



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
INDUSTRIAL STORMWATER ESA**

**IN THE MATTER OF:**

SANDERS BROTHERS CONSTRUCTION  
COMPANY INC.

Respondent

**DOCKET NO.:** CWA-04-2020-0318(b)

Expedited Settlement Agreement and Final Order  
Pursuant to Clean Water Act Section 309(g)(2)(A)

NPDES Permit No. Unpermitted

The undersigned representative of the United States Environmental Protection Agency (EPA) and Sanders Brothers Construction Company Inc., a corporation, (Respondent) enter into this Expedited Settlement Agreement (ESA or Agreement) to resolve Respondent's civil penalty liability for allegedly discharging industrial stormwater without a permit at the Site. On April 3, 2019, the EPA issued an Information Request pursuant to Section 308 of the Clean Water Act (Act) regarding the Respondent's facility at 4970 LaCross Road, North Charleston, South Carolina 294006 (Site).

Based on information obtained from the Section 308 Information Request, the EPA finds that: (1) Respondent, who is an owner and operator of the Site, discharged industrial stormwater from the Site without authorization by any permit issued pursuant to the Act in violation of Section 301 of the Act, 33 U.S.C. § 1311; (2) Respondent is a "person" as defined in Section 502(5) of the Act, 33 U.S.C. § 1362(5); and (3) Respondent is responsible for the alleged violations specified in the attached "Industrial Stormwater Non-Filer Inspection Findings, Alleged Violations, and Proposed Penalty Form" (Alleged Violations Form). The Alleged Violations Form is hereby incorporated into this Agreement by reference.

The EPA also finds, and Respondent admits, that the EPA has jurisdiction over this matter pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g). Respondent neither admits nor denies the factual allegations alleged in the Alleged Violations Form.

The EPA is authorized to enter into this Agreement under the authority vested in the Administrator by Section 309(g) of the Act, 33 U.S.C. § 1319(g), and by 40 C.F.R. § 22.13(b) and § 22.18.

Respondent consents to the assessment of a civil penalty and agrees to pay \$10,000. Respondent waives the right to: (1) contest the allegations in the Alleged Violations Form; (2) a hearing pursuant to Section 309(g)(2) of the Act, 33 U.S.C. § 1319(g)(2); (3) appeal the Final Order; and (4) judicial review pursuant to CWA § 309 (g)(8), 33 U.S.C. § 1319(g)(8). The civil

penalty will be due within thirty (30) days of the Effective Date of this ESA and Final Order and shall be made in accordance with the attached Expedited Settlement Agreement Payment Instructions (Payment Instructions), incorporated herein by reference. Respondent agrees to bear its own costs and attorney's fees related to this ESA.

Failure by Respondent to pay the penalty assessed by this ESA and Final Order in full by its due date may subject Respondent to a civil action to collect the assessed penalty plus interest, attorney's fees, costs and an additional quarterly nonpayment penalty pursuant to Section 309(g)(9)(B) of the Act, 33 U.S.C. § 1319(g)(9)(B). In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review. Pursuant to Section 309(g)(1) of the Act, 33 U.S.C. § 1319(g)(1), and 40 C.F.R. § 22.38(b), the State of South Carolina was provided a prior opportunity to consult with the EPA regarding this matter.

By signing this Agreement, Respondent certifies that: (1) the alleged violations listed in the Alleged Violations Form have been corrected, and Respondent has submitted true and accurate documentation to the EPA of such correction; and (2) consistent with Section 162(f)(1) of the Internal Revenue Code, 26 U.S.C. § 162(f)(1), Respondent will not deduct penalties paid under this Agreement for federal tax purposes.

This Agreement, upon incorporation into the Final Order and full satisfaction by the parties, shall be a complete and full resolution of Respondent's liability for federal civil penalties for the violations of Section 301(a) of the Act alleged in the Alleged Violations Form. This Agreement does not affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law or to issue an administrative compliance order, e.g., for any uncorrected violations listed in the Alleged Violations Form. Nothing in this Agreement shall relieve Respondent of the duty to comply with the Act and any regulation, order, or permit issued pursuant to the Act.

Pursuant to Section 309(g)(4) of the Act, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45, the EPA will provide public notice of this Agreement and a reasonable opportunity for the public to comment on the proposed issuance of this Agreement prior to issuance of the Final Order pursuant to.

If Respondent does not sign and return this ESA as presented within 30 days of the date of its receipt, or within an extension timeframe approved by the EPA, this proposed ESA is withdrawn without prejudice to the EPA's ability to file any other enforcement action for the violations identified in the Alleged Violations Form.

The parties consent to service of this ESA and Final Order by e-mail to the e-mail addresses provided by the parties in the Certificate of Service.

This Agreement is binding on the parties signing below. Each person signing this Agreement certifies that he or she has the authority to sign for the party who he or she represents and to bind that party to its terms. The ESA and Final Order are effective the date of filing with the Regional Hearing Clerk. Once the ESA is signed by the Regional Judicial Officer, the original ESA will be filed with the Regional Hearing Clerk. A copy of the filed ESA will be emailed to Respondent.

APPROVED BY RESPONDENT:

Name (print): Carl T. Schultz

Title (print): Chief Financial Officer

Carl T Schultz

Digitally signed by Carl T  
Schultz  
Date: 2020.08.19  
10:07:23 -04'00'

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

APPROVED BY THE EPA:

Mary Jo Bragan, Chief, Water Enforcement Branch  
Enforcement and Compliance Assurance Division

FINAL ORDER

Having determined that this Agreement is authorized by law, the foregoing Expedited Settlement Agreement is hereby incorporated into the Final Order.

IT IS SO ORDERED:

Tanya Floyd  
Regional Judicial Officer

Attachments:

1. Alleged Violations Form
2. Payment Instructions