

October 12, 2009

Mr. Douglas F. Mundrick, P.E., Chief
U.S. EPA, Region 4
Clean Water Enforcement Branch
Water Protection Division
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

HEARINGS OFFICE

2009 OCT 20 AM 7:27

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Dear Mr. Mundrick:

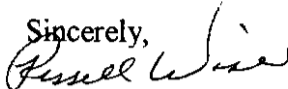
This letter is in response to the Administrative Complaint, Docket No. CWA-04-2009-5504 that I received from you dated September 17, 2009 concerning my alleged Clean Water Act violations on my farm near Cool Springs, South Carolina. First to address all of the allegations beginning on page 2 of the Administrative Complaint I will go through them one by one.

Allegation #9 is correct. I have been the owner of the tract of land where the alleged violation is said to have occurred for a number of years and I have actively farmed the cropland/pasture land on this farm all of this time. In answer to Allegation #10, I am a person according to the definition that it quotes. In response to Allegation #11, I cannot verify the exact date that I started to construct my pond, but November 20, 2002 is probably very near the time that I started. I had an exemption from the Army Corps of Engineers that I had received following the existing procedures required at that time to receive an agricultural exemption to construct an irrigation/livestock watering pond. At no time was I aware that I was in any way performing an unauthorized activity. In response to Allegation # 12, my pond is only about 12.5 acres in size including the dam and the open water. According to USDA-NRCS, approximately 5.5 acres of the 12.5 acres was wetlands. In response to Allegation #13, I am not qualified to determine what a pollutant is under the statutes it quotes. I did construct an earthen dam in the area that was exempted under my agricultural exemption. After it was constructed, I sowed both temporary and permanent grass seeds onto the dam to stabilize the dam. In response to Allegation #14, I used a track hoe, a bulldozer, and farm tractors to construct the pond dam. I used them to the best of my abilities and I did not know that they were "point sources" of anything. In response to Allegation #15, I did not know that constructing my pond dam that I had an exemption for was considered a "discharge of pollutants". In response to Allegation #16, I did receive an exemption from the Army Corps of Engineers for my pond and I did to the best of my abilities try to follow the stipulations set forth as a requirement of the pond exemption. In response to Allegation #17, I do not recall receiving communications from the Army Corps of Engineers telling me that I was in any way doing anything wrong. I am not saying that the Army Corps of Engineers did not send me any notification to stop work, but I am saying that I do not recall receiving anything from them. Please remember that I am an active, hands on farmer and that most of the year my work day goes from daylight to dark and beyond. I could have missed the notification to stop work, but I assure that I do not recall seeing it. I did stop work after speaking with Mr. Mike Wylie after he came on site to tell me that I had a violation.

responding to Administrative Complaint, Docket No. CWA-04-2009-5504, I am asking for a hearing of this administrative complaint, and for a settlement conference. I do this response and these requests to satisfy the steps outlined in Administrative Complaint, Docket No. CWA-04-2009-5504. Please let me know if I have failed to meet any of these requirements. I do not practice law for a living.

I maintain my innocence of any wrongdoing and formally request that any charges, fines, complaints or any other semblance of my having done anything wrong concerning the construction or operation of my farm pond in question be dropped and dismissed. Thank you for your time and attention. I look forward to your written response.

Sincerely,



Russell Wise

Cc: Philip Mancusi-Ungaro
Mike Wylie
Laurie Dubriel
Mr. C. Earl Hunter
Mr. Tommy Fennel, U.S. Army Corps of Engineers, Conway
Mr. Howell V. Bellamy, Jr.
Regional Hearing Clerk, EPA Region 4