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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

In the Matter of:	
Recycled Aggregates, LLC,	Proceeding to Assess Class II Administrative Penalty Under Section 309(g) of the Clean Water Act
and	
John Driggs Company,	Docket No. CWA-03-2016-0040
Respondents	
Property Location:	**CONSENT AGREEMENT**
1721 South Capitol St., S.W. Washington, DC 20003	

I. STATUTORY AND REGULATORY AUTHORITY

1. This Consent Agreement is entered into by the Director of the Water Protection Division, United States Environmental Protection Agency, Region III ("Complainant") and Recycled Aggregates, LLC and John Driggs Company (together, "Respondents") pursuant to Section 309(g) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(g), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits* ("Consolidated Rules"), 40 C.F.R. Part 22.

2. The parties have agreed to settle the alleged violations of the CWA by Respondents in the above-captioned matter. This Consent Agreement and the accompanying Final Order together conclude this action pursuant to 40 C.F.R. §§ 22.18 and 22.31.

II. FINDINGS OF FACT AND JURISDICTIONAL ALLEGATIONS

3. Complainant initiated this proceeding for assessment of a Class II Administrative Penalty pursuant to Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), by issuing an Administrative Penalty Complaint and Notice of Opportunity to Request Hearing ("Complaint") to Respondents on January 11, 2016.

4. This Consent Agreement incorporates by reference the findings of fact and jurisdictional allegations contained in Paragraphs 1 through 35 of the Complaint and adopts them as Complainant's findings of fact and jurisdictional allegations herein.

III. CONCLUSIONS OF LAW

5. This Consent Agreement incorporates by reference the conclusions of law contained in Paragraphs 1 through 35 of the Complaint and adopts them as Complainant's conclusions of law herein.

6. Complainant concludes that Respondents have violated Section 301 of the CWA, 33 U.S.C. § 1311, and are liable to the United States for a civil penalty in accordance with Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

IV. GENERAL PROVISIONS

7. For the purposes of this proceeding:

   a. Respondents admit to the jurisdictional allegations of the Complaint and this Consent Agreement;

   b. Respondents neither admit nor deny the specific factual allegations and conclusions of law set forth in the Complaint and this Consent Agreement;

   c. Respondents agree to undertake all actions required by this Consent Agreement and the accompanying Final Order;

   d. Respondents hereby expressly waive their right to a hearing on any issue of law or fact in this matter pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and consent to issuance of this Consent Agreement and the accompanying Final Order;

   e. Respondents waive their right to appeal this Consent Agreement and the accompanying Final Order under Section 309(g)(8)(B) of the CWA, 33 U.S.C. § 1319(g)(8)(B).

8. Respondents agree not to contest Complainant's jurisdiction to issue and to enforce the terms of this Consent Agreement and the accompanying Final Order.

9. Each party to this agreement shall pay its own costs and attorney's fees.

10. This Consent Agreement and the accompanying Final Order do not relieve Respondents of their obligations to comply with all applicable provisions of federal, state, and local law. This Consent Agreement and the accompanying Final Order shall not be interpreted to be a permit or modification of any existing permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, or any other law. Nor does this Consent Agreement and the

accompanying Final Order constitute a waiver, suspension, or modification of the requirements of the CWA, 33 U.S.C. §§ 1251 *et seq.*, or any regulations promulgated thereunder.

11. This Consent Agreement and the accompanying Final Order resolve only the civil claims against Respondents for the specific violations alleged in the Complaint. Complainant reserves the right to commence an action against any person, including Respondents, in response to any condition that Complainant determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c).

12. Further, Complainant reserves any and all rights and remedies available to it under this Consent Agreement and the accompanying Final Order, 33 U.S.C. §§ 1251 *et seq.*, the regulations promulgated thereunder, and any other federal laws or regulations for which Complainant has jurisdiction, to enforce the provisions of this Consent Agreement and the accompanying Final Order following its effective date.

13. Complainant reserves the right to institute a new and/or separate action should Respondents fail to comply with the terms of this Consent Agreement and the accompanying Final Order. That right shall be in addition to all other rights and causes of action, civil or criminal, that Complainant may have under law or equity in such event.

14. Entry of this Consent Agreement and the accompanying Final Order is a final settlement of all violations alleged in the Complaint. Complainant shall have the right to institute a new and separate action to recover additional civil penalties for the claims made in the Complaint if Complainant obtains evidence that the information and/or representations of the Respondents are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action, civil or criminal, that Complainant may have under law or equity in such event.

15. This Consent Agreement may be executed in any number of counterpart originals, each of which shall be deemed to constitute an original agreement, and all of which together shall constitute one agreement. The execution of one counterpart by any party shall have the same force and effect as if that party had signed all other counterparts.

16. All of the terms and conditions of this Consent Agreement together comprise one agreement, and each of the terms and conditions is in consideration of all of the other terms and conditions. In the event that this Consent Agreement and the accompanying Final Order or one or more of the terms and conditions of either document is held invalid, is not executed by all of the signatories in identical form, or is not approved in such identical form by the Regional Administrator or his designee, then the entire Consent Agreement and the accompanying Final Order shall be null and void.

17. The provisions of this Consent Agreement and the accompanying Final Order shall be binding upon the Respondents, their officers, principals, directors, successors, and assigns.

18. The undersigned representatives of Respondents certify that he or she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and to execute and legally bind that party to it.

19. The parties agree that settlement of this matter is in the public interest and that entry of this Consent Agreement and the accompanying Final Order is the most appropriate means of resolving this matter.

V. PENALTY

20. For the purposes of this proceeding, Respondents consent to the assessment of a civil penalty in the amount of **thirty-two thousand four hundred dollars ($32,400.00)** in full and complete settlement of the civil claims as set forth in the Complaint.

21. The civil penalty specified in Paragraph 20 shall represent civil penalties assessed by Complainant and shall not be deductible for purposes of Federal taxes.

VI. PAYMENT TERMS

22. Respondents shall pay the total administrative civil penalty of thirty-two thousand four hundred dollars ($32,400.00) within thirty (30) days of the effective date of this Consent Agreement pursuant to 40 C.F.R. § 22.31(c).

23. Payment by Respondents shall reference Respondents' names and addresses and the Docket Number of this action, i.e., CWA-03-2016-0040.

24. Payment shall be made by one of the following methods:

    a. Payment by check made payable to "United States Treasury";

        i. If sent via first-class mail, to:

            U.S. Environmental Protection Agency
            Cincinnati Finance Center
            P.O. Box 979077
            St. Louis, MO 63197-9000

        ii. If sent via UPS, Federal Express, or Overnight Delivery, to:

            U.S. Environmental Protection Agency
            Government Lockbox 979077
            1005 Convention Plaza
            SL-MO-C2-GL

St. Louis, MO 63101
314-418-1028

b. Via wire transfer, sent to:

Federal Reserve Bank of New York
ABA = 021030004
Account No. = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Attn: "D 68010727 Environmental Protection Agency"

c. Via Automated Clearinghouse (ACH), a/k/a Remittance Express (REX), to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 Checking

Contact Remittance Express (REX): 866-234-5681
Finance Center Contacts:
Craig Steffen: 513-487-2091; steffen.craig@epa.gov
Molly Williams: 513-487-2076; williams.molly@epa.gov

d. Via on-line payment:

WWW.PAY.GOV/PAYGOV
Enter sfo 1.1 in the search field. Open and complete the form.

e. Additional payment guidance is available at:
http://www.epa.gov/ocfo/finservices/make_a_payment.htm

25. A copy of Respondents' check or proof of payment via wire transfer, ACH, or on-line payment shall be mailed at the same time payment is made to:

U.S. Environmental Protection Agency
Regional Hearing Clerk (3RC00)
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029;

and

Kelly Gable
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (3RC20)
1650 Arch Street
Philadelphia, PA 19103-2029

26. The following notice concerns interest and late penalty charges that will accrue in the event that any portion of the civil penalty is not paid as directed:

a. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondents' failure to make timely payment as required herein or to comply with the conditions in this Consent Agreement and the accompanying Final Order shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

b. Interest on the civil penalty assessed in this Consent Agreement and the accompanying Final Order will begin to accrue on the date that a copy of this Consent Agreement and the accompanying Final Order is mailed or hand-delivered to Respondents. However, Complainant will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which it is due. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

c. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash* Management, Chapter 9, EPA will assess a $15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional $15.00 for each such subsequent thirty (30) days the penalty remains unpaid.

d. A penalty charge, not to exceed six percent per year, will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

VII. PUBLIC NOTICE AND EFFECTIVE DATE

27. Pursuant to Section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b), Complainant has provided public notice and an opportunity to comment on the Complaint prior to issuing it and received no public comments.

28. Pursuant to Section 309(g)(1)(A) of the CWA, 33 U.S.C. § 1319(g)(1)(A), Complainant has consulted with the District of Columbia regarding this action and will mail a copy of this document to the appropriate District of Columbia official.

29. This Consent Agreement and the accompanying Final Order shall become final and effective thirty (30) days after they are filed with the Regional Hearing Clerk, pursuant to Section 309(g)(5) of the CWA, 33 U.S.C. § 1319(g)(5).

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FOR RESPONDENT, RECYCLED AGGREGATES, LLC:

By: _____

Name: John Driggs

Title: Manager

Date: 8/3/16

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FOR RESPONDENT, JOHN DRIGGS COMPANY:

By: _____

Name: John Driggs

Title: President

Date: 8/3/16

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FOR COMPLAINANT, THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

Jon M. Capacasa, Director
Water Protection Division

Date: 7/28/16

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

In the Matter of: Recycled Aggregates, LLC, and John Driggs Company, Respondents Property Location: 1721 South Capitol St., S.W. Washington, DC 20003	Proceeding to Assess Class II Administrative Penalty Under Section 309(g) of the Clean Water Act Docket No. CWA-03-2016-0040 **FINAL ORDER**

Complainant, the Director of the Water Protection Division, U.S. Environmental Protection Agency, Region III, and Respondents, Recycled Aggregates, LLC and John Driggs Company, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

NOW, THEREFORE, PURSUANT TO Section 309 of the Clean Water Act, 33 U.S.C. § 1319, and Sections 22.18(b)(3) and 22.31 of the Consolidated Rules of Practice, 40 C.F.R. §§ 22.18(b)(3) and 22.31, **IT IS HEREBY ORDERED** that Respondents pay a civil penalty in the

amount of **THIRTY-TWO THOUSAND FOUR HUNDRED DOLLARS ($32,400.00)**, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of the attached Consent Agreement and this Final Order is thirty (30) days after the date on which it is filed with the Regional Hearing Clerk.

8/16/2016
Date

Cecil Rodrigues for SMG
Shawn M. Garvin
Regional Administrator
U.S. Environmental Protection Agency, Region III

CERTIFICATE OF SERVICE

I hereby certify that, on this day, I caused to be filed with the Regional Hearing Clerk, EPA Region III, the original and one copy of the Consent Agreement and Final Order in the matter of *In re: Recycled Aggregates, LLC and John Driggs Company* (Docket No. CWA-03-2016-0040).

I also hereby certify that, on this day, I caused a copy of the Consent Agreement and Final Order to be sent to the following individuals by the manner indicated:

Via first-class mail:

Mr. John Driggs
Manager, Recycled Aggregates, LLC
President, John Driggs Company
8700 Ashwood Drive
Capitol Heights, MD 20743

Via electronic mail and first-class mail:

Jeryl Olson, Esq.
Seyfarth Shaw LLP
131 South Dearborn Street, Suite 2400
Chicago, IL 60603
jolson@seyfarth.com

Via electronic mail and inter-office mail:

Ms. Mary Angeles
Office of Administrative Law Judges
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code M1200
Washington, DC 20460
angeles.mary@epa.gov

Date: 8/23/16

Kelly Gable
Sr. Assistant Regional Counsel
U.S. EPA Region III