

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

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| In the Matter of: |) | |
| |) | |
| Eric C. Anderson, Dominion Boulevard |) | CWA-03-2011-0089 |
| Partners, LLC and Lakeside Construction |) | |
| Corporation, |) | |
| Respondent |) | |

ORDER GRANTING MOTION TO AMEND THE COMPLAINT

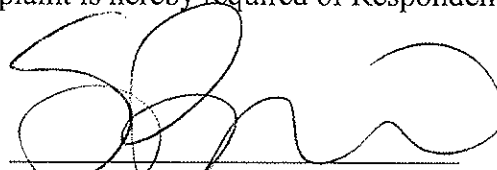
The Complainant as initially filed in this proceeding under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g) seeks to assess a penalty of \$75,000 against Respondents for violations of Virginia's Pollution Discharge Elimination Permit. The permit, effective July 1, 2009, authorized discharges of storm water from construction activity at a site known as Equestrian Estates North, Chesapeake Virginia, into waters of the United States. The complaint alleges, *inter alia*, that Eric Anderson serves as manager of Dominion Boulevard Partners, LLC, and as president of Lakeside Construction Corporation. It is further alleged that the named respondents were at all times relevant to the Complaint owners/operators of the mentioned site.

Although the Complaint does not separate the alleged violations into numbered counts, the alleged violations are designated in seven headings as follows: [Count 1] Failure to amend SWPPP (this relates to a single "staging and stockpile area" shown on the Erosion and Sediment Control Plan, which was incorporated by reference into the SWPPP, of approximately 2,800 square feet in size, located at the north end of Section 2 of the storm water pond which, at the time of the June 2010 EPA inspection, was a single large Stockpile and Section 2 of the storm-water pond, the SWPPP had allegedly not been amended to show the change in size or location of the Stockpile and the installation of drop pipes; [Count 2] Failure to implement the SWPPP- No Stabilization; [Count 3] Failure to remove off-site sediment; [Count 4] Failure to properly install or maintain control measures: silt fences/ check dams; [Count 5] Failure to conduct inspections after runoff storm events; [Count 6] Failure to post notice; [Count 7] Failure to include all required information in the SWPPP. For these alleged violations, it was proposed to assess respondents a penalty of \$75,000.

On July 6, 2011, Complainant filed a Motion To Amend Complaint and to Withdraw Compliant as to Eric Anderson and Lakeside Construction Corporation in which it seeks to delete the allegations relating to failure to remove off-site sediment and to include all required information in the SWPPP as well as those allegations made in the Complaint against Respondents Eric Anderson and Lakeside Construction Corporation. In support thereof, the Motion states that Respondents have submitted information concerning some of the alleged violations as a result of which EPA has decided not to seek penalties thereon (identified above as "Counts" 3 and 7) and that EPA was modifying the allegations concerning self inspection to more accurately describe the violations. Further, Complainant notes that although Mr. Anderson filed the registration statement for permit coverage under his name, he was acting as manager of Dominion Boulevard Partners, LLC, not in his individual capacity, or, as president of Lakeside Construction Corporation. The Motion recites that because EPA intended to bring this action against the permit for storm water discharges from Equestrian Estates, EPA was amending the Complaint to name only Dominion Boulevard Partners as Respondent. Finally, the Motion advises that Respondents have no objections to the amendments requested.

A copy of the draft proposed Amended Complaint was attached to the Motion and Complainant cited Section 22.14 (c) of the Consolidated Rules of Practice (40 C.F.R. Part 22), which after an answer is filed, permits a complaint to be amended by order of this Tribunal. Complainant proposes reducing the penalty to \$61,000 and suggests that because, the proposed amended complaint did not expand the allegations, that Respondent be excused from filing an amended answer.

Good cause having been shown, the Complainant's Motion To Amend Complaint and to Withdraw Compliant as to Eric Anderson and Lakeside Construction Corporation is hereby **GRANTED**. The Amended Complaint consistent therewith shall be filed on or before **August 15, 2011**. No Answer to the Amended Complaint is hereby required of Respondent.



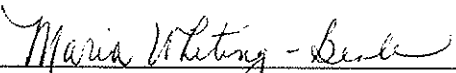
Susan L. Biro
Chief Administrative Law Judge

Dated: August 1, 2011
Washington, D.C.

In the Matter of Eric C. Anderson, Dominion Boulevard Partners, LLC and Lakeside Construction Corporation, Respondents
Docket No. CWA-03-2011-0089

CERTIFICATE OF SERVICE

I certify that the foregoing **Order Granting Motion To Amend The Complaint**, dated August 1, 2011, was sent this day in the following manner to the addressees listed below:



Maria Whiting-Beale
Staff Assistant

Dated: August 2, 2011

Original And One Copy By Pouch Mail To:

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1650 Arch Street
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