

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

In re:

Chapter 11

Singleton Creek, Inc.,

Case No. 16-71772-LRC

Debtor.

DEBTOR'S AMENDED APPLICATION TO EMPLOY SPECIAL COUNSEL

COMES NOW Singleton Creek, Inc., as Debtor and Debtor -in- Possession in the above-styled case proceeding under Chapter 11 of the Bankruptcy Code, and applies for an Order authorizing it to employ Gilbert, Harrell, Sumerford & Martin, P.C. as special counsel for the Debtor, and in support thereof shows the Court as follows:

-1-

Applicant is the Debtor in this case.

-2-

Applicant requires the services of an attorney to represent the Debtor in the resolution of a Notice of Violation filed by the Army Corps of Engineers (the "Corps") in the Superior Court of Gwinnett County, Book 54771, Page 0563. Said notice was filed by the Corps pre-petition on December 2, 2016. A copy of the notice is attached hereto and incorporated by reference herein.

-3-

Applicant desires to retain Gilbert, Harrell, Sumerford & Martin, P.C. (hereinafter "Special Counsel") as special counsel for the Debtor to resolve the issue with the Corps and to otherwise represent the Debtor, including in the conduct of any negotiation, mediation, settlement, or other activity ordinarily associated with the resolution of a Notice of Violation filed by the Corps.

-4-

Special Counsel is not disqualified from such employment since, as appears from the Declarations of Judson H. "Jud" Turner attached hereto, such law firm does not represent or hold any interest adverse to the Debtor and this estate with respect to the special matter upon which Special Counsel is to be employed.

-5-

Special Counsel has agreed to represent the Debtor in this matter for a fee of \$30,000.00, with half due upon this Court's approval and half upon completion of the resolution of the Notice of Violation. Applicant is informed and believes that the payment of such a fee is reasonable in light of Mr. Turner's qualifications and expertise. It is further contemplated that any compensation awarded hereunder will be pursuant to notice and order of this Court as provided in 11 U.S.C. § 330, and will be paid by the Debtor's owners after a Motion, Hearing and Order pursuant to 11 U.S.C. § 364.

-6-

The court has power to authorize employment of Special Counsel pursuant to 11 U.S.C. § 327(e) which states in pertinent part:

The trustee, with the court's approval, may employ, for a specified special purpose, other than to represent the trustee in conducting the case, an attorney that has represented the debtor, if in the best interest of the estate, and if such attorney does not represent or hold any interest adverse to the debtor or to the estate with respect to the matter on which such attorney is to be employed.

WHEREFORE, Applicant prays that he be authorized to employ Special Counsel as his special counsel to represent him in connection with the above-described action with compensation to be paid as an administrative expense in such amounts as this Court may hereafter determine as allowed upon application or applications to be filed by said firm.

This 24th day of January, 2017.

LAW OFFICES OF DOUGLAS JACOBSON, LLC

By: /s/ Douglas Jacobson
Douglas Jacobson
Georgia State Bar No. 223344
Attorneys for Debtor

2450 Atlanta Highway
Suite 803
Cumming, GA 30040
(770) 887-3700

BK 54771 PG 0563

FILED AND RECORDED
CLERK SUPERIOR COURT
GWINNETT COUNTY, GA

2016 DEC -2 PM 2:35

RICHARD ALEXANDER, CLERK

Return to
John Ballard
Assistant District Counsel
Office of Counsel
U S. Army Corps of Engineers
100 W. Oglethorpe Ave.
Savannah, GA 31402-0889

309663

Cross reference to Deed Book 43495 Pages 164-168 from Habersham Bank to Singleton Creek, Inc., and Deed Book 46358, Pages 160-164, Gwinnett County, Georgia.

NOTICE OF VIOLATION

The **UNITED STATES ARMY CORPS OF ENGINEERS, SAVANNAH DISTRICT**, administrator of the Clean Water Act, 33 U.S.C. § 1311, Section 404, hereby gives notice that the property of **SINGLETON CREEK, INC.**, at 2789 Satellite Boulevard, more particularly described below, contains wetlands and stream channels under the jurisdiction of Section 404 of the Clean Water Act. Placement of fill material into wetlands is prohibited unless pursuant to a permit issued by the U.S. Army Corps of Engineers. **SINGLETON CREEK, INC.**, having its principal place of business in Gwinnett County, Georgia, did place fill material or cause material to be placed into the jurisdictional wetlands and stream channels on said property and did excavation and fill activity within jurisdictional wetlands and stream channels without obtaining a permit in violation of 33 U.S.C. § 1311 of the Clean Water Act and said violation is therefore subject to an enforcement action.

Property Description

All that certain lot, tract or parcel of land composed of 44.85 acres, more or less, within two lots containing 30 acres of wetlands and 3,700 linear feet of Stream Number 1, Singleton Creek, 350 linear feet of Stream Number 3 and 100 linear feet of Stream Number 4 tributary with buffer. The tract is generally bounded on the north by Stream Number 3; on the south by Satellite Boulevard Northwest; on the east by several industrial parcels; and generally bounded on the west by the center line of Singleton Creek. These lots are the same as shown on the survey sheet labeled as Exhibit A – Mitigation Plan, recorded in Plat Book 54105, Page 0161, Clerk’s Office, Gwinnett County Superior Court, which plat by this reference thereto is incorporated herein for a more particular and accurate description of the property herein conveyed.

This being the same property conveyed in two tracts by deed from Habersham Bank to Singleton Creek, Inc., dated March 26, 2006, and recorded in Deed Book 43495, Pages 164-168, Gwinnett County Records and by deed from Satellite Realty Holdings to

0112706


BK 54771 PG 0564

Singleton Creek, Inc., dated October 28, 2007, and recorded in Deed Book 46358, Pages 160-164, Gwinnett County Records.

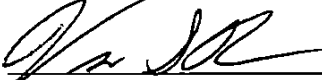
This Notice of Violation recorded on the tract hereinabove described runs with the land and any subsequent purchaser or transferee takes the property subject to this Notice of Violation and assumes liability for curing the outstanding violation in accordance with the Clean Water Act, 33 U.S.C. § 1344, Section 404 and to the satisfaction of the **UNITED STATES ARMY CORPS OF ENGINEERS, SAVANNAH DISTRICT.**

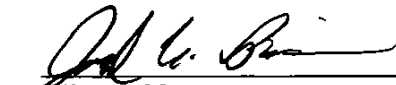
In witness whereof, the **UNITED STATES ARMY CORPS OF ENGINEERS, SAVANNAH DISTRICT**, executed this instrument by its duly authorized representative, this the 2nd day of December, 2016.

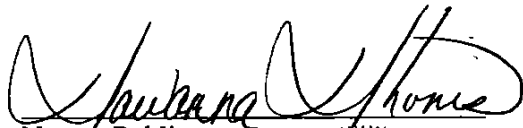
02 Dec 2016
Date


Kevin D. Thames
Chief, Project Management Section
Regulatory Division

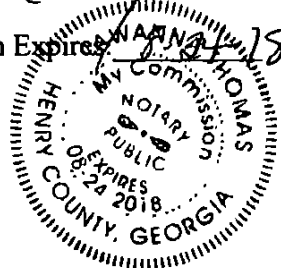
Signed, Sealed and Delivered
In the Presence of:


Witness Name:


Witness Name:


Notary Public
My Commission Expires 08/24/18

(Notary Seal)



IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION

In re:

Chapter 11

Singleton Creek, Inc.,

Case No. 16-71772-LRC

Debtor.

**DECLARATION OF JUDSON H. "JUD" TURNER IN SUPPORT
OF APPLICATION TO EMPLOY SPECIAL COUNSEL**

I, Judson H. "Jud" Turner, declare:

-1-

I am an attorney duly admitted to practice before all courts of the state of Georgia, as well as this court.

-2-

I am a member of Gilbert, Harrell, Sumerford & Martin, P.C. , a law firm that the Debtor is seeking to employ specially by the Application to which this Declaration is attached.

-3-

I have extensive experience representing parties in environmental matters in the courts of Georgia. I am well qualified to represent the Debtor in the matter for which it is being specially employed, and am willing to accept employment on the basis set forth in the annexed application.

-4-

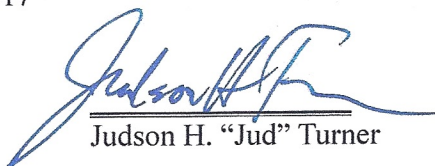
I have \$0 in my trust account for the payment of any expenses incurred in the bankruptcy.

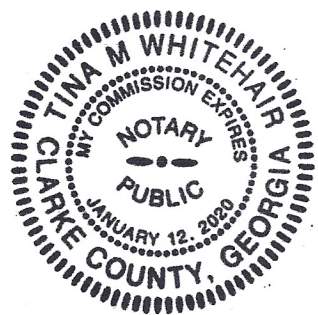
-5-

I do not represent or hold any interest adverse to the Debtor or the above-entitled estate with respect to the matter for which it is being employed.

I declare under penalty of perjury that the foregoing is true and correct.

This 18th day of January, 2017


Judson H. "Jud" Turner



Tina M. Whitehair

**IN THE UNITED STATES BANKRUPTCY COURT
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CERTIFICATE OF SERVICE

I hereby certify that I have this filed a copy of the above Application with the Court via its CM/ECF system, which will provide email notice to the following parties:

Lindsay P. Kolba (US Trustee)

Lindsay.P.Kolba@usdoj.gov

William Boone (Gwinnett Community Bank)

bboone@jamesbatesllp.com

I hereby certify that I have provided the following parties with a copy of the above Application via first-class mail:

Judson H. Turner

Gilbert, Harrell, Sumerford & Martin, P.C.

50 Hurt Plaza, S.E., Suite 1450-A

Atlanta, GA 30303

Dated: January 24, 2017.

LAW OFFICES OF DOUGLAS JACOBSON, LLC

By: /s/ Douglas Jacobson

Douglas Jacobson

Georgia State Bar No. 223344

Attorneys for Debtor

2450 Atlanta Highway
Suite 803
Cumming, GA 30040
(770) 887-3700