



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

SEP 20 2016

CERTIFIED MAIL 7007 2680 0000 3272 1238
RETURN RECEIPT REQUESTED

John P. Babel
Secretary
Standard Pacific of Florida GP, Inc.
Standard Pacific of Tampa GP, Inc.
220 West New England Ave, Suite 220
Winter Park, Florida 33609

Re: Consent Agreement and Final Order
Docket No. CWA-04-2016-4505(b)
Standard Pacific of Florida GP, Inc. Cordoba Ranch

Dear Mr. Babel:

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

Should you have any questions or problems, please contact LCDR Tara Houda at (404) 562-9762 or via email at houda.tara@epa.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Giattina".

James D. Giattina
Director
Water Management Division

Enclosure

cc: Jessica Kleinfelter
Florida Department of Environmental Protection

Mr. Jeffrey S. Longworth
Barnes & Thornburg, LLP

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)
)
CORDOBA RANCH) **CONSENT AGREEMENT AND**
) **FINAL ORDER**
LUTZ,)
HILLSBOROUGH COUNTY, FLORIDA)
) **DOCKET NO. CWA-04-2016-4505(b)**
STANDARD PACIFIC OF)
FLORIDA GP, INC.)
)
RESPONDENT.)

USEPA REGION 4
OFFICE OF REGIONAL
COUNSEL
2016 SEP 20 AM 6:43
HEARING CLERK

CONSENT AGREEMENT

I. Statutory Authority

1. This is a civil penalty proceeding pursuant to Section 309(g)(2)(B) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(g)(2)(B), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits*, including Subpart I, published at 64 Fed. Reg. 40,176 (July 23, 1999) and codified at 40 Code of Federal Regulations (“C.F.R.”) Part 22.

2. The authority to take action under Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), is vested in the Administrator of the United States Environmental Protection Agency. 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, of the EPA, Region 4 (“Complainant”).

II. Allegations

3. Standard Pacific of Florida GP, Inc. (“Respondent”) is a corporation duly organized and existing under the laws of the State of Delaware and is 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 owned and/or operated a construction site known as Cordoba Ranch (“Development”) located at Livingston Avenue and Cordoba Ranch Boulevard, in Lutz, Hillsborough County, Florida.

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 Florida, through the Florida Department of Environmental Protection (“FDEP”), approval to issue NPDES permits pursuant to Section 402(b) of the CWA.

7. FDEP issued the Generic Permit for Stormwater Discharge from Large and Small Construction Activities, National Pollutant Discharge Elimination System Permit FLR100000 (“Permit”) in accordance with the provisions of Section 403.0885, Florida Statutes, and applicable rules of the Florida Administrative Code, and the CWA. The Permit was effective February 17, 2009. Coverage under the Permit is obtained by submitting a Notice of Intent (“NOI”) to FDEP.

8. On July 14, 2012, Respondent submitted an NOI to FDEP requesting coverage under the Permit at the Development. The authorization became effective on November 19, 2012, and will expire on November 18, 2017, with a project identification number FLR10MF16, and requires Respondent to comply with all provisions of the Permit.

9. Part III.C.2 of the Permit states: “A copy of the NOI or letter from DEP confirming coverage under this generic permit shall be posted at the construction site in a prominent place for public viewing (such as alongside a building permit).”

10. Part V.A of the Permit states: “A stormwater pollution prevention plan (“plan”) shall be developed and implemented for each construction site covered by this permit. Stormwater pollution prevention plans shall be prepared in accordance with good engineering practices.”

- a. Part V.D.2.a.(2) requires plans to include structural practices that provide, *inter alia*, storm drain inlet protection.
- b. Part V.D.2.c.(2) requires controls to prevent off-site vehicle tracking of sediments.
- c. Part V.D.3 requires BMPs to be maintained in good and effective operating condition.

11. Part V.D.2.a(1) of the Permit states: “Each plan shall provide a description of interim and permanent stabilization practices, including site-specific scheduling of the implementation of the practices.” *** “A record of the dates when major grading activities occur, when construction activities temporarily or permanently cease on a portion of the sites and

when stabilization measures are initiated shall be included in the plan.” *** “Stabilization measures shall be initiate as soon as practicable, but in no case more than 7 days, in portions of the site where construction activities have temporarily or permanently ceased.”

12. Part V.D.4 of the Permit states: “At least once every seven calendar days and within 24 hours of the end of a storm that is 0.50 inches or greater, a qualified inspector (provided by the operator) shall inspect all points of discharge into surface waters of the State or an MS4; disturbed areas of the construction site that have not been finally stabilized; areas used for storage of materials that are exposed to precipitation; structural controls; and locations where vehicles enter or exit the site.”

13. Part V.D.4.c of the Permit states: “A report summarizing the scope of the inspection; name(s) and qualifications of personnel making the inspection; the date(s) of the inspection; rainfall data; major observations relating to the implementation of the stormwater pollution prevention plan; and actions taken in accordance with paragraph V.D.4.b of the permit, shall be made and retained, in accordance with Part VI of the permit, as part of the stormwater pollution prevention plan.”

14. Part V.D.6.a of the Permit states: “The stormwater pollution prevention plan must clearly identify, for each measure identified in the plan, the contractor(s) and/or subcontractor(s) that will implement the measure. All contractors and subcontractors identified in the plan must sign a copy of the certification statement in Part V.D.6.b of the permit. All certifications must be included in the stormwater pollution prevention plan.”

15. On March 24, 2015, the EPA, FDEP, and Hillsborough County 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.

16. On June 2, 2015, the EPA sent to the Respondent a Request for Information (RFI) pursuant to Section 308 of the CWA, 33 U.S.C. § 1318 requesting the Respondent to provide information specific to records and documents related to the Permit. On July 10, 2015, the Respondent provided its response to the RFI.

17. As a result of the CSWEI, response to the RFI, and subsequent investigative efforts, the EPA has 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.

18. Based on the CSWEI and review of additional information, the EPA alleges that the Respondent has failed to comply with the CWA, its implementing regulations, and the Permit as follows:

- a. During the CSWEI the NOI was not posted at the Development in a prominent place for public viewing (such as alongside a building permit), in violation of Part III.C.2 of the Permit.
- b. During the CSWEI the EPA documented several instances of missing storm drain inlet protection, some evidence of vehicle tracking on the streets (but not off site), and insufficient maintenance of both the concrete washout and some silt fencing, in violation of Part V.A, V.D.2 and V.D.3 of the Permit.
- c. During the CSWEI and during the review of materials submitted to the RFI, EPA observed that the Respondent did not keep a record of the dates of major construction activities and did not properly stabilize all portions of the site where construction activities had temporarily or permanently ceased, in violation of Part V.D.2.a(1) of the Permit.
- d. During the CSWEI and during the review of materials submitted to the RFI, EPA observed that the Respondent did not, maintain records of and/or conduct consistent site inspections, and/or use a qualified inspector for some inspections, that must be conducted every 7 days or within 24 hours of a rainfall event of 0.5 inches or greater, in violation of Part V.D.4 of the Permit.
- e. The Respondents' inspection reports of the Development did not consistently document actions required or actions completed to address best management practice deficiencies, in violation of Part V.D.4.c of the Permit.
- f. At the time of the CSWEI, there were no certification statements from subcontractors available for EPA review, in violation of Part V.D.6.a of the Permit.

19. Therefore, EPA alleges that the Respondent has violated Sections 301 and 402(p) of the CWA, 33 U.S.C. §§ 1311 and 1342(p).

III. Stipulations and Findings

20. 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 in Part II above 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.

21. For the purposes of this CA/FO, the Respondent admits the jurisdictional allegations set out above and neither admits nor denies the factual allegations set out above.

22. 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.

23. 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.

24. 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.

25. 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.

26. 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

27. Pursuant to Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), and 40 C.F.R. Part 19, and considering the nature of the violations and other relevant factors, the EPA has determined that forty two thousand twenty three dollars (\$42,023) is an appropriate civil penalty to settle this action.

28. 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

29. 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
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

and

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

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

31. 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

32. 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.

33. 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.

34. 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.

35. 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.

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 attorney 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 related to this proceeding:

For Complainant:

Wilda Cobb
Associate Regional Counsel
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9530

For Respondent:

Jeffrey S. Longsworth
Partner
Barnes & Thornburg LLP
1717 Pennsylvania Avenue N.W.
Suite 500
Washington, District of Columbia 20006-4623
(202) 408-6918

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 proposed CA/FO 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 Florida was provided a prior opportunity to consult with Complainant regarding this matter.

43. Effective upon signature of this CA/FO by the Respondent, the Respondent agrees that the time period commencing on the date of its signature and ending on the date the EPA receives from the Respondent 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, the Respondent 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 the Respondent 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

44. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

DOCKET NO. CWA-04-2016-4505(b)

AGREED AND CONSENTED TO:

For the RESPONDENT, STANDARD PACIFIC OF FLORIDA GP, INC.:



Date: 8/2/16

JOHN P. BABEL
Secretary
Standard Pacific of Florida GP, Inc.
220 West New England Ave, Suite 220,
Winter Park, FL 33609
and
15360 Barranca Parkway,
Irvine, CA 92618
Direct: (949) 789-1649

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



Date: 9/13/16

James D. Giattina
Director
Water Protection Division
U.S. EPA, Region 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

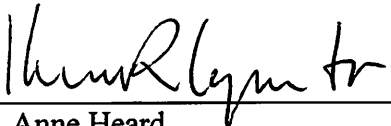
IN THE MATTER OF:)
)
CALATLANTIC GROUP, INC.) CONSENT AGREEMENT AND
CORDOBA RANCH) FINAL ORDER
LUTZ,)
HILLSBOROUGH COUNTY, FLORIDA)
)
RESPONDENT.) DOCKET NO. CWA-04-2016-4505(b)
_____)

FINAL ORDER

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

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 9/16/2016



V. Anne Heard
Acting Regional Administrator

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the attached **CONSENT AGREEMENT AND FINAL ORDER** in the matter of **Standard Pacific of Florida GP, Inc., Docket No. CWA-04-2016-4505(b)** (filed with the Regional Hearing Clerk on 9-20, 2016) was served on 9-20, 2016, in the manner specified to each of the persons listed below.

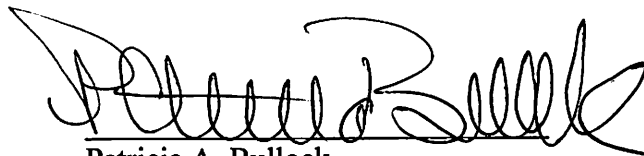
By hand-delivery:

Wilda Cobb
Associate Regional Counsel
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

By certified mail,
return receipt requested:

Jeffrey S. Longworth
Partner
Barnes & Thornburg LLP
1717 Pennsylvania Avenue N.W.
Suite 500
Washington, District of Columbia 20006-4623

Jessica Kleinfelter
Program Administrator, Water Compliance Assurance Program
Florida Department of Environmental Protection
Division of Water Resource Management
2600 Blainstone Rd., MS-3550
Tallahassee, FL 32399-2400



Patricia A. Bullock
Regional Hearing Clerk
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