

Vincent C. Brockman
Executive Vice President
General Counsel

April 1, 2013

VIA FIRST CLASS MAIL AND E-MAIL

Mr. Terence Bonace (LC-8J)
Pesticides and Toxics Compliance Section
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Re: Supplemental Environmental Project Progress Letter Report, submitted pursuant to In re The Scotts Miracle-Gro Company (No. FIFRA-0502012-0024, Sept. 7, 2012).

Dear Mr. Bonace:

On behalf of The Scotts Miracle-Gro Company ("Scotts"), and pursuant to paragraph 136 and the Attachment¹ of the Consent Agreement and Final Order, In re The Scotts Miracle-Gro Company (No. FIFRA-0502012-0024, Sept. 7, 2012) (the "CAFO"), this letter is offered to provide information regarding the progress of the Supplemental Environmental Project ("SEP").²

Black Swamp Conservancy

Meadowbrook Marsh Preserve

On December 28, 2012, the Black Swamp Conservancy ("Black Swamp") established a donor-restricted endowment in the amount of \$23,000³, which is reserved for future maintenance and

¹ On February 21, 2013, EPA provided Scotts a revised SEP Attachment to the CAFO. The revised Attachment memorializes that one of the originally proposed projects, the Forrest Woods Nature Preserve Project, has been omitted due to a *force majeure* event, and it also reflects the addition of a project to be administered by the Cleveland Metroparks (Engel Road Parcel, Abram Creek Wetland). Any future reference to the CAFO Attachment (the "Attachment") will be to this revised document dated February 21, 2013. See E-mail from Peter Felitti to Steven Solow and carbon-copy to Brian Barwick, forwarding revised SEP Attachment (Feb. 21, 2013).

² Information regarding the progress of the SEP is based on representations and documentation provided by the project administrators, the Black Swamp Conservancy and the Cleveland Metroparks respectively.

³ Pursuant to the revision of the Attachment, this amount was increased from \$23,000 to \$28,454 by April 1, 2013.

improvement of the Meadowbrook Marsh Preserve. This fund is held in Black Swamp's money market account at the Huntington Bank in Cleveland, Ohio. On January 18, 2013, Black Swamp acquired this property⁴, and on this same day, it conveyed the property to the Danbury Township pursuant to a donation agreement between parties dated January 8, 2013 (Danbury Township's deed was recorded in Ottawa County on January 22, 2013). On January 18, 2013, the Danbury Township granted a conservation easement to Black Swamp for this parcel and an additional contiguous 112 acres (recorded in Ottawa County on January 22, 2013). Finally, the money set aside for administrative costs for this project, \$8,900, was released into Black Swamp's general fund on January 31, 2013. This conservation project has been completed.⁵

Water's Edge Preserve

On December 28, 2012, Black Swamp established a donor-restricted endowment in the amount of \$120,000, which is reserved for future maintenance and improvement of the Water's Edge Preserve. This fund is held in Black Swamp's money market account at the Huntington Bank in Cleveland, Ohio. On January 29, 2013, Black Swamp signed a conditional purchase agreement with the owners of this property; the contingency was linked to acquiring increased funding by March 1, 2013. On February 28, 2013, Scotts, pursuant to EPA approval, allocated an additional \$242,000 to be used for the acquisition of this property. Black Swamp has initiated the due diligence phase of the acquisition, which will need to be completed prior to acquisition.

Cleveland Metroparks

Engel Road Parcel, Abram Creek Wetland

On February 21, 2013, Cleveland Metroparks entered into a contingent purchase agreement with the owner of the parcel, which was dependent on Cleveland Metroparks receiving acquisition funding (\$760,000) by May 25, 2013. On March 8, 2013, Scotts transferred \$766,800 to Cleveland Metroparks for the acquisition and establishment of an endowment for this property. On March 14, 2013, the Board of Park Commissioners of Cleveland Metroparks officially approved the acquisition and conveyance of this property and accepted the funding from Scotts for this SEP. Cleveland Metroparks staff has initiated the due diligence phase of the acquisition, which will need to be completed prior to acquisition.

* * *

⁴ The Attachment identifies that 75 acres would be acquired in this project. The Black Swamp Conservancy was able to acquire an additional 4 acres at the agreed to price for a total purchase of 79 acres.

⁵ In the spring or summer months of 2013, Black Swamp, in partnership with the Danbury Township, Ohio Ornithological Society, and the Black Swamp Bird Observatory, plans to hold a public ribbon-cutting and celebration of the new Meadowbrook Marsh Preserve.

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I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Any questions regarding this Progress Report should be directed to Scotts Counsel, Mr. Steven Solow.

Sincerely,



Vincent C. Brockman
Executive Vice President & General Counsel

Cc: Mr. Steven Solow, Counsel to The Scotts Miracle-Gro Company
Mr. Peter Felitti (C-14J), Office of Regional Counsel, U.S. Environmental Protection Agency, Region 5
Mr. Brian Barwick (C-14J), Office of Regional Counsel, U.S. Environmental Protection Agency, Region 5