



REGION 4

ATLANTA, GA 30303

ELECTRONIC EMAIL

CONFIRMATION OF EMAIL RECEIPT REQUESTED

Carl Houghland
Land Development Manager
Meritage Homes Corporation
163 Magnolia Drive
Dawsonville, Georgia 30534
Carl.Houghland@meritagehomes.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, for 33 U.S.C. §1318; Meritage Homes Corporation, Dawsonville, Georgia, Docket Number 309-2024-13

Dear Carl Houghland:

On October 26, 2023, the U.S. Environmental Protection Agency, Region 4, the Georgia Environmental Protection Division (GA EPD), and the Dawson County Local Issuing Authority conducted a Compliance Stormwater Evaluation Inspection (CSWEI) at The Oaks at Dawson construction site in Dawsonville, Georgia. The construction site was being developed by the Meritage Homes Corporation (Respondent) and was located at Huckleberry Ford and Walnut Drive in Dawsonville, Georgia. The purpose of the CSWEI was to evaluate your compliance with the requirements of Sections 301 and 402(p) 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 GA EPD National Pollutant Discharge Elimination System General Permit for Stormwater Discharges Associated with Construction Activity for Common Development Construction Projects (NPDES Permit No. GAR100003)(the Permit).

Based on the EPA's review of observations made during the CSWEI and subsequent investigative efforts, the EPA has reason to believe conditions at the construction site 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 its NPDES Permit. Specifically, the EPA hereby notifies Respondent, pursuant to Section 309(a) of the CWA, 33 U.S.C. § 1319(a), of the following findings of past and continuing violations associated with the Permit:

1. Pursuant to Part III.D.3 of the Permit, "Failure to properly design, install, or maintain Best Management Practices (BMP's) shall constitute a violation of this permit for each day on which such failure occurs". The permittee is responsible for ensuring all BMPs are functioning correctly.

Maintenance and inspection of BMP performance is outlined in the “Manual for Erosion and Sediment Control in Georgia.”

During the EPA inspection, the permittee failed to install silt fences at all required locations. Inspectors observed instances of silt fencing not being installed along the curb in disturbed areas awaiting vertical construction. One example of this was at Lot #54 where silt fencing was not installed near the front of the Lot. Additionally, multiple locations were observed at the site where silt fencing had failed or been overtopped and in need of maintenance.

During the EPA inspection, the permittee failed to properly install the concrete washout area. Inspectors observed that the washout area was missing multiple portions of the haybale wall, not having a pit dug to keep waste contained, and with the plastic liner sitting at-grade with nearby soil. As a result, washout liquid was escaping to the stormwater collection system. The permittee is responsible for ensuring all BMPs are functioning correctly. Maintenance and inspection of BMP performance is outlined in the “Manual for Erosion and Sediment Control in Georgia.”

Therefore, Respondent is in violation of Part III.D.3 of the Permit, for failure to install and/or maintain BMPs on the site during construction activities.

2. Pursuant to Part V.D. of the Permit, “The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.” The permittee is responsible for ensuring that no discharges occur that are not in accordance with the permit.

During the EPA inspection, the permittee was observed having failed to properly maintain various perimeter controls and multiple drainage outlets. As a result of the BMP deficiencies, the EPA observed multiple outlets and culvert structures from the site with notable sediment deposition. The outlets and culvert structures discharge towards the creek.

Therefore, Respondent is in violation of Part V.D. of the Permit, for failure to take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

3. Pursuant to Part IV.D.3.a(1) of the Permit, “...stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities had temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased.” The permittee is responsible for ensuring stabilization measures have been implemented within the 14-days.

During the EPA inspection, the permittee failed to properly stabilize soil in areas that had been inactive for 14 days or longer, which is a requirement of Part IV.D.3.a(1) of the permit. Those areas required stabilization via grassing or by planting other suitable vegetation. There were multiple areas on the site where either rills and/or gullies had formed, soil stabilization was inadequate in those areas and needed maintenance. In addition, inspectors observed a large amount of sediment accumulation in a drainage culvert leading directly to Thompson Creek. No BMPs were observed between the culvert and Thompson Creek therefore creating an unobstructed flow path for sediment to enter the stream.

Therefore, Respondent is in violation of Part IV.D.3.a(1) of the Permit, for failure to implement stabilization measures as soon as practicable in portions of the site where construction activities had temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased.

The EPA may take enforcement action in response to the above violations, which may include the issuance of an administrative order, assessment of administrative penalties, and/or initiation of a civil or criminal judicial action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319. 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" within 15 calendar days of your receipt of this letter. Respondent's response should be submitted via email to Lonnie Dorn at dorn.lonnie@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 18 U.S.C. § 1001.

If Respondent believes that any of the requested information constitutes confidential business information, Respondent 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:

"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."

By this letter, the EPA is extending to you an opportunity to advise the Agency, via virtual meeting or conference call, or in writing, of any further information the EPA should consider with respect to the potential 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 the Meritage Homes Corporation for the alleged violation(s), including the assessment of appropriate civil penalties, please contact the EPA within seven calendar days of your receipt of this letter.

Please be aware that the EPA may use information provided during the meeting or telephone conference in any enforcement proceeding related to this matter. Notwithstanding 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 to arrange a show cause meeting, please contact Lonnie Dorn at (706) 355-8683 or via email at dorn.lonnie@epa.gov. Please contact Andrew Teodorescu, Counsel, at (404) 562-8309 or via email at teodorescu.andrew@epa.gov with any legal inquiries.

Sincerely,

KERIEMA NEWMAN

Digitally signed by KERIEMA

NEWMAN

Date: 2024.07.31 12:43:25 -04'00'

Keriema S. Newman

Director

Enforcement and Compliance Assurance Division

cc: Veronica Crow, GA Environmental Protection Division
veronica.crow@dnr.ga.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 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 businesses performing construction operations or other related activities at the Oaks at Dawson development located at Huckleberry Ford and Walnut Drive in Dawsonville, Georgia.
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.

Questions and Requests for Information

1. Identify the names and addresses of the current owner(s) and/or operator(s) of the Site. Specify the legal name with the exact spelling of each owner and/or operator. Provide the mailing address and phone number for each owner and/or operator. For each corporate owner, specify the state of incorporation and principal place of business. If incorporated, provide the name and mailing address of the registered agent.
2. Provide a copy of the Notice of Intent (NOI) as submitted electronically to GA EPD for the Site's coverage under the 2023 Construction Activity for Common Development Construction Projects.
3. Provide the specific date(s) for the commencement of operations at this Site for each company within the last five years.
4. Provide copies of the following records, as described, and required by Georgia's Permit for Stormwater Discharges Associated with Construction Activity for Common Development Construction Projects covering the past three (3) years or since operations began on site:
 - a. The facility's most recent Erosion, Sedimentation and Pollution Control Plan (Permit Part IV).
 - b. Documentation of maintenance and repairs of control measures, including specifically a description of any corrective action(s) taken in response to the 2023 CSWEI and regarding the potential violations listed in this letter (Permit Part V.E).

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.