

MARTIN COUNTY, FLORIDA
CODE ENFORCEMENT MAGISTRATE

Case Number: 16-0107262
Parcel Control Numbers: 303840000000002400000 and
3038400000000004000000

MARTIN COUNTY, FLORIDA

Petitioner,

v.

CREATIVE LAND MANAGEMENT LLC
Respondent.

STIPULATION AND AGREED FINAL ORDER

The Petitioner and the Respondent hereby freely stipulate and agree to the following:

A. VIOLATIONS

1. Respondent is the owner or occupant of the unaddressed property located in Martin County, Florida and further described in Exhibit A attached hereto.
2. On August 10, 2016, an inspection of the property was performed by the undersigned Martin County Code Compliance Investigator, and at that time, and continuing until December 14, 2016, Respondent did maintain conditions on the property as cited in the Notice of Violation issued in this case.
3. Respondent freely admits the violations of the Code as cited.

Violation 1:

Development activities, including hauling of fill material to the site, are being conducted without the required major development site plan approval as required by Section 4.342.D., Land Development Regulations, Martin County Fla. (2001). Section 4.342.D. as set forth below:

CODE SECTION:

Land Development Regulations, Martin County Fla. (2001)

4.342.D. Excavation and/or filling of 10,000 cubic yards or more, where fill is hauled onto or off site, and any mining. Any excavation or filling of 10,000 cubic yards or more, where fill is proposed to be hauled onto or off the site, and any mining shall be subject to the major development review procedures of article 10 of the LDR. No separate excavation and filling or land clearing permits will be necessary.

Violation 2:

Failure to comply with the approved development orders and the approved construction plans for the APS Environmental Associates Sand Mine. Compliance with the approved development orders is required pursuant to Section 10.8.A, Land Development Regulations, Martin County Fla (2016), set forth below.

CODE SECTION:

Land Development Regulations, Martin County Code

Section 10.8.A - Suspension of Development Orders - Purpose and Intent

Development activity shall be in compliance with the development order at all times. Failure to comply with a development order or unauthorized development activity may result in the suspension of the current development order, and the cessation of county processing of all applications for development on the subject property and any associated phases or termination of the development order.

B. COMPLIANCE REQUIREMENTS:

1. By January 13, 2017, Respondent shall submit a reclamation plan for review and approval by Petitioner which cures the violations that occurred at the following described mining site and complies with the requirements set forth below. Petitioner agrees to promptly review and provide comments to the Respondent regarding the submitted plan. Within thirty (30) days of the receipt of review comments from Petitioner, Respondent shall submit a reclamation plan which demonstrates compliance with criteria set forth herein as determined by Petitioner. The failure by Respondent to meet either the January 13, 2017 deadline and/or to provide a compliant reclamation plan within thirty (30) days of the receipt of review comments from Petitioner shall constitute a violation of this Stipulation and Agreed Final Order.

Master Site Plan #A040-001, and Final Site Plan #A040-002, provided for a 25.0 acre mine on 37.66 acres, Final Site Plan approved 3/26/2002; together with

Master Site Plan #A040-003, and Final Site Plan #A040-004, provided for a 25.7 acre mine on 31.32 acres, Final Site Plan approved 3/8/2005.

The reclamation plan shall encompass the following properties owned by Respondent:

Parcel control number 303840000000002400000

Parcel control number 303840000000004000000

At a minimum, the reclamation plan shall demonstrate compliance with Article 4, Division 8, Land Development Regulations, Martin County, Fla. (2001) and include:

- a. A current topographic survey of the properties, including one-foot contours to the bottom of the existing mining facility.
 - b. A grading plan for the lake slopes, littoral shelves, and any other upland restoration and stabilization.
 - c. A landscape plan for the establishment of the littoral and upland plantings required by Article 4, Division 8, Land Development Regulations, Martin County, Fla. (2001).
 - d. Specifications for fill material.
 - e. A statement that addresses the hours of operation.
 - f. Locations and acreages of preserve areas.
 - g. An amended preserve area management plan for the wetland and upland habitat.
 - h. A provision for annual progress report to be submitted to the County Engineer within 30 days of the anniversary date of this Stipulation and Agreed Final Order. The annual progress report shall demonstrate compliance and include record ("as-built") drawings of all work done to the date of the report, as certified by a professional engineer.
 - i. A timetable for the following milestones:
 - 1) Certification of completion of the reclamation grading by a professional engineer, which shall occur no later than 2 years from the approval date of the approval of the reclamation plan by Petitioner.
 - 2) Certification of establishment of the required littoral and upland plantings by an environmental professional or landscape architect, which shall occur no later than 2 ½ years from the approval date of the approval of the reclamation plan by Petitioner.
2. By January 13, 2017, Respondent shall provide an itemized cost estimate, prepared by a Florida registered engineer, for the restoration of the mining site, including items such as, but not limited to, general clean-up, grading, and revegetation of the lake banks, littoral zones and upland transition zone. A three-year performance bond/security and implementing agreement shall be required to ensure that restoration is completed. The amount of the security shall be approved by the County Engineer, and shall be based on 110 percent of the approved cost estimate. Within thirty (30) days of the approval of the itemized cost estimate by the County Engineer, Respondent shall submit the three-year performance bond/security and executed implementing agreement to ensure that restoration is completed. The failure by Respondent to meet either the January 13, 2017 deadline and/or to submit the three-year performance bond/security and executed

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implementing agreement within thirty (30) days of the approval of the itemized cost estimate by the County Engineer shall constitute a violation of this Stipulation and Agreed Final Order.

3. By January 13, 2017, Respondent shall provide an executed Unity of Title for Parcel numbers 303840000000002400000 and 303840000000004000000 and request the release of any conflicting Unities of Title.
4. With the certification of establishment of the required littoral and upland plantings, Respondent shall provide a three-year performance bond/security and accompanying agreement for the supply and installation cost of the required littoral and upland plantings to ensure adequate maintenance and survivability of vegetative materials. The amount of the security shall be based on 110 percent of a cost estimate prepared by a Florida registered engineer, a Florida registered professional landscape architect, or by an environmental professional.
5. Respondent agrees that no later than two years following the approval of the reclamation plan by Petitioner, all hauling of fill material to or from the site shall cease, unless otherwise authorized by an approved development order.
6. By January 13, 2017, Respondent shall provide documentation of all fill hauled from the site and pay any outstanding hauling fees at the rate of \$0.21 per cubic yard.
7. Respondent agrees to pay \$ 4,510 in administrative costs by December 14, 2016. Upon approval of the Stipulation and Agreed Final Order by the Code Enforcement Magistrate and the payment of the administrative costs, Respondent may resume the hauling of fill to the site. Any hauling shall be consistent with the proposed reclamation plan and in compliance with Article 4, Division 8, Land Development Regulations, Martin County, Fla.
8. If Respondent(s) fails to comply with any of the compliance deadlines established in this Stipulation and Agreed Final Order, Respondent understands that a Stop Work Order will be issued and agrees to the levy of a fine in the amount of \$200.00 per day thereafter, for each and every day of non-compliance, plus all administrative costs in enforcing the action. Pursuant to Chapter 162, Florida Statutes, no further hearing shall be required for the entry of a fine and costs. In addition, all fines and costs become liens on the property of the Respondent.
9. The parties represent, under penalty of perjury that that they have read this Stipulation; that they have full authority to enter into this Stipulation; that the facts contained herein are the truth, the whole truth and nothing but the truth; that they agree to abide by its terms; that they are signing this agreement freely and voluntarily and are under no duress to execute it; that the Respondent had the opportunity to come to a Magistrate Hearing and dispute the County's Notice of Violation and Notice of Hearing upon which this Stipulation is based, but by signing this Stipulation the Respondent irrevocably waives the right to notice, and to contest or dispute the violation charged, and that Respondent intends to be bound by its terms, and the Agreed Order, below.

CREATIVE LAND MANAGEMENT LLC

RESPONDENT(S):

By: 

Printed Name: TED BROWNIE

Title: MANAGER / MEMBER

Date: 12/17/2016

PETITIONER: MARTIN COUNTY, FLORIDA


Jerry Mitchell
Senior Associate Planner

Date: 12/14/2016

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AGREED ORDER

THE ABOVE STIPULATION is found to have been properly executed and otherwise in order.


IT IS HEREBY ORDERED that the parties shall comply with the terms of the Stipulation. If the Respondent fails to comply with the above Stipulation, the County may enforce its terms by filing a copy of this Agreed Order as a lien against the property of the Respondent.

DONE AND ORDERED in Stuart, Martin County, Florida, this 14 day of December, 2016.



PAUL J. NICOLETTI
Magistrate

Unofficial Copy


INSTR # 2523221
OR BK 2793 PG 2036
(4 Pgs)
RECORDED 07/01/2015 12:49:44 PM
CAROLYN TIMMANN
MARTIN COUNTY CLERK
DEED DOC TAX \$2,164.40

Return to:
Name: Champagne Title Services, Inc.
Address: 3800 NE 3rd Avenue
Pompano Beach, FL 33064
This instrument prepared by:
Name: Dolores K. Sanchez, Esquire
Address: 4701 North Federal Highway
Suite 316 Box B-1
Lighthouse Point, Fl. 33064

Parcel I.D. No. 30-38-40-000-000-00024-0 and 30-38-40-000-000-00040-0

WARRANTY DEED

THIS INDENTURE, made effective June 29, 2015 between

ALL COUNTY ENVIRONMENTAL PRODUCTS, INC. a Florida Corporation (parcel 1)
and MILO PARTNERS, LLC, a Florida Limited Liability Company (parcel 2)

whose address is: 222 Andalusia Drive, Palm Beach Gardens, FL 33418, GRANTOR and

CREATIVE LAND MANAGEMENT, LLC, a Florida Limited Liability Company

whose address is: 3911 NE 26th Avenue, Lighthouse Point, FL, 33064 GRANTOR

WITNESSETH that the Grantors, for and in consideration of the sum of Ten and No/100 (10.00) Dollars, and other good and valuable consideration to GRANTORS in hand paid by GRANTEEES, the receipt whereof is hereby acknowledge, has granted, bargained, and sold to said GRANTEEES and GRANTEEES' heirs and assigns forever, the following described land, situate, lying and being in the County of Martin, State of Florida to wit:

SEE EXHIBIT "A" ATTACHED AND INCORPORATED HEREIN

Subject to restrictions, reservations, conditions, limitations, and easements of record, if any, and taxes for the year 2015 and subsequent years.

The Grantors do hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the GRANTORS have hereunto set their hands and seal the day and year first above written.

Signed, sealed, and delivered in the presence of:

All County Environmental Products, Inc.
A Florida Corporation

[Signature]
WITNESS
Print Name: Scott A. Mersky

[Signature] VP
BY: Carl Gambino, Vice-President

[Signature]
WITNESS
Print Name: Annabel Bourget

STATE OF FLORIDA

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 29 day of June, 2015 by Carl Gambino, Vice-President of All County Environmental Products, Inc., who is known to me personally or who has produced a driver's license as identification and who did not take an oath.

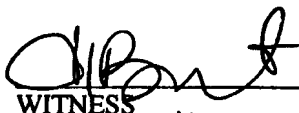
[Signature]
Notary Public, State of Florida
RAE FRANKS
(Print name)
My Commission Expires:



Milo Partners, LLC, a Florida Limited
Liability Company

[Signature]
WITNESS
Print Name: Scott A. Mersky

[Signature] Mgr/member
BY: Carl Gambino, Manager/Member



WITNESS

Print Name: Hannah Bourget

STATE OF FLORIDA

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 29 day of June, 2015 by Carl Gambino, Manager-Member of Milo Partners, LLC, who is known to me personally or who has produced a driver's license as identification and who did not take an oath.



Notary Public, State of Florida

RAE FRANKS

(Print name)

My Commission Expires



EXHIBIT "A"

PARCEL 1:

A PARCEL OF LAND LYING IN PARCEL 1 OF THOSE LANDS DESCRIBED IN EXHIBIT "A" OF THAT CERTAIN WARRANTY DEED RECORDED IN OFFICIAL RECORD BOOK 1198, PAGE 1143, PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA, ALL LYING IN SECTION 30, TOWNSHIP 38 SOUTH, RANGE 40 EAST, MARTIN COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 28 OF THE PLAT OF POLO CLUB AS RECORDED IN PLAT BOOK 16, PAGE 67 OF THE PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA; THENCE NORTHWESTERLY FOR THE NEXT THREE COURSES ALONG THE NORTHEASTERLY LINE OF THE PLAT OF DRESSAGE ESTATES AS RECORDED IN PLAT BOOK 16, PAGE 24 OF THE PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA; THENCE N40°54'40"W A DISTANCE OF 517.38 FEET; THENCE N32°45'58"W A DISTANCE OF 1259.59 FEET; THENCE N30°50'55"W A DISTANCE OF 318.29 FEET; THENCE DEPARTING FROM SAID NORTHEASTERLY BOUNDARY OF THE PLAT OF DRESSAGE ESTATES N59°09'05"E A DISTANCE OF 2202.53 FEET TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF ACCESS ROAD "A" FOR INTERSTATE 95 PER FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP SECTION NO. 89095-2414, FOR INTERSTATE 95, SHEET 12 OF 17, LAST UPDATED ON 6-14-84; THENCE S55°50'57"E ALONG SAID SOUTHWESTERLY LINE OF ACCESS ROAD "A" A DISTANCE OF 247.80 FEET TO THE WEST LINE OF A 60 FOOT ACCESS EASEMENT; THENCE SOUTHEASTERLY ALONG THE WEST SIDE OF SAID 60 FOOT ACCESS EASEMENT FOR THE NEXT SIX COURSES; THENCE S10°50'15"E A DISTANCE OF 277.79 FEET; THENCE S14°57'04"E A DISTANCE OF 454.03 FEET; THENCE S16°49'52"E A DISTANCE OF 272.01 FEET; THENCE S26°50'48"E A DISTANCE OF 720.42 FEET; THENCE S27°06'17"E A DISTANCE OF 95.85 FEET; THENCE S16°59'12"E A DISTANCE OF 197.68 FEET TO THE NORTHERLY LINE OF THE PLAT OF POLO CLUB AS RECORDED IN PLAT BOOK 16, PAGE 67; THENCE WESTERLY ALONG SAID NORTHERLY LINE FOR THE NEXT THREE COURSES; THENCE S52°33'22"W A DISTANCE OF 382.90 FEET; THENCE S73°33'30"W A DISTANCE OF 949.43 FEET; THENCE S49°05'14"W A DISTANCE OF 493.08 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

A PARCEL OF LAND BEING A PORTION OF PARCEL 1 OF THOSE LANDS DESCRIBED IN EXHIBIT "A" OF THAT CERTAIN WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 1198, PAGE 1143, PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA. ALL LYING IN SECTION 30, TOWNSHIP 38 SOUTH, RANGE 40 EAST, MARTIN COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF LOT 27 OF THE PLAT OF "POLO CLUB", AS RECORDED IN PLAT BOOK 16, PAGE 67, PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA; THENCE S52°33'22"W ALONG SAID NORTH LINE OF SAID LOT 27 A DISTANCE OF 741.79 FEET; THENCE N16°59'12"W, A DISTANCE OF 197.96 FEET; THENCE N27°06'17"W, A DISTANCE OF 95.85 FEET; THENCE N26°50'48"W, A DISTANCE OF 720.42 FEET; THENCE N16°49'52"W, A DISTANCE OF 272.01 FEET; THENCE N14°57'04"W, A DISTANCE OF 454.03 FEET; THENCE N10°50'15"W, A DISTANCE OF 277.79 FEET TO AN INTERSECTION WITH THE SOUTHWESTERLY RIGHT OF WAY LINE OF ACCESS ROAD "A" FOR INTERSTATE 95 PER FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP SECTION NO 89095-2414, FOR INTERSTATE 95, SHEET 12 OF 17, LAST UPDATED ON 6-14-84; THENCE S55°50'57"E ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE, A DISTANCE OF 646.60 FEET; THENCE S34°07'45"E, A DISTANCE OF 1299.01 FEET TO THE POINT OF BEGINNING.