

BEFORE THE MISSISSIPPI COMMISSION
ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

COMPLAINANT

VS.

ORDER NO. **7158 21**

PORTER CONSTRUCTION MS, LLC
9695 POPLAR AVENUE
GERMANTOWN, TENNESSEE 38139

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 Porter Construction MS, LLC, Respondent, in the above captioned cause and agree as follows:

1.

By letter dated August 23, 2021, Respondent was contacted by Complainant and notified of the following violation discovered during a Compliance Evaluation Inspection (CEI) at its development, Farley Road Subdivision Phase Two, located at Farley Road, Byhalia, Mississippi in Marshall County:

- A. Miss. Code Ann. 49-17-29(2b): "It is unlawful for any person to carry on any of the following activities, unless that person holds a current permit for that activity from the Permit Board as may be required for the disposal of all wastes which are or may be discharged into the waters of the state, or unless that person is exempted from holding a permit by a regulation promulgated by the commission: (i) the construction, installation, modification or operation of any disposal system or part thereof or any extension or

addition thereto, including, but not limited to, systems serving agricultural operations; (ii) the increase in volume or strength of any wastes in excess of the permissive discharges specified under any existing permit; (iii) the construction, installation or operation of any industrial, commercial or other establishment, including irrigation projects or any extension or modification thereof or addition thereto, the operation of which would cause an increase in the discharge of wastes into the waters of the state or would otherwise alter the physical, chemical or biological properties of any waters of the state in any manner not already lawfully authorized; (iv) the construction or use of any new outlet for the discharge of any wastes into the waters of the state. [...]” Respondent failed to obtain coverage under Mississippi’s Large Construction Storm Water General NPDES Permit prior to engaging in construction activities.

Respondent submitted a Large Construction Notice of Intent (LCNOI) for coverage under Mississippi’s Large Construction Storm Water General NPDES Permit to MDEQ’s Environmental Permits Division on October 8, 2021. The LCNOI is under review.

2.

In lieu of a formal enforcement hearing concerning the violation 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 \$15,000.00 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.

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 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 applicable environmental laws, regulations and/or permits.

5.


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.

6.

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.

ORDERED, this the 28th day of October, 2021.

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

BY: 
CHRIS WELLS
EXECUTIVE DIRECTOR
MISSISSIPPI DEPARTMENT
OF ENVIRONMENTAL QUALITY

AGREED, this the 21ST day of October, 2021.

PORTER CONSTRUCTION MS, LLC

BY: [Signature]
TITLE: President

STATE OF Tennessee
COUNTY OF Shelby

PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named John Porter who first being duly sworn, did state upon his/her oath and acknowledge to me that he/she is the President of Porter Construction MS, LLC and is authorized to sign and enter this Agreement.

SWORN AND SUBSCRIBED BEFORE ME, this the 21st day of October, 2021.

[Signature]
NOTARY PUBLIC

My Commission expires: 03/02/2024

