

**IN THIS MATTER OF RODNEY O. CORR OF CORR FINANCIAL LLC
BEFORE THE ADMINISTRATOR**

IN THE MATTER OF)
UNITED STATES)
ENVIRONMENTAL)
PROTECTION)
AGENCY)

COMPLAINANT)
_____)

DOCKET NO. CWA-04-2008-5508

NOTICE OF TERMINATION OF ORDER

HEARING CLERK

2009 JUN 23 AM 9:01

REGISTRATION
EPA REGION 4

RESPONDENT'S INITIAL PREHEATING EXCHANGE

By order of Administrative Law Judge Barbara A. Gunning, dated March 4, 2009, Prehearing Order, Respondent, Rodney O. Corr of Corr Financial LLC, respectfully submits the following Prehearing Exchange.

A. EXPECTED WITNESSES AND TESTIMONY

1. Mack Cameron: Attorney at Law
2. Hon. J.P. Compretta: House of Representative, Speaker of the House
3. Jimmy Chiniche: Civil Engineer and Designer
4. Gary Ceavas: Enviro South Consultant
5. Billy Culpepper: Enviro South Consultant
6. David Yarbrough: Hancock County Board of Supervisors
7. Scottie Cuevas: Previous State Senator of Mississippi
8. Mitch Hardie: Trucking Company Owner
9. Russell Necaice: Former Employee of Corr Contracting Co.
10. David Smith: Former Employee of Corr Contracting Co
11. Ronald A. Krizman: Chief, Regulatory Branch Manager (will Subpoena)
12. Sessie Maneri: Realtor at Corp Meeting
13. Michael Moxey: Corps of Engineering (will Subpoena)
14. Frank Hubiak: Corps of Engineering (will Subpoena)
15. Dr. William Walker: Dept. of Marine Resources (will Subpoena)

B. PLEASE BE INFORMED THAT IT IS MY POSITION THAT THE ARMY CORPS OF ENGINEERS AND THE ENVIRONMENTAL PROTECTION AGENCY DOES NOT HAVE ANY JURISDICTION UNDER THE CLEAN WATER ACT OVER THE PROPERTY IN QUESTION.

1. IT IS ALSO MY POSITION THAT THE REGULATION PROMULGATED PURSUANT TO THE CLEAN WATER ACT BY THE CORPS OF ENGINEERS AND ENVIRONMENTAL PROTECTION AGENCY GO BEYOND THE PROVISIONS OF THE CLEAN WATER ACT AS PASSED BY THE UNITED STATES CONGRESS AND ARE THEREFORE OUTSIDE THE PARAMETERS SET FORTH BY THE ACT. ANY ATTEMPT BY ANY AGENCY TO ENFORCE THAT PART OF ITS REGULATIONS WHICH ARE NOT BASED IN THE LAW AND IN FACT GO BEYOND THE LAW AS SET FORTH BY CONGRESS COULD RESULT IN EMPLOYEES OF THESE AGENCIES OPERATING OUTSIDE OF THE SCOPE OF THEIR EMPLOYMENT WHICH COULD SUBJECT THEM TO LITIGATION WHEREIN THEY COULD BE DETERMINED TO BE PERSONALLY LIABLE FOR THEIR ACTIONS.

C. DOCUMENTS AND EXHIBITS COMPLAINANTS INTENDS TO INTRODUCE
INTO EVIDENCE AT HEARING

<u>Respondent #</u>	<u>Subdivision</u>	<u>Date</u>	<u>Description of Papers</u>
1-	St. Joseph	6/5/2000	Application of Preliminary Plat Approval
2-	St. Joseph	6/6/2000	Miss. Dept of Environmental Quality
3-	St. Joseph	6/6/2000	Minutes from Meeting
4-	St. Joseph	6/26/2000	Notice of Public Hearing
5-	St. Joseph	7/20/2000	St. Joseph Permit
6-	St. Joseph	7/28/2000	Miss. Dept of Environmental Quality Approval letter
7-	St. Joseph	8/4/2000	Miss. State Dept of Health Approval Letter
8-	St. Joseph	9/4/2001	Department of the Army "Cease and Desist Order"
9-	St. Joseph	10/10/2001	Closing on New Loan w/ Bancorp South
10-	St. Joseph	12/12/2001	Department of the Army Letter of Recommendation
11-	St. Joseph	3/20/2002	Mack Cameron Letter to Corp of Engineering
12-	St. Joseph	5/12/2002	Notice of Public Hearing
13-	St. Joseph	6/5/2002	St. Joseph Meeting for Final Approval
14-	St. Joseph	4/8/2003	Mack Cameron's Letter to David Schwartz

**Money Lost by Rodney O. Corr due to Agencies overstepping their Jurisdiction:
(on St Joseph Street Property)**

Expenses	\$	3,156.00
Interest on Loan	\$	15,918.00
Attorney Fees	\$	<u>8,650.00</u>
Total	\$	27,724.00

<u>Respondent #</u>	<u>Subdivision</u>	<u>Date</u>	<u>Description of Papers</u>
15-	Ireland St Sub.	9/6/2000	Contract for Purchase Ireland Street
16-	Ireland St Sub.	10/4/2000	Warranty Deed Ireland Street
17-	Ireland St Sub.	2/22/2001	Frances Cremer Nationwide Permit 18 for Lot 18
18-	Ireland St Sub.	1/19/2001	Survey of Ireland Street Subdivision
19-	Ireland St Sub.	4/27/2001	Description of Wetlands impact and avoidance
20-	Ireland St Sub.	5/3/2001	Public Notice for Permits for Ireland Street
21-	Ireland St Sub.	5/25/2001	State of Mississippi Dept of Environmental Quality Approval Letter

<u>Respondent #</u>	<u>Subdivision</u>	<u>Date</u>	<u>Description of Papers</u>
22-	Ireland St Sub.	5/29/2001	Miss State Board of Health Approval Letter
23-	Ireland St Sub.	7/9/2001	Miss State Dept. of Health Approval of Plans Letter
24-	Ireland St Sub.	7/10/2001	Response to U.S. Fish and Wildlife, EPA, and National Marine Fisheries Service
25-	Ireland St Sub.	7/25/2001	Response to Office of Pollution Control
26-	Ireland St Sub.	7/30/2001	Response to Using Nationwide Permit 18 Guidelines
27-	Ireland St Sub.	8/14/2001	Response Letter from CORP Michael Moxey from all Agencies to Public Notice
28-	Ireland St Sub.	8/22/2001	David Smith Nationwide Permit 18 for Lot 39
29-	Ireland St Sub.	9/21/2001	Letter withdrawing permit due to reduction of project by Corps.
30-	Ireland St Sub.	2/20/2003	Cease and Desist Order for the "DITCH" for Ireland Street
31-	Ireland St Sub.	4/2/2003	Krizman Letter to Mack Cameron about Meeting with Multi Agencies
32-	Ireland St Sub.	4/15/2003	Mack Letter in Response for Ireland St to Krizman
33-	Ireland St Sub.	4/21/2003	Response to "DITCH" Nationwide Permit 14 for County
34-	Ireland St Sub.	5/2/2003	Order from Miss. Commission on Environmental Quality
35-	Ireland St Sub.	5/13/2003	Order Response for Mack Cameron to Ms Riley
36-	Ireland St Sub.	6/19/2003	Letter from Gary Cuevas to Ron Krizman on Ireland Meeting
37-	Ireland St Sub.	7/3/2003	Ron Krizman e-mail agreement for Ireland Street to Gary Cuevas
38-	Ireland St Sub.	7/7/2003	Dr. Walkers agreement Letter to Ron Krizman
39-	Ireland St Sub.	9/3/2003	Enviro South Letter to Corr on Mitigation agreements
40-	Ireland St Sub.	3/26/2003	Pictures of Ireland Property and Road
41-	Ireland St Sub.	3/26/2003	Pictures of Ireland Property and Road
42-	Ireland St Sub.	3/26/2003	Pictures of Ireland Property and Road

**Money Lost by Rodney O. Corr for Agencies overstepping their Jurisdiction:
(on Ireland Street Property)**

Expenses	\$	4,625.23
Interest on Loan	\$	17,645.84
Attorney Fees	\$	<u>37,500.00</u>
Total	\$	59,771.07

<u>Respondent #</u>	<u>Subdivision</u>	<u>Date</u>	<u>Description of Papers</u>
43-	Highway 603	10/24/2003	Warranty Deed Highway 603 Chevis
44-	Highway 603	2/9/2004	Jimmy Chiniche to Ms. Department of Environmental Quality
44a-	Highway 603	2/9/2004	Ms. Department of Environmental Quality Approval of Subdivision and Pollution Control
45-	Highway 603	3/9/2004	Hancock County Building/ Zoning Approval from Board
46-	Highway 603	4/22/2004	Gary Cuevas Letter to Ms. Dept. of Environmental Quality
47-	Highway 603	5/28/2002	Overhead picture of Highway 603 Sub by Favre Street
48-	Highway 603	Jan-04	Storm Water Prevention Plan Cameron Bay
49-	Highway 603	4/30/2004	Permit Miss. Dept of Environmental Quality
50-	Highway 603	4/1/2004	State of Miss. Dept of Health Approval of Subdivision
51-	Highway 603	7/6/2004	Cease and Desist Order Cameron Bay
52-	Highway 603	6/10/2005	Extended Permit from MDEQ for Cameron Bay Thru May 2010
53-	Highway 603	7/15/2004	Letter from EPA accepting case from Corps of Engineering
54-	Highway 603	8/4/2004	Mack Cameron's Letter to Ms. Jackson about Cease and Desist
55-	Highway 603	9/8/2004	Mack Cameron's Letter to Mike Wylie about Cease and Desist
56-	Highway 603	10/7/2004	Mack Cameron's Letter to J.P. Compretta about Cease and Desist
57-	Highway 603	10/13/2004	Mack Cameron's Letter to Bill Sapp after Cease and Desist about setting meeting and liability of misrepresentation of agencies
58-	Highway 603	7/6/2005	Picture overhead of Cameron Bay Sub
59-	Highway 603	7/6/2005	Picture of Retension Ponds Approved by MDEQ
60-	Highway 603	7/6/2005	Picture of Retension Ponds Approved by MDEQ
61-	Highway 603	7/6/2005	Picture of Culverts on Favre Street
62-	Highway 603	7/6/2005	Pictures of Ditch in Rear of Subdivision
63-	Highway 603	7/6/2005	Pictures Hwy 603 Culvert and Rear Ditch Sub
64-	Highway 603	7/6/2005	Pictures of Retention Pond and View of Sub
65-	Highway 603	4/5/2005	Administrative Consent Order Docket No. CWA-04-2005-5762
66-	Highway 603	5/6/2004	Notice of Public Hearing for Cameron Bay
67-	Highway 603	Map	Google Map Showing distance of drainage ditch to Bayou Lacrouix
68-	Highway 603	12/18/2008	Letter to Patricia A. Bullock about Complaint

<u>Respondent #</u>	<u>Subdivision</u>	<u>Date</u>	<u>Description of Papers</u>
69-	Highway 603	4/17/2009	First Bank Letter of Past Due Money on Cameron Bay
70-	Taxes	2/23/2009	Rodney & Tammy 2008 Tax Return
71-	Highway 603	7/8/2005	Another Letter Stating Why Corp and EPA overstepped their scope of employment
72-	Highway 603	2/25/2009	Letter to Judge Gunning about my position on the allegations
73-	Highway 603	10/11/2205	Supreme Court Case Summary Papanos vs. United States
74-	Highway 603	Definitions	From United States Environmental Protection Agency on Wetlands
75-	Highway 603	6/15/2001	Permit for Lot 7 Boat Launch Mark Fridge
76-	Highway 603	3/16/2001	Survey of Mark Fridge Property and Boat Launch
77-	Highway 603	3/26/2003	Picture of Ireland Street Boat Launch
78-	Taxes	9/26/2007	Rodney & Tammy Corr 2006 Tax Return
79-	Taxes	3/13/2008	Rodney & Tammy Corr 2007 Tax Return
80-	Ireland Street	9/3/2003	Ireland Street Lot 28, 29, 30 & 32 Property Governmental Taking

**Money Lost by Rodney O. Corr for Agencies overstepping their Jurisdiction:
 (on Highway 603 Property)**

Expenses	\$	56,425.23
Interest on Loan	\$	76,860.60
Attorney Fees	\$	<u>46,581.00</u>
Subtotal	\$	179,866.83
First Bank Foreclosure of Property because of Environment Agency Enforcement	\$	566,235.24
Total	\$	<u>746,102.07</u>

Respondent Voluntary Termination of Alternative Dispute Resolution (ADR) Process

After reviewing all the Complainants MORE miss truths, I have decided to stop this Alternative Dispute Resolution (ADR) process, and trying to facilitate this settlement. Now, due to my financial difficulty, the Agencies has caused me and my family, I'm left with the following:

In light of the foregoing, I'm considering the option of, among other things, filing a lawsuit challenging this unlawful Order in Federal court. See Alaska Dept. of Env'tl. Conservation v. EPA, 540 U.S. 461, 482-83 (2004) (recognizing that administrative compliance orders issued by EPA that possess the requisite "finality" are reviewable by federal courts). In addition to relying on an overly expansive interpretation of navigability, I believe that this Order also falls woefully short of the requirements of due process and cannot serve as the basis of any enforcement action. The Order issued in this case came before me ever had an " opportunity to argue, before a neutral tribunal" that the conduct underlying in the Original Order did not amount to a violation of the Clean Water Act. See id. At 1243. I also have other constitutional protections at my disposal, including a claim for taking of private property without just compensations. By Region 4's assertion of jurisdiction, the Site would be rendered virtually incapable of development, amounting to a loss in value of approximately \$ 750,000.

5/29/2009
Judge. Bullock

As said many times previous:

my position of EPA asserting jurisdiction over jurisdiction on my property remains the same. The Fifth Circuit Appeals for the Fifth Circuit - governing federal law in the State of Mississippi - recently restricted your agency's authority to assert jurisdiction over certain waterbodies. See in the matter of Needham (5th Cir. 2003) Specifically, the Fifth Circuit rejected the "expansive interpretation" of the jurisdictional term "navigable waters" employed by two other circuits that allowed federal agencies to assert jurisdiction over "all waters, excluding groundwater, that have any hydrological connection with navigable water.

The (Clean Water Act is) not so broad as to permit the federal government to impose regulations over "tributaries" that are neither themselves navigable nor truly adjacent to navigable waters. Consequently, in this circuit the United States may not simply impose regulations over puddles, sewers, roadside ditches and the likes; under SWANCC.

As a result, at least in this Circuit, your agency cannot rely on the "hydrological connection" theory as a sole means for justifying an assertion of jurisdiction over the property. As well your agency cannot assert jurisdiction over an otherwise non-jurisdictional wetland on the basis that the wetlands are located a few miles from the "headwaters" of a "tidal waterbody" that eventually flows into a navigable river.

In fact, your agency can only assert jurisdiction over (1) "wetlands" that are (2) "adjacent to" (3) an "open body" of (4) "navigable water." As discussed above, my property did not impact wetlands on the Site, either before or after development activities commenced at the Site. In this Circuit, "adjacency necessarily implicates a significant nexus between the water in question and the navigable-in-fact waterway. For example in Needham. The drainage ditches on my property are located approx. over 8,000 linear feet from a Bayou, which itself is not an "open body of navigable water". In fact, the Bayou must flow over three miles before reaching the navigable Jourdan River.

In fact, it is our understanding that the United States Army Corps of Engineers and or Region 4 were aware of My development activities at the Site almost 18 months before taking any enforcement action. Likewise, EPA itself issued the Order almost Six months after conducting its " enforcement" visit to the Site. Waiting such an extensive period of time before commencing enforcement not only discredits the claims in the Order, but such delay may also support a claim of estoppel against many people in both agencies if litigation ensues. I'm exploring available legal recourses at this time for the repeated harassment by both agencies and many people of the staff in relation to the projects known as St. Joseph Subdivision, Ireland Street and Cameron Bay (Highway 603). These are the persons responsible for acting outside their scope of employment which is set by the United State Congress and therefore acted outside the parameters set forth by the act and could be determined to be personally liable for their actions on each of these properties.

Ms. Morgan Jackson: Environmental Protection Agency, Wetlands Regulatory Agency
Ms. Wilda W. Cobb: Environmental Protection Agency, Associate Regional Counsel
Ronald A. Krizman: Chief, Regulatory Branch Manager
Frank Hubiak: Corps of Engineering
Michael Moxey: Corps of Engineering