



GEORGIA
DEPARTMENT OF NATURAL RESOURCES

ENVIRONMENTAL PROTECTION DIVISION

Jeffrey W. Cown, Director

EPD Director's Office
2 Martin Luther King, Jr. Drive SE
Suite 1456, East Tower
Atlanta, Georgia 30334
404-656-4713

12/19/2023

Justin Echols, Member
Ag Green LLC
1600 Athens Hwy
Gainesville, GA 30503

Re: Executed Consent Order WP-9465

Dear Mr. Echols:

Please find enclosed executed Consent Order WP-9465 that requires the Respondent to clearly mark buffer areas surrounding unnamed tributaries to the North Prong of Williams Creek.

If you have questions regarding the enclosed order, please contact Derrick Williams at (706) 369-6370.

Sincerely,

Jeffrey W. Cown
Director

Enclosure: Consent Order WP-9465

**STATE OF GEORGIA
DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION**

IN RE: Ag Green USA, LLC)	
4020 Locust Grove Road)	ORDER NO. EPD- WP - 9465
Crawfordville, Ga 30631)	
Taliaferro County)	
Respondent.)	

CONSENT ORDER

Authority

WHEREAS, Ag Green LLC (the "Respondent") is the soil amendment applicator and product control contractor for Locust Grove Farm (herein after the "Farm") located at 4020 Locust Grove Road, Crawfordville, Georgia located in Taliaferro County; and

WHEREAS, under the "Georgia Water Quality Control Act" as amended O.C.G.A. § 12-5-20 et seq. (hereinafter the "Water Quality Act"), the General Assembly of Georgia designated the Director of the Georgia Department of Natural Resources, Environmental Protection Division, (hereinafter the "Director" and the "EPD") to administer the provisions of the Water Quality Act; and

WHEREAS, the Rules for Water Quality Control, Chapter 391-3-6, as amended, (hereinafter "Rules") required under O.C.G.A. § 12-5-23 of the Water Quality Act, were established and became effective; and

WHEREAS, O.C.G.A. § 12-5-23 of the Water Quality Act, assigns the Director the authority to govern water use classifications and water quality standards; and the authority to issue orders as may be necessary to enforce compliance with the provisions of the Act and all rules and regulations promulgated thereunder; and

WHEREAS, Chapter 391-3-6-.03(5)(c) and (d) of the Rules, states all waters shall be free from material related to municipal, industrial or other discharges which produce turbidity, color, odor or other objectionable conditions which unreasonably interfere with the designated use of the water body. All waters shall be free from turbidity which results in a substantial visual contrast in a water body due to a man-made activity, upstream versus downstream of the activity. For land disturbing activities, proper design, installation, and maintenance of best management practices and compliance with issued permits (if applicable) shall constitute compliance with Paragraph 391-3-6-.03(5)(d) of the Rules; and

Civil Penalty

WHEREAS, O.C.G.A. § 12-5-52 provides that any person violating any provision of the Act or any permit condition or limitation established pursuant to the Act or, negligently or intentionally, failing or refusing to comply with any final order of the Director shall be liable for a civil penalty of not more than \$50,000.00 per day for each day during which such violation continues provided, however, that a separate and later incident creating a violation within a 12 month period shall be liable for a civil penalty not to exceed \$100,000.00 per day for each day during which such violation continues; and

Background

WHEREAS, the Farm previously operated as a Concentrated Animal Feeding Operation, Permit No. GAG 940009, during which period the Farm was owned and operated by a non-party to this Consent Order. Said Permit has since been terminated; and

WHEREAS, on April 17, 2023, EPD received a complaint alleging poor water quality in a pond located upon the complainant's property. The complaint alleged the source of the water quality violation is the Farm; and

WHEREAS, on May 15, 2023, representatives of the Director investigated the water quality complaint and observed poor water quality and discoloration of waters entering the pond; however, representatives of the Director determined that the headwaters of the creek entering the pond are within the complainant's property. Representatives of the Department then visited a separate creek, unrelated to the pond, and observed a creek that was a milky color and had an objectionable odor. The creek headwaters are located on the Farm. Land application of soil amendment was occurring on the Farm; and

WHEREAS, on July 17, 2023, EPD received an additional complaint from a second person regarding an alleged water quality complaint on the North Prong of Williams Creek. Representatives of the Director met with the complainant and observed discolored water and a black stain on the banks of the North Prong. This location was down stream of the Farm property; and

Alleged Violations

WHEREAS, the Respondent is in violation of Act and Rules for the discharged/runoff/seepage of soil amendment that discolored and had an objectionable odor to the North Prong of Williams Creek located downgradient of the Farm; and

WHEREAS, the Respondent disputes liability for such alleged violation of the Act and Rules.

Conditions

WHEREAS, the Director has determined that an amicable disposition of the alleged violations set forth herein is in the best interest of the citizens of the State of Georgia.

NOW THEREFORE, before the taking of any testimony and without adjudicating the merits of the parties' positions, the parties hereby resolve the allegations in this matter upon order of the Director and consent of Respondent as follows:

1. Within thirty (30) days of execution of this Consent Order, Respondent shall clearly mark, in a permanent or semi-permanent fashion, buffer areas surrounding unnamed tributaries which flow south toward the North Prong of Williams Creek. Respondent agrees that no application of soil amendment shall occur within such buffer areas.
2. Within thirty (30) days of the execution date of this Order, the Respondent shall pay a monetary settlement of five dollars (\$5,000.00) to Georgia Department of Natural Resources for the alleged violations encompassed within this Consent Order.

Deadlines

Time is of the essence in this Consent Order. Compliance with any deadline that falls on a Saturday, Sunday or state-recognized holiday shall be by the next business day.

Addresses

All notices, correspondence, etc., from the Director and EPD to Respondent relating to this Consent Order shall be sent to:

Ag Green LLC
Attn: Justin Echols
1600 Athens Hwy
Gainesville, GA 30503

Respondent shall submit address changes to EPD in written notice sent by certified mail; such notice shall include this Order number.

All correspondence from Respondent to EPD relating to this Consent Order shall be sent to:

Derrick Williams
745 Gaines School Road
Athens, Georgia 30605

Required Submissions

Upon the submission of any reports, plans, schedules or other information required by any Condition(s) of this Consent Order, EPD shall review the submission to determine its completeness. If EPD determines that the submission is complete, EPD shall notify Respondent in writing that the submission is approved.

If EPD determines that the submission is incomplete, it shall provide Respondent with written notice of the deficiencies. Respondent shall have fifteen (15) days from issuance of EPD's notice of deficiency to submit a corrected submission.

All submissions required by this Consent Order are, upon approval by EPD, incorporated by reference into, and made part of, this Consent Order. Any noncompliance with an approved submission shall be deemed noncompliance with this Consent Order.

Approval by EPD of any submission required by this Consent Order is not an agency determination that compliance with any state laws, regulations and/or permits, licenses, etc., will thereby be achieved, but is strictly limited to the completeness of the technical aspects of the submission with regards to the requirements of this Consent Order.

Force Majeure

Failure of Respondent to complete the requirement(s) of any Condition(s), other than payment obligations, by the deadline(s) specified therein may be excused by EPD if 1) Respondent's failure was caused by a force majeure event, and 2) Respondent complies with all notification requirements in this section. Respondent shall have the burden of proving to EPD that it was rendered unable, in whole or part, by the force majeure event to meet the deadline(s).

The term "force majeure event" as used herein shall be limited to the following: an act of war (whether declared or not), including an invasion, act of foreign enemies, or terrorism; a strike, lockout, or other labor or industrial blockade or embargo which is not attributable to any unreasonable action or inaction on the part of Respondent; public riot; specific incidents of exceptional adverse weather conditions or natural disasters such as a hurricane, flood, or earthquake; a fire or explosion affecting the Respondent's operations; failure to secure timely and necessary federal, state, or local approvals or permits, provided approvals or permits have been timely and diligently sought; and any other occurrence caused by unforeseeable circumstances beyond the reasonable control of Respondent, as determined by EPD in its sole discretion.

Within two (2) business days of learning of any force majeure event that may reasonably be expected to cause a deadline to be missed, Respondent shall notify EPD verbally or in writing. Within seven (7) business days of learning of any force majeure event that may reasonably be expected to cause a deadline to be missed, Respondent shall submit written notice to EPD of the force majeure event, the possible effects and the anticipated length (if known) of any delay. EPD shall review the submission and negotiate with Respondent regarding the length of the proposed extension of deadlines, if any. The Respondent shall exercise due diligence and adopt all reasonable measures to avoid or minimize any delay.

Effect of Order

Respondent consents and the Director executes this Consent Order solely for the purpose of addressing the alleged violations set forth herein. This Consent Order does not relieve Respondent of any obligations or requirements of any statute, rules, permit, or other matter administered by EPD except as specifically authorized herein, which authorization shall be strictly construed. This Consent Order is not a finding, determination, or adjudication of a violation of any state laws, rules, standards and/or requirements, nor does Respondent by consenting to this Consent Order make any admission with respect to any factual allegation contained in this Consent Order or to any liability to any third party.

Unless modified or terminated by a subsequent order, or otherwise specified in writing by the Director, this Order shall be deemed satisfied and terminated upon full, complete, and timely performance of each and every condition set forth herein.

Further Enforcement

Failure by Respondent to comply with any provision of this Consent Order may result in further enforcement action. Issuance of this Consent Order does not waive the Director's right to use the violation(s) alleged herein, upon sufficient evidence, to show past violations in any subsequent enforcement proceeding.

Finality

For the purpose of enforcement, this Consent Order constitutes a final order of the Director in accordance with applicable Georgia law. By agreement of the parties, this Consent Order shall be final and effective immediately upon execution by the Director, shall not be appealable, and Respondent does hereby waive all administrative proceedings and judicial hearings concerning the entry of this Consent Order.

Electronic Signatures

The parties agree that any electronic signatures on this Consent Order constitute original, valid signatures pursuant to the Uniform Electronic Transactions Act, O.C.G.A. § 10-12-1 *et seq.*

It is so ORDERED and CONSENTED TO on the following date 12-19-2023.

For the Georgia Environmental Protection Division:

By: Jeffrey W. Cown
Jeffrey W. Cown, Director

For Respondent:

By: Justin Echols
Printed
Name: Justin Echols

Title: Member