



REGION 4

ATLANTA, GA 30303

ELECTRONIC EMAIL

CONFIRMATION OF EMAIL RECEIPT REQUESTED

Tim Jenkins
Rocklyn Homes, Inc.
Gees Mill Road Community
2325 Gees Road NE
Conyers, Georgia 30013
Tjenkins@rocklynhomes.com

Re: Notice of Violation and Opportunity to Show Cause Pursuant to Section 309(a) of the Clean Water Act (CWA), for 33 U.S.C. § 1319, and Information Request Pursuant to Section 308 of the CWA, for 33 U.S.C. §1318; Gees Mill Road Community developed by Rocklyn Homes, Inc., Conyers, Georgia, Docket Number 309-2024-15

Dear Tim Jenkins:

On August 24, 2023, the U.S. Environmental Protection Agency, Region 4, the Georgia Environmental Protection Division (GA EPD), and the Rockdale County Local Issuing Authority (LIA) conducted a Compliance Stormwater Evaluation Inspection (CSWEI) at the Gees Mill Road Community construction site in Conyers, Georgia. The construction site was being developed by Rocklyn Homes, Inc. (Respondent) and was located at 2325 Gees Road NE, Conyers, Georgia 30013. On September 22, 2021, Respondent submitted a Notice of Intent to commence construction activities at the site pursuant to the GA General Permit for Stormwater Discharges Associated with Construction Activity for Common Development Construction Projects (NPDES Permit No. GAR100003) (Permit). The purpose of the CSWEI was to evaluate Respondent's 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 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 (BMPs) 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 Georgia Soil and Water Conservation Service (GSWCC) *Manual for Erosion and Sediment Control in Georgia* (Manual).

During the inspection, the EPA observed that the permittee failed to properly install and maintain silt fences throughout the site. Specifically, the EPA observed the silt fence behind the pump station as being overtopped with sediment resulting in sediment transfer and deposition into the wooded area in addition to breaches in the double wall silt fences near the outlet structure by the Phase II pond system.

During the inspection, the EPA observed that the permittee failed to properly install and maintain aspects of its sediment basins. The EPA observed that the outlet structure for the pond located in the northeastern corner was not constructed in accordance with the site plan. Specifically, the required rock filter ring for inlet protection was not installed and the floating skimmer was inoperable. Additionally, the storm drain outlet protection needed maintenance as the silt fence was damaged and the riprap apron appeared irregular and not in accordance with the GSWCC Manual.

During the inspection, the EPA observed that the permittee failed to properly install and construct a cut channel connecting the upper and lower basins of Phase II. The inspectors observed that the walls of the swale were vertical, not sloped in accordance with the GSWCC Manual, and thus, not stable. As a result, erosion of the trench walls was increasing sediment load to the ponds.

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.L of the Permit – Proper Operation and Maintenance, “The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit and with the required plans. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the conditions of the permit.”

During the inspection, the EPA found that the permittee failed to properly operate and maintain various perimeter controls and drainage outlets. As a result of the BMP deficiencies, sediment was observed leaving the site from the northeastern pond outfall into the adjacent wooded area.

Therefore, Respondent is in violation of Part V.L 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 required 14 days.

During the inspection, the EPA observed that the permittee failed to properly stabilize areas with exposed soil that had been inactive for 14 days or longer. Those areas required stabilization via grassing or by planting other suitable vegetation. Specifically, the inspectors observed that the sidewalls of a number of ponds and conveyances were not properly stabilized resulting in the side slopes eroding into the ponds and conveyances. Additionally, the EPA observed that the permittee failed to properly seed, mulch, vegetate, sod, mat, or implement geotextiles at the site. The EPA inspectors observed in several areas that grass cover was insufficient to prevent erosion as well as meet Georgia's 100 percent cover for 70 percent density Standard for stabilization.

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 Jeremy Judd at judd.jeremy@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 these alleged 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 Rocklyn Homes, Inc., 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 (404) 562-9505, or via email at judd.jeremy@epa.gov. Please contact Paula Feldmeier, Associate Regional Counsel, at (404) 562-8276, or via email at feldmeier.paula@epa.gov with any legal inquiries.

Sincerely,

KERIEMA NEWMAN

Digitally signed by KERIEMA
NEWMAN
Date: 2024.10.23 11:44:02 -04'00'

Keriema S. Newman

Director

Enforcement and Compliance Assurance Division

cc: Veronica Craw
GA Environmental Protection Division
veronica.craw@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 Riverside Gees Mill development by Rocklyn Homes, Inc. located at 2325 Gees Road NE, Conyers, Georgia 30013.
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 list of all current construction sites and/or projects being conducted by or on behalf of Rocklyn Homes, Inc., located within the eight EPA Region 4 states (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Tennessee, and South Carolina). Include in this list the following information for each site:
 - a. Provide the total disturbed acreage of each site.
 - b. Provide the specific date(s) for the commencement of operations at each Site for each owner and operator.
 - c. 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.
 - d. Describe the current stage of construction activity at the Site (e.g., clearing/grubbing, grading, infrastructure, building construction, final stabilization, etc.).
3. Provide a copy of the Notice of Intent (NOI), along with any attachments, as submitted electronically to GA EPD for the Site's coverage under the 2018 Construction Activity for Common Development Construction Projects. Provide both the original NOI, and copies of any requests for modifications that were submitted thereafter.
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 for the Site covering the past three years:
 - 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).
 - c. Provide copies of the maintenance and weekly inspection reports performed in accordance with the Permit Part IV.D for all inspections conducted from August 2023 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.
5. Provide copies of any and all environmental assessments, including assessments of soils, vegetation, or hydrology, that were conducted for the Site. Provide copies of any assessments performed for this property that was used to either delineate waters of the United States or to identify the Site's outfalls and receiving waters.

6. 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.
7. 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.