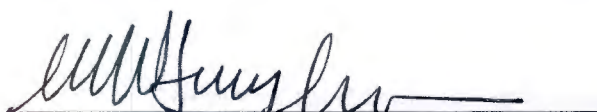
41. Effective upon signature of this CA/FO by Respondents, Respondents agree that the time period commencing on the date of its signature and ending on the date the EPA receives from Respondents the payment required by this CA/FO shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by the EPA related to the matters addressed in this CA/FO and that, in any action brought by the EPA related to the matters addressed, Respondents will not assert, and may not maintain, any defense or claim based upon principles of statute of limitations, waiver, laches, estoppel, or other defense based on the passage of time during such period. If the EPA gives notice to Respondents that it will not make this CA/FO effective, the statute of limitations shall begin to run again commencing ninety days after the date such notice is sent by the EPA.

**VI. Effective Date**

42. 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 RESPONDENT CAMDEN USA, INC.**



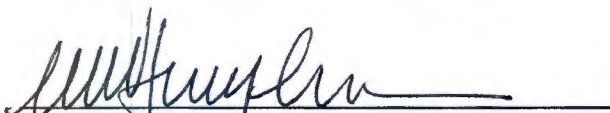
Name

WILLIAM W. SENGELMANN  
SENIOR VICE PRESIDENT-REAL  
ESTATE INVESTMENTS

Title

Date: August 13, 2014

**FOR RESPONDENT CAMDEN DEVELOPMENT, INC.:**



Name

WILLIAM W. SENGELMANN  
SENIOR VICE PRESIDENT-REAL  
ESTATE INVESTMENTS

Title

Date: August 13, 2014

**FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:**



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

Date: 9/26/14

**ATTACHMENT A**  
**COLLECTION INFORMATION**

**WIRE TRANSFERS:**

Wire transfers should be directed to the Federal Reserve Bank of New York

Federal Reserve Bank of New York

ABA = 021030004

Account = 68010727

SWIFT address = FRNYUS33

33 Liberty Street

New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

**OVERNIGHT MAIL:**

U.S. Bank

1005 Convention Plaza

Mail Station SL-MO-C2GL

St. Louis, MO 63101

Contact: Natalie Pearson

(314) 418-4087

**ACH (also known as REX or remittance express):**

Automated Clearinghouse (ACH) for receiving US currency

PNC Bank

808 17<sup>th</sup> Street, N.W.

Washington, DC 20074

Contact: Jesse White, (301) 887-6548

ABA = 051036706

Transaction Code 22 - checking

Environmental Protection Agency

Account 310006

CTX Format

**ONLINE PAYMENT:**

There is now an Online Payment Option, available through the Dept. of Treasury. This payment option can be accessed from the information below:

[www.pay.gov](http://www.pay.gov) (Enter sfo 1.1 in the search field Open form and complete the required fields).

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

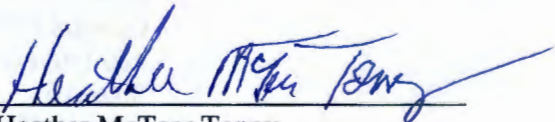
IN THE MATTER OF: ) ADMINISTRATIVE  
 ) CONSENT AGREEMENT AND  
 ) FINAL PENALTY ORDER  
CAMDEN USA, INC. and )  
CAMDEN DEVELOPMENT, INC. ) DOCKET NO. CWA 04-2014-4508(b)  
CAMDEN PACES )  
ATLANTA, FULTON COUNTY, GEORGIA, )  
 )  
RESPONDENTS. )  
\_\_\_\_\_ )

**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), Respondents are hereby ordered to comply with the terms of the foregoing Consent Agreement.

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: SEP 29 2014

  
\_\_\_\_\_  
Heather McTeer Toney  
Regional Administrator

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order in the matter of: **Docket No. CWA-04-2014-4508(b)** on the parties listed below in the manner indicated:

EPA Internal Mail:                    Sean Ireland  
Clean Water Enforcement Branch  
Stormwater and Residuals Enforcement Section  
U.S. EPA, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

By hand-delivery:                    Suzanne Armor  
Associate Regional Counsel  
Office of Environmental Accountability  
U.S. EPA, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

By Certified mail,  
return receipt requested:           Douglas A. Henderson  
Troutman Sanders, LLP  
600 Peachtree Street, N.E.  
Suite 5200  
Atlanta, Georgia 30308-2216

James A. Capp, Branch Chief  
Watershed Protection Branch  
ATTN: Jan Sammons, Unit Manager  
Erosion and Sedimentation Unit  
Georgia Environmental Protection Division  
420 International Parkway  
Suite 101  
Atlanta, Georgia 30354

Margaret Tanner, Deputy Commissioner  
Department of Watershed Management  
Office of Watershed Protection  
ATTN: Alex Comer  
City of Atlanta, 8<sup>th</sup> Floor  
72 Marietta Street, N.W.  
Atlanta, Georgia 30303

Dated: 9-29-14



Patricia Bullock  
Regional Hearing Clerk  
U. S. Environmental Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
(404) 562-9511