

STATE OF GEORGIA  
DEPARTMENT OF NATURAL RESOURCES  
ENVIRONMENTAL PROTECTION DIVISION

IN RE: Gary and Jordana Solyian )  
1026 Quaker Ridge Way )  
Duluth, Georgia 30097 ) ORDER NO. EPD-WP- 9509  
Fulton County )  
Respondent. )

**CONSENT ORDER**

**Authority**

**WHEREAS**, Mr. and Mrs. Solyian (the “Respondent”) conducted a land disturbing activity within the state mandated twenty-five (25) foot buffer of an unnamed tributary of the Chattahoochee River at 1026 Quaker Ridge Way, Duluth, Fulton County, Georgia (the “Site”); and

**WHEREAS**, the Director (the “Director”) of the Environmental Protection Division of the Georgia Department of Natural Resources (“EPD”) administers and enforces the “Erosion and Sedimentation Act of 1975”, O.C.G.A. § 12-7-1 *et. Seq.* (the “Act”); and

**WHEREAS**, EPD administers and enforces the Rules for Erosion and Sedimentation Control, GA. COMP. R. AND REGS. Chapter 391-3-7 (the “Rules”), which were promulgated and are in effect pursuant to the Act; and

**WHEREAS**, the Act and the Rules make it unlawful to conduct land-disturbing activities within the buffer; and

**Civil Penalty**

**WHEREAS**, O.C.G.A. § 12-7-15 *et. Seq.* provides that any person violating any provision of the Act or any rules and regulations issued or established pursuant to the Act, the Rules, or negligently or willfully failing or refusing to comply with any final order of the Director shall be liable for a civil penalty not to exceed \$2,500 per day for such violation; and

**Background**

**WHEREAS**, on March 12, 2024, the EPD was notified by the Respondent of a retaining wall constructed at the Site without obtaining the required buffer variance; and

**WHEREAS**, the Respondent requested a Consent Order from the EPD (hereinafter “CO”) allowing the structure to remain in the buffer; and

**WHEREAS**, on March 15, 2024, the Local Issuing Authority (hereinafter the “LIA”) confirmed with the EPD that the installation of the retaining wall was located within the state-mandated (25) foot buffer of an unnamed creek; and

**WHEREAS**, on March 25, 2024, the LIA confirmed via e-mail with the EPD that they are requesting a CO to allow the structure to remain; and

**WHEREAS**, the Director of the EPD has not issued a buffer variance for the land disturbing activities that occurred within the buffer at the Site; and

**WHEREAS**, the EPD Watershed Protection Branch confirmed there is a criteria under which a buffer variance could have been granted should one have been applied for by the Respondent; and

### Violations

**WHEREAS**, the Respondent conducted land disturbing activity within the buffer at the Site, which is a violation of O.C.G.A § 12-7-6(b)(15)(B) et. seq.; and

### Conditions

**WHEREAS**, the Director has determined that an amicable disposition of the alleged violations set forth herein is in the best interest of the citizens of the State of Georgia.

**NOW THEREFORE**, before the taking of any testimony and without adjudicating the merits of the parties' positions, the parties hereby resolve the allegations in this matter upon order of the Director and consent of Respondent as follows:

1. No additions or structural changes that would result in additional encroachment into the buffer may be made to the existing structures owned by the Respondent at the Site, and no additional impervious surfaces or structures will be placed within the buffer that would result in encroachment into the buffer at the Site.
2. The Respondent must mitigate for the construction of the structure remaining in the buffer. The EPD deems that an acceptable form of mitigation would be the enhancement of the surrounding buffer with vegetation. Therefore, the respondent shall submit a Corrective Action Plan (hereinafter "CAP") to the EPD for review and approval. Upon written approval by the EPD, the CAP shall become part of this Consent Order and the Respondent shall implement the Plan. The CAP shall contain, but not be limited to, the following:
  - a. The CAP shall stipulate how the impacted buffer areas on the entire site will be enhanced through planting of permanent vegetation of native species consisting of trees, shrubs, and grasses.
  - b. The CAP shall include a time schedule for restoration activities in the buffer.

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3. The Respondent agrees to pay the State of Georgia the sum of two thousand five hundred and thirty-one dollars (\$2,531.00) within thirty (30) days of the execution date of this Consent Order.
4. In consideration of Conditions 1, 2 and 3 above, the existing structure will be allowed to remain within the buffer at the Site.

### **Deadlines**

Time is of the essence in this Consent Order. Compliance with any deadline that falls on a Saturday, Sunday or state-recognized holiday shall be by the next business day.

### **Addresses**

All notices, correspondence, etc., from the Director and EPD to Respondent relating to this Consent Order shall be sent to:

Gary and Jordana Solyian  
1026 Quaker Ridge Way  
Duluth, Georgia 30097

Respondent shall submit address changes to EPD in written notice sent by certified mail; such notice shall include this Order number.

All correspondence from Respondent to EPD relating to this Consent Order shall be sent to:

Mr. Brian Boutelle  
Environmental Protection Division  
Mountain District – Atlanta Office  
4244 International Parkway, Suite 114  
Atlanta, Georgia 30354  
[brian.boutelle@dnr.ga.gov](mailto:brian.boutelle@dnr.ga.gov)

### **Public Notice**

This Consent Order may be subject to public notice and comment.

### **Required Submissions**

Upon the submission of any reports, plans, schedules or other information required by any Condition(s) of this Consent Order, EPD shall review the submission to determine its completeness. If EPD determines that the submission is complete, EPD shall notify Respondent in writing that the submission is approved.

If EPD determines that the submission is incomplete, it shall provide Respondent with written notice of the deficiencies. Respondent shall have fifteen (15) days from issuance of EPD's notice of deficiency to submit a corrected submission.

All submissions required by this Consent Order are, upon approval by EPD, incorporated by reference into, and made part of, this Consent Order. Any noncompliance with an approved submission shall be deemed noncompliance with this Consent Order.

Approval by EPD of any submission required by this Consent Order is not an agency determination that compliance with any state laws, regulations and/or permits, licenses, etc., will thereby be achieved, but is strictly limited to the completeness of the technical aspects of the submission with regards to the requirements of this Consent Order.

### **Force Majeure**

Failure of Respondent to complete the requirement(s) of any Condition(s), other than payment obligations, by the deadline(s) specified therein may be excused by EPD if 1) Respondent's failure was caused by a force majeure event, and 2) Respondent complies with all notification requirements in this section. Respondent shall have the burden of proving to EPD that it was rendered unable, in whole or part, by the force majeure event to meet the deadline(s).

The term "force majeure event" as used herein shall be limited to the following: an act of war (whether declared or not), including an invasion, act of foreign enemies, or terrorism; a strike, lockout, or other labor or industrial blockade or embargo which is not attributable to any unreasonable action or inaction on the part of Respondent; public riot; specific incidents of exceptional adverse weather conditions or natural disasters such as a hurricane, flood, or earthquake; a fire or explosion affecting the Respondent's operations; failure to secure timely and necessary federal, state, or local approvals or permits, provided approvals or permits have been timely and diligently sought; and any other occurrence caused by unforeseeable circumstances beyond the reasonable control of Respondent, as determined by EPD in its sole discretion.

Within two (2) business days of learning of any force majeure event that may reasonably be expected to cause a deadline to be missed, Respondent shall notify EPD verbally or in writing. Within seven (7) business days of learning of any force majeure event that may reasonably be expected to cause a deadline to be missed, Respondent shall submit written notice to EPD of the force majeure event, the possible effects and the anticipated length (if known) of any delay. EPD shall review the submission and negotiate with Respondent regarding the length of the proposed extension of deadlines, if any. The Respondent shall exercise due diligence and adopt all reasonable measures to avoid or minimize any delay.

### **Effect of Order**

Respondent consents and the Director executes this Consent Order solely for the purpose of addressing the alleged violations set forth herein. This Consent Order does not relieve Respondent of any obligations or requirements of any statute, rules, permit, or other matter administered by EPD except as specifically authorized herein, which authorization shall be strictly construed. This Consent Order is not a finding, determination, or adjudication of a violation of any state laws, rules, standards and/or requirements, nor does Respondent by consenting to this Consent Order make any admission with respect to any factual allegation contained in this Consent Order or to any liability to any third party.

Unless modified or terminated by a subsequent order, or otherwise specified in writing by the Director, this Consent Order shall be deemed satisfied and terminated upon full, complete, and timely performance of each and every condition set forth herein.

### **Further Enforcement**

Failure by Respondent to comply with any provision of this Consent Order may result in further enforcement action. Issuance of this Consent Order does not waive the Director's right to use the

violation(s) alleged herein, upon sufficient evidence, to show past violations in any subsequent enforcement proceeding.

**Finality**


For the purpose of enforcement, this Consent Order constitutes a final order of the Director in accordance with applicable Georgia law. By agreement of the parties, this Consent Order shall be final and effective immediately upon execution by the Director, shall not be appealable, and Respondent does hereby waive all administrative proceedings and judicial hearings on the terms and conditions of this Consent Order.

**Electronic Signatures**

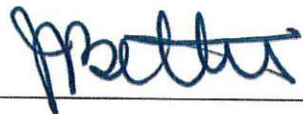
The parties agree that any electronic signatures on this Consent Order constitute original, valid signatures pursuant to the Uniform Electronic Transactions Act, O.C.G.A. § 10-12-1 *et seq.*

It is so ORDERED and CONSENTED TO on the following date 04/25/2024.

For the Georgia Environmental Protection Division:

By:   
Jeffery W. Cown, Director

For Respondent: *Gary and Jordana Solyian*

By: 

Printed Name: Jordana B. Solyian

Title: Owner