

BEFORE THE MISSISSIPPI COMMISSION
ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

COMPLAINANT

VS.

ORDER NO.

7070 20

MCCARTHY BUILDING COMPANIES, INC.
6225 N. 24TH STREET, SUITE 200
PHOENIX, ARIZONA 85016

RESPONDENT

AGREED ORDER

COME NOW the Mississippi Commission on Environmental Quality (Commission), acting through the staff and Executive Director of the Mississippi Department of Environmental Quality (MDEQ), Complainant, and McCarthy Building Companies, Inc., Respondent, in the above captioned cause and agree as follows:

1.

By letter dated January 14, 2020ⁱ, Respondent was contacted by Complainant and notified of the following violations at its construction site located at 2750 Fuller Road, Meridian, Mississippi in Lauderdale County:

- A. ACT6 S-1 (1): Respondent failed to implement the site-specific Storm Water Pollution Prevention Plan (SWPPP).
- B. ACT6 S-3 (11): Respondent failed to maintain erosion and sediment controls.
- C. ACT6 S-5 (1): Respondent failed to meet inspection requirements.

By letter dated August 21, 2020, Respondent has revised the site-specific SWPPP to enhance site erosion and sediment controls, asserted Best Management Practices are being

ⁱ The letter was incorrectly dated January 14, 2020 and should have been dated February 14, 2020. By letter dated March 3, 2020, this error was detailed to the Respondent.

maintained in accordance with the Large Construction General Permit, and retained PPM Consultants to conduct the required inspections.

2.

In lieu of a formal enforcement hearing concerning the violations listed above, Complainant and Respondent agree to settle this matter as follows:

- A. Respondent agrees to pay and Complainant agrees to accept a civil penalty in the amount of \$55,000.00. Respondent shall pay this penalty to MDEQ within forty-five (45) days after this Agreed Order has been executed by the MDEQ Executive Director or his designee. The settlement payment shall be submitted to:

Mississippi Department of Environmental Quality
Attn: Accounts Receivable
P.O. Box 2339
Jackson, MS 39225

3.

Nothing in this Agreed Order shall limit the rights of MDEQ or the Commission in the event Respondent fails to comply with this Agreed Order. The Agreed Order shall be strictly construed to apply to those matters expressly resolved herein.

4.

Nothing contained in this Agreed Order shall limit the rights of MDEQ or the Commission to take enforcement or other actions against Respondent for violations not addressed herein and for future violations of environmental laws, rules, and regulations.

5.

Respondent understands and acknowledges that it is entitled to an evidentiary hearing before the Commission pursuant to Miss. Code Ann. § 49-17-31, and that it has made an informed waiver of that right.

6.

The parties agree that, by entering into this Agreed Order and agreeing to the terms and conditions set forth herein, Respondent does not admit any of the allegations listed above and nothing contained herein shall be in any way construed as an admission of liability by Respondent. Without admitting any liability, Respondent consents to entry of this Agreed Order which the parties agree shall serve as the full resolution of the violations alleged above. The parties further agree that the Commission continues to assert that the matters set forth above were violations of the environmental laws, regulations and/or permits applicable to Respondent.

ORDERED, this the 21st day of September, 2020.

MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY

BY: [Signature]
CHRIS WELLS
INTERIM EXECUTIVE DIRECTOR
MISSISSIPPI DEPARTMENT
OF ENVIRONMENTAL QUALITY

AGREED, this the 14TH day of SEPTEMBER, 2020.

MCCARTHY BUILDING COMPANIES, INC.

BY: [Signature]
ROBERT KOHLBURN
TITLE: SENIOR VICE PRESIDENT

STATE OF ARIZONA

COUNTY OF MARICOPA

PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named ROBERT KOHLBURN who first being duly sworn, did state upon his/her oath and acknowledge to me that he/she is the SENIOR VICE PRESIDENT of McCarthy Building Companies, Inc. and is authorized to sign and enter this Agreement.

SWORN AND SUBSCRIBED BEFORE ME, this the 14TH day of SEPTEMBER, 2020.

[Signature]
NOTARY PUBLIC

My Commission expires: 2-5-2023

