



STATE OF MISSISSIPPI  
PHIL BRYANT  
GOVERNOR  
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY  
TRUDY D. FISHER, EXECUTIVE DIRECTOR

December 4, 2012

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Mr. Stephen Fairley  
Briarwood Estates  
828 US Highway 11  
Petal, MS 39465

**Re: Briarwood Estates  
Agreed Order No. 6201 12**

Dear Mr. Fairley:

Enclosed you will find a copy of Agreed Order No. 6201 12, which has been executed by the Executive Director of the Mississippi Department of Environmental Quality, Trudy Fisher, on behalf of the Mississippi Commission on Environmental Quality.

The enclosed Order assesses a civil penalty. The penalty payment, when due, should be made by check payable to the Mississippi Department of Environmental Quality and returned in the enclosed, self-addressed envelope to the MDEQ Fees Division at P.O. Box 2339, Jackson, MS 39225.

If you have any questions regarding your obligations under the enclosed order, please contact Steve Bailey at (601) 961-5056.

Sincerely,

A handwritten signature in blue ink that reads "Chris Sanders".

Chris Sanders, P.E.  
Chief, Environmental Compliance and Enforcement Division

Enclosure  
cc: Steve Bailey

Agency Interest No. 53899  
ENF20120002

OFFICE OF POLLUTION CONTROL

BEFORE THE MISSISSIPPI COMMISSION  
ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON  
ENVIRONMENTAL QUALITY

COMPLAINANT

VS.

ORDER NO. 6201 12

FAIRLEY CONSTRUCTION  
828 US HIGHWAY 11  
PETAL, MISSISSIPPI 39465

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 Fairley Construction, Respondent, in the above captioned cause and agree as follows:

1.

By letter dated May 2, 2012, Respondent was contacted by Complainant and notified of certain violations to Large Construction General Permit, Certificate of Coverage MSR105796 and Water Quality Certification WQC2011011. The following violations were discovered during a Compliance Evaluation Inspection (CEI) (reference CEI INS20120001) conducted by MDEQ staff on April 3, 2012 at its facility, Briarwood Estates, located on Lynn Ray Road, Petal, Mississippi in Forrest County:

- A. Failure to Implement the Storm Water Pollution Prevention Plan (SWPPP) – Act 6, Condition S-1, No. 1:** Respondent had failed to implement the SWPPP at the time an on-site compliance inspection was conducted. A large amount of sediment was observed to have been deposited off site in areas where the SWPPP had not been

fully implemented.

- B. Failure to Maintain Controls – Act 6, Condition S-2, No. 9:** Respondent had failed to maintain temporary erosion and sediment controls on site.
- C. Failure to Inspect – Act 6, Condition S-4:** Respondent had failed to conduct weekly inspections.
- D. Violation of 401 Water Quality Certification – WQC2011011, Condition (2):** Respondent had failed to implement necessary controls to prevent erosion and adverse impacts to off-site areas and receiving waters.
- E. Violation of 401 Water Quality Certification – WQC2011011, Condition (4):** Respondent had failed to retain mitigation credits for the loss of 0.85 acres of wetlands.

Respondent's construction project disturbed approximately 35 acres and is a residential development. During an administrative conference on May 23, 2012, Respondent provided MDEQ staff with photographic documentation that the site-specific SWPPP had been implemented. According to the inspection records and photographs received during the conference, all in-place erosion and sediment controls that previously experienced problems had either been repaired or replaced. Following the administrative conference, Respondent submitted a formal response on June 22, 2012, alleging that a contract for the purchase of mitigation credits had been secured.

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 \$10,850. Respondent shall pay this penalty to MDEQ within forty-five (45) days after this Agreed Order has been executed by the MDEQ Executive Director. The settlement payment shall be submitted to:

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

- B. Respondent agrees to request a modification to **WQC2011011** to remove Condition (5) within forty-five (45) days after this Agreed Order has been executed by the MDEQ Executive Director. This modification request shall be submitted to:

Mississippi Department of Environmental Quality  
Attn: Florance Watson  
P.O. Box 2261  
Jackson, MS 39225

- C. Respondent agrees to submit a copy of the credit purchase agreement for the loss of 0.85 acres of wetlands within forty-five (45) days after this Agreed Order has been executed by the MDEQ Executive Director. The copy of the credit purchase agreement shall be submitted to:

Mississippi Department of Environmental Quality  
Attn: Florance Watson  
P.O. Box 2261  
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. Section 49-17-31 (Rev. 2003), and that it has made an informed waiver of that right.

ORDERED, this the 2 day of December, 2012.

MISSISSIPPI COMMISSION ON  
ENVIRONMENTAL QUALITY

BY:   
TRUDY D. FISHER  
EXECUTIVE DIRECTOR  
MISSISSIPPI DEPARTMENT  
OF ENVIRONMENTAL QUALITY

AGREED, this the 29<sup>th</sup> day of November, 2012.

FAIRLEY CONSTRUCTION, INC.

BY:   
\_\_\_\_\_

TITLE: President

STATE OF Mississippi

COUNTY OF Forrest

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

SWORN AND SUBSCRIBED BEFORE ME, this the 29<sup>th</sup> day of November, 2012.

Cynthia F. Brown  
NOTARY PUBLIC

My Commission expires: Jan 15, 2016

