

[date]

Mr. _____ Tomiczek,
Harmony Property Group
etc.

Dear Mr. Tomiczek, et al.,

Save Chilhowee Mountain, Inc., (SCM) has observed and verified conditions on your project site at Overlook at Montvale (Overlook) that appear to violate the General Permit and SWPP for that project in that solid material is being introduced from the site into the waters of the State. Specifically, we have observed and verified the direct discharge to tributaries of Bell Branch of runoff water containing excessive amounts of suspended solids, and questionable discharge from Sediment Basin-1 (SB-1). We believe that Harmony Property Group's (HPG's) actions and inactions in causing those conditions violate Section 404 of the Federal Clean Water Act and the Tennessee Water Quality Act of 1977. The violations alleged in the numbered Sections below have occurred, at least in part, since the signing of the settlement agreement between SCM and HPG.

Accordingly, we invoke the provisions of that agreement concerning Violations of SWPPP or Water Quality Standards (Article 13) and ask that S&ME specifically confirm or decline to confirm each of these alleged violations forthwith.

1). On the evening of June 19, approximately 2 hours after rainfall from a thunderstorm, we observed an extremely muddy flow of water flowing in Bell Branch. The muddy flow was observed by SCM and was also noted by residents living along Happy Valley Road. SCM observed and documented that the muddy water was flowing from two of the tributaries that receive runoff from OM, and then subsequently flow to Bell Branch. From east to west the tributaries are Tributary 1 and Tributary 1a; Tributary 1 is identified as the stream for ARAP Crossing Number 1 and Tributary 1a is an unnamed blue-water stream located to the southwest side of the OM cul-de-sac. After the rain event, a sample was collected from Tributary 1a.. Laboratory analysis yielded a TSS of 572 mg/l. This value is approximately 12 times that of a water sample collected at approximately the same time from a local stream flowing down an undisturbed slope of Chilhowee Mountain into Bell Branch.

Subsequent inspection of the cull-de-sac area revealed that silt fences placed down-slope from the cul-de-sac had totally collapsed, apparently overwhelmed by mud, rock debris and water. The evident pathway of the muddy water was observed in the downslope wooded area leading to Tributary 1a. The cul-de-sac, because of the grade of the main road and the cul de sac road itself, received considerable runoff. We also observed that inadequate silt fences, rather than Type C silt fences, had been installed at that location. A few days later, we observed that a second row of non-Type C silt fences had been installed up-slope of the collapsed ones at that location.

An additional and perhaps considerably greater flow of muddy water and rock debris was observed in the general area of the 18" HDPE, located 100 feet or so to the west of the junction of the cul-de-sac road and the main subdivision road. The flow

included flow from collapsed silt fences on either side of the outfall protection area. Muddy flow to the upstream inlet side of the pipe was also observed. Again, a considerable distance of muddy flow was documented downslope into the woods and leading to Tributary 1a.

2) We are and remain concerned about apparent violation in the discharge of water containing an excessive amount of suspended solids still continues from Sediment Basin-1 (SB-1). We are aware that revisions to the SWPP were made on 2/13/07 and submitted to TDEC on 2/14/07. The revised SWPP states that any pumping of surface water of SB-1 would be made through an “Enviro” filter bag and use of a coagulant polyacrylamide be implemented. Photos on file at TDEC taken on April 13, 2007 during a site inspection show a fully water inflated “Enviro” filter bag and relatively non-turbid water between silt fences and on the discharge side. It would appear that this one time use has been discontinued. Five days later on April 18 a muddy discharge of water to Happy Valley Road from SB-1 was observed. The discharge was sampled and analysis yielded a TSS 10 times that of a Chilhowee mountain stream located outside the disturbed area of OM.

In May a site visit of the SB-1 area and the “Enviro” filter was made. The visit documented muddy/silty water flowing beneath the silt fences downslope from the collapsed filter bag, holes in the silt fences and silty/muddy water flowing to the woods down grade to Happy Valley Road.

A site visit on June 11 documented that the “Enviro” bag filter was still not in proper use; growing grass and mud were evident on top of the collapsed bag. Downslope

silt fences were in a general state of disrepair. Discharge from SB-1 to Happy Valley Road was again sampled and documented on June 20.

3) We observed during site visits in June that silt fences necessary to check the flow of water and soil down the steep slope opposite Spring 2 (SP-2) and Spring 3 (SP-3) are not installed. SP-2 and SP-3 are the springs located up gradient to the French drain constructed across the subdivision main road. Runoff to Tributary 1 from this slope is believed to be responsible for a high TSS observed in Bell Branch after a rain event on May 5. It was then observed that the color of the suspended solids in the stream was a noticeably darker brown color than observed previously in prior discharges to Bell Branch. The color appeared to be very similar to that of the soil material observed used prior to May 5 to build up and fill the steep slope of the ravine across from SP-2 and SP-3. Although the slope had been “walked” by a dozer, erosion channels and some slumping were documented.

Please be informed that the information contained in the three Sections above will be sent to TDEC for its information.

In addition, and as a courtesy, we bring to your attention this _____ ?????? _____ (BMP) violation. On a June 11 visit we observed that the potential water supply wells installed at the “clubhouse” and the “overlook” are not properly secured. Bolts securing the lids had not been tightened and the lids were easily removed. Locking caps, available from several well supply vendors, should be

installed/welded on the well casing. Due to the remoteness of the location the unsecured well heads provide the potential for both deliberate and inadvertent contamination to the wells and groundwater.

Sincerely,

Ellis Bacon, President

Save Chilhowee Mountain, Inc.