



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733

JAN 26 2012

CERTIFIED MAIL - RETURN RECEIPT REQUESTED (7007 1490 0002 3734 1738)

Mr. Robert Hobson  
USA SPEEDWAY, LLC  
P.O. Box 345  
Sterlington, Louisiana 71280

Re: Administrative Complaint: Docket Number CWA-06-2012-2709

Dear Mr. Hobson:

Enclosed is an Administrative Complaint (Complaint) issued for violation(s) of Section 301(a) of the Clean Water Act (Act), 33 U.S.C. § 1311(a), which prohibits the unauthorized discharge of any pollutant into waters of the United States. Section 309 of the Act, 33 U.S.C. § 1319, authorizes the Environmental Protection Agency (EPA) to take appropriate enforcement action to ensure compliance with the Act, regulations, and applicable laws.

The enclosed Administrative Complaint which assesses a monetary penalty is issued to USA SPEEDWAY, LLC (Respondent) for the unauthorized fill activities that were carried out near the Ouachita River and Highway 2, Sterlington, Union Parish, Louisiana, beginning on July 1, 2009, and ending on October 1, 2009.

Respondent has the right to request a hearing regarding the violations alleged in the Complaint and the proposed administrative civil penalty. Please refer to 40 C.F.R. Part 22, "Consolidated Rules of Practice," for information regarding hearing and settlement procedures.

If you wish to contest the allegations in the Complaint, you must file an Answer within thirty (30) days of receipt of the enclosed Complaint by mailing your Answer to EPA's Regional Hearing Clerk at the following address:

Regional Hearing Clerk (6RC-D)  
U.S. Environmental Protection Agency, Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733

If you do not file an Answer by the applicable deadline, a default order may be issued. If that occurs, each allegation in the Complaint will be deemed to be admitted as true by you, and you will have waived your right to a hearing on said allegations. The proposed penalty may then be assessed and become due and payable, without further proceedings, thirty (30) days after an Order is issued upon default. You have the right to be represented by an attorney, at any stage of the proceedings, including any informal discussions with EPA.

If you have any questions, I recommend that you contact Jeanene Peckham at (214) 665-6411.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'W.K. Honker', with a long horizontal flourish extending to the right.

William K. Honker, P.E.

Director

Water Quality Protection Division

Enclosure

cc: w/ Administrative Complaint  
Regional Hearing Clerk  
Col. Jeffery R. Eckstein

FILED

2012 JAN 26 AM 11:44

REGIONAL HEARING CLERK  
EPA REGION VI

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6**

**IN THE MATTER OF**

**USA SPEEDWAY, LLC**

**Respondent.**

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**Docket No. CWA 06-2012-2709**

**Proceeding Under § 309 of  
the Clean Water Act**

**Administrative Complaint**

**I.**

**STATUTORY AUTHORITY**

1. This Administrative Complaint (“Complaint”) is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Section 309(g) of the Clean Water Act (“Act”), 33 U.S.C. §1319(g). The Administrator of EPA has delegated the authority to issue this Complaint to the Regional Administrator of EPA Region 6, who has further delegated this authority to the Director of the Water Quality Protection Division, EPA Region 6 (“Complainant”). This Class I Administrative Complaint is issued in accordance with the Consolidated Rules of Practice, published at 40 C.F.R. Part 22.

**II.**

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

2. USA SPEEDWAY, LLC (“Respondent”), is a Louisiana corporation, and therefore is

a “person” as defined by Section 502(5) of the Act, 33 U.S.C. § 1362(5).

3. Under Section 301(a) of the Act, 33 U.S.C. §1311(a), it is unlawful for any person to discharge any pollutant from a point source to waters of the United States except with the authorization of, and in compliance with, a permit issued under the Act.

4. Section 404 of the Act, 33 U.S.C. §1344, provides that the Secretary of the Army, acting through the Chief of Engineers for the U.S. Army Corps of Engineers (“COE”), may issue permits for the discharge of dredged or fill material into navigable waters.

5. Fill activities began approximately July 1, 2009, and continued to October 1, 2009. Respondent, and/or individuals acting on its behalf, discharged “dredged” material and /or discharged “fill” material, as those terms are defined at Section 502 of the Act, 33 U.S.C. §1362, and 40 C.F.R. §232.2, by means including heavy equipment, in, on and directly to approximately 2.4 acres of waters of the U.S. located in Section 30, Township 20 North and Range 4 East, near the Ouachita River, in Union Parish, Louisiana.

6. The discharged dredged and/or fill material are “pollutant[s]” within the meaning of Section 502(6) of the Act, 33 U.S.C. §1362(6).

7. Each piece of mechanized equipment used to carry out the discharges, is considered a “point source” within the meaning of Section 502(14) of the Act, 33 U.S.C. § 1362(14).

8. At all times relevant to the violations alleged herein, the waters/wetlands referred to in paragraph 5 were “waters of the United States” as defined by Section 502(7) of the Act, 33 U.S.C. §1362(7), and 40 C.F.R. §232.2.

9. At no time relevant to this action did Respondent have a permit issued by the COE for

the discharges described above in Paragraph 5.

10. At times stated in Paragraph 5, Respondent and/or individuals acting on his behalf discharged pollutants from a point source into waters of the United States without a permit issued by the COE. Each day of unauthorized discharge was a violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

11. Under Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), Respondent is liable for administrative civil penalties in an amount not to exceed \$11,000.00 per day for each day during which a violation occurred or continued, up to a maximum of \$37,500.00.

12. EPA has afforded the State of Louisiana an opportunity to consult with EPA regarding the assessment of an administrative penalty against Respondent, as required by Section 309(g)(1) of the Act, 33 U.S.C. § 1319(g)(1) of the Act.

13. EPA has notified the public of the filing of this Complaint and has afforded the public thirty (30) days to comment on the Complaint and on the proposed penalty as required by Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A). At the expiration of the notice period, EPA will consider any comments filed by the public.

### **III.**

#### **PROPOSED PENALTY**

14. Based on the foregoing Findings of Fact and Conclusions of Law, and pursuant to the authority of Sections 309(g)(1) and (g)(2)(A) of the Act, 33 U.S.C. §§ 1319(g)(1) and (g)(2)(B), EPA, Region 6 hereby proposes to assess against Respondent a penalty of one-thousand five hundred dollars (\$1,500.00). The proposed penalty amount has been determined based on the

statutory factors specified in Section 309(g)(3), 33 U.S.C. §1319(g)(3), which include such factors as the nature, circumstances, extent and gravity of the violation(s), any economic benefits, prior history of such violations, degree of culpability, and such matters as justice may require.

IV.

**FAILURE TO FILE AN ANSWER**

15. If Respondent wishes to deny or explain any material allegation listed in the above Findings or to contest the amount of the penalty proposed, **RESPONDENT MUST FILE AN ANSWER TO THIS COMPLAINT WITHIN THIRTY(30) DAYS AFTER SERVICE OF THIS COMPLAINT**, whether or not Respondent requests a hearing as discussed below.

16. The requirements for such an Answer are set forth at 40 C.F.R. § 22.15. Failure to file an Answer to this Complaint with thirty (30) days of receipt of the Complaint shall constitute an admission of all facts alleged in the Complaint and a waiver of the right to a hearing. Failure to deny or contest any individual material allegation contained in the Complaint will constitute an admission as to that finding or conclusion under 40 C.F.R. § 22.15(d).

**17. IF RESPONDENT DOES NOT FILE AN ANSWER TO THIS COMPLAINT WITHIN THIRTY (30) DAYS AFTER SERVICE OF THIS COMPLAINT, A DEFAULT ORDER MAY BE ISSUED AGAINST RESPONDENT PURSUANT TO 40 C.F.R. § 22.17.** A Default Order, if issued, would constitute a finding of liability, and could make the full amount of the penalty proposed in this Complaint due and payable by Respondent without further proceedings thirty (30) days after a final order issued upon default.

18. Respondent must send its Answer to this Complaint, including any request for

hearing, and all other pleadings to:

Regional Hearing Clerk (6RC-D)  
Lorena Vaughn  
U.S. EPA Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, Texas 75202-2733

19. The Answer must be signed by Respondent, Respondent's counsel, or other representative on behalf of Respondent and must contain all information required by 40 C.F.R. §§ 22.5 and 22.15, including the name, address, and telephone number of Respondent and Respondent's counsel. All other pleadings must be similarly signed and filed with the Regional Hearing Clerk.

**V.**

**NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

20. Respondent may request a hearing to contest any material allegation contained in this Complaint, or to contest the appropriateness of the amount of the proposed penalty, pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g). The procedures for hearings are set out at 40 C.F.R. Part 22, including Subpart I, 40 C.F.R. §§ 22.50 and 22.52.

21. Any request for hearing should be included in the Respondent's Answer to this Complaint; however, as discussed above, Respondent must file an Answer meeting the requirements of 40 C.F.R. § 22.15 in order to preserve the right to a hearing or to pursue other relief.

22. Should a hearing be requested, members of the public who commented on the issuance of the Complaint during the public comment period will have a right to be heard and to

present evidence at such hearing under Section 309(g)(4)(B) of the Act, 33 U.S.C. § 1319(g)(4)(B).

## VI.

### SETTLEMENT

23. EPA encourages all parties against whom civil penalties are proposed to pursue the possibility of settlement through informal meetings with EPA. Regardless of whether a formal hearing is requested, Respondent may confer informally with EPA about the alleged violations or the amount of the proposed penalty. Respondent may appear at any informal conference or formal hearing personally, by counsel or other representative, or both. To request an informal conference on the matters described in this Complaint, please contact Jeanene Peckham at (214) 665-6411.

24. If this action is settled without a formal hearing and issuance of an opinion by the Presiding Officer pursuant to 40 C.F.R. § 22.27, this action will be concluded by issuance of a Consent Agreement and Final Order (“CAFO”) pursuant to 40 C.F.R. 22.18(b). The issuance of a CAFO would waive Respondent’s right to a hearing on any matter stipulated to therein or alleged in the Complaint. Any person who commented on this Complaint would be notified and given an additional thirty (30) days to petition EPA to set aside any such CAFO and to hold a hearing on the issues raised in the Complaint. Such a petition would be granted and a hearing held only if the evidence presented by the petitioner’s comment was material and was not considered by EPA in the issuance of the CAFO.

25. If Respondent chooses to mail a cashier’s check or certified check payable to

“Treasurer of the United States”, the matter of this Complaint will be concluded with issuance of a Final Order by EPA.

26. Neither assessment nor payment of a penalty in resolution of this action will affect Respondent’s continuing obligation to comply with all requirements of the Act, the applicable regulations and permits, and any separate Compliance Order issued under Section 309(a) of the Act, 33 U.S.C. § 1319(a), including one relating to the violations alleged herein.

JAN 26 2012

Date



William K. Honker, P.E.  
Director  
Water Quality Protection Division  
U.S. EPA, Region 6

CERTIFICATE OF SERVICE

I certify that on JAN 26 2012 the original and a true and correct copy of this Complaint was filed with the Regional Hearing Clerk, Region 6, and that a true and correct copy of this Complaint was deposited with the U.S. Postal Service addressed to the following person.

Certified Mail, return receipt requested:

Mr. Robert Hobson  
P.O. Box 345  
Sterlington, Louisiana 71280

Jeanene Beckham