

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

IN THE MATTER OF:)
Rodney O. Corr)
RESPONDENT.)
_____)

DOCKET NO: CWA-04-2000-5508

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EPA REGION 4

COMPLAINANT'S REBUTTAL

COMES NOW the Complainant, the United States Environmental Protection Agency (EPA), Region 4, and submits its rebuttal to *Respondent's Initial Prehearing Exchange*, filed August 21, 2009.

I. OBJECTION TO RESPONDENT'S PROPOSED WITNESSES

EPA objects to the following witnesses proposed by Respondent in *Respondent's Initial Prehearing Exchange* for the reasons specified:

1. Atty. Terese T. Wyly: Complainant objects to this witness as Respondent's summary of her testimony suggests she will testify as an expert on the Clean Water Act. Although the summary references specific provisions of the CWA, as they pertain to the property in question, it is not clear if Ms. Wyly will provide expert legal testimony or factual testimony. To the extent she would provide expert legal testimony, Complainant objects, as questions of law should be resolved through legal briefs and arguments of counsel. To the extent she will provide factual testimony based on first hand knowledge of the site concerning the application of the cited provisions of the CWA as they pertain to the violation, Complainant does not object.

2. Atty. Mack Cameron: Complainant objects to this witness as Respondent's summary of his testimony suggests he will testify as an expert on the Clean Water Act. Although the

summary references specific provisions of the CWA, as they pertain to the property in question, it is not clear if Mr. Cameron will provide expert legal testimony or factual testimony. To the extent he would provide expert legal testimony, Complainant objects, as questions of law should be resolved through legal briefs and arguments of counsel. To the extent he will provide factual testimony based on first hand knowledge of the site concerning the application of the cited provisions of the CWA as they pertain to the violation, Complainant does not object.

3. Hon. J. P. Compretta: Complainant objects to this witness as Respondent has not identified any personal knowledge that Mr. Comperetta may have concerning the alleged violations in this action. Respondent's summary of Mr. Compretta's testimony states that Mr. Compretta will testify as to Respondent's "dealing with ALL of the Government employees." Based on this description it is not clear exactly what Mr. Compretta will testify to. To the extent it relates to Respondent's dealings with the government on other properties it is clearly not relevant. To the extent it is relates to the Respondent's dealing with the government concerning the property subject to this action, Mr. Compretta was not a party to any communications between EPA and Respondent and has no first hand knowledge.

4. Scottie Cuevas: Complainant objects to this witness as Respondent has not identified any personal knowledge that Mr. Cuevas may have concerning the alleged violations in this action. Respondent's summary of Mr. Cuevas' testimony states that Mr. Cuevas will testify as to Respondent's "dealing with ALL of the Government employees." Based on this description it is not clear exactly what Mr. Cuevas will testify to. To the extent it relates to Respondent's dealings with the government on other properties it is clearly not relevant. To the extent it is relates to the Respondent's dealing with the government concerning the property subject to this

action, Mr. Cuevas was not a party to any communications between EPA and Respondent and has no first hand knowledge.

5. Sessie Maneri: Complainant objects to this witness as she was named by Respondent to testify to “the harassment of Mr. Corr by the Corp of Engineering [sic] Mobil District at a meeting of Realtors in Bay Saint Louis” This testimony is unrelated to the alleged violations and therefore is irrelevant to this action.

6. Ronald A. Krizman: Mr. Krizman is deceased. According to Mr. Krizman’s College newsletter from Texas A & M University he passed away May 20, 2006.

II. OBJECTION TO RESPONDENT’S PROPOSED EXHIBITS

EPA objects to the exhibits proposed by *Respondent’s Initial Prehearing Exchange* for the reasons specified:

Exhibits 1 to 14: Complainant objects to these documents because they concern property that is not the subject of the violations alleged in this case, have no relationship to the matter at hand, and such documents should be excluded under § 22.22(a) (1) of the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permit” (the Rules of Practice) as they are irrelevant and immaterial. The documents are related to property owned by Respondent on St. Joseph Street, in Waveland, Hancock, Mississippi

Exhibits 15 to 42: Complainant objects to these documents as they concern property that is not the subject of the alleged violations in this case, have no relationship to the matter at hand, and should be excluded under § 22.22(a)(1) of the Rules of Practice as they are irrelevant and immaterial. The documents are related to property owned by Respondent on Ireland Street, in Waveland, Hancock, Mississippi.

Exhibit 54: “Mark Cameron’s Letter to Ms. Jackson about Cease and Desist”

Complainant objects to this Exhibit as a copy of the document is not included in Respondent’s Prehearing Exchange.

Exhibits 58 to 64: “Pictures of the Site” Complainant will not object to these pictures if the date the pictures were taken can be authenticated.

Exhibit 66: “Notice of Public Hearing for Cameron Bay” Complainant objects to this Exhibit as it does not concern the property or the alleged violations that are subject of this action. The Exhibit should be excluded under § 22.22(a)(1) of the Rules of Practice as it is irrelevant and immaterial.

Exhibit 67: “Google Map Showing distance of drainage ditch to Bayou Lacrouix” Complainant objects to the introduction and use of this map. There is no legend on the map that indicates any measurement for distance; therefore it is impossible to use the map for its intended purpose. The map has no probative value.

Exhibit 75: “6/15/2001 Permit for Lot 7 Boat Launch Mark Fridge” Complainant objects to this Exhibit as Lot 7 is not part of the property where the alleged violations occurred. This Exhibit should be excluded under § 22.22(a)(1) of the Rules of Practice as it is irrelevant and immaterial.

Exhibit 76: “3/16/2001 Survey of Mark Fridge Property Boat Launch” Complainant objects to this Exhibit as the survey is not for property where the alleged violations in this action occurred. This Exhibit should be excluded under § 22.22(a)(1) of the Rules of Practice as it is irrelevant and immaterial.

Exhibit 77: “Picture of Ireland Street Boat Launch” Complainant objects to this Exhibit as the picture is not of property where the alleged violations in this action occurred. The Exhibit should be excluded under § 22.22(a)(1) of the Rules of Practice as it is irrelevant and immaterial.

Exhibit 85: “Permit for Nationwide #14 for Hancock Co. Ditches on side of Roadway” Complainant objects to this exhibit as the permit is not for the property where the alleged violations occurred in this action. The Exhibit should be excluded under § 22.22(a)(1) as they are irrelevant and immaterial.

Exhibit 90: “Enviro South Letter and Check showing payment of Mitigation for Ireland St.” Complainant objects to this Exhibit as the letter references property not subject of this action. The Exhibit should be excluded under § 22.22(a)(1) of the Rules of Practice as it is irrelevant and immaterial.

Exhibit 100: “4/14/2009 Wilda Cobb response on Judge Gunning letter. Wilda Cobb’s demanding me to agree to Order or will put lien on my property” Complainant objects to the mischaracterization of this Exhibit. The Exhibit is a “Notice of An Ex Parte Communication by Respondent” filed by Complainant. The Notice was filed by the Complainant when it was discovered that a copy of a document Respondent filed with the Clerk was different than the copy sent to Complainant.

Exhibit 105: “Ireland Street Lot 28,29,30 & 31 Property Governmental Taking” Complainant objects to this exhibit as it references property not subject of this action. The Exhibit should be excluded under § 22.22(a)(1) of the Rules of Practice as it is irrelevant and immaterial. Moreover, a copy of the document is not included in Respondent’s Prehearing Exchange.

