



STATE OF MISSISSIPPI

PHIL BRYANT  
GOVERNOR

MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY

TRUDY D. FISHER, EXECUTIVE DIRECTOR

June 20, 2013

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Mr. Jimmy Lane  
Windance Subdivision  
PO Box 1437  
Ocean Springs, MS 395661587

**Re: Windance Subdivision  
Agreed Order No. 6275 13**

Dear Mr. Lane:

Enclosed you will find a copy of Agreed Order No. 6275 13, 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 Kyle Corbin at (601) 961-5386.

Sincerely,

A handwritten signature in blue ink that reads "Chris Sanders" with a stylized "for" written below it.

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

Enclosure  
cc: Kyle Corbin

Agency Interest No. 49977  
ENF20120002

OFFICE OF POLLUTION CONTROL

BEFORE THE MISSISSIPPI COMMISSION  
ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON  
ENVIRONMENTAL QUALITY

COMPLAINANT

VS.

ORDER NO. **6 275 13**

LANE CONSTRUCTION COMPANY OF MISSISSIPPI, INC.  
PO BOX 1437  
OCEAN SPRINGS, MISSISSIPPI 39566-1437

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 Lane Construction Company of Mississippi, Inc., Respondent, in the above captioned cause and agree as follows:

1.

By letter dated January 18, 2012, Respondent was contacted by Complainant and notified of the following violations of the Large Construction General Permit Certificate of Coverage Number MSR105580 at its facility located at Robinson Road, Gulfport, Mississippi in Harrison County:

- A. Violation of Act 7, Section S-1 Part (1) Failure to implement the site-specific Storm Water Pollution Prevention Plan (SWPPP)

During a MDEQ inspection on December 15, 2011, areas were observed that did not have the required controls installed as per the approved SWPPP and the permit.

- B. Violation of Act 7, Section S-2 Part (9) Failure to maintain erosion and sediment controls at all times.

At the time of the inspection, controls were found to have been compromised. According to the approved SWPPP, the owner or prime contractor must inspect and maintain controls, record damages or deficiencies and corrective measures, and complete monthly inspection reports using the form provided in Part VII of the permit. Field conditions during the inspection were conducive for maintenance work on in-place erosion/sediment controls.

During the administrative conference on February 1, 2012, Respondent provided photographic evidence that controls had been installed and were being maintained in accordance with the permit.

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 \$7,500.00 for the matters addressed herein (the "civil penalty"). Respondent shall pay this penalty to MDEQ as follows:

1. Respondent shall remit to MDEQ the amount of \$1,875.00 within forty-five (45) days after execution of this Agreed Order by the Executive Director of MDEQ, or her designee (the "Effective Date"). The \$1,875.00 shall be paid by check or money order and shall be submitted to the following address:

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

2. In accordance with the provisions of this Agreed Order and the Memorandum of Agreement between MDEQ, Respondent and The Land Trust for the Mississippi Coastal Plain (The Land Trust), which is attached hereto as exhibit "A" (the MOA),

Complainant shall allow Respondent credit as follows toward payment of the penalty. Within forty-five (45) days after the Effective Date, Respondent shall pay, by check or money order, \$5,625.00 to The Land Trust in accordance with the terms and conditions of the MOA. The Land Trust shall expend the funds received from Lane Construction for the purpose of restoring five (5) erosion areas on a parcel of property owned by The Land Trust, located at 4927 Hwy 57 South in Ocean Springs, MS. The eroded areas shall be leveled using mechanical equipment. Temporary erosion controls shall be installed and maintained until the areas have been completely stabilized. Within ten (10) days after making the payment to The Land Trust contemplated by this subparagraph, Respondent shall provide MDEQ written proof of such payment to the following address:

Mississippi Department of Environmental Quality

Attn: Mr. Chris Sanders, P.E.

P.O. Box 2261

Jackson, MS 39225

3. Any public statement, oral or written, in print, film, or other media, made by the Respondent making reference to the payment described in paragraph 2.A.2 above shall include the following language: "This contribution was made in connection with the settlement of an environmental enforcement action taken by the Mississippi Commission on Environmental Quality."

4. If Respondent fails to make the payment described in 2.A.2 above by the deadline set forth in that subparagraph, the remaining balance of the civil penalty shall be immediately due and payable to MDEQ.

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 20 day of June, 2013.

MISSISSIPPI COMMISSION ON  
ENVIRONMENTAL QUALITY

BY: 

TRUDY D. FISHER  
EXECUTIVE DIRECTOR  
MISSISSIPPI DEPARTMENT  
OF ENVIRONMENTAL QUALITY

AGREED, this the 12 day of June, 2013.

LANE CONSTRUCTION COMPANY OF MISSISSIPPI, INC

BY: [Signature]

TITLE: President

STATE OF Miss.

COUNTY OF Harrison

PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named Jimmy R. LANE who first being duly sworn, did state upon his/her oath and acknowledge to me that he/she is the PRESIDENT of Lance Construction Company of Mississippi, Inc. and is authorized to sign and enter this Agreement.

SWORN AND SUBSCRIBED BEFORE ME, this the 12th day of June, 2013.

[Signature]  
NOTARY PUBLIC

My Commission expires: 3/31/15



**MEMORANDUM OF AGREEMENT BETWEEN MISSISSIPPI  
DEPARTMENT OF ENVIRONMENTAL QUALITY,  
THE LAND TRUST FOR THE MISSISSIPPI COASTAL PLAIN, AND  
LANE CONSTRUCTION COMPANY OF MISSISSIPPI, INC.**

**Background.** Lane Construction Company of Mississippi, Inc. (Lane Construction) is the owner and operator of Windance Subdivision, a residential development located in Harrison County, Mississippi. Windance Subdivision operates under Large Construction General Permit, Certificate of Coverage MSR105580 (the Permit). That Permit contains specific requirements that are to be implemented by the Permit holder in order to minimize off-site sediment deposition during construction related activities. On January 18, 2012, the Mississippi Department of Environmental Quality ("MDEQ") initiated an administrative enforcement action against Lane Construction for violations to the Permit discovered during a Compliance Evaluation Inspection (CEI) conducted on December, 15, 2011. As part of the resolution of that enforcement action, MDEQ and Lane Construction have agreed to the assessment of a civil penalty in the amount \$7,500.00. MDEQ has agreed to give Lane Construction credit in the amount of 75% of the total assessed civil penalty (\$5,625.00) towards the implementation of a Supplemental Environmental Project (SEP) as outlined in this Memorandum of Agreement and an Agreed Order to be issued by MDEQ, on behalf of the Commission on Environmental Quality, contemporaneously with this agreement. In order to satisfy the SEP, Lane Construction shall submit a payment to The Land Trust for the Mississippi Coastal Plain (The Land Trust) in the minimum amount of \$5,625.00. MDEQ now seeks to ensure that The Land Trust expends those funds for the purposes set forth below.

**Section 1. Parties to the Agreement:** The parties to this Memorandum of Agreement are MDEQ, The Land Trust and Lane Construction.

**Section 2. Purpose of the Agreement:** The purpose of this agreement is to ensure that The Land Trust expends the funds received from Lane Construction in a manner that satisfies the SEP as proposed by The Land Trust on November 21, 2012 and specified below.

**Section 3. Responsibilities of Lane Construction:** Lane Construction shall make payment to The Land Trust in the amount of \$5,625.00 after execution of this Memorandum of Agreement and in accordance with the associated Agreed Order to be issued by MDEQ.

**Section 4. Responsibilities of The Land Trust:** The Land Trust shall expend the funds received from Lane Construction for the purpose of restoring five (5) erosion areas on a parcel of property owned by The Land Trust located at 4927 Hwy 57 South in Ocean Springs, MS. The eroded areas shall be leveled using mechanical equipment. Temporary erosion controls shall be installed and maintained until the areas have been completely stabilized. Should The Land Trust fail to expend the funds received from Lane Construction, or any portion of the funds, as required by this Memorandum of Agreement, The Land Trust shall remit to MDEQ that portion of the funds not spent in accordance with this Agreement, and any such funds remitted to MDEQ shall be considered a penalty collection and deposited into the Pollution Emergency Fund pursuant to Miss. Code Ann. § 49-17-43(6).

**Section 5. Responsibilities of MDEQ:** As consideration for the performance of this



Agreement, MDEQ agrees to grant Lane Construction credit in the amount of \$5,625.00 toward payment of a total civil penalty of \$7,500.00 for the permit violations cited in MDEQ's Notice of Violation dated January 18, 2012. The remaining 25% of the total assessed civil penalty (\$1,875.00) shall be remitted to MDEQ for resolution. This concession by MDEQ shall also be embodied in an Agreed Order.

**Section 6.**     **Reporting and Certification Requirements:** The Land Trust shall submit to MDEQ documentation (such as, work orders, purchase orders, change orders, etc.) reflecting that it expended the funds in accordance with this Memorandum of Agreement once the funds have been fully expended. The Executive Director for The Land Trust shall submit a certification that the funds were expended in accordance with the terms of this Memorandum of Agreement.

**Section 7.**     **Period of Performance:** The period of performance for this Agreement shall be from the date the Agreement is executed by both parties until the funds are fully expended in accordance with this Agreement.

**Section 8.**     **Nullification of this Agreement:** The parties to this Agreement contemplate, and the agreement embodied in this document presumes, the issuance by MDEQ of an Agreed Order associated with, and referencing, this Memorandum of Agreement and requiring Lane Construction to make the payment described herein. If, for any reason, the MDEQ and Lane Construction are unable to settle the enforcement action referenced above as contemplated by this Memorandum of Agreement and/or MDEQ, for any reason, does not issue the contemplated Agreed Order, this Agreement, and any and all obligations described herein, shall be null, void

and without effect.

WITNESS OUR SIGNATURES:

**THE LAND TRUST FOR THE MISSISSIPPI COASTAL PLAIN**

By: Judy Steckler

Printed name: JUDY STECKLER

Its: EXECUTIVE DIRECTOR

Date Executed 6-12-13

**MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY**

By: \_\_\_\_\_  
Trudy D. Fisher, Executive Director

Date Executed: \_\_\_\_\_

**LANE CONSTRUCTION COMPANY OF MISSISSIPPI, INC.**

By: Jimmy R. Lane

Printed name: Jimmy R. Lane

Its: President

Date Executed: June 12 - 2013