



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

JUN 26 2012

CERTIFIED MAIL 70102780000182160409
RETURN RECEIPT REQUESTED

Mr. Thomas Budde
Chief Financial Officer
Walton – A Core Construction Company
2 Commerce Court
New Orleans, Louisiana 70123

Re: Consent Agreement and Final Order No. CWA-04-2012-4506(b)
Third Recruit Training Battalion Complex – MCRD
Parris Island, South Carolina

Dear Mr. Budde:

Enclosed please find a fully executed copy of the Consent Agreement and Final Order, finalized by the U.S. Environmental Protection Agency, Region 4 and the Regional Judicial Officer. Please make note of the provisions under Section IV. Payment.

Should you have any questions or concerns regarding this matter, please contact Ms. Sara Schiff at (404) 562-9870 or via email at schiff.sara@epa.gov.

Sincerely,

A handwritten signature in black ink that reads "Denisse D. Diaz".

Denisse D. Diaz, Chief
Clean Water Enforcement Branch
Water Protection Division

Enclosure

cc: Mr. David Wilson
South Carolina Department of Health and Environmental Control

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

RECEIVED
EPA REGION IV
2012 JUN 26 AM 6:57
HEARING CLERK

IN THE MATTER OF:)
)
WALTON CONSTRUCTION – A CORE) CONSENT AGREEMENT AND
COMPANY, LLC) FINAL ORDER
)
THIRD RECRUIT TRAINING)
BATTALION COMPLEX – MCRD)
PARRIS ISLAND, SOUTH CAROLINA)
)
RESPONDENT.) DOCKET NO. CWA-04-2012-4506(b)
_____)

CONSENT AGREEMENT

I. Statutory Authority

1. This is a civil penalty proceeding pursuant to Section 309(g)(2)(A) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(g)(2)(A), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits*, including Subpart I, published at 64 Fed. Reg. 40176 (July 23, 1999) and codified at 40 Code of Federal Regulations (“C.F.R.”) Part 22.

2. The authority to take action under Section 309(g)(2)(A) of the CWA, 33 U.S.C. § 1319(g)(2)(A), is vested in the Administrator of the United States Environmental Protection Agency. 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 Protection Division, who in turn has delegated this authority to the Chief of the Clean Water Enforcement Branch of the EPA, Region 4 (“Complainant”).

II. Allegations

3. At all times relevant to this action, Walton Construction – A CORE Company, 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, the Respondent was the general contractor for the construction site known as the Third Recruit Training Battalion Complex – MCRD (“Development”) located at the Marine Corps Recruit Depot/Eastern in Parris Island, South Carolina. As such, the Respondent has responsibility for the day-to-day operations of the Development.

5. 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 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 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 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 a *NPDES General Permit for Stormwater Discharges From Large and Small Construction Activities*, 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 September 1, 2006, and expired on August 31, 2011.

8. The SCDHEC is responsible for the issuance, compliance, and enforcement of the South Carolina Pollution Control Act, S.C. Code Sections 48-1-10 *et seq.*, 1976, and the submission and approval of coverage under the Permit upon submission of a Notice of Intent ("NOI") requesting Permit Coverage and development and implementation of a Stormwater Pollution Prevention Plan (SWPPP).

9. The Development had permit coverage under two (2) permit numbers. A Notice of Coverage for the first portion of the project was sent to Lieutenant Colonel Daniel Miller with an effective date of March 19, 2009, and an expiration date of March 19, 2014. A modification request was submitted to SCDHEC on May 12, 2009, and was approved on June 18, 2009. This portion is covered under NPDES Permit SCR10K683 and includes the construction of the military barracks. A subsequent NOI was submitted on September 1, 2010, and a Notice of Coverage was sent to Lieutenant Colonel Daniel Miller with an effective date of November 12, 2010, and an expiration date of November 15, 2015. This portion of the project is covered under NPDES Permit SCR10N345 and includes the construction of a track and obstacle course training facility.

10. In accordance with South Carolina General Assembly Bill 4445, existing developments may have coverage under their current Permit extended past the expiration date of August 31, 2011. SCDHEC extended coverage for the Development under NPDES Permits SCR10K683 and SCR10N345.

11. Part 3.6.A of the Permit requires all erosion and sediment control measures and other protection measures be maintained in effective operating condition. If self-inspections identify Best Management Practices (BMPs) that are not operating effectively, maintenance must be performed as soon as practical or as reasonably possible and before the next storm event.

12. Part 3.13.A of the Permit requires control measures to be properly selected, installed and maintained in accordance with any relevant manufacturer specifications and good engineering practices.

13. Part 3.13.B of the Permit requires the removal of off-site accumulations of sediment at a frequency sufficient to minimize off-site impacts.

14. Part 3.13.E of the Permit requires a combination of sediment and erosion control measures to achieve maximum pollutant removal.

15. Part 4.4 of the Permit requires the selection, implementation and maintenance of BMPs that minimize pollutants in the discharge or as necessary to meet water quality standards.

16. On March 30, 2011, representatives of the EPA in conjunction with the South Carolina Department of Health and Environmental Control-Ocean and Coastal Resource Management (SCDHEC-OCRM) 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. § 126.26 and the SCDHEC Permit.

17. As a result of the CSWEI, the EPA has determined that the Respondent discharged stormwater associated with industrial activity from its Development within the meaning of Section 402(p) of the CWA, 33 U.S.C. § 1342(p), and its implementing regulations, into Ballast Creek and on into the Atlantic Ocean, a navigable water of the United States.

18. During the CSWEI, the EPA inspectors provided a copy of an "NPDES Inspection Observation Form" to the Respondent's representatives. As noted on the "NPDES Inspection Observation Form" and in the CSWEI Report, the following was observed:

- A. BMPs were not properly installed or were in need of maintenance as required by Parts 3.6.A, 3.13.A, 3.13.E and 4.4 of the Permit. A man-made trench was cut at the track portion of the site to allow stormwater to drain out of the construction area. The trench was not properly maintained and protected, and concentrated stormwater flows extended the trench to the edge of the silt fencing. Runoff from the trench damaged the silt fencing, discharging sediment-laden stormwater directly into Ballast Creek, which flows into the Atlantic Ocean. Silt fencing was also improperly maintained on the barracks portion of the site, most notably where the sediment-laden stormwater was being pumped from the underground storage system to the edge of the site.
- B. Sediment-laden stormwater discharged directly from the man-made trench and damaged silt fencing into Ballast Creek and then into the Atlantic Ocean from the track portion of the site. A discolored sediment plume was visible at the discharge point. Sediment that accumulated off-site needed to be removed and properly disposed of as required by Part 3.13.B of the Permit.



19. Therefore, the Respondent has violated Sections 301 and 402(p) of the CWA, 33 U.S.C. §§ 1311 and 1342(p), by failing to comply with the SCDHEC Permit.

20. On August 22, 2011, the EPA issued an Administrative Order No.CWA-04-2011-4774 requiring compliance with the Permit. Respondent has undertaken corrective actions that addressed the conditions noted above.

III. Stipulations and Findings

21. Complainant and the 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.

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

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

24. The 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.

25. By signing this CA/FO, the 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. The 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.

26. The 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 the Respondent was materially false or inaccurate at the time such information or certification was provided to the EPA.

27. Complainant and the 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

28. Pursuant to Section 309(g)(2)(A) of the CWA, 33 U.S.C. § 1319(g)(2)(A), and 40 C.F.R. Part 19, and considering the nature of the violations and other relevant factors, the EPA has determined that seven thousand, five hundred dollars (\$7,500) is an appropriate civil

penalty to settle this action.

29. The 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 the Respondent and the Docket Number of this CA/FO. Such payment shall be tendered to:

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

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

and

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

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

32. 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

33. This CA/FO shall not relieve the 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 the 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 the Respondent's violation of this CA/FO or of the statutes and regulations upon which this CA/FO is based, or for the Respondent's violation of any federal or state statute, regulation or permit.

35. Except as otherwise set forth herein, this CA/FO constitutes a settlement by Complainant and the 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 the 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 the 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 the Respondent and its officers, directors, employees, agents, successors and assigns.

38. Any change in the legal status of the Respondent, including but not limited to any transfer of assets of real or personal property, shall not alter the 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:

Mr. Rolando Bascumbe
Associate Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9545

For the Respondent:

Mr. Thomas Budde
Chief Financial Officer
Walton Construction – A CORE Company, LLC.
2 Commerce Court
New Orleans, Louisiana 70123
(504) 731-3154

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:

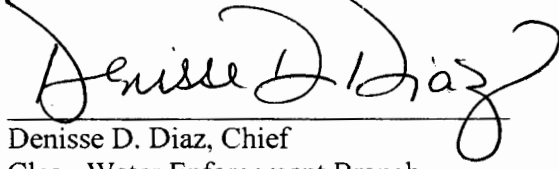
For RESPONDENT, WALTON CONSTRUCTION – A CORE COMPANY, LLC. :



Thomas Budde
Chief Financial Officer

Date: April 11, 2012

For COMPLAINANT, U.S. ENVIRONMENTAL PROTECTION AGENCY:



Denisse D. Diaz, Chief
Clean Water Enforcement Branch
Water Protection Division
U.S. EPA, Region 4

Date: 6/20/12

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

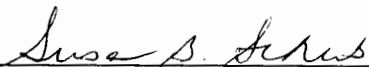
IN THE MATTER OF:)	
)	CONSENT AGREEMENT AND
WALTON – A CORE CONSTRUCTION)	FINAL ORDER
COMPANY)	
THIRD RECRUIT TRAINING)	
BATTALION COMPLEX – MCRD)	
PARRIS ISLAND, SOUTH CAROLINA)	
)	
RESPONDENT.)	DOCKET NO. CWA-04-2012-4506(b)
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FINAL ORDER

In accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits*, including Subpart I, 40 C.F.R. Part 22, and authorities delegated to me, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Pursuant to Section 309(g)(2)(A) of the CWA, 33 U.S.C. § 1319(g)(2)(A), the Respondent is hereby ordered to comply with the terms of the foregoing Consent Agreement.

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: June 25, 2012



Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the attached **CONSENT AGREEMENT AND FINAL ORDER** in the matter of Walton - A Core Construction Company, Docket No. CWA-04-2012-4506(b) (filed with the Regional Hearing Clerk on JUN 26 2012, 2012, was served on JUN 26 2012, 2012, in the manner specified to each of the persons listed below.

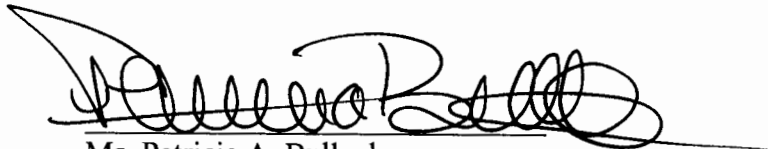
By hand-delivery:

Mr. Rolando Bascumbe
Associate Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

By certified mail,
return receipt requested:

Mr. Thomas Budde
Chief Financial Officer
Walton - A Core Construction Company
2 Commerce Court
New Orleans, Louisiana 70123

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



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