



REGION 4

ATLANTA, GA 30303

ELECTRONIC EMAIL

CONFIRMATION OF EMAIL RECEIPT REQUESTED

William J. Van Devender, Jr.
President
Gloster Forest Products
1300 Meadowbrook Road
Suite 202
Jackson, Mississippi 39213
william@claw-forestry.com

Re: Notice of Violation and Opportunity to Show Cause Pursuant to Section 309(a) of the Clean Water Act (CWA), 33 U.S.C. § 1319, and Information Request Pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, for Gloster Forest Products Sawmill Construction, Gloster, Mississippi
Docket No. 309-2024-11 and 308-2024-11

Dear William Van Devender:

On March 6, 2024, the U.S. Environmental Protection Agency, Region 4, and the Mississippi Department of Environmental Quality (MDEQ) conducted a stormwater Compliance Evaluation Inspection (CEI) at the Gloster Forest Products Sawmill construction site (Site), which is owned by Gloster Forest Products (Respondent) and operated by Bid Group, and located at 700 E Railroad Ave, Gloster, MS. The purpose of the CEI was to evaluate Respondent's compliance with Sections 301 and 402 of the Clean Water Act (CWA), 33 U.S.C. §§ 1311 and 1342(p); the regulations promulgated thereunder at 40 C.F.R. § 122.26; and the Mississippi National Pollutant Discharge Elimination System Large Construction General Permit for Land Disturbing Activities of Five or More Acres, Permit No. MSR108784 (Permit).

The March 2024 CEI and subsequent investigative efforts revealed that the Site has failed to comply with the requirements of Sections 301 and 402(p) of the CWA, 33 U.S.C. §§ 1311 and 1342(p), its implementing regulations at 40 C.F.R. § 122.26, and the Permit. Specifically, the EPA hereby notifies Respondent, pursuant to Section 309(a) of the CWA, 33 U.S.C. § 1319(a), of the following alleged violations associated with the Permit:

1. Pursuant to ACT7 Condition No. L-1 of the Permit, Non-Numeric Limitation Requirements, stormwater discharge shall be free from “eroded soils and other materials that will settle to form objectionable deposits in receiving waters” and “suspended solids, turbidity, and color at levels inconsistent with the receiving waters.”

During the CEI, inspectors observed sediment deposition and accumulation at the Site’s outfall at the roadside drainage ditch along E Frank Schuh Drive. Additionally, the unnamed tributary of Little Beaver Creek, located immediately downstream of the recently acquired lake, was turbid and orange in color. The recently acquired neighboring lake also appeared overly turbid and orange in color.

Therefore, Respondent is in violation of ACT7 Condition No. L-1 of the Permit for stormwater discharges exceeding the non-numeric effluent limitations established by the Permit.

2. Pursuant to ACT5 Condition No. T-7(E) of the Permit, stabilized construction entrances/exits shall be installed wherever traffic is moving from the construction site onto a paved public road. Additional track-out controls should be implemented when necessary to ensure sediment removal occurs prior to vehicle exit.

During the CEI, inspectors observed that construction traffic could access the site from E Frank Schuh Drive. This entrance/exit was not stabilized, and track-out controls were not implemented at this access point despite its apparent use.

Therefore, Respondent is in violation of ACT5 Condition No. T-7(E) of the Permit for failure to stabilize all construction entrances/exits.

3. Pursuant to ACT6 Condition No. S-1 of the Permit, the permittee must implement the site-specific Stormwater Pollution Prevention Plan (SWPPP) and install structural practices in accordance with the site-specific SWPPP. Pursuant to ACT5 Part T-4 of the Permit, erosion and sediment controls must be installed and maintained in accordance with the design standards set forth in the most current edition of Mississippi’s “Erosion Control, Sediment Control and Stormwater Management on Construction Sites and Urban Areas” (Manual).

At the time of the CEI, the rock check dams on the southern side of the site were not installed in accordance with design specifications. The inlet/outlet controls around culverts in the drainage swales were either not installed or not installed consistent with the Manual.

Therefore, Respondent is in violation of ACT6 Condition No. S-1 and ACT5 Condition No. T-4 for failure to properly install and implement structural stormwater controls in accordance with the SWPPP and the design standards set forth in Mississippi’s Manual.

4. Pursuant to ACT6 Condition No. S-3(11), erosion and sediment controls shall be maintained at all times. Non-functioning controls shall be repaired, replaced or supplemented with functional controls within twenty-four (24) hours of discovery, or as soon as field conditions allow.

At the time of the CEI, multiple erosion and sediment controls were in need of maintenance. Significant sediment deposits had been allowed to accumulate downstream of the outfall of Sediment Basin #1. The silt fences installed across this conveyance were either beyond capacity or had failed. The accumulated sediment in this area was not properly maintained/managed to prevent further downstream transport and discharge.

Additionally, deep erosion rills had formed on the slopes of Sediment Pond #1A. Sediment had accumulated in the outlet pipe of the underground drainage system into Sediment Basin #3 such that the pipe's capacity was notably reduced.

Therefore, Respondent is in violation of ACT6 Condition No. S-3(11) of the Permit for failure to maintain erosion and sediment controls.

5. Pursuant to ACT5 Condition No. T-6 of the Permit, structural practices shall divert flows from exposed soils, store flows or otherwise limit runoff from exposed areas. Specific practices that must be used include sediment basins with erosion controls and velocity dissipation devices to prevent erosion at the inlets and outlets of the basin. ACT5 Condition No. T-6(C) states that sediment basins "must be installed before major site grading and utilize outlet structures that withdraw water from the surface."

During the CEI, the outflow structure of Sediment Basin #3 did not allow for surface withdrawal. Additionally, inspectors did not observe erosion protection at the outlet of Sediment Basin #1.

Therefore, Respondent is in violation of ACT5 Condition No. T-6 of the Permit for failure to provide erosion controls at the outlets of all sediment basins.

6. Pursuant to ACT5 Condition No. T-4(1) of the Permit, vegetative stabilization measures must be initiated whenever land-disturbing activities have temporarily or permanently ceased on any portion of the site and will not resume for a period of fourteen calendar days or more. The appropriate temporary or permanent vegetative practice shall be initiated immediately.

During the CEI, multiple inactive areas of the site were not stabilized. Rills formed on the un-stabilized hillside on the southern corner of the site above E Frank Schuh Drive. The drainage swales near the center of the site were not stabilized, and rills formed on the slopes and around culverts. The stormwater conveyance along the southern boundary of the site upstream of Sediment Basin #3 was also eroded.

Therefore, Respondent is in violation of ACT5 Condition No. T-4(1) of the Permit for failure to implement vegetative stabilization measures and minimize bare areas.

7. Pursuant to ACT6 Condition No. S-2(9) of the Permit, additional and/or alternative erosion and sediment controls shall be installed whenever existing controls prove to be ineffective in preventing sediment from leaving the site.

During the CEI, inspectors observed accumulated sediment deposits downstream of Sediment Basin #1 and upgradient of the adjacent lake. The adjacent lake itself was turbid and orange in

color. These sediment deposits are potentially beyond the permitted limits of disturbance for the project. The controls upstream of Sediment Basin #1 neither prevented sediment from leaving the site through the outfall nor were they modified to prevent additional sediment transport.

Therefore, Respondent is in violation of ACT6 Condition No. S-2(9) of the Permit for failure to update the SWPPP and modify BMPs to appropriately control and address ongoing sediment transport.

In light of the above- described non-compliance, Respondent may be subject to an enforcement action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319. This section provides for the issuance of administrative penalty and/or compliance orders and the initiation of civil and/or criminal actions.

The EPA is continuing to investigate Respondent's compliance with the CWA. Therefore, pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, the EPA hereby requests that Respondent provide the information set forth in "Enclosure A" (Information Request) within 14 calendar days of your receipt of this letter. Respondent should submit its response to Celina Russo via email at Russo.Celina@epa.gov.

Failure to provide a full and complete response to this Information Request or to adequately justify a failure to respond within the time frame specified above may result in an EPA enforcement action pursuant to federal law, including, but not limited to Section 309 of the CWA, 33 U.S.C. § 1319, and the False Statements Statute, 18 U.S.C. § 1001.

If Respondent believes that any of the requested information constitutes confidential business information, it may assert a confidentiality claim with respect to such information, except for effluent data. Further details, including how to make a business confidentiality claim, are found in Enclosure B.

All information submitted in response to this Information Request must be accompanied by the following certification, signed by a duly authorized official in accordance with 40 C.F.R. § 122.22(d):

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

If you would like to arrange a virtual meeting or telephone conference to show cause why the EPA should not take formal civil enforcement action against Gloster Forest Products for the alleged violation(s), including the assessment of appropriate civil penalties, please contact the EPA within seven calendar days of receipt of this letter.

Please be aware that the EPA may use information provided during the meeting or telephone conference and in response to the Information Request in any enforcement proceeding related to this matter. Notwithstanding a complete response to the Information Request or the scheduling of a show cause meeting, the EPA retains the right to bring further enforcement action under Section 309 of the CWA, 33 U.S.C. § 1319, for noncompliance with the CWA.

If you have any questions or would like to arrange a show cause meeting, please contact Celina Russo at (404) 562-9804, or via email at russo.celina@epa.gov. Please contact Samantha Kloc, Associate Regional Counsel, at (404) 562-9468, or via email at kloc.samantha@epa.gov with any legal inquiries.

Sincerely,

KERIEMA NEWMAN

Digitally signed by KERIEMA
NEWMAN
Date: 2024.08.08 08:56:29 -04'00'

Keriema S. Newman
Director
Enforcement and Compliance Assurance Division

cc: Michelle Clark
MDEQ
MRClark@mdeq.ms.gov

ENCLOSURE A

INFORMATION REQUEST PURSUANT TO SECTION 308 OF THE CLEAN WATER ACT

Instructions

1. Identify the person(s) responding to this Information Request and certify each person's authority to respond to this Information Request on behalf of the company they represent.
2. Please provide a separate narrative response to each and every Question and subpart of a Question set forth in this Information Request.
3. Precede each answer with the text and the number of the Question and its subpart to which the answer corresponds.
4. All documents submitted must contain a notation indicating the Question and subpart of the Question to which they are responsive.
5. In answering each Information Request Question and subpart thereto, identify all documents and persons consulted, examined or referred to in the preparation of each response, and provide true and accurate copies of all such documents.
6. If information not known or not available to you as of the date of submission of a response to this Information Request should later become known or available to you, you must supplement your response to the EPA. Should you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify the EPA as soon as possible.
7. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the Question to which it responds.
8. Where specific information has not been memorialized in a document, but is nonetheless responsive to a Question, you must respond to the Question with a written response.
9. If information responsive to this Information Request is not in your possession, custody or control, then identify the person from whom such information may be obtained.
10. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Question or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.
11. The EPA requests that all documents provided in an electronic format be compatible with pdf.

12. The EPA requests that all spreadsheet information be in an electronic format and compatible with MS Excel.
13. If any Question relates to activities undertaken by entities other than the recipient of this Information Request, and to the extent that you have information pertaining to such activities, provide such information for each entity.

Definitions

1. All terms not defined herein shall have their ordinary meanings, unless such terms are defined in the Clean Water Act or its implementing regulations, in which case the statutory or regulatory definitions shall control.
2. Words in the masculine may be construed in the feminine if appropriate, and vice versa, and words in the singular may be construed in the plural if appropriate, and vice versa, in the context of a particular question or questions.
3. The terms “And” and “Or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed outside its scope.
4. The term “Identify” means, with respect to a natural person, to set forth the person’s name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.
5. The term “Identify” means, with respect to a document, to provide its customary business description; its date; its number, if any (invoice or purchase order number); the identity of the author, addressee and/or recipient; and substance of the subject matter.
6. The term “Identify” means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.
7. The term “Site” and/or “Sites” means the Gloster Forest Products construction project located at 700 E Railroad Avenue in Gloster, Mississippi.
8. The term “You” and “Your” shall mean the person identified in response to the Instructions Section, Question #1, who has the appropriate authority to respond to this Information Request.
9. The term “NPDES Permit” or “Permit” shall mean Mississippi’s Large Construction General Permit for Land Disturbing Activities of Five or More Acres, Permit No. MSR108784.

Questions and Requests for Information

1. Identify the names and addresses of all current owner(s) and operator(s) of the Site. Specify the legal name with the exact spelling of each owner and operator. Provide the mailing address and phone number for each owner and/or operator. For each corporate entity, specify the state of incorporation and principal place of business. If incorporated, provide the name and mailing address of the registered agent.
 - a. Please note that the Permit defines an “operator” as any party associated with the construction activity that either (1) has operational control over construction plans, specifications, and installation of BMPs; or (2) has day to day operational control of those activities at a project which are necessary to ensure compliance with Permit conditions or the SWPPP.
2. Provide a copy of the Prime Contractor Certification if one was submitted to MDEQ. If one was not submitted, either provide justification or explain why the Site’s prime contractor does not meet the Permit’s definition of an operator.
3. Provide a copy of the Notice of Intent (NOI), along with all attachments (e.g., United States Geological Survey (USGS) quadrangle map) as submitted to MDEQ for permit coverage of Phase II of the project. Provide both the original NOI, and copies of any requests for modification that were submitted thereafter.
4. Specify the number of acres of total land area disturbed by the construction activities at the Site.
5. Provide the following information regarding the timetable of construction activities at the Site:
 - a. Provide the specific date(s) for the commencement of operations at the Site for each owner and operator.
 - b. Specify the date construction activities began and ended on Phase I. Specify the date construction began on Phase II, as well as the current projected end date.
 - c. Describe the current stage of construction activity at the Site (e.g., clearing/grubbing, grading, infrastructure, building construction, final stabilization, etc.).
6. Provide a copy of the current version of the Site’s Stormwater Pollution Prevention Plan (SWPPP). Specify the date of the SWPPP’s last amendment. If the SWPPP has been updated since February 2024, provide in addition a copy of the superseded version(s).
7. Provide a current copy of the site map, which clearly identifies the locations of all control measures (as described in ACT5 No. T-13 of the Permit), outfall locations, and project limits/limits of disturbance. Ensure that the site map is dated. The map should also include the site’s drainage system. Multiple maps may be submitted so long as all the requested information is provided.
8. Provide copies of the maintenance and weekly inspection reports performed in accordance with ACT5 No. T-16 of the Permit for all inspections conducted from January 01, 2024, until the date of

this Information Request. If BMP maintenance and/or corrective actions are tracked independent of the inspection reports, provide those records as well.

9. Provide records of staff training for members of the operator's "stormwater team," and for employees who are responsible for the installation and/or repair of stormwater controls, as described in Permit ACT5 Condition No. T-20 and T-21.
10. Provide the following design information for each of the Site's sediment basins (temporary or permanent) as described by the Permit in ACT5 No. T-6(C): basin storage capacity, acreage draining to the basin, location on the plan, and a diagram of the outflow structure. Include both the original outflow designs as well as any proposed or implemented design modifications. State whether any basin outflow structures have been modified since the March 2024 CEI.
11. Provide the date of purchase of the neighboring property and its lake. Provide copies of any deeds, leases, easements, or other documents revealing the ownership of this neighboring parcel. Include a map delineating this parcel's property boundaries. If this acquisition was added to the Site's limits of disturbance after its purchase, specify the date the modified NOI was submitted to MDEQ.
12. Provide copies of any and all environmental assessments, including assessments of soils, vegetation, or hydrology, that were conducted for either the Site or the neighboring property that was recently purchased. Provide copies of any assessments performed for these properties that were used to either delineate waters of the United States or to identify the Site's outfalls and receiving waters.
13. Provide a copy of any Site reports, notices of violations, administrative orders, cease and desist orders, and any correspondence from local or State agencies related to Phase I or Phase II construction activities at the Site.
14. Identify the individual or individuals who prepared the responses to this Information Request.

ENCLOSURE B

RIGHT TO ASSERT BUSINESS CONFIDENTIALITY CLAIMS

(40 C.F.R. Part 2)

Except for effluent data, you may, if you desire, assert a business confidentiality claim as to any or all of the information that the EPA is requesting from you. The EPA regulation relating to business confidentiality claims is found at 40 C.F.R. Part 2.

If you assert such a claim for the requested information, the EPA will only disclose the information to the extent and under the procedures set out in the cited regulations. If no business confidentiality claim accompanies the information, the EPA may make the information available to the public without any further notice to you.

40 C.F.R. § 2.203(b). **Method and time of asserting business confidentiality claim.** A business which is submitting information to the EPA may assert a business confidentiality claim covering the information by placing on (or attaching to) the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential.” Allegedly confidential portions of otherwise non-confidential documents should be clearly identified by the business and may be submitted separately to facilitate identification and handling by the EPA. If the business desires confidential treatment only until a certain date or until the occurrence of a certain event, the notice should so state.

ENCLOSURE C

NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability

of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the Office of Chief Counsel in the SEC's Division of Corporation Finance. The phone number is (202) 942-2900.