

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

FILED
08 JUN 30 PM 2:54
REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:) Docket No. CWA-06-2007-2725
))
LAFOURCHE PARISH,))
))
Respondent))
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COMPLAINANT'S PREHEARING EXCHANGE

The Complainant, the Director of the Water Division, through his attorney, hereby files his Prehearing Exchange pursuant to an Prehearing Order, issued by the Administrative Law Judge and pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22. In the Order, the Administrative Law Judge instructed the Parties to file a Prehearing Exchange containing specific information. This document contains Complainant's responses to the Prehearing Order.

A. WITNESSES:

The Complainant may call the following witnesses at the hearing:

Expert and Fact Witnesses

1. Name: Furcy J. Zeringue II
Title: Botanist

Address: U.S. Army Corps of Engineers, New Orleans District
Post Office Box 60267
New Orleans, Louisiana 70160-0267

Phone: (504)862-2099
Fax: (504)862-1697
E-mail: furcy.j.Zeringue@usace.army.mil

Education: B.S.F. Forestry, Louisiana State University (1974)
M.S. Wildlife Management, Louisiana State University (1980)

Regulatory

Work Experience: 13 years as Botanist/Investigator with the Surveillance and Enforcement Section of the Regulatory Branch, New Orleans District, U. S. Army Corps of Engineers (USACE).

6 years as Biologist/project manager with the Regulatory Functions Branch, Memphis District, USACE.

Mr. Zeringue will be testifying as to the nature and extent of the USACE's jurisdiction on the sites listed in the Amended Complaint, and the resultant need for USACE Clean Water Act section 404 permits, 33 U.S.C. § 1344. He will testify about the facts contained in the Jurisdiction Determination, attached hereto as exhibit _____. Additionally, Mr. Zeringue will be testifying as to the facts and circumstances of violations listed in the Amended Complaint. Mr. Zeringue conducts field inspections and has significant experience inspecting operations that may be occurring in wetlands as defined in the Clean Water Act. Mr. Zeringue conducted an inspection of Respondent's operations on March 3, 2006, and thus he will testify as to his observations of the operations and his communications with Respondent and Respondent's agents regarding the alleged violations, particularly the illegal discharge of pollutants from the operations into waters of the U.S which he personally observed. He will discuss the harm which the operations have on the environment. In addition, Mr. Zeringue made a map of the two areas and he will testify as to what they depicts, including the complete flow paths.

3. **Name:** John Herman

Phone: (504) 862-1581

Fax: (504) 862-2574

E-mail: john.m.herman@usace.army.mil

Education: B.S. Physical Science, Louisiana State University (1995)

Regulatory

Work Experience: 13 years in Regulatory (permits). Currently serves as a senior project manager with the Central Evaluation Section but has worked in all the permit sections of the Regulatory Branch, New Orleans District, US Army Corps of Engineers (USACE).

Mr. Herman will be testifying as to the nature and extent of the USACE's jurisdiction on the sites listed in the Amended Complaint, and the resultant need for USACE Clean Water Act section 404 permits, 33 U.S.C. § 1344. Additionally, Mr. Herman will be testifying as to the facts and circumstances of violations listed in the Amended Complaint. Mr. Herman conducts field inspections and has significant experience inspecting operations that may be occurring in wetlands as defined in the Clean Water Act. Mr. Herman conducted an inspection of Respondent's operations on October 11, 2007, and thus he will testify as to his observations of the operations and his communications with Respondent and Respondent's agents regarding the alleged violations, particularly the illegal discharge of pollutants from the operations into waters of the U.S which he personally observed. He will discuss the harm which the operations have on the environment. Mr. Herman also took photographs of the operations areas during the inspection and he will authenticate the photographs and testify as to what these photographs depict.

2. Name: Donna Mullins
Title: Environmental Life Scientist

Address: 1445 Ross Avenue, Suite 1200
Dallas, Texas 75202
6WQ-EM

Phone: (214) 665-7576
Fax: (214) 665-6689
E-mail: mullins.donna@epa.gov

Education: B.S. Wildlife Management, Oklahoma State University (1980)

Regulatory

Work Experience: 23 years with EPA

8 years as an Wetlands Enforcement Officer in the Marine and Wetlands Section, Water Quality Protection Division, EPA

Ms. Mullins will be testifying about how the penalty was derived for this action. She has been doing penalty calculations for 8 years. In this case, Ms. Mullins will discuss how she assessed the \$70,000 penalty against the Respondent using the statutory factors set forth in Section 309(g)(3), 33 U.S.C. § 1319(g)(3) of the CWA.

Fact Witnesses

4. Custodians of Records - EPA personnel may be called to establish the foundation for certain exhibits and the absence or receipt of certain records.
5. Any witness named by Respondent.
6. Any rebuttal witness, as required.

Although Complainant does not anticipate the need to call any additional witness, Complainant respectfully reserves the right to amend or supplement the witness list and to expand or otherwise modify the scope and extent of testimony of any of these potential witnesses, where appropriate, and upon adequate notice to Respondent and notice and order of this Court.

Complainant's witnesses will not need an interpreter in order to testify.

Special accommodations under the Americans with Disabilities Act will not be needed for counsel, or any witness or party representative.

B. EXHIBITS:

The Complainant may offer into evidence the following exhibits:

| <u>EXHIBIT NO.</u> | <u>DESCRIPTION</u> |
|--------------------|--------------------|
|--------------------|--------------------|

- 1 Lafourche Parish Administrative Order, CWA-06-2004-2703, 8/18/04.
- 2 Lafourche Parish Case Wetlands Enforcement Summary, 8/3/04
- 3 Lafourche Parish Amended Administrative Order, CWA-06-2703,
11/30/04
- 4 Lafourche Parish Case Wetlands Enforcement Summary, 11/22/04
- 5 Lafourche Parish Violation Map, 3/3/06
- 6 Lafourche Parish Cease and Desist for Violation No. MVN 2006-1353-
SZ, 05/08/06
- 7 Lafourche Parish response to the COE concerning Violation MVN-2006-
1353-SZ, 1/10/07
- 8 Lafourche Parish Rouse/Theriot Email from Cullen L. Curole, 07/16/2007
- 9 Lafourche Parish Congressional Letter to U.S. Senator David Vitter, re:
Mrs Charlotte Randolph, President of Lafourche Parish concerning
unauthorized land clearing and fill off La. Highway 1, 8/31/07
- 10 Lakefields Map, Violation Site Map, 7/24/07
- 11 Lafourche Parish Administrative Complaint, EPA Docket Number CWA-
06-2007-2725, 8/20/07
- 12 Lafourche Parish Penalty Calculation, 6/27/07
- 13 Lafourche Parish Case Wetlands Enforcement Summary, 07/26/07
- 14 Lafourche Parish Notice of Proposed Assessment of Clean Water Act
Section 309(g) Class II Administrative Penalty and Opportunity to
Comment, 8/22/07
- 15 Lafourche Parish Certified Mail Receipt, 8/20/07

16 EPA Correspondence to Lafourche Parish, 08/31/07

17 EPA E-mail concerning Public Notice

18 Senator David Vitter EPA Control, 09/20/07

19 EPA response to Senator Vitter Control, 10/15/07

20 Lafourche Parish Answer to Administrative Complaint, CWA-06-2007-
2725, 09/21/07

21 E-mail from John Emerson to Donna Mullins, 11/14/07

22 E-mail from John Emerson to Donna Mullins, 11/15/07

23 Complainant's First Status Report, 01/08/08

24 Lafourche Parish Prehearing Order, 03/20/08

25 E-mail from David Gillispie to Donna Mullins, 04/07/08

26 Letter from Christopher Riviere to David Gillespie

27 Complainant's Notice of Substitution of Counsel, 03/27/08

28 COE Internal Sheet for Jurisdictional Determinations

29 Clean Water Act Section 404 Settlement Penalty Policy

30 Corps of Engineers Wetlands Delineation Manual

31 E-mail from Furcy Zeringue to Donna Mullins, 01/29/08

32 Joint Permit Application for Work Within the Louisiana Coastal Zone,
07/16/07

33 E-mail from John Herman to Furcy Zeringue, 11/06/07

34 E-mail from John Herman to Furcy Zeringue, 10/15/07

35 Lafourche Parish Penalty Calculation, 06/23/07

36 Lafourche Parish Case Wetlands Enforcement Summary, 06/10/08

- 37 EPA Notice of Proposed Assessment of Clean Water Act Section 309(g)
Class II Administrative Penalty and Opportunity to Comment
- 38 COE Internal Tracking Sheet for Jurisdictional Determinations, 10/15/07
- 39 COE Memo For Information
- 40 COE Violation Report Form, 10/15/07
- 41 COE Memo For Information

All of the exhibits listed above are attached hereto and incorporated herein by reference.

The Complainant respectfully reserves the right to amend its prehearing exchange to add or subtract exhibits and/or documents.

C. PLACE FOR HEARING AND ESTIMATED TIME NEEDED:

Pursuant to 40 C.F.R. §§ 22.19(d) and 22.21(d), the Complainant requests that the hearing be held in Dallas, Texas. Complainant estimates two (2) days will be needed to present its direct case.

D. ASSESSMENT OF CIVIL PENALTY:

STATUTORY FACTORS

Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), EPA has the authority to assess against Respondent an administrative civil penalty not to exceed \$32,500 per violation for a Class I penalty and \$157,500 for a Class II penalty. Based upon the facts alleged in the Complaint, and in accordance with the statutory penalty factors enumerated under Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), Complainant is seeking a penalty of \$70,000 against Respondent for discharging pollutants into waters of the U.S.

The first four statutory factors deal with the violation itself and consider the “nature,

circumstances, extent and gravity” of the CWA violation. The next four factors involve circumstances surrounding the violator’s act and include the violator’s ability to pay, any prior history of CWA violations, the degree of culpability, and economic benefit (if any) derived from the violation. The final factor considered is “such other matters as justice may require.” 33 U.S.C. § 1319(g)(3).

PENALTY CALCULATION

The penalty assessed is to promote the goals of fair and equitable treatment among the regulated community and to deter further noncompliance.

Under Section 309(g)(3), 33 U.S.C. § 1319(g)(3), EPA must consider the nature, circumstances, extent and gravity of the violation. In the case at hand, on multiple occasions on or about March 3, 2006, Respondent and/or other persons and/or a business entity or entities acting at Respondent’s request or direction and on its behalf discharged and caused the discharge of pollutants from point sources to waters of the United States without a permit issued under the Act in violation of Sections 301(a) and 309(g)(1)(A) of the Act, 33 U. S. C. §§ 1311(a) and 1319(g)(1)(A). More particularly, during the construction of a drainage canal and the clearing of approximately 8.65 acres of forested, jurisdictional wetlands located in Section 19, Township 15 South, Range 17 East, Lafourche Parish, Louisiana, Respondent and/or said other parties discharged “dredged material” and “fill material,” as defined by 40 C. F. R. § 232.2, by means of earth-moving and other equipment into said wetlands. Further, on or about October 11, 2007, Respondent and/or other persons and/or business entity or entities acting at the Respondent’s request or direction and on its behalf discharged and caused the discharge of pollutants from point sources to the waters of the United States without a permit issued under the Act during the

mechanized land clearing of approximately 2 to 3 acres of forested jurisdictional wetlands in Sections 11 and 12, Township 16 South, Range 19 East, Lafourche Parish, Louisiana, Respondent and/or said other parties discharged “dredged material” and “fill material”, as defined by 40 C.F.R. §, by means of earth moving and other equipment into said wetlands. The gravity of the violation includes the actual and potential harm resulting from these unauthorized discharges, and the risk of environmental harm.

Under Section 309(g)(3) of the CWA, 33 U.S.C. 1319(g)(3), EPA must also consider the violator’s history of violations and the degree of culpability. Respondent has had a prior history of violations spanning several years and a significant degree of culpability, including repeated dredging and filling operations in wetlands (as defined in the Clean Water Act) without a permit required by the Clean Water Act. For these factors, the EPA considered whether Respondent made good faith efforts to comply with the statute, regulations, and previously issued administrative actions. The EPA also considered if the violations were appropriately corrected, including the degree of effort put forth by Respondent to remedy the violation and to respond to enforcement actions, and how quickly it took to remedy the violations and mitigate any harms before the enforcement action commenced. The EPA does not consider good faith efforts by the violator after an enforcement action has commenced.

Under Section 309(g)(3) of the CWA, 33 U.S.C. 1319(g)(3), EPA must consider the violator’s ability to pay the civil penalty. Respondent has made no assertion as to its inability to pay the penalty proposed, and EPA has no reason to believe that the proposed penalty will have any detrimental effect on the Respondent.

Under Section 309(g)(3) of the CWA, 33 U.S.C. 1319(g)(3), EPA must consider the

economic benefit, if any, resulting from the violation. EPA did consider this particular factor and added \$5,000 for the costs of going through the permitting process.

Finally, under Section 309(g)(3) of the CWA, 33 U.S.C. 1319(g)(3), the EPA will consider such other matters as justice may require. This catch-all provision can be used to increase or mitigate the penalty. EPA did consider this factor; however, the Agency did not apply this factor in the calculation of the penalty in this matter.

All of the statutory factors were considered together to determine the total penalty of \$70,000.

E. PAPERWORK REDUCTION ACT APPLICABILITY

The Paperwork Reduction Act of 1980 (PRA), 44 U.S.C. §§ 3501 et seq. as amended, does not apply in this case. Also, there is not an Office of Management and Budget Control Number herein and the Provisions of Section 3512 of the PRA are not applicable.

Dated this 30th Day of June, 2008

Respectfully submitted,



David Gillespie
Assistant Regional Counsel (6RC-EW)
Office of Regional Counsel
U.S. EPA, Region 6
1445 Ross Ave., Ste. 1200
Dallas, TX 75202-2733
gillespie.david@epa.gov
Tel.: (214) 665-7467
Fax.: (214) 665-3177

CERTIFICATE OF SERVICE

I certify that on the 30th day of June, 2008, Complainant's Prehearing Exchange was delivered to the following in the manner indicated below:

Hand Delivery

Regional Hearing Clerk (6RC-D)
U.S. EPA
1445 Ross Ave.
Dallas, TX 75202

First Class Mail

Christopher H. Riviere, Esq.
Riviere Law Firm
McCulla House
103 West Third Street
Thibodaux, Louisiana 70302-0670

Judge Barbara A. Gunning
Office of Administrative Law Judges
U.S. Environmental Protection Agency
Mail Code 1900L
1200 Pennsylvania Ave., N.W.
Washington D.C. 20460-2001



David Gillespie

AUG 18 2004

CERTIFIED MAIL - RETURN RECEIPT REQUESTED (7001036000366788267)

Ms. Charlotte Randolph, Parish President
Lafourche Parish Government
P.O. Drawer 5548
Thibodaux, LA 70302

Re: Administrative Order Docket No. CWA-06-2004-2703

Dear Ms. Randolph:

Section 301 of the Clean Water Act ("the Act"), 33 U.S.C. § 1311(a), prohibits the unpermitted discharge of any pollutant into waters of the United States. Section 309 of the Act, 33 U.S.C. § 1319(a)(3), authorizes the Environmental Protection Agency (EPA) to take appropriate enforcement action to assure compliance with the law. The enclosed Administrative Order is hereby served on Lafourche Parish, for the violations described herein.

Immediate compliance with the provisions of this Administrative Order and the Clean Water Act is expected. Your cooperation and prompt attention will be appreciated, and this office is prepared to help you in any way it can. We must advise you at this time, however, that we are also considering issuance of an Administrative Complaint proposing assessment of an administrative penalty for the violations discussed herein. Your cooperation in resolving this Administrative Order will be taken into account in that consideration.

In accordance with the Memorandum of Agreement between the Department of the Army and EPA concerning federal enforcement of Section 404 of the Act, we are providing a copy of this Order to the New Orleans District Corps of Engineers for its review. In accordance with Section 309(a)(4) of the Act, we are also providing a copy of this Order to the State of Louisiana.



If you have any questions or wish to discuss the provisions of this Order, please contact Ms. Donna Mullins of my staff at (214) 665-7576.

Sincerely yours,

Original signed by William K. Honker

Miguel I. Flores
Director
Water Quality Protection Division

Enclosure

cc: Furcy Zeringue, New Orleans District, Corps of Engineers
John Bruza, New Orleans District, Corps of Engineers

DMULLINS:dm:X7576:07/23/2004

JW
Nystrom
8/17/04
6WQ-EM

QE
Emerson
8/12/04
6RC-EW

BK
Parrish
8-17-04
6WQ-EM

BK
Watson
8-17-04
6WQ-E

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6

| | | |
|------------------|---|----------------------------------|
| IN THE MATTER OF | § | Clean Water Act § 309 |
| | § | |
| | § | |
| Lafourche Parish | § | FINDINGS OF VIOLATION AND |
| | § | COMPLIANCE ORDER FOR |
| | § | DREDGE AND FILL VIOLATION |
| Respondent. | § | |
| <hr/> | | § Docket No. CWA-06-2004-2703 |

AUTHORITY

The following FINDINGS are made and ORDER issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 309(a) of the Clean Water Act ("the Act"), 33 U.S.C. § 1319(a). The Administrator of EPA has delegated this authority to the Regional Administrator of EPA Region 6, who has further delegated it to the Director of the Water Quality Protection Division, EPA Region 6.

FINDINGS OF VIOLATION

1. Lafourche Parish ("Respondent") has a mailing address of Post Office Drawer 5548, Thibodaux, LA 70302 and is a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 232.2.
2. At all times relevant to this Order, Respondent owned and controlled or directed work on the following property:
 - a. Levee "A" (reaches 8, 9 and 10) is located at Sections 100 & 101, Township 14 South Range 16 East .

b. Levee "B" (reaches 4, 5, 6 and 7) is located at Section 100, Township 14 South, Range 16 East, Lafourche Parish, Louisiana .

c: Levee "C" (reaches 1, 2 and 3) is located at Section 106, Township 14 South, Range 16 East, Lafourche Parish, Louisiana.

d. Levee "D" (reach 11) is located at Section 101, Township 14 South, Range 16 East, Lafourche Parish, Louisiana.

e. Reed and Dean Toups Levee System is located at Section 39, Township 15 S, Range 19E, Lafourche Parish, Louisiana.

3. The Respondent conducted mechanized clearing of earthen material and redeposition of earthen material to construct and widen levees for hurricane protection. The work resulted in approximately 30 acres of direct impacts and approximately 200 acres of indirect impacts. These sites are subject to the ebb and flow of tidal waters.

3. At times more fully known to Respondent, but prior to August 8, 2001, Respondent and/or persons acting on its behalf "discharged" "dredged" and/or "fill" material as those terms are defined by § 502 of the Act, 33 U.S.C. § 1362, and 40 C.F.R. § 232.2 by means of heavy equipment (e.g., a bulldozer) into a jurisdictional wetlands.

4. Each piece of heavy equipment, such as a bulldozer, is a "point source" within the meaning of Section 502(14) of the Act, 33 U.S.C. § 1362(14).

5. Dredged and fill material are "pollutant[s]" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362(6).

6. The wetlands at the sites described above are "waters of the United States" as that

term is defined by 40 C.F.R. § 232.2.

7. 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.

8. 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 waters of the United States.

9. At no time relevant to this Order did Respondent have a COE permit for the discharges described above in Paragraph 3.

10. Each day of unauthorized discharge was a violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

ORDER

Based on the foregoing Findings of Violation, and pursuant to the authority of Section 309(a) of the Act, EPA HEREBY ORDERS RESPONDENT to cease immediately any discharge of dredged and/or fill material to waters of the United States, and to take one of the following additional actions:

A. Restoration of the entire sites: The levees and associated materials shall be removed from Levee B, Levee C and Levee D from their current locations to areas approved by the COE. The sites shall be restored to their natural surface hydrology and allowed to revegetate naturally. Restoration of the sites shall be accomplished within 60 days of receipt of this Order. Respondent shall contact Donna Mullins, EPA Region 6, at (214) 665-7576, upon the beginning of the restoration of the sites. A possible site visit by the COE and/or EPA will follow completion of

restoration to determine if restoration is adequate; And:

B. Application for an after-the-fact permit:

1. Respondent shall obtain authorization from the COE for the work performed and any related discharges associated with Levee A (reaches 8, 9, 10) and the Reed and Dean Toups Levee System. Application for the Clean Water Act Section 404 permit must be made to the COE within 30 days of receipt of this Order. If authorization is not obtained, either through failure to apply for a permit, denial of the application, or any other reason, the unauthorized sites must be restored as required by Paragraph A of this Order. In the interim, Respondent may construct gaps in the levees, if needed. If an emergency occurs, (e.g. hurricane) Respondent may sandbag the gaps in the levees. Respondent shall provide Donna Mullins with a copy of the permit application.

2. The Respondent shall restore Levee A and the Reed and Dean Toups Levee System within 90 days of denial of the permit by the COE or notification to restore the site by EPA.

GENERAL PROVISIONS

Issuance of this Order shall not be deemed an election by EPA to forego any administrative or judicial, civil, or criminal action to seek penalties, fines, or any other relief appropriate under the Act for the violations cited herein, or other violations that become known. EPA reserves the right to seek any remedy available under the law that it deems appropriate.

If EPA issues an administrative complaint, or a civil judicial action is initiated by the U.S. Department of Justice, the Respondent may be subject to a monetary penalty. Failure to comply with this Order or the Act can result in civil penalties of up to \$27,500 per day of violation. If a criminal judicial action is initiated by the U.S. Department of Justice, the Respondent will be

subject to a monetary fine. The Respondent also may become ineligible for certain contracts, grants, or loans under § 508 of the Act.

Compliance with the terms and conditions of this Order does not relieve the Respondent of its obligation to comply with any applicable federal, state or local law or regulation.

The effective date of this Order is the date it is received by the Respondent.

Date: _____

AUG 18 2004

Miguel I. Flores
Director
Water Quality Protection Division

CONFIDENTIAL- FOR ATTORNEY REVIEW

WETLANDS ENFORCEMENT SUMMARY

Lafourche Parish Case (updated 8/3/2004)

SITE: There are five different levees in Lafourche Parish that have been constructed for flood control for hurricanes or substantial rainfall. The Reed and Dean Toups levee is located at Section 39, Township 15 South, Range 19 East, at Gheens, Ward 8, Lafourche Parish, Louisiana. Levees A-D are located at Sections 106, 98 and 100, Township 14 South, Range 16 East near Chackabay, Lafourche Parish Louisiana.

IMPACT: The case concerns the unauthorized deposition of fill material incidental to land clearing and/or leveling and grading of five levees near Gheens and Chackabay. In Gheens, the Parish conducted an uplift of an existing levee system without a permit. At the Chackabay site, Levees B, C, D were constructed off the permitted alignment without a permit. The impact from these levees is 30 acres direct and 200 acres indirect, all primarily cypress swamp.

BACKGROUND: On August 8, 2001, the COE received a citizen tip that the Lafourche Parish Government was building an unauthorized levee at the St. James Canal. The COE contacted Mr. Gerald Breaux, Parish President. Mr. Breaux stated that the work was in the planning stage, that no work had begun, and that they had been in contact with the COE permit people. On September 20, 2001, the COE received another anonymous tip that the Lafourche Parish was uplifting two levees near Gheens, using equipment and manpower of Lafourche Basin Levee District. Mr. Breaux was again contacted and he had checked and discovered that the Parish had built levees in preparation for Hurricane Allison. The Parish sent after-the-fact permit applications for all the levees that had been constructed. The COE found the Parish had built levees: a) without a permit, b) applied for but not permitted, c) permitted, but built off the permitted route, d) permitted but constructed after the permit expired.

AGENCY ACTION:

August 8, 2001- A citizen phoned the COE stating that the Lafourche Parish was about to begin work "at the end of Choctaw Road". Mr. Breaux, Parish President, was contacted and questioned. He stated that the Parish was contemplating such a levee and would coordinate with the COE permit people.

September 19, 2001- Information was again received by a citizen that the Parish was uplifting two levees near Gheens, using equipment and manpower of the Lafourche Basin Levee District.



September 19-21, 2001- Efforts to contact both parties proved futile.

September 20, 2001- Two after-the-fact permits applications were received from the Parish for levees in the Chackbay area.

September 25, 2001- Mr. Breaux phoned in response to the COE's numerous calls to his office. He stated, in part, the following:

- a) All work had been stopped at the Gheens site.
- b) When confronted with the two after-the-fact applications, he said that when they last spoke, they had talked about emergency permitting. After the call, they submitted after-the-fact permit applications. A verbal Cease and Desist Order was issued.

October 1, 2001-A written Cease and Desist Order was issued.

October 3, 2001- The COE and Lafourche Parish inspected the alleged violations north of Highway 304 and portions of the levees south of Highway 304.

October 23, 2001-The COE and Lafourche Parish inspected the remaining levee violations north of Highway 304.

October 24, 2001- The COE received a phone call from a citizen alleging that the Lafourche Levee Basin District was performing levee work for the Parish.

October 24, 2001- The Lafourche Basin District was contacted and stated that the District was to commence work tomorrow on a levee for the Parish.

October 24, 2001-Mr. Breaux was contacted and confirmed that the District was preparing to commence work in a pasture. The COE explained that the Parish should be requesting jurisdictional determinations from the COE prior to beginning any work in possible wetlands.

November 7, 2001- The COE phoned Mr. Breaux and explained that he should check records of equipment and budget to determine if any other work was performed within the last five years that the COE should look at now so all past work could be resolved at the same time.

March, 2002-The COE and the Parish discuss interim protection matters. The case is referred to EPA for enforcement.

July 3, 2003- EPA sends the Parish a notification

The COE and EPA met with the Parish to discuss the violations and to inform them of the possible alternatives that might be considered for settlement of the matter.

Strategy: Three of the levees have been built without considering the least damaging

practical alternative. It is recommended that we issue an Administrative Order to restore Levees B, C, D. Two of the levees (Dean Toups and Levee A)) can possibly be permitted. It is further recommended that we order the Parish to apply for an after-the-fact permit for the Dean Toups levee and the A levee.

CERTIFIED MAIL - RETURN RECEIPT REQUESTED (70010360000366787529)

Ms. Charlotte Randolph, Parish President
Lafourche Parish Government
P.O. Drawer 5548
Thibodaux, LA 70302

Re: Amended Administrative Order Docket No. CWA-06-2004-2703

Dear Ms. Randolph:

Section 301 of the Clean Water Act (the Act), 33 U.S.C. § 1311(a), prohibits the unpermitted discharge of any pollutant into waters of the United States. Section 309 of the Act, 33 U.S.C. § 1319(a)(3), authorizes the Environmental Protection Agency (EPA) to take appropriate enforcement action to assure compliance with the law. The enclosed Amended Administrative Order is hereby served on Lafourche Parish for the violations described therein.

Immediate compliance with the provisions of the Amended Order and the Clean Water Act is expected. Your cooperation and prompt attention will be appreciated, and this office is prepared to help you in any way it can. We must advise you at this time, however, that we are also considering issuance of an Administrative Complaint proposing assessment of an administrative penalty for the violations discussed herein. Your cooperation in resolving the Amended Order will be taken into account in that consideration.

In accordance with the Memorandum of Agreement between the Department of the Army and EPA concerning federal enforcement of Section 404 of the Act, we are providing a copy of the Order to the New Orleans District Corps of Engineers for its review. In accordance with Section 309(a)(4) of the Act, we are also providing a copy of the Amended Order to the State of Louisiana.



If you have any questions or wish to discuss the provisions of the Amended Order, please contact Ms. Donna Mullins of my staff at (214) 665-7576.

Sincerely yours,

Miguel I. Flores
Director
Water Quality Protection Division

Enclosure

cc: Furcy Zeringue, New Orleans District, Corps of Engineers
John Bruza, New Orleans District, Corps of Engineers

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

| | | |
|------------------|---|-------------------------------|
| IN THE MATTER OF | § | Clean Water Act § 309 |
| | § | |
| | § | |
| Lafourche Parish | § | FINDINGS OF VIOLATION AND |
| | § | AMENDED COMPLIANCE ORDER |
| | § | FOR DREDGE AND FILL VIOLATION |
| Respondent. | § | |
| _____ | § | Docket No. CWA-06-2004-2703 |

AUTHORITY

The following FINDINGS are made and ORDER issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 309(a) of the Clean Water Act (the Act), 33 U.S.C. § 1319(a). The Administrator of EPA has delegated this authority to the Regional Administrator of EPA Region 6, who has further delegated it to the Director of the Water Quality Protection Division, EPA Region 6.

FINDINGS OF VIOLATION

1. Lafourche Parish (Respondent) has a mailing address of Post Office Drawer 5548, Thibodaux, LA 70302 and is a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 232.2.

2. At all times relevant to this Order, Respondent owned and controlled or directed work on the following property:

a. Levee "A" (sites 25-28) is located at Sections 100 & 101, Township 14 South, Range 16 East.

b. Levee "B" (sites 5-10) is located at Sections 100, 105 and 106, Township 14 South, Range 16 East, Lafourche Parish, Louisiana .

c. Levee "C" (sites 1-6) is located at Section 106, Township 14 South, Range 16 East, Lafourche Parish, Louisiana.

d. Levee "D" (sites 11- 23) is located at Sections 100 and 101, Township 14 South, Range 16 East, Lafourche Parish, Louisiana.

e. Reed and Dean Toups Levee System is located at Section 39, Township 15 South, Range 19East, Lafourche Parish, Louisiana.

3. The Respondent conducted mechanized clearing of earthen material and redeposition of earthen material to construct and widen levees for hurricane protection.

4. At times more fully known to Respondent, but prior to August 8, 2001, Respondent and/or persons acting on its behalf "discharged" "dredged" and/or "fill" material as those terms are defined by § 502 of the Act, 33 U.S.C. § 1362, and 40 C.F.R. § 232.2 by means of heavy equipment (e.g., a bulldozer) into jurisdictional wetlands.

5. Each piece of heavy equipment, such as a bulldozer, is a "point source" within the meaning of Section 502(14) of the Act, 33 U.S.C. § 1362(14).

6. Dredged and fill material are "pollutant[s]" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362(6).

7. The wetlands at the sites described above are "waters of the United States" as that term is defined by 40 C.F.R. § 232.2.

8. 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.

9. 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 waters of the United States.

10. At no time relevant to this Order did Respondent have a COE permit for the discharges described above in paragraph 4.

11. Each day of unauthorized discharge was a violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

ORDER

Based on the foregoing Findings of Violation and pursuant to the authority of Section 309(a) of the Act, EPA HEREBY ORDERS RESPONDENT to cease immediately any discharge of dredged and/or fill material to waters of the United States and to take one of the following additional actions:

A. Application for an after-the-fact permit:

12. Respondent shall obtain authorization from the COE for the work performed and any related discharges associated with Choupic Levee Project and the Reed and Dean Toups Levee System. An application for the Clean Water Act Section 404 permits must be made to the COE within 60 days of receipt of this Order. In the interim, Respondent shall construct gaps in the levees, as specified by the attached map. The gaps shall be constructed within 60 days of receipt of this Order. The gaps shall be constructed to allow water to flow freely through the levee. If

an emergency occurs (e.g. hurricane), Respondent may sandbag the gaps in the levees.

Respondent shall provide Donna Mullins with a copy of the after-the-fact permit application.

B. Restoration of the unpermitted sites:

13. If authorization is not obtained, either through failure to apply for a permit, denial of the application, or any other reason, Respondent shall restore the unauthorized sites within 90 days of denial of the permit by the COE or notification to restore the site by EPA, whichever occurs first. The levees and associated materials shall be removed from their present locations to areas approved by the COE. The sites shall be restored to their natural surface hydrology and allowed to revegetate naturally. Respondent shall contact Donna Mullins, EPA Region 6, at (214) 665-7576, upon the commencement of the restoration of the sites. A possible site visit by the COE and/or EPA will follow completion of restoration to determine if restoration is adequate.

GENERAL PROVISIONS

14. Issuance of this Order shall not be deemed an election by EPA to forego any administrative or judicial civil or criminal action to seek penalties, fines, or any other relief appropriate under the Act for the violations cited herein, or other violations that become known. EPA reserves the right to seek any remedy available under the law that it deems appropriate.

15. If EPA issues an administrative complaint, or a civil judicial action is initiated by the U. S. Department of Justice, Respondent may be subject to a monetary penalty. Failure to comply with this Order or the Act can result in civil penalties of up to \$32,500 per day of violation. If a criminal judicial action is initiated by the U. S. Department of Justice, Respondent may be subject to a monetary fine. Respondent also may become ineligible for certain contracts, grants, or loans under § 508 of the Act.

16. Compliance with the terms and conditions of this Order does not relieve Respondent of its obligation to comply with any applicable federal, state or local law or regulation.

17. The effective date of this Order is the date it is received by Respondent.

Date: _____

Miguel I. Flores
Director
Water Quality Protection Division

ATTACHMENT A

DMULLINS:dm:X7576:11/22/2004

| | | |
|--------------------|--------------------|--------------------|
| McQuiddy | Emerson | Parrish |
| <i>DM</i> 11/23/04 | <i>JE</i> 11/22/04 | <i>DM</i> 11/23/04 |
| 6WQ-EM | 6RC-EW | 6WQ-E |

CONFIDENTIAL- FOR ATTORNEY REVIEW

WETLANDS ENFORCEMENT SUMMARY

Lafourche Parish Case (updated 11/22/2004)

SITE: There are five different levees in Lafourche Parish that have been constructed for flood control for hurricanes or substantial rainfall. The Reed and Dean Toups levee is located at Section 39, Township 15 South, Range 19 East, at Gheens, Ward 8, Lafourche Parish, Louisiana. Levees A-D are located at Sections 100, 101, 105 and 106, Township 14 South, Range 16 East near Chackabay, Lafourche Parish Louisiana.

IMPACT: The case concerns the unauthorized deposition of fill material incidental to land clearing and/or leveling and grading of five levees near Gheens and Chackabay. In Gheens, the Parish conducted an uplift of an existing levee system without a permit. At the Chackabay site, Levees A-D were constructed off the permitted alignment without a permit.

BACKGROUND: On August 8, 2001, the COE received a citizen tip that the Lafourche Parish Government was building an unauthorized levee at the St. James Canal. The COE contacted Mr. Gerald Breaux, Parish President. Mr. Breaux stated that the work was in the planning stage, that no work had begun, and that they had been in contact with the COE permit people. On September 20, 2001 the COE received another anonymous tip that the Lafourche Parish was uplifting 2 levees near Gheens, using equipment and manpower of Lafourche Basin Levee District. Mr. Breaux was again contacted and he had checked and discovered that the Parish had built levees in preparation for Hurricane Allison. The Parish sent after-the-fact permit applications for all the levees that had already constructed. The COE found the Parish had built levees: a) without a permit, b) applied for but not permitted, c) permitted, but built off the permitted route, d) permitted but constructed after the permit expired.

AGENCY ACTION:

August 8, 2001- A citizen phoned the COE stating that the Lafourche Parish was about to begin work "at the end of Choctaw Road". Mr. Breaux, Parish President was contacted and questioned. He stated that the Parish was contemplating such a levee and would coordinate with the COE permit people

September 19, 2001- Information was again received by a citizen that the Parish was uplifting 2 levees near Gheens, using equipment and manpower of Lafourche Basin Levee District.



September 19-21, 2001- Efforts to contact both parties proved futile.

September 20, 2001- Two after-the-fact permits applications were received from the Parish for levees in the Chackbay area.

September 25, 2001- Mr. Breaux phoned in response to the COE's numerous calls to his office. He stated, in part, the following:

- a) All work had been stopped at the Gheens site.
- b) When confronted with the 2 after-the-fact applications, he said that when they last spoke, they had talked about emergency permitting. After the call, he thought of the subject sites and submitted the after-the-fact permit applications. A verbal Cease and Desist Order was issued.

October, 2001-A written Cease and Desist Order was issued.

October 3, 2001- The COE and Lafourche Parish inspected the alleged violations north of Highway 304 and portions of the levees south of Highway 304.

October 23, 2001-The COE and Lafourche Parish inspected the remaining levee violations north of Highway 304.

October 24, 2001- The COE received a phone call from a citizen alleging that the Lafourche Levee Basin District was performing levee work for the Parish.

October 24, 2001- The Lafourche Basin District was contacted and they stated that they were to commence work tomorrow on a levee for the Parish.

October 24, 2001-Mr. Breaux was contacted and confirmed that they were preparing to commence work in a pasture. The COE explained that the Parish should be requesting jurisdictional determinations from the COE prior to beginning any work in possible wetlands.

November 7, 2001- The COE phoned Mr. Breaux and explained that he should check records of equipment and budget to determine if any other work was performed within the last five years that the COE should look at now so all past work would could be resolved at the same time.

March, 2002-The COE and the Parish discuss interim protection matters. The case is referred to EPA for enforcement.

July 3, 2003- EPA sends the Parish a notification letter informing them that the case had been referred to EPA.

October 22, 2003- The COE and EPA met with the Parish to discuss the violations and to inform them of the possible alternatives that might be considered for settlement of the matter.

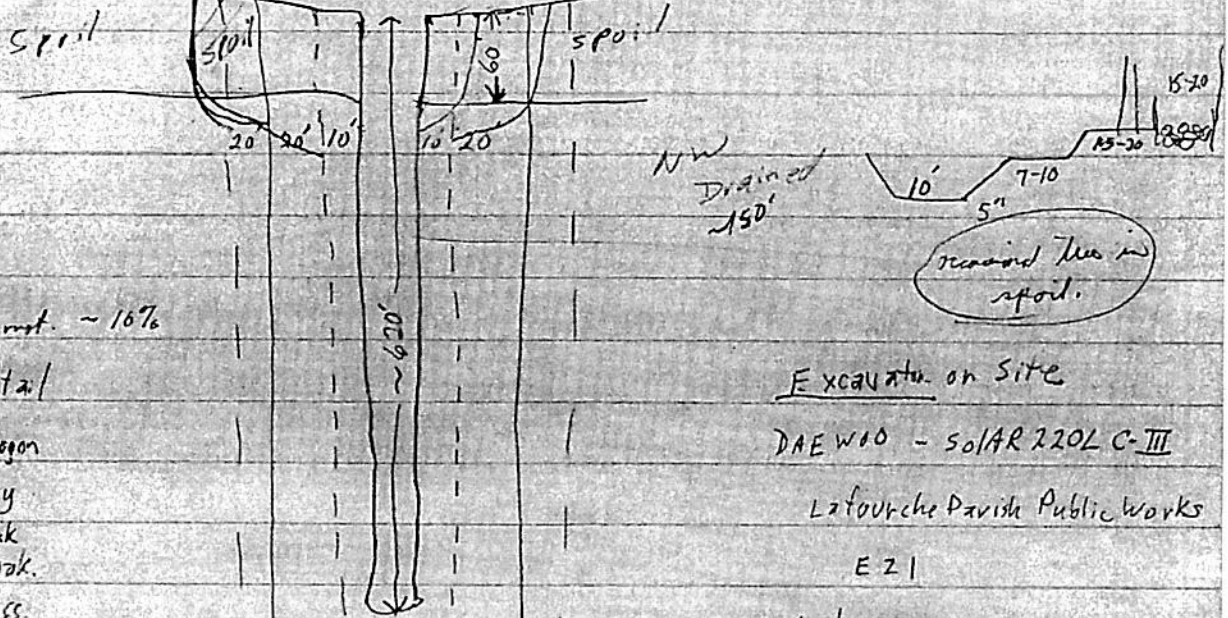
August 18, 2004- EPA issues an Administrative Order to the Respondent for restoration of Levees B-D and submittal of an after-the-fact permit application for Levee A and Reed and Dean Toups Levee System.

November 11, 2004- EPA met with the COE to discuss locations for gaps that will have to be constructed.

Strategy: Four of the levees have been built without considering the least damaging practical alternative. It is recommended that we issue an Amended Administrative Order to allow the Parish to apply to the COE for an after-the-fact permit/s for Levees A-D and the Reed and Dean Toups levee. In the interim, the Parish will be required to put gaps in their levees as specified by the attached map. These gaps shall be constructed 60 days after the issuance of this Order. If the Respondent is unable to obtain a permit/s, the areas that will not be permitted shall be restored to their natural hydrology and allowed to revegetate naturally.

FSV - 3 Mar. 2016

40' Airport Canal



~ 600'
0-6 - 10YR 4/2
10YR 5/6 mat. ~ 16%

- Lizard tail
- Greendragon
- elderberry
- water oak
- Muttall Oak.
- Baldcypress.
- sugarberry
- Senecio
- Thelipteria kuntii
- Drummed Red Maple

Obvious signs of
substance
around older trees
esp. cypress.

Excavator on Site

DAEWOO - SOLAR 220L C-III
Lafourche Parish Public Works
EZ1

Machotropa.

First 1000' area
is somewhat drained mud
horizontal hardwood

The it gets within

~ 8.65 ac - forested.

100' X 3880'

~ 2000'
0-15 - 10YR 3/1 - 10YR 4/3
5 - 10YR 4/1 - 10YR 5/6

- Baldcypress.
- Drum Red Maple
- Senecio
- Epilobium
- Smartweed (purple spots)
- Parnassia

standing water, water along
leaves





DEPARTMENT OF THE ARMY

NEW ORLEANS DISTRICT, CORPS OF ENGINEERS

P.O. BOX 60267

NEW ORLEANS, LOUISIANA 70160-0267

MAY 8 2006

REPLY TO
ATTENTION OF:

Operations Division
Surveillance and Enforcement Section

SUBJECT: Violation No. MVN-2006-1353-SZ

Mrs. Charlotte A. Randolph
President
Lafourche Parish Government
Post Office Drawer 5548
Thibodaux, Louisiana 70302

Dear Ms. Randolph:

On March 3, 2006, we observed unauthorized mechanized landclearing and deposition of dredged material relative to the construction of a drainage canal on the property boundary common to Mr. Harris Theriot and Mr. Timothy Acosta. Specifically, this property is located in Section 19, Township 15 South, Range 17 East, Lafourche Parish, Louisiana.

The work described above has been determined to be in a wetland, a water of the United States, and is subject to Department of the Army (DA) regulatory authority. This work constitutes a violation of Section 301 of the Clean Water Act (CWA). This letter is an official notice of violation.

You are directed not to perform or allow any further unauthorized work at this site until proper authorization has been granted. Failure to abide by this Cease and Desist Order will result in appropriate legal action.

You are further advised that violations of the CWA may subject you to administrative and/or judicial action. Legal action could result in a fine and/or a court order to restore the site to preproject conditions.

A DA permit application cannot be accepted until we determine an appropriate course of action to resolve this violation. To assist us in our evaluation, you are requested to submit a letter of comments explaining why you failed to obtain a DA permit prior to conducting this unauthorized work. Your comments should be submitted to the Chief, Surveillance and Enforcement Section, at the above address.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED



If we do not receive a written response from you within 20 days after the receipt of this letter, we will proceed with appropriate action for resolution of the legal issues based on the information in our files.

If you have any questions concerning this matter, please contact Mr. Furcy Zeringue at (504) 862-2099.

Sincerely,

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

Richard P. Wagenaar
Colonel, U.S. Army
District Commander

Copy Furnished:

Mr. Donna Mullins (6WQ-EM)
Federal Activities Branch
Environmental Protection Agency
1445 Ross Avenue
Dallas, Texas 75202-2733



P.O. Drawer 5548 • Thibodaux, LA 70302 • Telephone 985.446.8427
Thibodaux 800.834.8832 Fax 985.446.8459 • Raceland 800.794.3160 Fax 985.537.7707
www.lafourchegov.org

Charlotte A. Randolph, Parish President

January 10, 2007

Operations Division
Surveillance and Enforcement Section
U. S. Army Corps of Engineers
P. O. Box 60267
New Orleans, Louisiana 70160
Attn: Furcy Zeringue

RCVD 16 JAN '07

Dear Furcy:

This letter is in response to your letter concerning Violation No. MVN-2006-1353-SZ.

First let me apologize for the delay in responding. I originally thought that our Permits Department was corresponding with you on this matter. They however assumed that I had responded because the letter was addressed to me.

In early 2006, the Lafourche Parish Department of Public Works determined the need for a new outfall canal off of LA Hwy. 1 in the St. Charles community in our parish. This outlet could potentially drain about 150 acres, including 12 residences as well as 100 acres of sugar cane. An ordinance was passed by the Lafourche Parish Council in November 2005 and work began in early 2006 (supporting documents enclosed). No maps on file in our offices identified this area as a wetland.

In the Spring of 2005, the U.S. Army Corps of Engineers began a process to update our parish maps, which had not been addressed since 1992. We were working closely with Corps engineers when Hurricanes Katrina and Rita devastated the southern part of the state, and all of our focus shifted to recovery. It was not until late Summer 2006 before the remapping process resumed.

We immediately halted the work at the site upon receipt of your letter and have not performed any work since. Ignorance is seldom a defense, but in this situation and all others, we rely upon our best information. It is now policy within the Department of Public Works to determine, in advance, whether any landclearing or excavation will impact wetlands through communication with the appropriate agencies until the FIRMS have been completed.

We are hereby requesting an after-the-fact permit so that we might continue on this worthwhile project. Your consideration on this matter is greatly appreciated.

Sincerely,

LAFOURCHE PARISH GOVERNMENT

Charlotte A. Randolph
Charlotte A. Randolph
Parish President



Charlotte A. Randolph Parish President
Tyrone Williams District 1
Michael Delatte District 2
Michael Matherne District 3
Tommy Lasseigne District 4

Mark Atzenhoffer District 5
Lindel Toups District 6
Phillip Gouaux District 7
Brent Callais District 8
Daniel Lorraine District 9



DEPARTMENT OF THE ARMY

NEW ORLEANS DISTRICT, CORPS OF ENGINEERS

P.O. BOX 60267

NEW ORLEANS, LOUISIANA 70160-0267

MAY 8 2006

Ms R
Cullen
Ray

REPLY TO
ATTENTION OF:

Operations Division
Surveillance and Enforcement Section

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President
Lafourche Parish Government
Post Office Drawer 5548
Thibodaux, Louisiana 70302

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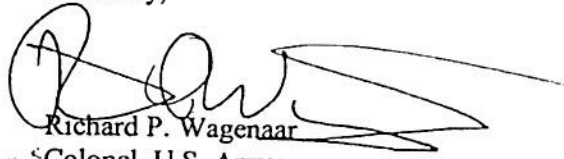
CERTIFIED MAIL
RETURN RECEIPT REQUESTED

MAY 12 2006

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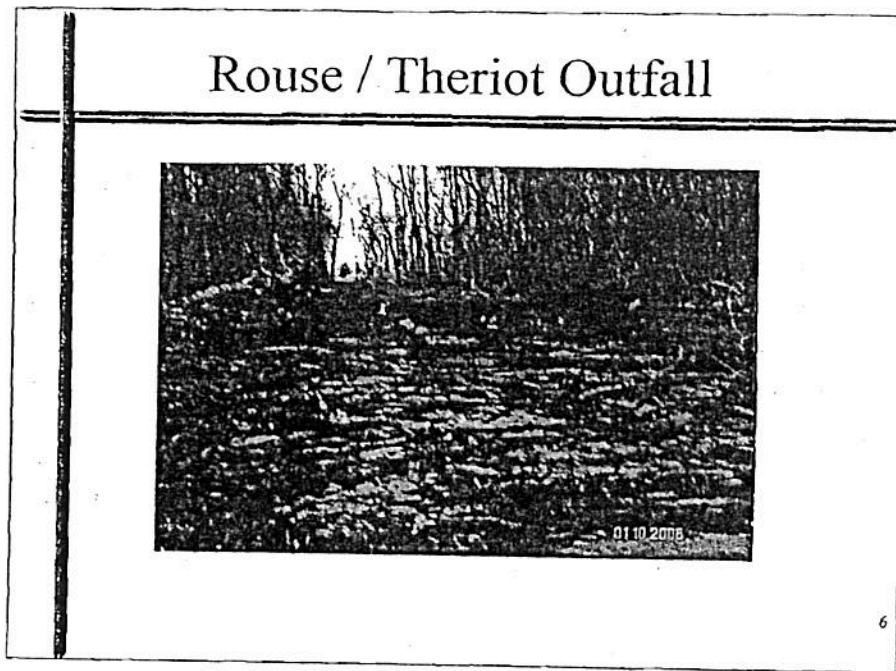
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Richard P. Wagenaar
Colonel, U.S. Army
District Commander

Copy Furnished:

Mr. Donna Mullins (6WQ-EM)
Federal Activities Branch
Environmental Protection Agency
1445 Ross Avenue
Dallas, Texas 75202-2733

1/10/08
Slide #6



Construction of new Outfall now off of LA 1-St. Charles community.

It drains?

- 1) About 150 acres
- 2) About 12 homes

*Approximately 100
acres of sugarcane
production.*

Rouse/Theriot/Acosta



DEPARTMENT OF THE ARMY

NEW ORLEANS DISTRICT, CORPS OF ENGINEERS

P.O. BOX 60267

NEW ORLEANS, LOUISIANA 70160-0267

MAY 8 2006

*Ms R
Cullen
Ray*

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RETURN RECEIPT REQUESTED

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Colonel, U.S. Army
District Commander

Copy Furnished:

Mr. Donna Mullins (6WQ-EM)
Federal Activities Branch
Environmental Protection Agency
1445 Ross Avenue
Dallas, Texas 75202-2733



MAILED

L18-06

P.O. Drawer 5548 • Thibodaux, LA 70302 • Telephone 985.446.8427
Thibodaux 800.834.8832 Fax 985.446.8459 • Raceland 800.794.3160 Fax 985.537.7707

Charlotte A. Randolph, *Parish President*

Department of Public Works

January 17, 2006

Harris & Marian Theriot
116 Hangar Dr.
Thibodaux, LA. 70301

Attn: Harris & Marian

Dear Mr. & Mrs. Theriot:

Please find enclosed a copy of the servitude agreement for the following project:

To operate and maintain the attached drainage and maintenance servitude plus the width of the ditch.

This agreement has been recorded with the Clerk of Courts, Parish of Lafourche, and as you will note, the first page has the document instrument COB and Folio numbers.

Your cooperation in this matter has been greatly appreciated.

Thanking you, I remain.

Sincerely,

Steve Folse
Special Project Coordinator

CC: File

SF/wra

| | | | |
|-----------------------|------------------|------------------|------------|
| Charlotte A. Randolph | Parish President | Mark Atzenhoffer | District 5 |
| Tyrone Williams | District 1 | Lindel Toups | District 6 |
| Michael Delatte | District 2 | Phillip Gonaux | District 7 |
| Michael Matherne | District 3 | Brent Callais | District 8 |
| Tommy Lasseigne | District 4 | Daniel Lorraine | District 9 |

LAFOURCHE
feeding & fulfilling America
PARISH
GOVERNMENT

MAILED
1-18-06

P.O. Drawer 5548 • Thibodaux, LA 70302 • Telephone 985.446.8427
Thibodaux 800.834.8832 Fax 985.446.8459 • Raceland 800.794.3160 Fax 985.537.7707

Charlotte A. Randolph, *Parish President*

Department of Public Works

January 17, 2006

Anthony & Joyce Rouse
1612 Hwy. 1
Thibodaux, LA. 70301

Attn: Anthony & Joyce

Dear Mr. & Mrs. Rouse:

Please find enclosed a copy of the servitude agreement for the following project:

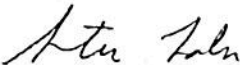
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Sincerely,



Steve Folse
Special Project Coordinator

CC: File

SF/wra

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MAILED

1-18-06

P.O. Drawer 5548 • Thibodaux, LA 70302 • Telephone 985.446.8427
Thibodaux 800.834.8832 Fax 985.446.8459 • Raceland 800.794.3160 Fax 985.537.7707

Charlotte A. Randolph, *Parish President*

Department of Public Works

January 17, 2006

Tim & Cindy Acosta
1616 Hwy. 1
Thibodaux, LA. 70301

Attn: Tim & Cindy

Dear Mr. & Mrs. Acosta

Please find enclosed a copy of the servitude agreement for the following project:

To operate and maintain the attached drainage and maintenance servitude plus the width of the ditch.

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Steve Folse
Special Project Coordinator

CC: File

SF/wra

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| Michael Delatte | District 2 | Phillip Gouaux | District 7 |
| Michael Matherne | District 3 | Brent Callais | District 8 |
| Tommy Lasseigne | District 4 | Daniel Lorraine | District 9 |



402 Green Street • P.O. Drawer 5548
Thibodaux, LA 70301 • Thibodaux, LA 70302
Telephone 985.446.8427 • 800.834.8932 • Fax 985.449.4012

Michael Matherne, Council Chairman

Sheila Boudreaux, Council Clerk

INTEROFFICE MEMORANDUM

TO: Wendy Arcement,
DEPARTMENT: Department of Public Works

Cullen Curole,
 Parish Administrator

FROM: Ella Dupre,
DEPARTMENT: Assistant Council Clerk

THROUGH: Sheila Boudreaux,
DEPARTMENT: Council Clerk

DATE: Tuesday, December 27, 2005

RE: Ordinance No. 3705



The Lafourche Parish Council convened in regular session on December 13, 2005, enacted Ordinance No. 3705 (see attached), as it pertains to approving the attached Servitude Agreement between Anthony J. Rouse, Joyce G. Rouse, Timothy J. Acosta, Cynthia R. Acosta, Harris J. Theriot, Jr., Marian Sue R. Theriot and the Lafourche Parish Council; and authorizing the Parish President to sign, execute and administer said agreement.

Said ordinance was finally adopted on December 21, 2005 and will become effective on January 8, 2006.

Attachment

| | | | |
|-----------------------|------------------|------------------|------------|
| Charlotte A. Randolph | Parish President | Mark Atzenhoffer | District 5 |
| Tyrone Williams | District 1 | Lindel Toups | District 6 |
| Michael Delatte | District 2 | Phillip Gouaux | District 7 |
| Michael Matherne | District 3 | Brent Callais | District 8 |
| Tommy Lasseigne | District 4 | Daniel Lorraine | District 9 |

The following ordinance was introduced by Dr. Tommy Lasseigne in regular session convened on November 22, 2005.

PROPOSED ORDINANCE

The following ordinance, having been previously introduced and published, was offered for final adoption by Dr. Tommy Lasseigne, seconded by Mr. Michael Delatte.

ORDINANCE NO. 3705

ORDINANCE APPROVING THE ATTACHED SERVITUDE AGREEMENT BETWEEN ANTHONY J. ROUSE, JOYCE G. ROUSE, TIMOTHY J. ACOSTA, CYNTHIA R. ACOSTA, HARRIS J. THERIOT, JR. MARIAN SUE R. THERIOT AND THE LAFOURCHE PARISH COUNCIL; AND AUTHORIZING THE PARISH PRESIDENT TO SIGN, EXECUTE AND ADMINISTER SAID AGREEMENT.

BE IT ORDAINED, by the Lafourche Parish Council, convened in Regular Session on December 13, 2005, that:

SECTION 1.

WHEREAS, proper drainage is a fundamental necessity in ensuring the Health Safety and Welfare of the people of Lafourche; and

WHEREAS, access to private properties is often necessary in the maintenance of drainage channels; and

WHEREAS, the Department of Public Works is requesting right of way agreement in the name of area of Ward 3, Councilmatic District 4, Lafourche Parish.

WHEREAS, the Administration requests authority to sign these agreements in support of daily operations with private landowners;

THEREFORE BE IT ORDAINED, that the Lafourche Parish Council does approve the attached servitude agreement with Antony J. Rouse, Joyce G. Rouse, Timothy J. Acosta, Cynthia R. Acosta, Harris J. Theriot, Marian Sue R. Theriot and authorizes the Parish President to sign, execute and administer said agreement.

SECTION 2. If any provision or item of this ordinance or the application thereof is held invalid, such invalidity shall not effect other provisions, items or application of this ordinance which can be given affect without the invalid provisions, items or application, and to this end the provisions of this ordinance are declared severable.

SECTION 3. All Ordinances by the Lafourche Parish Council conflicting with or inconsistent with the provisions of these regulations are hereby repealed.

SECTION 4. This Ordinance shall be published in the Official Journal of the Lafourche Parish Council in the manner provided by law.

SECTION 5. This Ordinance, having been submitted in writing, having been read and adopted by sections at a public meeting of said council, was then submitted to an official vote as a whole, the vote thereon being as follows:

| | | |
|--------------|----------------------|---------------------|
| YEAS: | Mr. Tyrone Williams | Mr. Lindel Toups |
| | Mr. Michael Delatte | Mr. Phillip Gouaux |
| | Mr. Michael Matherne | Mr. Brent Callais |
| | Dr. Tommy Lasseigne | Mr. Daniel Lorraine |
| | Mr. Mark Atzenhoffer | |

NAYS: None

ABSENT: None

SECTION 6. This Ordinance shall become effective on the tenth day after final publication.


MICHAEL MATHERNE, CHAIRMAN
LAFOURCHE PARISH COUNCIL

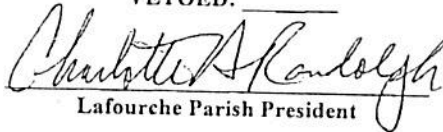

SHEILA B. BOUDREAUX, COUNCIL CLERK
LAFOURCHE PARISH COUNCIL

Delivered to the Parish President on

12/20, 2005, at 2:30, p.m.

APPROVED:

VETOED:


Lafourche Parish President

Returned to the Council Clerk on

12/21, 2005, at 3:30, p.m.

I, SHEILA B. BOUDREAUX, Council Clerk for the Lafourche Parish Council, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 3705, enacted by the Assembled Council in Regular Session on December 13, 2005, at which meeting a quorum was present, and was finally adopted on Dec. 21, 2005.

GIVEN UNDER MY OFFICIAL SIGNATURE AND SEAL OF OFFICE THIS 9th, DAY OF November, 2005.


SHEILA B. BOUDREAUX, COUNCIL CLERK
LAFOURCHE PARISH COUNCIL

DATE PUBLISHED: 12/29/05

DATE EFFECTIVE: 11/8/04

Lafourche Parish Recording Page

Vernon H. Rodrigue
CLERK OF COURT
PO BOX 818
303 W 3rd St
Thibodaux, LA 70302
(985) 447-4841

Received From :
LAFOURCHE PARISH COUNCIL
P. O. DRAWER 5548
THIBODAUX, LA 70302-0000

First VENDOR

ROUSE, ANTONY J

First VENDEE

PARISH OF LAFOURCHE

Index Type : Conveyance

Inst Number : 995451

Type of Document : Right Of Way

Book : 1633 Page : 381

Recording Pages : 7

Recorded Information

I hereby certify that the attached document was filed for registry and recorded in the Clerk of Court's office for Lafourche Parish, Louisiana

On (Recorded Date) : 01/05/2006

At (Recorded Time) : 4:06:19:000 PM



Doc ID - 020584970007



Return To :
LAFOURCHE PARISH COUNCIL
P. O. DRAWER 5548
THIBODAUX, LA 70302-0000

Do not Detach this Recording Page from Original Document

SERVITUDE AGREEMENT

DATE: 11/5/04
REC. BY: #995451
PAGE # 381
BOOK # 1633
1631

APPROVED BY: [Signature]

THIS SERVITUDE AGREEMENT, made and executed this 16th day of November, 2005, by and between ANTHONY J. ROUSE, JOYCE G. ROUSE, TIMOTHY J. ACOSTA, CYNTHIA R. ACOSTA, HARRIS J. THERIOT, JR. and MARIAN SUE R. THERIOT hereinafter called the "Grantor's") and the Parish of Lafourche, through its Parish Council (hereinafter called the "Grantee").

WITNESSETH THAT for the good and valuable considerations of this donation, the Grantor's, do hereby grant unto the Grantee, his/her successors and assigns, the right, liberty and authority to enter upon and to operate and maintain a maintenance servitude of a drainage canal in over and upon the following described land situated in the Parish of Lafourche, State of Louisiana, to-wit:

A certain tract of land situated in the Parish of Lafourche, State of Louisiana, on the right descending bank of Bayou Lafourche, at a distance of six (6) miles below the City of Thibodaux, measuring one (1) arpent more or less, front on Bayou Lafourche by a depth of forty (40) arpents. Bounded above by Francois H. Bergeron, formerly but now Louis L. Boudreaux, and below by Theogene Thibodaux. Together with all the buildings and improvements thereon and all right, ways, privileges and servitudes thereunto belonging or in anywise appertaining. Rouse property.

A certain tract of land, situated in the Parish of Lafourche, State of Louisiana, on the right descending bank of Bayou Lafourche at a distance of about six (6) miles below the City of Thibodaux, measuring one half (1/2) arpent in width fronting on Bayou Lafourche, by a depth of forty (40) arpents. Bounded above by property of Estate of August Thibodaux, formerly, now Anthony J. Rouse, and below by the property sold to Paul Joseph Thibodaux, now or formerly. Together with all the buildings and improvements thereon and all rights, ways, and servitudes thereon and thereto belonging. Acosta property.

A certain tract of land situated in the Parish of Lafourche, State of Louisiana, at about six (6) miles below the City of Thibodaux, on the right descending bank of Bayou Lafourche, measuring three quarters (3/4) of an arpent front along the public paved highway paralleling Bayou Lafourche by a depth of forty (40) arpents, bounded in front by the said paved highway, above by property of Theogene Thibodaux and below by property of Joseph Thibodaux. Together with all the buildings and improvements thereon and all the rights, ways, privileges and servitudes thereunto belonging or in anywise appertaining. Theriot property.

Said above Rouse and Acosta parcel will be for a right of passage at the discretion of the land owner. The Acosta parcels and the Theriot parcel shall be for a drainage and maintenance servitude commencing at three thousand six hundred (3600') feet south of public paved highway No. 1., more or less, thence in a southerly direction to the forty arpent canal. The property line between the Acosta and Theriot shall be the center of ditch. Servitude width will be the width of the ditch plus twenty (20') feet west on Acosta parcel and width of ditch plus twenty (20') feet east on Theriot parcel.

It is further understood that this grant is not a conveyance of the full ownership of the property herein described and the parties herein specifically agree that the servitude may only be used by the Parish, its agents, employees, and/or assigns, for the maintenance and operation of said facilities, and is not intended as a servitude of passage for the general public.

Grantee to indemnify Grantor against, and to release, protect, and hold Grantor's harmless, from any claim or damages on account of bodily or personal injury, including death, to any person whomsoever, and any loss of or damage to any property whatsoever, arising out of the construction, maintenance, or operation of Grantee's facilities located on the premises herein described and granted; provided, however, that Grantee shall not be responsible for any claims or damages on account of bodily or personal injury, including death, to any person whomsoever, or for any loss of or damage to any property whatsoever, caused by the sole negligence of Grantor's, its agents, servants, employees, officers, invites, and/or licensees.

TO HAVE AND TO HOLD the aforesaid servitude unto the Grantee, their successors or assigns, so long as the Grantee, his successors or assigns, shall continue to use said servitude.

IN WITNESS WHEREOF, the GRANTOR has hereunto signed his name this 16th day of November, 2005, together with Steve Folse and Wendy Arcement, witnesses, in Lafourche Parish, Louisiana.

WITNESSES:

Steve Folse
Wendy Arcement
Steve Folse
Wendy Arcement
Steve Folse
Wendy Arcement
Steve Folse
Wendy Arcement
Steve Folse
Wendy Arcement
Steve Folse
Wendy Arcement

GRANTOR:

Anthony J. Rouse
ANTHONY J. ROUSE

Joyce G. Rouse
JOYCE G. ROUSE

Timothy Acosta
TIMOTHY ACOSTA


Cynthia R. Acosta
CYNTHIA R. ACOSTA

Harris J. Theriot
HARRIS J. THERIOT

Marian Sue R. Theriot
MARIAN SUE R. THERIOT

Before me, Notary Public, came and appeared Steve Folse, who declared that he witnessed the signature of ANTHONY J. ROUSE, JOYCE G. ROUSE, TIMOTHY ACOSTA, CYNTHIA R. ACOSTA, HARRIS J. THERIOT and MARIAN SUE R. THERIOT, to the foregoing servitude agreement and that THEY signed the agreement as THEIR free and voluntary act, for the Parish of Lafourche.

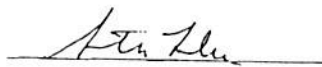

Sworn to and subscribed before me on this 5th day of JANUARY, 2006

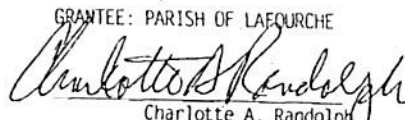

NOTARY PUBLIC

Billy J. Pitre
Notary ID #14931
My notarial commission is for life.

IN WITNESS WHEREOF, the GRANTEE has hereunto signed her name this 3rd day of January, 2006 together with Steve Folse and Ella Dupre witnesses, in Lafourche Parish, Louisiana.

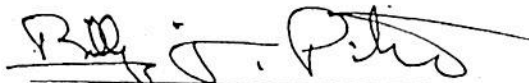
WITNESSES:

GRANTEE: PARISH OF LAFOURCHE

Charlotte A. Randolph
(President)

Before me, Notary Public, came and appeared Steve Folse, who declared that he witnessed the signature of Charlotte Randolph, Parish President, to the foregoing servitude agreement and that the said Charlotte Randolph signed the agreement as her free and voluntary act, for the Parish of Lafourche.

Sworn to and subscribed before me on this 5th day of JANUARY, 2006

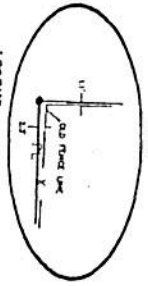
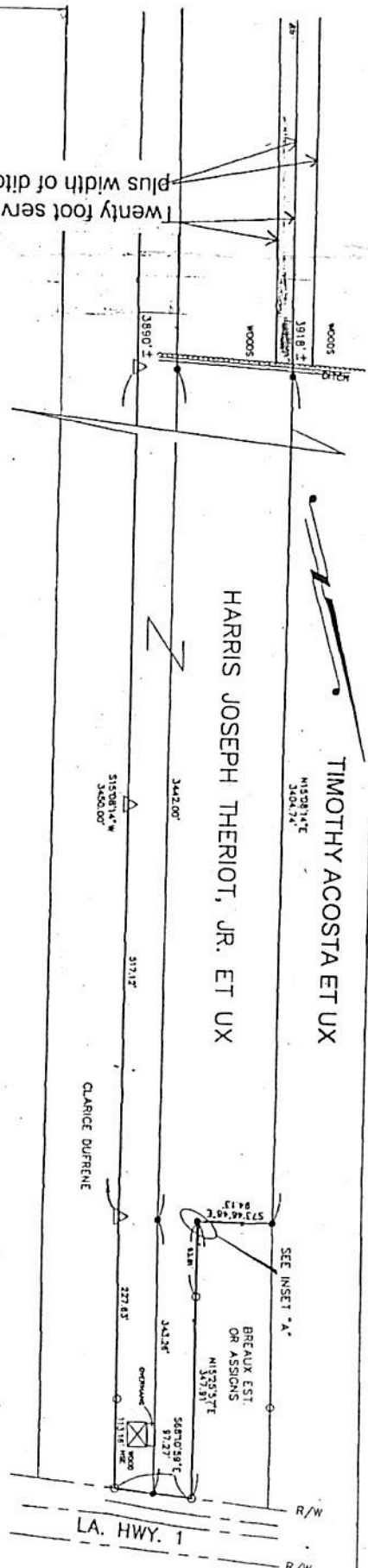

NOTARY PUBLIC

Billy J. Pitre
Notary ID #14931
My notarial commission is for life.

ANTHONY J. ROUSE ET UX

TIMOTHY ACOSTA ET UX

HARRIS JOSEPH THERIOT, JR. ET UX



- LEGEND:
- ▲ DENOTES 3/4" C.I.P. SET
 - DENOTES 3/4" C.I.P. PVD WITH 3" I.P. ON TOP
 - DENOTES 3/4" C.I.P. PVD

MONUMENTS PLACED 1000 FT. FROM EACH CORNER AND A SERVICE LINE OF 3/4" C.I.P. PVD SET AT THE CORNER TO BE USED TO LOCATE THE CORNER MONUMENTS. THE MONUMENTS ARE TO BE SET IN THE MIDDLE OF THE SERVICE LINE. THE SERVICE LINE IS TO BE SET IN THE MIDDLE OF THE SERVICE LINE. THE SERVICE LINE IS TO BE SET IN THE MIDDLE OF THE SERVICE LINE.

THE SURVEY BEING NOT NECESSARY TO SHOW THE LOCATION OF ANY EXISTING ADJACENT ESTATE'S RIGHTS OR WATER RIGHTS. THE SURVEY BEING NOT NECESSARY TO SHOW THE LOCATION OF ANY EXISTING ADJACENT ESTATE'S RIGHTS OR WATER RIGHTS.

SURVEY OF PROPERTY BELONGING TO HARRIS JOSEPH THERIOT, JR. ET UX LOCATED IN SECTION 19, T15S-R17E LAFOURCHE PARISH, LA.

THIS IS TO CERTIFY THAT THIS SURVEY WAS DONE BY ME OR UNDER MY DIRECT SUPERVISION AND CONTROL. THAT THE SURVEY WAS DONE ON THE GROUND AND WAS DONE IN ACCORDANCE WITH THE STANDARD PROFESSIONAL STANDARDS OF PRACTICE FOR LAND SURVEYORS AS SET FORTH BY THE STATE OF LOUISIANA. THAT THE SURVEY WAS DONE IN ACCORDANCE WITH THE STANDARD PROFESSIONAL STANDARDS OF PRACTICE FOR LAND SURVEYORS AS SET FORTH BY THE STATE OF LOUISIANA.

DATE: APRIL 30, 1997

APPROVED: *Allen B. Hogard*

ALLEN B. HOGARD
1803 SAVANNE RD.
HOUMA, LA 70360
E.L.C. M.E.E.T.





"Cullen L. Curole"
<CuroleCL@lafourchegov.org
>


07/16/2007 04:08 PM

To Donna Mullins/R6/USEPA/US@EPA

cc

bcc

Subject FW: Rouse/Theroit

History:  This message has been forwarded.

Ms Mullins

Attached is correspondence and photos from David Poincoin. His explanation of the reasoning he did not apply for a permit and photos that illustrate an area that would support a vehicle and the equipment at all times of the year. David lives within a few miles of this site.

Please let me know if you have any questions. I would like to speak with you prior to your issuing a formal response. If you think it necessary, I would love to come up to Dallas to visit or we would be happy to give you a tour of the area here in Lafourche.

Thanks,
Cullen

Tell Ms Beverly (Ethridge) hello.

From: David P. Poincon
Sent: Monday, July 16, 2007 3:54 PM
To: Cullen L. Curole
Cc: Arlene M. Toups; Crystal D. Chiasson
Subject: Rouse/Theroit

Cullen,

Ray asked I make these changes and email this to you.

Arlene,



This is what I've got. Rouse_Theroit Outfall.doc Rouse Theroit Acosta.doc



Lafourche Parish Government

P.O. Box 320 • Raceland, Louisiana 70394
Telephone (985) 537-7603 • Fax (985) 573-7297



Department of Public Works

United States Environmental Protection Agency
Region 6
1445 Ross Avenue, Suite 1200
Attention: Donna Mullins 6WQ-EM
Dallas, Texas 75202-2733

Dear Ms. Mullins,

In reference to Violation Number MVN-2006-1353-SZ also known as the Rouse/Theroit outfall canal and given the location being to the northern end of Lafourche Parish it was not considered by Public Works to be thought of as wetlands. Contour lines on quadrangle maps published by the Geological Survey photo-revised in 1980 and photo-inspected in 1983 denote elevations of land to be at a ten (10') foot elevation or higher near the Bayou Lafourche ridge and five (5') foot near the center and forty arpent line/canal.

Attached you will find photos numbered, measured distances from Bayou Lafourche and notes on direction of view. Should you need any additional information, please feel free to contact myself.....

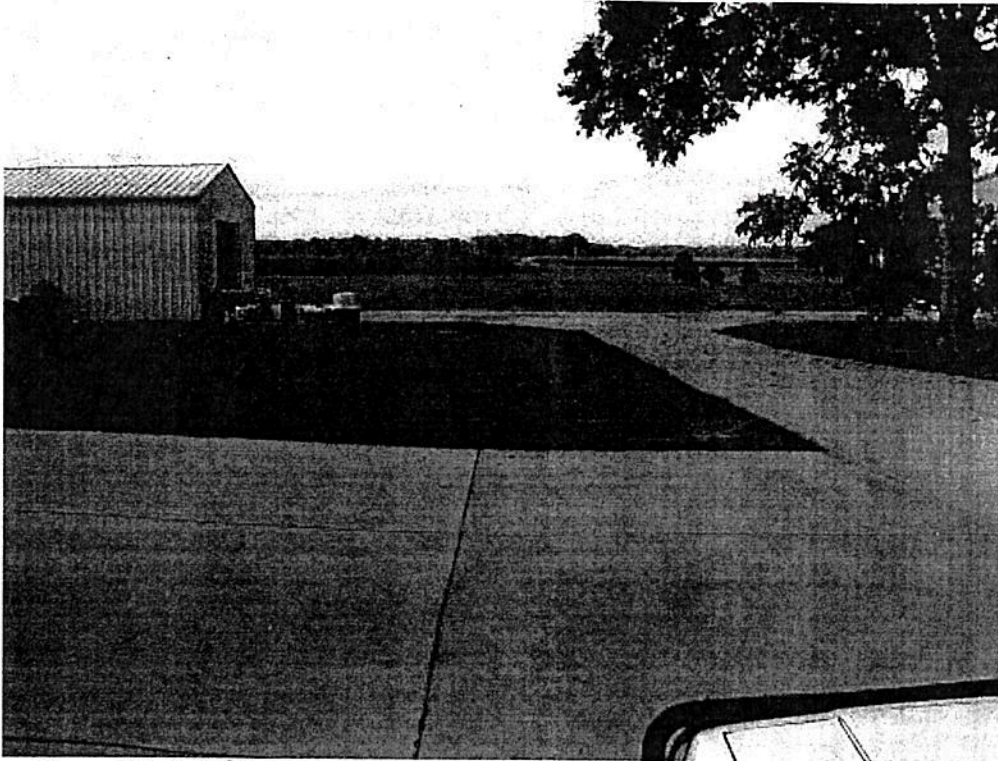


Photo # 1 @ 250' south of LA 1, viewing south towards Forty Arpent Canal

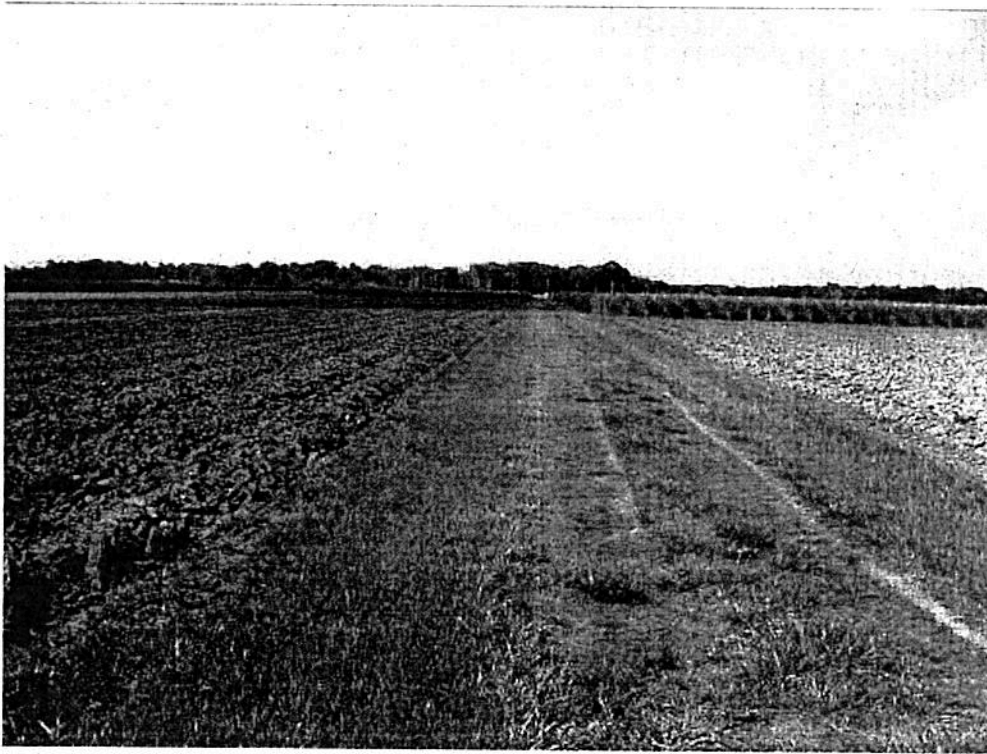


Photo # 2 @ 1200' south of LA 1, viewing south towards the Forty Arpent Canal



Photo # 3 @ 2000' south of LA 1, viewing south towards the Forty Arpent Canal



Photo # 4 @ 2800' south of LA 1, viewing south towards the Forty Arpent Canal



Photo #5 @ 3800' south of LA 1, viewing south towards the Forty Arpent Canal
Edge of tree line



Photo # 6 @ 3800' south of LA 1, viewing north towards the LA 1

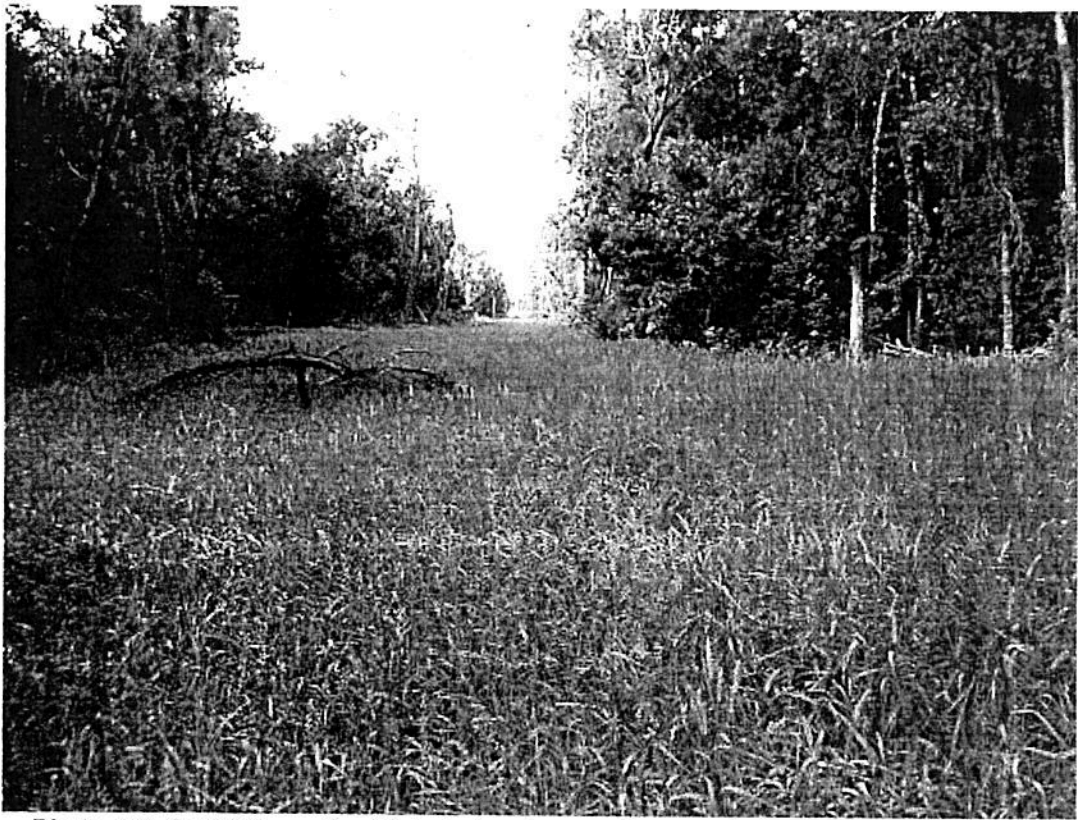


Photo # 7 @ 4700' south of LA 1 viewing south towards the Forty Arpent Canal



Photo # 8 @ 5200' south of LA 1, viewing south towards the Forty Arpent Canal

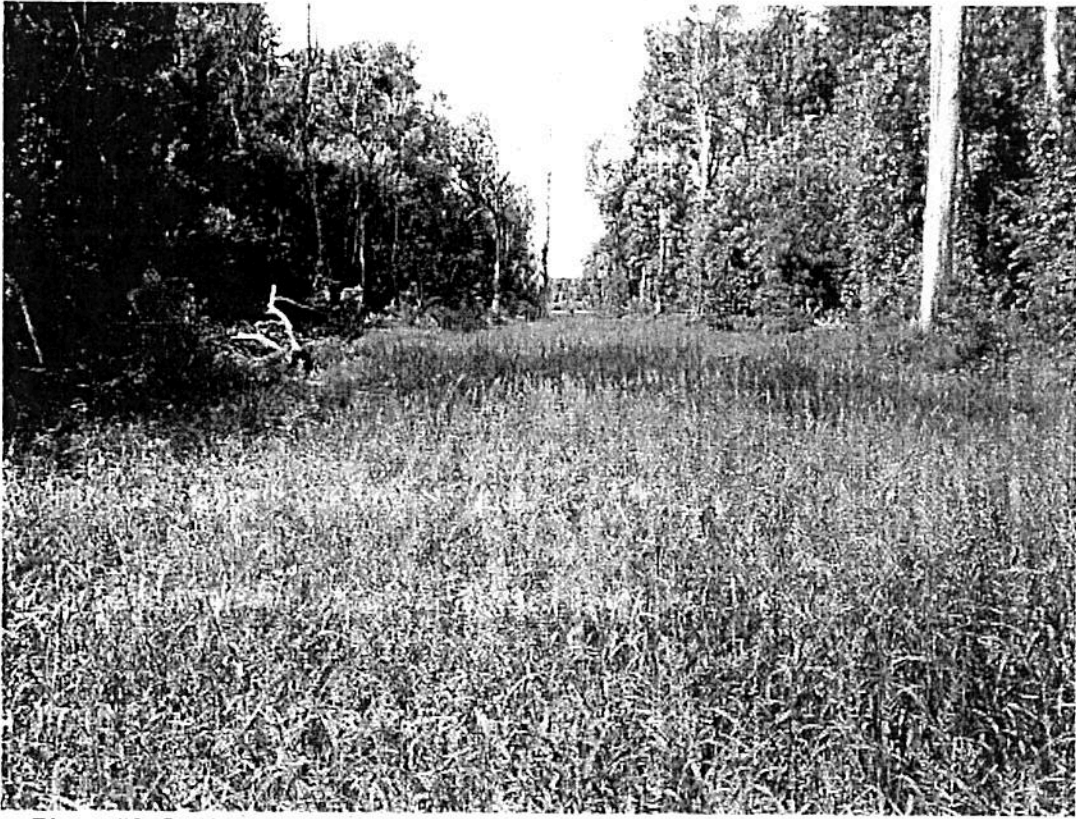


Photo #9 @ 5800' south of LA 1, viewing south towards the Forty Arpent Canal

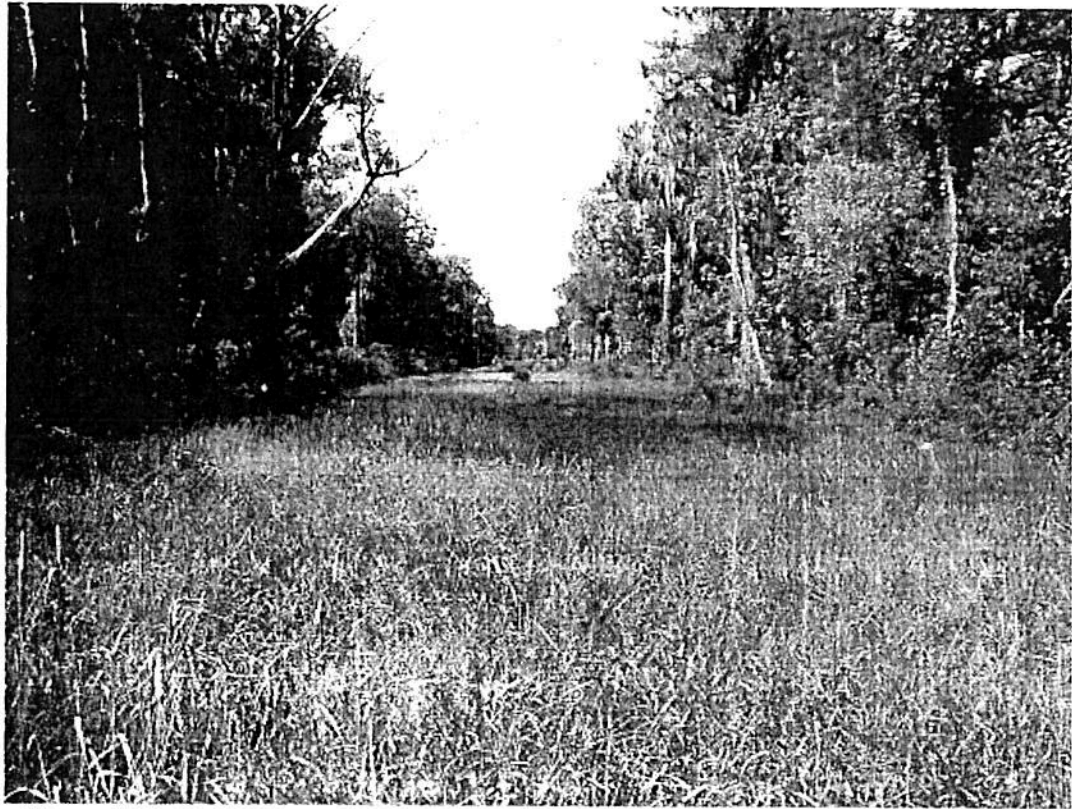


Photo # 10 @ 6500' south of LA 1, viewing south towards the Forty Arpent Canal



Photo # 11 @ 7300' south of LA 1, viewing south towards the Forty Arpent Canal



Photo #12 @ 7300' south of LA 1, viewing south towards the Forty Arpent Canal
The cease and desist location of ditch being constructed 700' north of Forty Arpent Canal

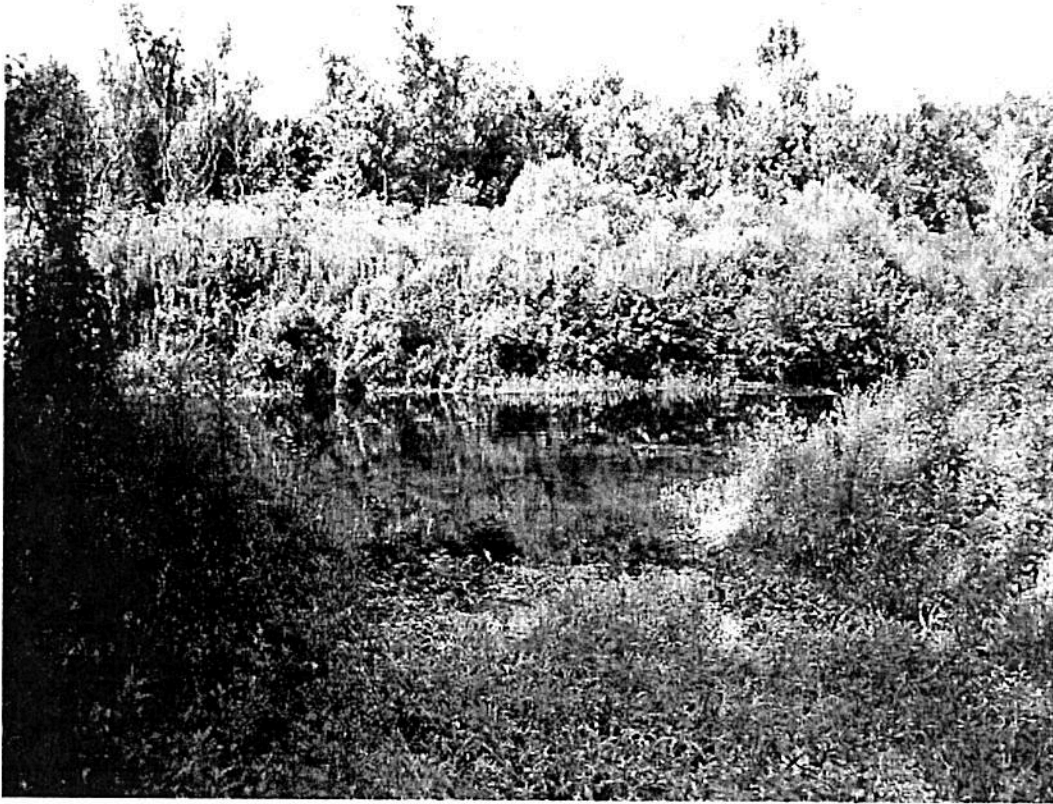


Photo # 13 @ 7950' south of LA 1, viewing south. Location of the ditch being constructed empties into the Forty Arpent Canal

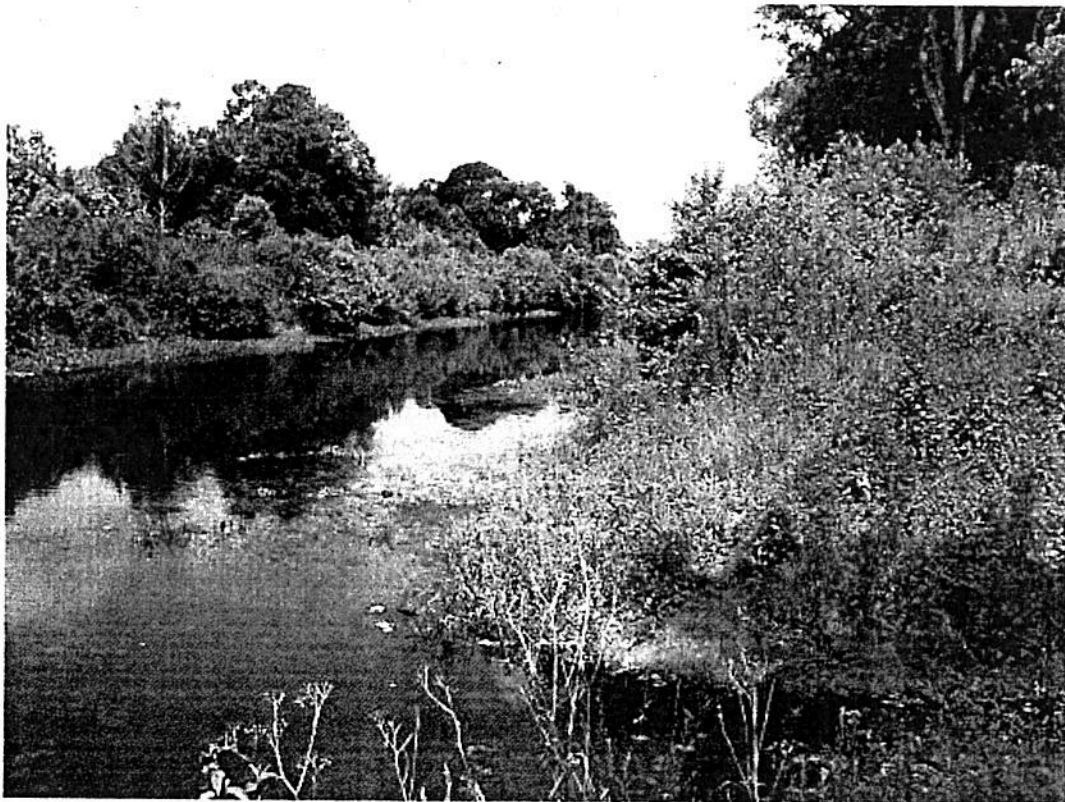


Photo # 14 @ 8000' south of LA 1, viewing west up stream the Forty Arpent Canal. Location of cease and desist ditch being constructed empties into the Forty Arpent Canal

FACSIMILE TRANSMITTAL HEADER SHEET

For use of this form, see AR 25-11; the proponent agency is ODISC4

| | | | | | | | |
|-------------------------------------|------------|-----------------------------------------------------------------|------------------------------|---------------------------------------------------|------------|---------------------------------------------|--|
| COMMAND/ OFFICE | | NAME/ OFFICE SYMBOL | | OFFICE TELEPHONE NO. <i>(AUTOVON/Comm.)</i> | | FAX NO. <i>(AUTOVON/Comm.)</i> | |
| FROM: US Army Corps of Engineers | | Dr. John Bruza Regulatory Branch Surveillance & Enforcemt | | (504) 862-1288 | | (504) 862-1697 | |
| TO: EPA | | Donna Mullins EPA Region VI | | (214) 665-7576 | | (214) 665-6689 | |
| CLASSIFICATION | PRECEDENCE | NO. PAGES <i>(Including this Header)</i> 20 | DATE-TIME 8/31/07 1515 | MONTH 8 | YEAR 07 | RELEASER'S SIGNATURE <i>Debra Arnold</i> | |

REMARKS

Congressional letter to Mr. David Vitter re: Ms. Charlotte Randolph, President of Lafourche Parish concerning unauthorized landclearing and fill off LA Hwy 1.

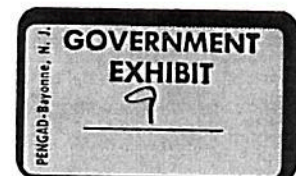
Space Below For Communications Center Use Only

DA FORM 3918-R, JUL 90

DA FORM 3918-R, AUG 72 IS OBSOLETE

USAPPC V3.00

violation



DAVID VITTER
LOUISIANA

DEPUTY WHIP

Commerce, Science, and Transportation

Environment and Public Works

Foreign Relations

Small Business and Entrepreneurship

Special Committee on Aging

United States Senate

WASHINGTON, DC 20510

August 6, 2007

WASHINGTON, D.C.
HART SENATE OFFICE BUILDING
SUITE SH-516
WASHINGTON, DC 20510
(202) 224-4623
FAX: (202) 228-5061

BATON ROUGE
868 CONVENTION STREET
BATON ROUGE, LA 70802
(225) 383-0331
FAX: (225) 383-0352

Website with E-Mail Access:
vitter.senate.gov

Colonel Alvin B. Lec
Commanding Officer
U.S. Army Corps of Engineers, New Orleans District
PO Box 60267
New Orleans, LA 70160-0267

RCVD 17 AUG '07

Dear Colonel Lec,

Enclosed is a copy of correspondence I have received from my constituent, Charlotte Randolph, the Lafourche Parish President, with her request to obtain a permit to continue a new outfall canal off of LA Highway 1 through the U.S. Army Corps of Engineers. I believe that you will find it self-explanatory.

I would appreciate it if you would review the enclosed letter and provide my office with any information that may be helpful to Lafourche Parish. Please direct your response to Rachel Perez in my Southeast Regional Office located at 2800 Veterans Blvd., Suite 201, Metairie, LA 70002.

Sincerely,



David Vitter
United States Senate

Received
CEMVTN-IM-SM
US Army Corps of Engineers
New Orleans District

AUG 16 2007

ACADIANA
800 LAFAYETTE STREET
SUITE 1200
LAFAYETTE, LA 70501
(337) 282-8890
FAX: (337) 262-6373

CENTRAL LOUISIANA
2230 SOUTH MACARTHUR DRIVE
SUITE 4
ALEXANDRIA, LA 71301
(318) 448-0169
FAX: (318) 448-0189

NORTHEAST LOUISIANA
1217 NORTH 18TH STREET
MONROE, LA 71201
(318) 325-8120
FAX: (318) 325-9165

NORTHWEST LOUISIANA
920 FERREMINI RUAN
SUITE 113
SHREVEPORT, LA 71108
(318) 861-0437
FAX: (318) 881-4885

SOUTHEAST LOUISIANA
2800 VETERANS BOULEVARD
SUITE 201
METAIRIE, LA 70002
(504) 889-2753
FAX: (504) 889-2607

SOUTHWEST LOUISIANA
3221 RYAN STREET
SUITE E
LAKE CHARLES, LA 70801
(337) 436-0453
FAX: (337) 436-3183



LAFOURCHE

feeding & fueling America

PARISH

GOVERNMENT

P.O. Drawer 6548 • Thibodaux, LA 70302 • Telephone 985.446.8427
Thibodaux 800.834.8832 Fax 985.446.8459 • Raceland 800.794.3160 Fax 985.537.7707
www.lafourchegov.org

Charlotte A. Randolph, Parish President

January 10, 2007

Operations Division
Surveillance and Enforcement Section
U. S. Army Corps of Engineers
P. O. Box 60267
New Orleans, Louisiana 70160
Attn: Furcy Zeringue

Dear Furcy:

This letter is in response to your letter concerning Violation No. MVN-2006-1353-SZ.

First let me apologize for the delay in responding. I originally thought that our Permits Department was corresponding with you on this matter. They however assumed that I had responded because the letter was addressed to me.

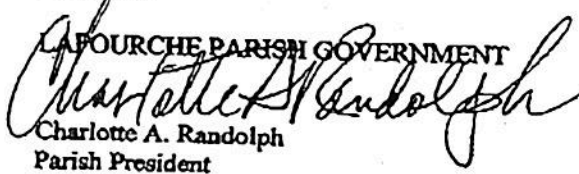
In early 2006, the Lafourche Parish Department of Public Works determined the need for a new outfall canal off of LA Hwy. 1 in the St. Charles community in our parish. This outlet could potentially drain about 150 acres, including 12 residences as well as 100 acres of sugar cane. An ordinance was passed by the Lafourche Parish Council in November 2005 and work began in early 2006 (supporting documents enclosed). No maps on file in our offices identified this area as a wetland.

In the Spring of 2005, the U.S. Army Corps of Engineers began a process to update our parish maps, which had not been addressed since 1992. We were working closely with Corps engineers when Hurricanes Katrina and Rita devastated the southern part of the state, and all of our focus shifted to recovery. It was not until late Summer 2006 before the remapping process resumed.

We immediately halted the work at the site upon receipt of your letter and have not performed any work since. Ignorance is seldom a defense, but in this situation and all others, we rely upon our best information. It is now policy within the Department of Public Works to determine, in advance, whether any landclearing or excavation will impact wetlands through communication with the appropriate agencies until the FIRMs have been completed.

We are hereby requesting an after-the-fact permit so that we might continue on this worthwhile project. Your consideration on this matter is greatly appreciated.

Sincerely,

LAFOURCHE PARISH GOVERNMENT

Charlotte A. Randolph
Parish President

| | | | |
|-----------------------|------------------|------------------|------------|
| Charlotte A. Randolph | Parish President | Mark Atzenhoffer | District 5 |
| Tyrone Williams | District 1 | Lindol Toups | District 6 |
| Michael Delutte | District 2 | Phillip Gouaux | District 7 |
| Michael Matheme | District 3 | Brent Colais | District 8 |



DEPARTMENT OF THE ARMY

NEW ORLEANS DISTRICT, CORPS OF ENGINEERS

P.O. BOX 60267

NEW ORLEANS, LOUISIANA 70160-0267

MAY 8 2006

*Mo R
Cullen
Ray*

REPLY TO
ATTENTION OF:

Operations Division
Surveillance and Enforcement Section

SUBJECT: Violation No. MVN-2006-1353-SZ

Mrs. Charlotte A. Randolph
President
Lafourche Parish Government
Post Office Drawer 5548
Thibodaux, Louisiana 70302

Dear Ms. Randolph:

On March 3, 2006, we observed unauthorized mechanized landclearing and deposition of dredged material relative to the construction of a drainage canal on the property boundary common to Mr. Harris Theriot and Mr. Timothy Acosta. Specifically, this property is located in Section 19, Township 15 South, Range 17 East, Lafourche Parish, Louisiana.

The work described above has been determined to be in a wetland, a water of the United States, and is subject to Department of the Army (DA) regulatory authority. This work constitutes a violation of Section 301 of the Clean Water Act (CWA). This letter is an official notice of violation.

You are directed not to perform or allow any further unauthorized work at this site until proper authorization has been granted. Failure to abide by this Cease and Desist Order will result in appropriate legal action.

You are further advised that violations of the CWA may subject you to administrative and/or judicial action. Legal action could result in a fine and/or a court order to restore the site to preproject conditions.

A DA permit application cannot be accepted until we determine an appropriate course of action to resolve this violation. To assist us in our evaluation, you are requested to submit a letter of comments explaining why you failed to obtain a DA permit prior to conducting this unauthorized work. Your comments should be submitted to the Chief, Surveillance and Enforcement Section, at the above address.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

MAY 12 2006

-2-

If we do not receive a written response from you within 20 days after the receipt of this letter, we will proceed with appropriate action for resolution of the legal issues based on the information in our files.

If you have any questions concerning this matter, please contact Mr. Furcy Zeringue at (504) 862-2099.

Sincerely,



Richard P. Wagenaar
Colonel, U.S. Army
District Commander

Copy Furnished:

Mr. Donna Mullins (6WQ-EM)
Federal Activities Branch
Environmental Protection Agency
1445 Ross Avenue
Dallas, Texas 75202-2733

Zeringue/gea/2099

AUG 31 2007

Operations Division
Surveillance and Enforcement Section

Honorable David Vitter
United States Senate
2800 Veterans Boulevard, Suite 201
Metairie, Louisiana 70002

Dear Senator Vitter:

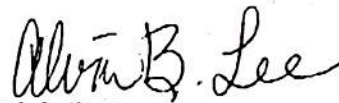
This is in response to your letter of August 6, 2007, with enclosed correspondence from Ms. Charlotte Randolph, President, Lafourche Parish, concerning unauthorized landclearing and deposition of fill material in wetlands associated with construction of a proposed outfall canal off Louisiana Highway 1. Specifically, the work is located in Section 19, Township 15 South, Range 17 East, Lafourche Parish, Louisiana.

In accordance with Part III D of the Memorandum of Agreement between the Department of the Army and the Environmental Protection Agency (EPA) concerning Federal Enforcement for the Section 404 Program of the Clean Water Act, it was determined that EPA would be the lead enforcement agency for this case; the parish has a long history of performing work in wetlands prior to obtaining the necessary permits.

On August 20, 2007, EPA filed an administrative complaint against Lafourche Parish (EPA Docket Number: CWA-06-2007-2725) for the unauthorized work. An application for an after-the-fact permit cannot be accepted until EPA reaches a settlement and concludes the enforcement action.

The point of contact for this matter is Mr. Furcy Zeringue, Surveillance and Enforcement Section, Operations Division (504) 862-2099.

Sincerely,



Alvin B. Lee
Colonel, US Army
District Commander


Bruza
OD-SS

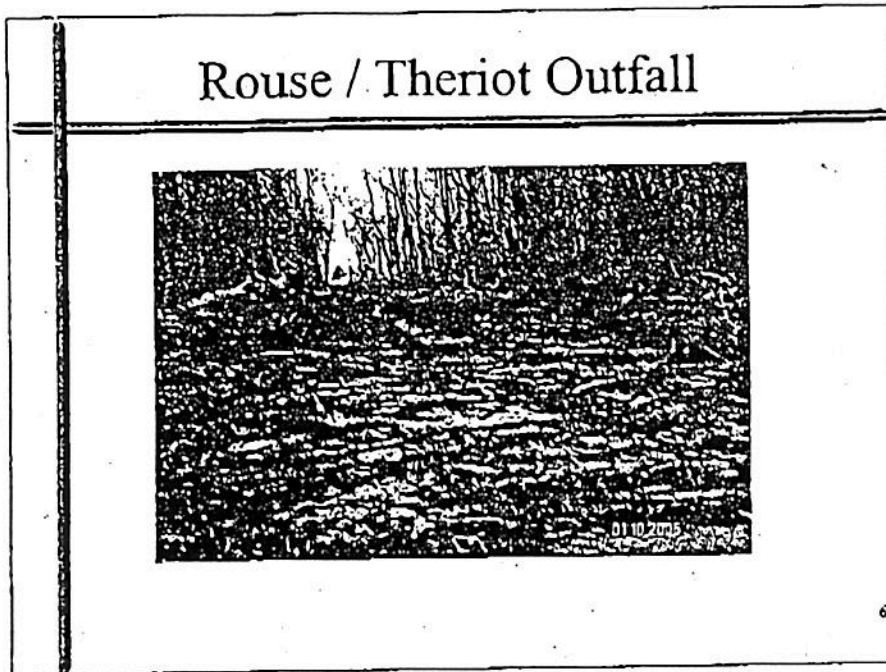

Serio
OD-S


Accardo
OD

 
EXEC

1/10/04

Slide # 6



Construction of new Outfall now off of LA 1-St. Charles community.

It drains?

- 1) About 150 acres
- 2) About 12 homes

Approximately 100
acres of sugarcane
production.

Kousi/Theriot/Acosta



DEPARTMENT OF THE ARMY

NEW ORLEANS DISTRICT, CORPS OF ENGINEERS

P.O. BOX 80267

NEW ORLEANS, LOUISIANA 70160-0267

MAY 8 2006

*Ms R
Cullen
Ray*

REPLY TO
ATTENTION OF:
Operations Division
Surveillance and Enforcement Section

SUBJECT: Violation No. MVN-2006-1353-SZ

Mrs. Charlotte A. Randolph
President
Lafourche Parish Government
Post Office Drawer 5548
Thibodaux, Louisiana 70302

Dear Ms. Randolph:

On March 3, 2006, we observed unauthorized mechanized landclearing and deposition of dredged material relative to the construction of a drainage canal on the property boundary common to Mr. Harris Theriot and Mr. Timothy Acosta. Specifically, this property is located in Section 19, Township 15 South, Range 17 East, Lafourche Parish, Louisiana.

The work described above has been determined to be in a wetland, a water of the United States, and is subject to Department of the Army (DA) regulatory authority. This work constitutes a violation of Section 301 of the Clean Water Act (CWA). This letter is an official notice of violation.

You are directed not to perform or allow any further unauthorized work at this site until proper authorization has been granted. Failure to abide by this Cease and Desist Order will result in appropriate legal action.

You are further advised that violations of the CWA may subject you to administrative and/or judicial action. Legal action could result in a fine and/or a court order to restore the site to preproject conditions.

A DA permit application cannot be accepted until we determine an appropriate course of action to resolve this violation. To assist us in our evaluation, you are requested to submit a letter of comments explaining why you failed to obtain a DA permit prior to conducting this unauthorized work. Your comments should be submitted to the Chief, Surveillance and Enforcement Section, at the above address.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

MAY 12 2006

-2-

If we do not receive a written response from you within 20 days after the receipt of this letter, we will proceed with appropriate action for resolution of the legal issues based on the information in our files.

If you have any questions concerning this matter, please contact Mr. Furcy Zeringue at (504) 862-2099.

Sincerely,

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

Richard P. Wagenaar
Colonel, U.S. Army
District Commander

Copy Furnished:

Mr. Donna Mullins (6WQ-EM)
Federal Activities Branch
Environmental Protection Agency
1445 Ross Avenue
Dallas, Texas 75202-2733



MAILED
1-18-06

P.O. Drawer 5548 • Thibodaux, LA 70302 • Telephone 985.446.8427
Thibodaux 800.834.8832 Fax 985.446.8459 • Raceland 800.794.3160 Fax 985.537.7707

Charlotte A. Randolph, *Parish President*

Department of Public Works

January 17, 2006

Hams & Marian Theriot
116 Hangar Dr.
Thibodaux, LA. 70301

Attn: Hams & Marian

Dear Mr. & Mrs. Theriot:

Please find enclosed a copy of the servitude agreement for the following project:

To operate and maintain the attached drainage and maintenance servitude plus the width of the ditch.

This agreement has been recorded with the Clerk of Courts, Parish of Lafourche, and as you will note, the first page has the document instrument COB and Folio numbers.

Your cooperation in this matter has been greatly appreciated.

Thanking you, I remain.

Sincerely,

Steve Folse
Special Project Coordinator

CC: File

SF/wra

| | | | |
|-----------------------|------------------|------------------|------------|
| Charlotte A. Randolph | Parish President | Mark Atzenhoffer | District 5 |
| Tyroue Williams | District 1 | Lindel Toups | District 6 |
| Michael Delatte | District 2 | Phillip Gonaux | District 7 |
| Michael Mathene | District 3 | Brent Callais | District 8 |
| Tommy Lasseigue | District 4 | Daniel Lorraine | District 9 |



MAILED
1-18-06

P.O. Drawer 5548 • Thibodaux, LA 70302 • Telephone 985.446.8427
Thibodaux 800.834.8832 Fax 985.446.8459 • Raceland 800.794.3180 Fax 985.537.7707

Charlotte A. Randolph, *Parish President*

Department of Public Works

January 17, 2006

Anthony & Joyce Rouse
1812 Hwy. 1
Thibodaux, LA. 70301

Attn: Anthony & Joyce

Dear Mr. & Mrs. Rouse:

Please find enclosed a copy of the servitude agreement for the following project:

To operate and maintain the attached drainage and maintenance servitude plus the width of the ditch.

This agreement has been recorded with the Clerk of Courts, Parish of Lafourche, and as you will note, the first page has the document instrument COB and Folio numbers.

Your cooperation in this matter has been greatly appreciated.

Thanking you, I remain,

Sincerely,

Steve Folse
Special Project Coordinator

CC: File

SF/wra

| | | | |
|-----------------------|------------------|------------------|------------|
| Charlotte A. Randolph | Parish President | Mark Atzenhoffer | District 5 |
| Tyrone Williams | District 1 | Lindel Toups | District 6 |
| Michael Delatte | District 2 | Phillip Gouaux | District 7 |
| Michael Matherne | District 3 | Brent Callas | District 8 |
| Tommy Lasseigue | District 4 | Daniel Lorraine | District 9 |



MAILED
1-18-06

P.O. Drawer 5548 • Thibodaux, LA 70302 • Telephone 985.446.8427
Thibodaux 800.834.8832 Fax 985.446.8459 • Raceland 800.794.3160 Fax 985.537.7707

Charlotte A. Randolph, *Parish President*

Department of Public Works

January 17, 2006

Tim & Cindy Acosta
1616 Hwy. 1
Thibodaux, LA. 70301

Attn: Tim & Cindy

Dear Mr. & Mrs. Acosta

Please find enclosed a copy of the servitude agreement for the following project:

To operate and maintain the attached drainage and maintenance servitude plus the width of the ditch.

This agreement has been recorded with the Clerk of Courts, Parish of Lafourche, and as you will note, the first page has the document instrument COB and Folio numbers.

Your cooperation in this matter has been greatly appreciated.

Thanking you, I remain.

Sincerely,



Steve Folse
Special Project Coordinator

CC: File

SF/wra

| | | | |
|-----------------------|------------------|------------------|------------|
| Charlotte A. Randolph | Parish President | Mark Atzenhoffer | District 5 |
| Tyrone Williams | District 1 | Lindel Toups | District 6 |
| Michael Delatte | District 2 | Phillip Gouaux | District 7 |
| Michael Matherne | District 3 | Brent Callais | District 8 |
| Tommy Lasseigne | District 4 | Daniel Lorraine | District 9 |



402 Green Street • P.O. Drawer 5548
 Thibodaux, LA 70301 • Thibodaux, LA 70302
 Telephone 985.446.8427 • 800.834.8832 • Fax 985.449.4012

Michael Matherne, *Council Chairman*

Sheila Boudreaux, *Council Clerk*

INTEROFFICE MEMORANDUM

TO: Wendy Arcement,
DEPARTMENT: Department of Public Works

Cullen Curole,
 Parish Administrator

FROM: Ella Dupre,
DEPARTMENT: Assistant Council Clerk

THROUGH: Sheila Boudreaux,
DEPARTMENT: Council Clerk

DATE: Tuesday, December 27, 2005

RE: Ordinance No. 3705



The Lafourche Parish Council convened in regular session on December 13, 2005, enacted Ordinance No. 3705 (see attached), as it pertains to approving the attached Servitude Agreement between Anthony J. Rouse, Joyce G. Rouse, Timothy J. Acosta, Cynthia R. Acosta, Harris J. Theriot, Jr., Marian Sue R. Theriot and the Lafourche Parish Council; and authorizing the Parish President to sign, execute and administer said agreement.

Said ordinance was finally adopted on December 21, 2005 and will become effective on January 8, 2006.

Attachment

| | | | |
|-----------------------|------------------|------------------|------------|
| Charlotte A. Randolph | Parish President | Mark Atzenhoffer | District 5 |
| Tyrone Williams | District 1 | Lindel Toups | District 6 |
| Michael Delatté | District 2 | Phillip Gouaux | District 7 |
| Michael Matherne | District 3 | Brent Callais | District 8 |
| Tommy Lasseigne | District 4 | Daniel Lorraine | District 9 |

The following ordinance was introduced by Dr. Tommy Lasseigne in regular session convened on November 22, 2005.

PROPOSED ORDINANCE

The following ordinance, having been previously introduced and published, was offered for final adoption by Dr. Tommy Lasseigne, seconded by Mr. Michel Delatte.

ORDINANCE NO. 3705

ORDINANCE APPROVING THE ATTACHED SERVITUDE AGREEMENT BETWEEN ANTHONY J. ROUSE, JOYCE G. ROUSE, TIMOTHY J. ACOSTA, CYNTHIA R. ACOSTA, HARRIS J. THERIOT, JR. MARIAN SUE R. THERIOT AND THE LAFOURCHE PARISH COUNCIL; AND AUTHORIZING THE PARISH PRESIDENT TO SIGN, EXECUTE AND ADMINISTER SAID AGREEMENT.

BE IT ORDAINED, by the Lafourche Parish Council, convened in Regular Session on December 13, 2005, that:

SECTION 1.

WHEREAS, proper drainage is a fundamental necessity in ensuring the Health Safety and Welfare of the people of Lafourche; and

WHEREAS, access to private properties is often necessary in the maintenance of drainage channels; and

WHEREAS, the Department of Public Works is requesting right of way agreement in the name of areas of Ward 3, Councilmatic District 4, Lafourche Parish.

WHEREAS, the Administration requests authority to sign these agreements in support of daily operations with private landowners;

THEREFORE BE IT ORDAINED, that the Lafourche Parish Council does approve the attached servitude agreement with Anthony J. Rouse, Joyce G. Rouse, Timothy J. Acosta, Cynthia R. Acosta, Harris J. Theriot, Marian Sue R. Theriot and authorizes the Parish President to sign, execute and administer said agreement.

SECTION 2. If any provision or item of this ordinance or the application thereof is held invalid, such invalidity shall not effect other provisions, items or application of this ordinance which can be given affect without the invalid provisions, items or application, and to this end the provisions of this ordinance are declared severable.

SECTION 3. All Ordinances by the Lafourche Parish Council conflicting with or inconsistent with the provisions of these regulations are hereby repealed.

SECTION 4. This Ordinance shall be published in the Official Journal of the Lafourche Parish Council in the manner provided by law.

SECTION 5. This Ordinance, having been submitted in writing, having been read and adopted by sections at a public meeting of said council, was then submitted to an official vote as a whole, the vote thereon being as follows:

| | | |
|--------------|----------------------|---------------------|
| YEAS: | Mr. Tyrone Williams | Mr. Lindel Toups |
| | Mr. Michael Delatte | Mr. Phillip Goumeux |
| | Mr. Michael Matherne | Mr. Brent Callais |
| | Dr. Tommy Lasseigne | Mr. Daniel Lorraine |
| | Mr. Mark Atzenhoffer | |

NAYS: None

ABSENT: None

SECTION 6. This Ordinance shall become effective on the tenth day after final publication.


MICHAEL MATHERNE, CHAIRMAN
LAFOURCHE PARISH COUNCIL

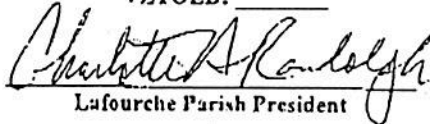

SHEILA B. BOUDREAUX, COUNCIL CLERK
LAFOURCHE PARISH COUNCIL

Delivered to the Parish President on

12/20, 2005, at 2:30, p.m.

APPROVED:

VETOED:


Lafourche Parish President

Returned to the Council Clerk on

12/21, 2005, at 3:30, p.m.

I, SHEILA B. BOUDREAUX, Council Clerk for the Lafourche Parish Council, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 3705, enacted by the Assembled Council in Regular Session on December 13, 2005, at which meeting a quorum was present, and was finally adopted on Dec. 21, 2005.

GIVEN UNDER MY OFFICIAL SIGNATURE AND SEAL OF OFFICE THIS 21st DAY OF December, 2005.


SHEILA B. BOUDREAUX, COUNCIL CLERK
LAFOURCHE PARISH COUNCIL

DATE PUBLISHED: 12/29/05

DATE EFFECTIVE: 1/8/06

Lafourche Parish Recording Page

Vernon H. Rodrigue
CLERK OF COURT
PO BOX 818
303 W 3rd St
Thibodaux, LA 70302
(985) 447-4841

Received From :
LAFOURCHE PARISH COUNCIL
P. O. DRAWER 5548
THIBODAUX, LA 70302-0000

First VENDOR
ROUSE, ANTONY J

First VENDEE
PARISH OF LAFOURCHE

Index Type : Conveyance
Type of Document : Right Of Way
Recording Pages : 7

Inst Number : 995451
Book : 1633 Page : 381

Recorded Information

I hereby certify that the attached document was filed for registry and recorded in the Clerk of Court's office for Lafourche Parish, Louisiana

On (Recorded Date) : 01/05/2006
At (Recorded Time) : 4:06:19:000 PM



Doc IO - 020584970007

Return To :
LAFOURCHE PARISH COUNCIL
P. O. DRAWER 5548
THIBODAUX, LA 70302-0000

DATE: 1/5/06
REC. BY: #995451
PAGE # 381
BOOK # 1633

SERVITUDE AGREEMENT

THIS SERVITUDE AGREEMENT, made and executed this 16th day of November, 2005, by and between ANTHONY J. ROUSE, JOYCE G. ROUSE, TIMOTHY J. ACOSTA, CYNTHIA R. ACOSTA, HARRIS J. THERIOT, JR. and MARIAN SUE R. THERIOT hereinafter called the "Grantor's") and the Parish of Lafourche, through its Parish Council (hereinafter called the "Grantee").

APPROVED BY: C. C. J.

WITNESSETH THAT for the good and valuable considerations of this donation, the Grantor's, do hereby grant unto the Grantee, his/her successors and assigns, the right, liberty and authority to enter upon and to operate and maintain a maintenance servitude of a drainage canal in over and upon the following described land situated in the Parish of Lafourche, State of Louisiana, to-wit:

A certain tract of land situated in the Parish of Lafourche, State of Louisiana, on the right descending bank of Bayou Lafourche, at a distance of six (6) miles below the City of Thibodaux, measuring one (1) arpent more or less, front on Bayou Lafourche by a depth of forty (40) arpents. Bounded above by Francois H. Bergeron, formerly but now Louis L. Boudreaux, and below by Theogene Thibodaux. Together with all the buildings and improvements thereon and all right, ways, privileges and servitudes thereunto belonging or in anywise appertaining. Rouse property.

A certain tract of land, situated in the Parish of Lafourche, State of Louisiana, on the right descending bank of Bayou Lafourche at a distance of about six (6) miles below the City of Thibodaux, measuring one half (1/2) arpent in width fronting on Bayou Lafourche, by a depth of forty (40) arpents. Bounded above by property of Estate of August Thibodaux, formerly, now Anthony J. Rouse, and below by the property sold to Paul Joseph Thibodaux, now or formerly. Together with all the buildings and improvements thereon and all rights, ways, and servitudes thereon and thereto belonging. Acosta property.

A certain tract of land situated in the Parish of Lafourche, State of Louisiana, at about six (6) miles below the City of Thibodaux, on the right descending bank of Bayou Lafourche, measuring three quarters (3/4) of an arpent front along the public paved highway paralleling Bayou Lafourche by a depth of forty (40) arpents, bounded in front by the said paved highway, above by property of Theogene Thibodaux and below by property of Joseph Thibodaux. Together with all the buildings and improvements thereon and all the rights, ways, privileges and servitudes thereunto belonging or in anywise appertaining. Theriot property.

Said above Rouse and Acosta parcel will be for a right of passage at the discretion of the land owner. The Acosta parcels and the Theriot parcel shall be for a drainage and maintenance servitude commencing at three thousand six hundred (3600') feet south of public paved highway No. 1., more or less, thence in a southerly direction to the forty arpent canal. The property line between the Acosta and Theriot shall be the center of ditch. Servitude width will be the width of the ditch plus twenty (20') feet west on Acosta parcel and width of ditch plus twenty (20') feet east on Theriot parcel.

It is further understood that this grant is not a conveyance of the full ownership of the property herein described and the parties herein specifically agree that the servitude may only be used by the Parish, its agents, employees, and/or assigns, for the maintenance and operation of said facilities, and is not intended as a servitude of passage for the general public.

Grantee to indemnify Grantor against, and to release, protect, and hold Grantor's harmless, from any claim or damages on account of bodily or personal injury, including death, to any person whomsoever, and any loss of or damage to any property whatsoever, arising out of the construction, maintenance, or operation of Grantee's facilities located on the premises herein described and granted; provided, however, that Grantee shall not be responsible for any claims or damages on account of bodily or personal injury, including death, to any person whomsoever, or for any loss of or damage to any property whatsoever, caused by the sole negligence of Grantor's, its agents, servants, employees, officers, invites, and/or licensees.

TO HAVE AND TO HOLD the aforesaid servitude unto the Grantee, their successors or assigns, so long as the Grantee, his successors or assigns, shall continue to use said servitude.

IN WITNESS WHEREOF, the GRANTOR has hereunto signed his name this 16th day of November, 2005, together with Steve Falso and Wendy Arcement, witnesses, in Lafourche Parish, Louisiana.

WITNESSES:

Steve Falso
Wendy Arcement
Steve Falso
Wendy Arcement
Steve Falso
Wendy Arcement
Steve Falso
Wendy Arcement
Steve Falso
Wendy Arcement
Steve Falso
Wendy Arcement

GRANTOR:
[Signature]
ANTHONY J. ROUSE

[Signature]
JOYCE G. ROUSE

[Signature]
TIMOTHY ACOSTA

Cynthia R. Acosta
CYNTHIA R. ACOSTA

[Signature]
HARRIS J. THERIOT

Marian R. Theriot
MARIAN SUE R. THERIOT

Before me, Notary Public, came and appeared Steve Falso, who declared that he witnessed the signature of ANTHONY J. ROUSE, JOYCE G. ROUSE, TIMOTHY ACOSIA, CYNTHIA R. ACOSTA, HARRIS J. THERIOT and MARIAN SUE R. THERIOT, to the foregoing servitude agreement and that THEY signed the agreement as THEIR free and voluntary act, for the Parish of Lafourche.

Sworn to and subscribed before me on this 5th day of JANUARY, 2006

Billy J. Pitre
NOTARY PUBLIC

Billy J. Pitre
Notary ID #14931
My notarial commission is for life.

IN WITNESS WHEREOF, the GRANTEE has hereunto signed her name this 3rd day of January, 2006 together with Steve Falso and Ella Dupre, witnesses, in Lafourche Parish, Louisiana.

WITNESSES:

Steve Falso
Ella Dupre

GRANTEE: PARISH OF LAFOURCHE
Charlotte A. Randolph
Charlotte A. Randolph
(President)

Before me, Notary Public, came and appeared Steve Falso, who declared that he witnessed the signature of Charlotte Randolph, Parish President, to the foregoing servitude agreement and that the said Charlotte Randolph signed the agreement as her free and voluntary act, for the Parish of Lafourche.

Sworn to and subscribed before me on this 5th day of JANUARY, 2006

Billy J. Pitre
NOTARY PUBLIC

Billy J. Pitre
Notary ID #14931
My notarial commission is for life.

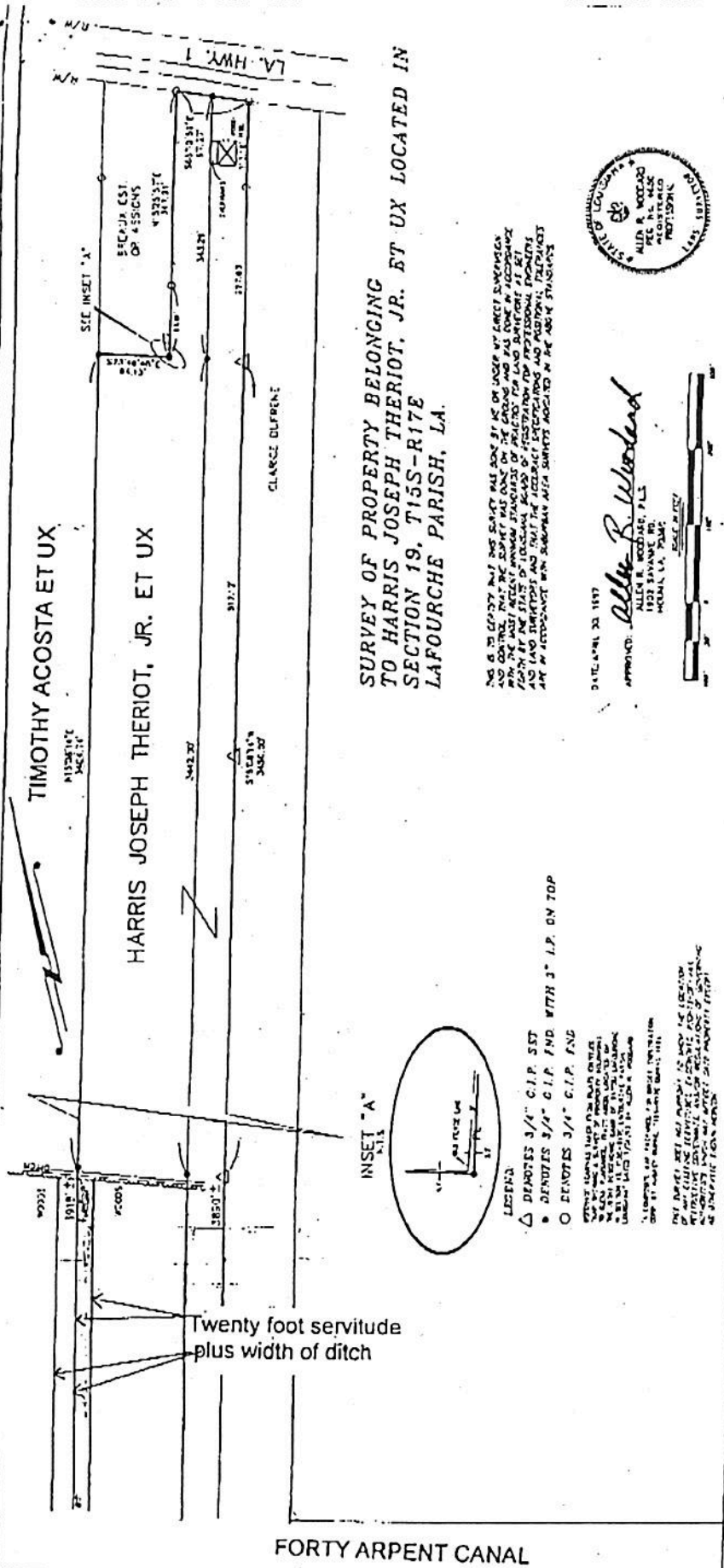
ANTHONY J. ROUSE ET UX

TIMOTHY ACOSTA ET UX

HARRIS JOSEPH THERIOT, JR. ET UX

CLARKE DUFRENE

SURVEY OF PROPERTY BELONGING TO HARRIS JOSEPH THERIOT, JR. ET UX LOCATED IN SECTION 19, T15S-R17E LAFOURCHE PARISH, LA.



INSET "A"



LEGEND:
 Δ DENOTES 3/4" C.I.P. SST
 ● DENOTES 3/4" C.I.P. FND WITH 3" I.P. ON TOP
 ○ DENOTES 3/4" C.I.P. FND

NOTE: ALL DISTANCES ARE IN FEET UNLESS OTHERWISE NOTED.
 ALL BEARINGS ARE TRUE BEARINGS UNLESS OTHERWISE NOTED.
 ALL CORNERS ARE CORNERS OF THE SURVEY UNLESS OTHERWISE NOTED.
 ALL DISTANCES ARE IN FEET UNLESS OTHERWISE NOTED.
 ALL BEARINGS ARE TRUE BEARINGS UNLESS OTHERWISE NOTED.
 ALL CORNERS ARE CORNERS OF THE SURVEY UNLESS OTHERWISE NOTED.

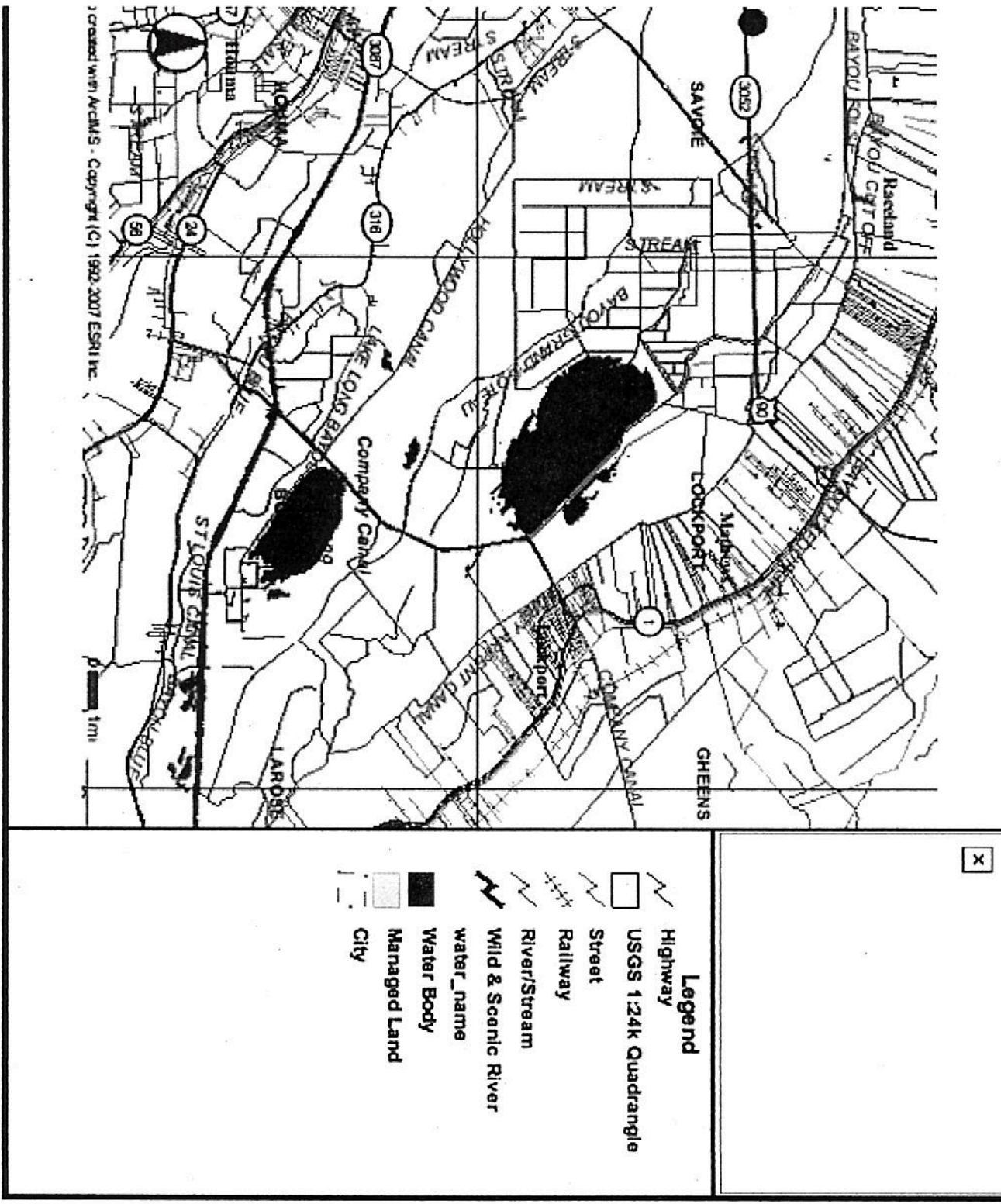
NO. 6 TO CERTIFY THAT THIS SURVEY WAS MADE BY ME OR UNDER MY DIRECT SUPERVISION AND CONTROL, THAT THE SURVEY WAS MADE BY THE ENGINEER AND WAS DONE IN ACCORDANCE WITH THE REQUIREMENTS OF THE ENGINEERING PROFESSIONAL ACT AND THE REQUIREMENTS OF THE STATE OF LOUISIANA AND THAT THE ACCURACY OF THE SURVEY IS GUARANTEED BY THE ENGINEER AND THAT THE ACCURACY OF THE SURVEY IS GUARANTEED BY THE ENGINEER AND THAT THE ACCURACY OF THE SURVEY IS GUARANTEED BY THE ENGINEER.

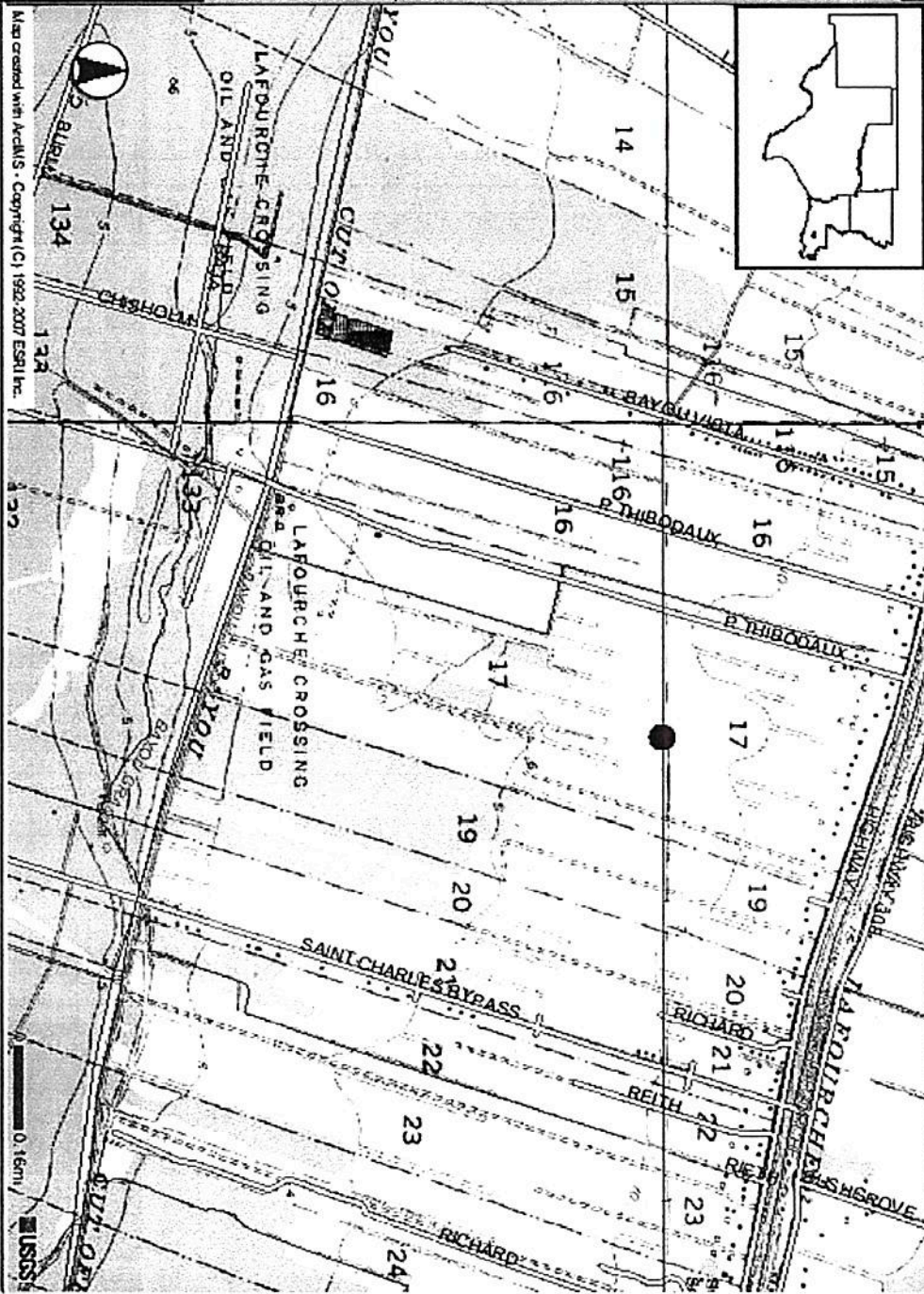
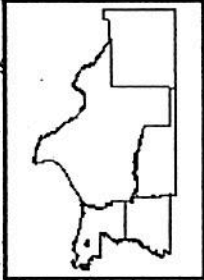
DATE: APRIL 22 1997

APPROVED: *Allen B. Woodard*
 ALLEN B. WOODARD, P.E.
 1021 STAMPADE BL.
 HOUMA, LA. 70309



Lakefields Map





Map created with ArcGIS - Copyright (C) 1982-2007 ESRI Inc.

0.1km



LEGEND LAYERS

- Managed Land
- City
- State Boundary
- County/Parish Boundary
- Transportation
- Institution
- USGS
- GNIS
- USGS 1:24k Quadrangle
- USGS 1:100k Quadrangle
- USGS 1:250k Quadrangle
- Level 3 Ecoregions
- Level 4 Ecoregions
- PLSS
- Land Cover
- Tribal Lands
- Impaired Water
- County Demographics
- Block Group Demographics
- Block Demographics

Backgrounds

- Visible
- Terraserver DOQ
- Terraserver DRG

Refresh Map

Help:

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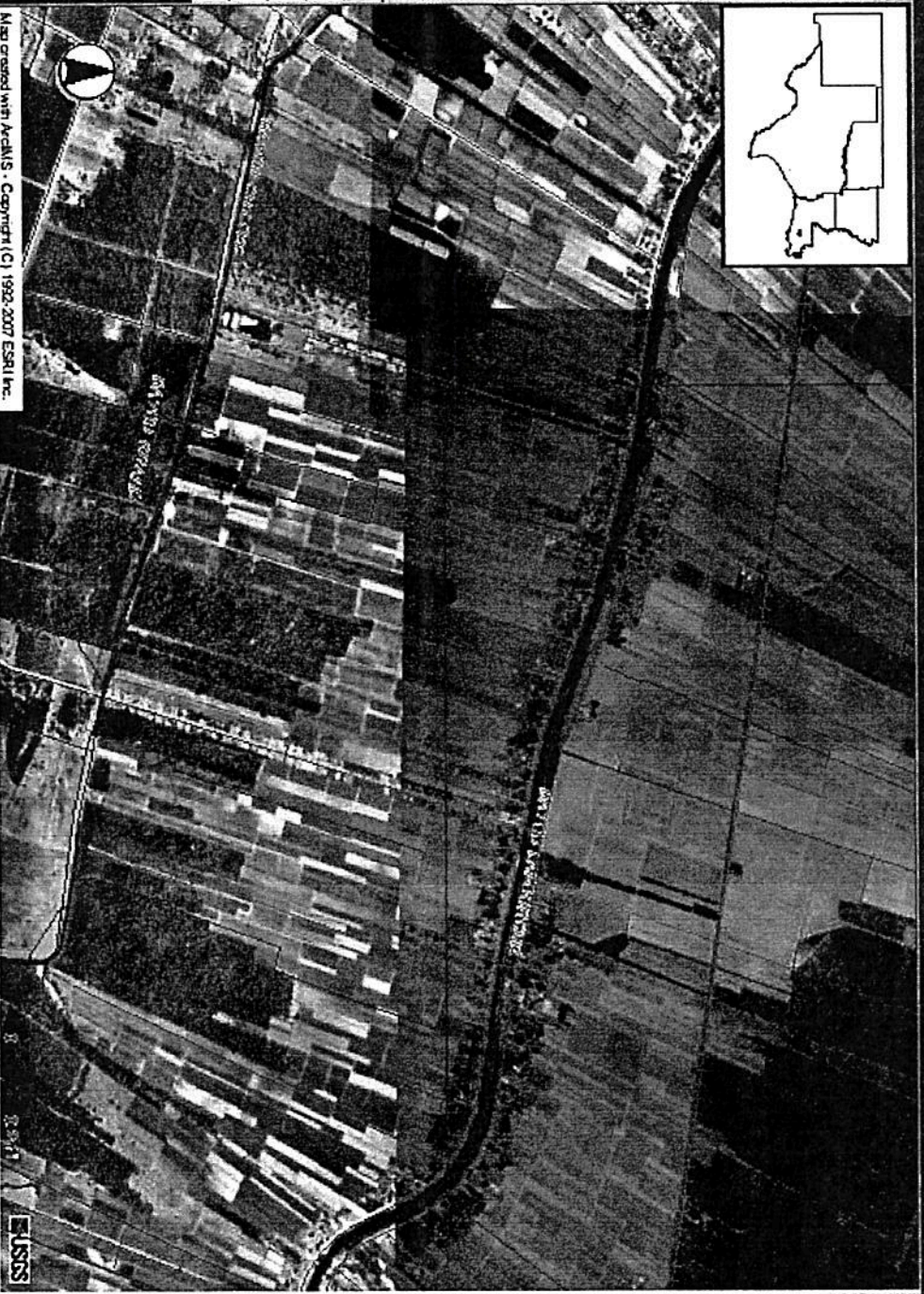
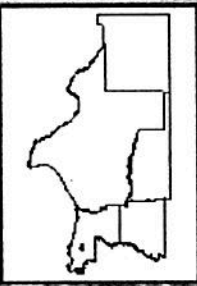
Active Layer: City

http://regis1.r06.epa.gov/water/viewer.htm

Water Quality Division IMS Site

Water Quality Division IMS

U.S. Environmental Protection Agency



Map created with ArcGIS. Copyright (C) 1993-2007 ESRI Inc.

LEGEND LAYERS

- Managed Land
- City
- State Boundary
- County/Parish Boundary
- Transportation
- Institution
- USGS
 - GNIS
 - USGS 1:24k Quadrangle
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 - Level 4 Ecoregions
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 - Land Cover
 - Tribal Lands
 - Impaired Water
 - County Demographics
 - Block Group Demographics
 - Block Demographics

Backgrounds

- Visible
- Terraserver DOQ
- Terraserver DRG

Refresh Map

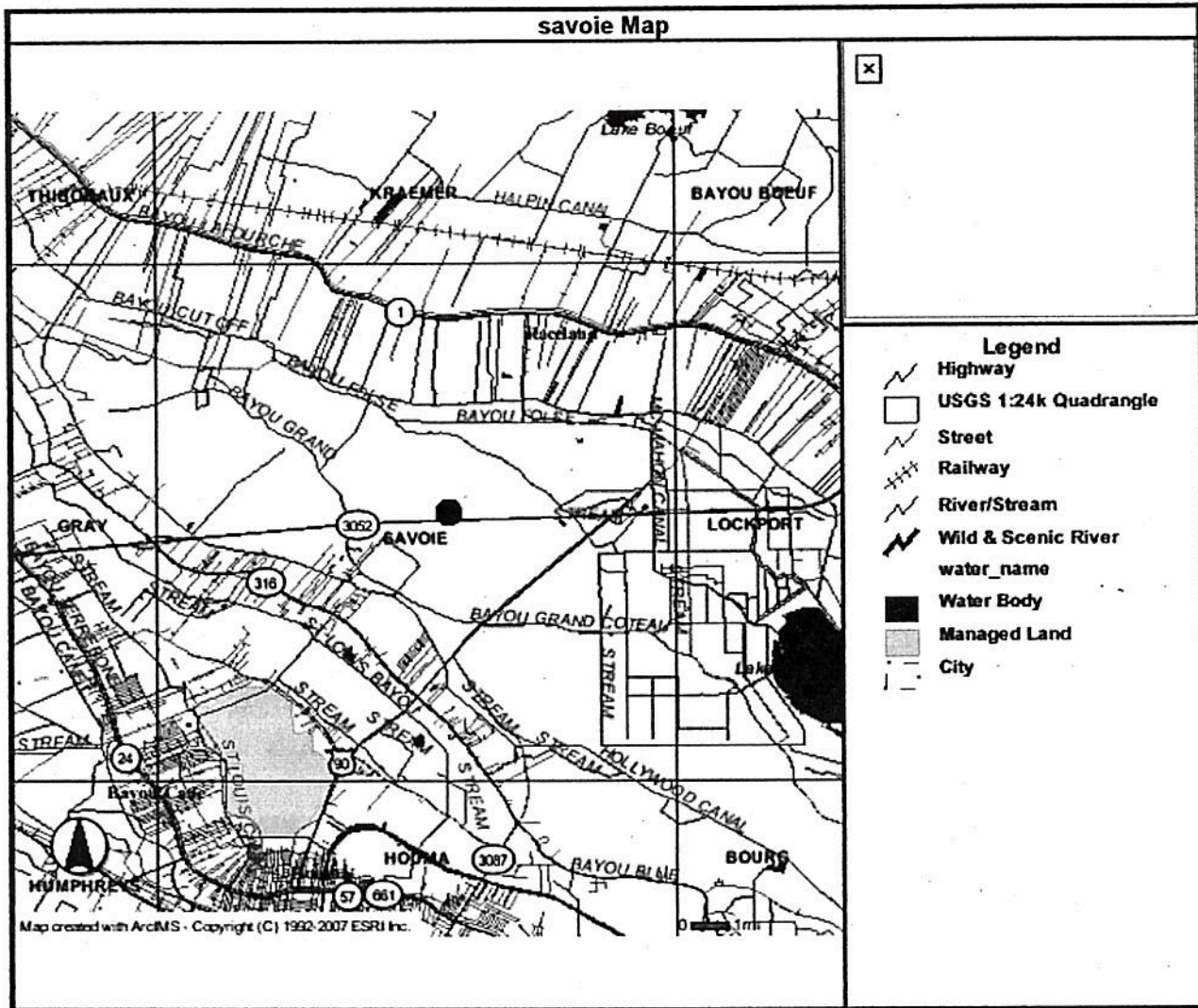
Help:

Navigation icons: Home, Back, Forward, Stop, Print, Page, Tools

- Review
- Home
- Print
- Zoom
- Previous
- Next
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- Print
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- Coordinate
- Address
- County
- City

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Active Layer: City



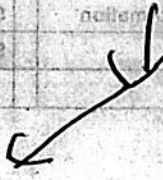
Bayou Cafe



Bayou Terrace (old)



Lake Fields



Company Card (Interconnect)

Bayou Lafourche

Section 19

DO NOT use this form as a RECORD of approvals, concurrences, disapprovals, clearances, and similar actions

FROM: (Name, org. symbol, Agency Post)

Room No. - Bldg.

Phone No.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200

DALLAS, TX 75202-2733

FILED

AUG 20 PM 1:13

2008 2 0 2007

REGIONAL HEARING CLERK
EPA REGION VI

CERTIFIED MAIL - RETURN RECEIPT REQUESTED (70041160000303578490)

Mrs. Charlotte Randolph, President
Lafourche Parish
Post Office Drawer 5548
Thibodaux, LA 70302

Re: EPA Docket Number: CWA-06-2007-2725

Dear Mrs. Randolph:

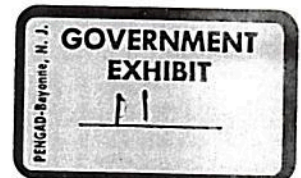
Enclosed is an administrative complaint issued by EPA alleging that Lafourche Parish has unlawfully discharged pollutants into waters of the United States in violation of Section 301(a) of the Clean Water Act, 33 U. S. C. §1311(a). The Complaint proposes that a civil penalty of \$40,000.000 be assessed for the violations.

Also enclosed is a copy of 40 C. F. R. Part 22 which sets forth the rules of procedure applicable to the case.

Lafourche Parish has the right to a hearing to contest the factual allegations in the Complaint. If Lafourche Parish admits the allegations or is found to be liable for the violations after a hearing, Lafourche Parish has the right to submit evidence relevant to the amount of the penalty to be assessed. If Lafourche Parish wishes to contest the allegations in the Complaint, it must file an answer within thirty days of your receipt of the Complaint. The answer should be sent to the EPA Regional Hearing Clerk at the following address:

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

If Lafourche Parish does not file an answer by the applicable deadline, a default order may be issued. If that occurs, the allegations in the Complaint will be deemed admitted by Lafouche Parish, and Lafourche Parish will have waived its right to a hearing on the allegations. Provided that the Complaint is legally sufficient, a penalty may be assessed and become due and payable without further proceedings thirty days after the default Order is issued.



Internet Address (URL) • <http://www.epa.gov>

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If Lafourche Parish desires to settle this matter without further legal action, it may waive its right to a hearing and sign a Consent Agreement and Final Order and return it to EPA for approval by the appropriate EPA officials. Please be advised that by signing a Consent Agreement and Final Order Lafourche Parish will be agreeing to pay the penalty agreed to by the parties and will waive its right to appeal the Final Order. Please note, however, that EPA cannot execute and file any Consent Agreement and Final Order until it considers public comments, if any, submitted on the Complaint. You have the right to be represented by an attorney at any stage of the proceedings, including in any informal discussions with EPA.

Lafourche Parish may also resolve the case by paying the proposed penalty of \$40,000,000. To do so a cashier's check or certified check, payable to "Treasurer of the United States," should be mailed to the following address:

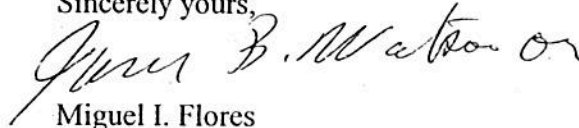
Regional Hearing Clerk
U. S. EPA Region 6
P. O. Box 371099M
Pittsburgh, Pennsylvania 15251

"In the Matter of Lafourche Parish Docket # 06-2007-2725 ," should be clearly marked on the check to ensure proper credit for payment.

At the same time Lafouche Parish should also send a separate notice of payment, including a copy of the check, to each of the following persons: the Regional Hearing Clerk (6RC-D), Donna Mullins (6WQ-EM), and John Emerson (6RC-EW) at 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Following these procedures will ensure proper credit when payment is received. The case will then be concluded by the issuance of a Final Order.

If you have any questions or would like to receive an extension of the thirty-day deadline for filing an answer, please contact Donna Mullins at (214) 665-7576 or John Emerson at (214) 665-3137.

Sincerely yours,



Miguel I. Flores
Director
Water Quality Protection Division

Enclosures

cc: with copy of complaint:

Regional Hearing Clerk
Furcy Zeringue, New Orleans District, Corps of Engineers

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

| | | |
|-------------------|---|------------------------------|
| In the Matter of | § | Docket No. CWA-06-2007-2725 |
| | § | |
| Lafourche Parish, | § | Proceeding to Assess a |
| | § | Civil Penalty Under § 309(g) |
| Respondent. | § | of the Clean Water Act |
| | § | |
| | § | Administrative Complaint |

I. STATUTORY AUTHORITY

1. This class II Administrative Complaint is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by § 309(g) of the Clean Water Act (Act), 33 U. S. C. § 309(g). The Administrator has delegated such authority to the Regional Administrator of EPA Region 6 who has further delegated such authority to the Director of the Water Quality Protection Division of EPA Region 6 who is the Complainant in this action. This 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. Respondent Lafourche Parish is and at all times relevant to this action and the violations alleged herein (relevant time period) was a political subdivision of the State of Louisiana and a "person" as defined by Section 502(5) of the Act, 33 U. S. C. § 1362(5).

3. During the relevant time period, Section 301(a) of the Act, 33 U. S. C. § 1311(a), provided that it was unlawful for any person to discharge a 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. During the relevant time period, Section 404 of the Act, 33 U. S. C. § 1344, authorized the Secretary of the Army, acting through the Chief of Engineers for the U. S. Army Corps of Engineers, to issue permits for the discharge of dredged or fill material to waters of the United States.

5. On multiple occasions on or about March 3, 2006, Respondent and/or other persons and/or a business entity or entities acting at Respondent's request or direction and on its behalf discharged and caused the discharge of pollutants from point sources to waters of the United States without a permit issued under the Act in violation of Sections 301(a) and 309(g)(1)(A) of the Act, 33 U. S. C. §§ 1311(a) and 1319(g)(1)(A).

6. More particularly, during the construction of a drainage canal and the clearing of approximately 8.65 acres of forested, jurisdictional wetlands located in Section 19, Township 15 South, Range 17 East, Lafourche Parish, Louisiana, Respondent and/or said other parties discharged "dredged material" and "fill material," as defined by 40 C. F. R. § 232.2, by means of earth-moving and other equipment into said wetlands.

7. The dredged and fill material referred to in paragraph 6 above were "pollutants" as defined by Section 502(6) of the Act, 33 U. S. C. § 1362(6).

8. Each piece of equipment referred to in paragraph 6 above was a "point source" as defined by Section 502(14) of the Act, 33 U. S. C. § 1362(14).

9. The wetlands referred to in paragraph 6 above were "waters of the United States" as defined by 40 C. F. R. § 232.2.

10. During the relevant time period Respondent did not have a permit authorizing the discharges alleged in paragraphs 5 and 6 above.

11. Each unauthorized discharge was a violation of Section 301(a) of the Act, 33 U. S. C. § 1311(a).

12. Pursuant to Section 309(g)(2)(B) of the Act, 33 U. S. C. § 1319(g)(2)(B), Respondent is liable for administrative penalties in an amount not to exceed \$11,000 for each violation, up to a maximum of \$157,000 for this enforcement action, and is subject to injunctive relief.

III. NOTICE TO STATE

13. EPA has notified the Louisiana Department of Environmental Quality of the filing of this Complaint and has afforded the state an opportunity to consult with EPA regarding the assessment of a civil penalty against Respondent.

IV. NOTICE TO PUBLIC

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

V. PROPOSED PENALTY

15. Based on the foregoing Findings of Fact and Conclusions of Law and pursuant to Sections 309(g)(1)(A) and (g)(2)(B) of the Act, 33 U.S.C. §§ 1319(g)(1)(A) and (g)(2)(B), Complainant finds that Respondent has committed the violations alleged in paragraphs 5 and 6 above and proposes to assess a class II civil penalty not to exceed \$11,000 per day for each day during which a violation occurred or continued, up to a maximum of \$157,000 for the violations alleged in this Complaint.

16. In determining the amount of the penalty EPA will consider the factors set forth in Section 309(g)(3) of the Act, 33 U. S. C. § 1319(g)(3), namely, the nature, circumstances, extent and gravity of the violations, Respondent's ability to pay a penalty, any history of such violations, the degree of culpability, economic benefit or savings, if any, resulting from the violations and such other factors as justice may require.

VI. FAILURE TO ANSWER

17. If Respondent wishes to admit, deny or explain any material allegation set forth in the above findings of fact or contest the amount of the penalty proposed, Respondent must file an answer to this Complaint within thirty days after receipt of the Complaint, regardless of whether Respondent requests a hearing on the allegations of the Complaint.

18. The requirements for an answer are set forth at 40 C. F. R. § 22.15. Respondent's failure in an answer to admit, deny or explain any material, factual allegation in the Complaint will constitute an admission of the allegation under 40 C. F. R. § 22.15(d).

19. If Respondent fails to file an answer within thirty days of service of the Complaint, Respondent may be found in default and a default order may be issued pursuant to 40 C. F. R. § 22.17. Respondent's default will constitute an admission of all facts alleged in the Complaint and a waiver of its right to contest such allegations.

20. Respondent must send its answer, including any request for a hearing, and all other pleadings and papers required to be filed with the Regional Hearing Clerk to:

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

21. The answer must be signed by Respondent's attorney or other representative and must include the information required by 40 C. F. R. § 22.15. All other pleadings must be similarly signed and filed with the Regional Hearing Clerk.

VII. NOTICE OF OPPORTUNITY TO REQUEST HEARING

22. Respondent may request a hearing to contest any material allegation set forth in this Complaint or to contest the appropriateness of the amount of the proposed penalty, pursuant to Section 309(g)(2)(B) of the Act, 33 U. S. C. § 1319(g)(2)(B), and 40 C. F. R. § 22.15(c). The hearing procedures are set forth at 40 C. F. R. §§ 22.21-22.26.

23. If a hearing is requested, persons 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 the hearing under Section 309(g)(4)(B) of the Act, 33 U. S. C. § 1319(g)(4)(B).

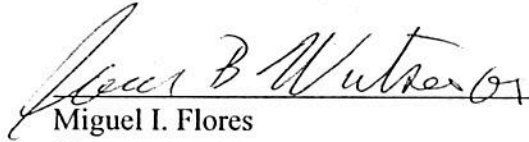
VIII. SETTLEMENT

24. If this action is settled without a hearing, it may be concluded by a quick resolution, pursuant to 40 C. F. R. § 22.18(a), or a Consent Agreement and Final Order, pursuant to 40 C. F. R. § 22.18(b). In a quick resolution, Respondent would pay the penalty proposed in the Complaint and a Final Order would be issued terminating the case. In a Consent Agreement and Final Order, Respondent would waive its right to a hearing on any matter stipulated to in the agreement or alleged in the Complaint. Any person who commented on this Complaint would be notified of the settlement and proposed final order and would be given thirty days to petition EPA to set aside any the Consent Agreement and Final Order and hold a hearing on the allegations of the Complaint.

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

AUG 20 2007

Issuance Date



Miguel I. Flores
Director
Water Quality Protection Division

CERTIFICATE OF SERVICE

I certify that on AUG 20 2007 a true and correct copy of this

Complaint was deposited with the U. S. Postal Service, certified mail, return receipt requested, addressed to Charlotte A. Randolph, President, Lafourche Parish, P. O. Drawer 5548, Thibodaux, Louisiana 70302.

Dana Mullins

LAFOURCHE PARISH PENALTY CALCULATION

On December 1, 2004, EPA issued an Administrative Order (CWA-06-2004-2703) to Lafourche Parish for four levees that were built without a permit and without considering the least damaging practical alternative. The Order required that Lafourche Parish apply for an after-the-fact permit. In the interim, it required that Lafourche Parish construct gaps in the levees as specified by a map. To date, Lafourche Parish has put in gaps at locations agreed to by the COE and EPA. Lafourche Parish has submitted an after-the-fact permit application to the COE.

On March 3, 2006, the COE inspected a new site and observed unauthorized mechanical landclearing and deposition of dredged material relative to the construction of a drainage canal (620 feet) and clearing of 8.65 acres of forested wetlands on the property boundary common to Mr. Harris Theriot and Mr. Timothy Acosta. The COE issued a Cease and Desist Order to Lafourche Parish on May 8, 2006. Lafourche Parish provided written response back to the Cease and Desist on January 10, 2007.

1. ECONOMIC BENEFIT-

Delayed cost- Cost of hiring a consultant to assist in permit acquisition for a permit- \$5,000.00

GRAVITY-

Multiplier- \$500.00- because they are local government

A Factors-

Harm to Human Health or Welfare- 0

Extent of Aquatic Env Impact- 0

Severity of Impacts to Aquatic Env- 0

Unique Sensitivity of Affected Resources- 0

Secondary or Off-Site Impacts-0

Duration of Violation- 0

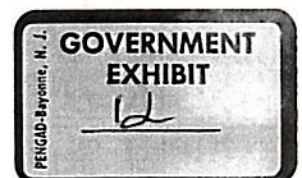
B Factors-

Degree of Culpability- 20- Lafourche Parish had prior knowledge of the Section 404 Program and they had knowledge that they needed a 404 Permit before they constructed the drainage ditch.

Compliance History the Violator- 20- Lafourche Parish has a prior history of prior 404 violations. EPA issued an Administrative Order to Lafourche Parish on December 1, 2004.

Need for Deterrence- 20- Lafourche Parish needs to be sent a specific deterrence message because the violations have been repeated.

2. PRELIMINARY GRAVITY- $60 \times 500 = \$30,000.00$



3. ADJUSTMENTS TO GRAVITY

a. Recalcitrance- 0

b. Quick Settlement- 0

c. Other Factors as Justice May Require-0

d. Final Adjustments-0

4. PRELIMINARY PENALTY- $\$5,000.00 + 30,000.00 + 0 = \$35,000.00$

Litigation Considerations-0

Inability to Pay-0

Penalty Settlement Bottom Line- $\$35,000.00$

Proposed Penalty- $\$40,000.00$