



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1201 ELM STREET, SUITE 500  
DALLAS, TEXAS 75270

May 12, 2022

**TRANSMITTED VIA EMAIL**

Mr. Larry Davison  
331 Bonito Lane  
Surfside Beach, TX 77541  
[larry\\_davison@att.net](mailto:larry_davison@att.net)  
[budcorebios@gmail.com](mailto:budcorebios@gmail.com)

Re: Administrative Order on Consent, Docket Number: CWA-06-2022-2708  
Administrative Consent Agreement and Final Order, Docket Number: CWA-06-2022-2709

Dear Mr. Davison:

Enclosed are the Administrative Order on Consent (AOC) and Administrative Consent Agreement and Final Order (CAFO) to resolve Clean Water Act violations at the 2918 Bluewater Highway site. The EPA requests that you immediately confirm receipt of this e-mail and the attached AOC and CAFO by a response via e-mail to Mr. Tom Nystrom of my staff at [nystrom.thomas@epa.gov](mailto:nystrom.thomas@epa.gov). Please follow the steps in both Orders to resolve this matter.

EPA acknowledges that the COVID-19 pandemic may impact your operations. If this is the case, please contact us regarding any specific issues you need to discuss. If you need assistance, or have questions regarding the AOC and CAFO, please contact Mr. Tom Nystrom, or have your attorney contact Ms. Kristine Talbot at [talbot.kristine@epa.gov](mailto:talbot.kristine@epa.gov).

Sincerely,

A handwritten signature in cursive script that reads "Cheryl T. Seager".

Digitally signed by  
CHERYL SEAGER  
Date: 2022.05.12 17:04:19  
-05'00'

Cheryl T. Seager, Director  
Enforcement and  
Compliance Assurance Division

Enclosure(s)

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REGIONAL HEARING CLERK  
EPA REGION VI

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
Dallas, Texas 75270**

**In the Matter of**

**Larry Davison**

**Respondent.**

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**Docket No. CWA-06-2022-2709**

**CONSENT AGREEMENT AND FINAL ORDER**

**I. PRELIMINARY STATEMENT**

1. This Consent Agreement and Final Order (CAFO) is issued under the authority vested in the United States Environmental Protection Agency (EPA) pursuant to Section 309(g) of the Clean Water Act (the Act), 33 U.S.C. § 1319(g). This CAFO is issued to simultaneously commence and conclude this proceeding to assess a Class I civil penalty in accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), as described in the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits."
2. The EPA and Respondent (Parties) agree that settlement of the relevant matters without litigation will save time and resources, that it is in the public's interest, and that the entry of this CAFO is the most appropriate means of resolving such matters. Compliance with all the terms and conditions of this CAFO resolves only those violations alleged herein.
3. Respondent admits the jurisdictional allegations herein; however, Respondent neither admits nor denies the specific Findings of Fact and Conclusions of Law contained in this CAFO.

4. Respondent expressly waives any right to contest the factual allegations or conclusions of law contained in this CAFO and in this proceeding and waives its right to appeal the Final Order set forth herein.
5. Before the taking of any testimony, and without adjudication of any issue of law or fact, the Parties agree to the terms of this CAFO and to its issuance. Respondent consents to the assessment and payment of a civil penalty in the amount and by the method stated below.

## II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

6. Larry Davison (Respondent) is a "person" as defined by Section 502(5) of the Act, 33 U.S.C. § 1362(5).
7. At all times relevant to the violation alleged herein (relevant time period), Respondent owned, controlled and/or operated a project on real property located at 2918 Bluewater Highway (County Road 257), a residential property in Surfside Beach, Brazoria County, Texas known as Surfside Beach Estates (Subject Property).
8. On multiple dates between May 24, 2017 and July 26, 2017, Respondent or Respondent's contractors discharged, directed the discharge, and/or agreed with other persons or business entities to discharge "dredged material" and/or "fill material," as those terms are defined by Section 502 of the Act, 33 U.S.C. § 1362, and 40 C.F.R. § 232.2, from point sources, including heavy equipment such as grading equipment, in, on and into 0.12 acres of dune swale wetlands (wetlands) within the Subject Property. The impacted wetlands were adjacent to, hydrologically connected to, or had a significant nexus to the Gulf of Mexico, a traditionally navigable water of the United States.

9. Each piece of heavy equipment used during the excavation or construction activities that resulted in a discharge acted as a "point source" as that term is defined in Section 502(14) of the Act, 33 U.S.C. § 1362(14).
10. The dredged and fill material referred to in paragraph 8 was a "pollutant" as defined by Section 502(6) of the Act, 33 U.S.C. § 1362(6).
11. During the relevant time period, the impacted dune swale wetlands referred to in paragraph 8 were adjacent to, hydrologically connected to, or had a significant nexus to "navigable waters" as that term is defined by Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 232.2, and as such, are "waters of the United States" as defined by 40 C.F.R. § 232.2.
12. Under Section 301(a) of the Act, 33 U.S.C. § 1311(a), it is unlawful for any person to discharge a pollutant from a point source to navigable waters, except with the authorization of, and in compliance with, a permit issued under the Act. Section 404 of the Act, 33 U.S.C. § 1344, provides that the Secretary of the Army, acting through the Chief of Engineers for the U.S. Army Corps of Engineers (COE), may issue permits for the discharge of dredged or fill material into navigable waters.
13. At no time during the relevant time period did Respondent have a permit issued by the COE that authorized the discharges alleged in paragraph 8 above
14. Under Section 309(g)(1)(A) of the Act, 33 U.S.C. § 1319(g)(1)(A), the Administrator is authorized to assess a Class I civil penalty whenever, on the basis of any available information, the Administrator finds that a person has violated Section 301 of the Act, 33 U.S.C. § 1311.
15. Each day of unauthorized discharge by Respondent was a violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

16. Under Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), Respondent is liable for a Class I civil penalty in an amount not to exceed \$23,989 per day for each day during which a violation continued, up to a maximum of \$59,973.
17. The State of Texas was notified and given an opportunity to consult with EPA regarding the proposed assessment of an administrative penalty against Respondent.
18. EPA notified the public of the proposed CAFO and afforded the public forty (40) days to comment on the proposed penalty in accordance with 40 C.F.R. § 22.45. At the expiration of the notice period, EPA received no comments from the public.

## II. TERMS OF SETTLEMENT

### PENALTY PROVISIONS

19. Based on the foregoing Findings of Fact and Conclusions of Law, EPA Region 6, considering the relevant criteria pursuant to Section 309(g)(3) of the Act, 33 U.S.C. § 1319(g)(3), and acting pursuant to the authority of Section 309(g) of the Act, 33 U.S.C. § 1319(g), hereby orders that Respondent shall pay to the United States a civil penalty in the amount of three thousand one hundred fifty dollars (\$3,150) to settle the violations as alleged in this CAFO, in accordance with 40 C.F.R. § 22.18(c).
20. Payment shall be made by one of the following methods within thirty (30) days of the effective date of this CAFO:

- a. By mailing a bank check, a cashier's check or certified check, payable to "Treasurer of the United States," to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

b. By wire transfer to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT Address = FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency"

c. By mail with signed receipt confirmation (FedEx, DHL, UPS, USPS, certified, registered, etc.) to:

U.S. Environmental Protection Agency  
Government Lockbox 979077  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
Phone: (513) 487-2091

d. By credit card payments to <https://www.pay.gov/paygov/>  
(enter sfo 1.1 in the search field)

When paying by check, the case name and docket number ("In the Matter of Larry Davison, Docket No. CWA-06-2022-2709") should be clearly marked on the check to ensure credit for payment.

21. Respondent shall send simultaneous notice of payment, including a copy of the check or other proof of payment, to each of the following:

- (a) Lorena Vaughn  
Regional Hearing Clerk (6ORC)  
U.S. Environmental Protection Agency, Region 6  
1201 Elm Street, Suite 500  
Dallas, Texas 75270-2102  
vaughn.loreana@epa.gov
- (b) Tom Nystrom (6ECDWR)  
U.S. Environmental Protection Agency, Region 6  
1201 Elm Street, Suite 500  
Dallas, Texas 75270-2102  
nystrom.thomas@epa.gov

(c) Kristine Talbot (6ORCWE)  
U.S. Environmental Protection Agency, Region 6  
1201 Elm Street, Suite 500  
Dallas, Texas 75270-2102  
talbot.kristine@epa.gov

Respondent's adherence to these procedures will ensure proper credit when payment is received by EPA.

22. Respondent agrees not to claim, or attempt to claim, a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.
23. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty (30) days after the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid by the respective due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. See 40 C.F.R. § 13.11(b).
24. EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period that the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. See 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. See 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

25. Pursuant to Section 309(g)(9) of the Act, 33 U.S.C. § 1319(g)(9), any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States' enforcement expenses, including but not limited to, attorneys' fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be twenty percent (20%) of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of each quarter.
26. Failure by Respondent to pay the penalty assessed according to the terms of this CAFO, in full, by its due date, may subject Respondent to a civil action to collect the assessed penalty and any accrued interest and penalties.
27. In the event a collection action is necessary, Respondent shall pay - in addition to any applicable penalty, fees, and interest described herein - all reasonable costs and expenses, including legal expenses and court costs, incurred by the United States for enforcement and collection proceedings for nonpayment of the amounts agreed hereunder, pursuant to Section 309(g)(9) of the Act, 33 U.S.C. 1319(g)(9). In any such collection action, the validity, amount, and appropriateness of the penalty, and the terms of this CAFO shall not be subject to review.

#### IV. GENERAL PROVISIONS

28. EPA and Respondent agree to the use of electronic signatures for this matter. EPA and Respondent further agree to electronic service of this CAFO by email to the following addresses:

To EPA: [talbot.kristine@epa.gov](mailto:talbot.kristine@epa.gov) and [nvstrom.thomas@epa.gov](mailto:nvstrom.thomas@epa.gov)

To Respondent: [larry\\_davison@att.net](mailto:larry_davison@att.net) and [budcorebios@gmail.com](mailto:budcorebios@gmail.com)



29. Issuance of this CAFO does not relieve Respondent from responsibility to comply with all requirements of the Act and the requirements of any permits issued thereunder, as described in Section 309(g)(7) of the Act, 33 U.S.C. § 1319(g)(7), nor does it constitute a waiver by EPA of its right to enforce compliance with the requirements of Respondent's permits or other requirements of the Act by actions pursuant to Section 309 of the Act, 33 U.S.C. § 1319.
30. The provisions of this CAFO shall be binding upon Respondent, its officers or officials, managers, employees, and their successors or assigns, in their capacity on behalf of Respondent.
31. Each party agrees to bear its own costs and attorneys' fees in this matter, except to the extent that Respondent may be responsible for reasonable costs and expenses of enforcement and collection proceedings for failure to comply with the terms of this CAFO.
32. Each undersigned representative of the Parties to this agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this agreement and to execute and legally bind that party to it.

In recognition and acceptance of the foregoing:

Date: 4/22/22

  
\_\_\_\_\_  
Mr. Larry Davison  
Surfside Beach Estates

Date: May 12, 2022

  
\_\_\_\_\_  
Digitally signed by CHERYL SEAGER  
Date: 2022.05.12 17:03:02 -05'00'  
Cheryl T. Seager, Director  
Enforcement and  
Compliance Assurance Division

**FINAL ORDER**

**Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged in the Complaint. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers', agents', servants', employees', successors', or assigns') obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the Consent Agreement. Pursuant to 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.**

**Issuance Date:** \_\_\_\_\_

**THOMAS  
RUCKI**

Digitally signed by THOMAS RUCKI  
DN: c=US, o=U.S. Government,  
ou=Environmental Protection Agency,  
cn=THOMAS RUCKI,  
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Date: 2022.07.11 14:11:38 -04'00'

**Thomas Rucki, Regional Judicial Officer  
EPA, Region 6**

**CERTIFICATE OF SERVICE**

I certify that the foregoing Consent Agreement and Final Order was sent to the following persons, in the manner specified, on the date below:

**Signed Original E-mailed:** Lorena Vaughn  
Regional Hearing Clerk (6ORC)  
U.S. Environmental Protection Agency, Region 6  
1201 Elm Street, Suite 500  
Dallas, Texas 75270-2102  
vaughn.lorena@epa.gov

**File Stamped Copy  
Transmitted via Email:** Mr. Larry Davison  
Surfside Beach Estates  
larry\_davison@att.net

Buddy Ortego  
Coastal Resources Biologists  
budcorebios@gmail.com

**Electronic Copy:** Kristine Talbot (6ORCEW)  
U.S. Environmental Protection Agency, Region 6  
1201 Elm Street, Suite 500  
Dallas, Texas 75270-2102  
talbot.kristine@epa.gov

**Dated:** 7/7/2022

**THOMAS  
NYSTROM**

Digitally signed by THOMAS  
NYSTROM  
Date: 2022.07.11 14:45:56 -05'00'

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
Dallas, Texas 75270**

**In the Matter of**

**Larry Davison**

**Respondent.**

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**Docket No. CWA-06-2022-2708**

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**ADMINISTRATIVE ORDER ON CONSENT**

**STATUTORY AUTHORITY**

The following findings of fact and conclusions of law are made and Administrative Order on Consent (Order) issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by Section 309(a) of the Clean Water Act (Act), 33 U.S.C. § 1319(a). The Administrator delegated this authority to the Regional Administrator of EPA Region 6, who further delegated such authority to the Director of the Enforcement and Compliance Assurance Division, EPA Region 6.

**I. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. EPA makes the following Findings of Fact and Conclusions of Law in support of its authority to issue this Order on Consent.
2. Larry Davison (Respondent) is an individual, and as such, Respondent is a "person" as defined by Section 502(5) of the Act, 33 U.S.C. § 1362(5).
3. At all times relevant to the violation alleged herein (relevant time period), Respondent owned, controlled and/or operated a project on real property located at 2918 Bluewater Highway (County Road 257), a residential property in Surfside Beach, Brazoria County, Texas known as Surfside Beach Estates (Subject Property).

4. On multiple dates between May 24, 2017 and July 26, 2017, Respondent or Respondent's contractors discharged, directed the discharge, and/or agreed with other persons or business entities to discharge "dredged material" and/or "fill material," as those terms are defined by Section 502 of the Act, 33 U.S.C. § 1362, and 40 C.F.R. § 232.2, from point sources, including heavy equipment such as grading equipment, in, on and into 0.12 acres of dune swale wetlands (wetlands) within the Subject Property. The impacted wetlands were adjacent to, hydrologically connected to, or had a significant nexus to the Gulf of Mexico, a traditionally navigable water of the United States.
5. Each piece of heavy equipment used during the excavation or construction activities that resulted in a discharge acted as a "point source" as that term is defined in Section 502(14) of the Act, 33 U.S.C. § 1362(14).
6. The dredged and fill material referred to in paragraph 4 was a "pollutant" as defined by Section 502(6) of the Act, 33 U.S.C. § 1362(6).
7. During the relevant time period, the impacted dune swale wetlands referred to in paragraph 4 were adjacent to, hydrologically connected to, or had a significant nexus to "navigable waters" as that term is defined by Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 232.2, and as such, are "waters of the United States" as 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 a pollutant from a point source to navigable waters, except with the authorization of, and in compliance with, a permit issued under the Act. Section 404 of the Act, 33 U.S.C. § 1344, provides that the Secretary of the Army, acting through the Chief of Engineers for the U.S. Army Corps of Engineers (COE), may issue permits for the discharge of dredged or fill material into navigable waters.
9. At no time during the relevant time period did Respondent have a permit issued by the COE that authorized the discharges alleged in paragraph 4 above.
10. Each day of unauthorized discharge was a violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

**II. CONSENT AGREEMENT**

11. EPA and Respondent agree that settlement of this matter will save time and resources and is in the public interest and that issuance of this Administrative Order on Consent is the most appropriate means of resolving this matter with respect to Respondent's restoration of certain impacted waters referenced herein and described in Section III below. Respondent concurs in the issuance of this Administrative Order on Consent and agrees to comply with the Order. Respondent neither admits nor denies the findings of fact and conclusions of law set forth above.

**III. SECTION 309(a)(3) COMPLIANCE ORDER**

12. Based on the foregoing Findings of Fact and Conclusions of Law and pursuant to the authority of Section 309(a) of the Act, 33 U.S.C. § 1319(a), EPA ORDERS, and Respondent agrees, to the following:
- a. Respondent shall immediately cease any discharge of dredged and/or fill material to waters of the United States on the Subject Property.
  - b. Within 30 days of the effective date of this Order, Respondent shall restore 2,500 square feet (sf) of dune swale wetlands identified in Figure 1 (attached). Restoration shall include excavation of fill material down to the pre-discharge elevation such that the hydrology functions as it did prior to the unauthorized activity. The area shall be allowed to naturally vegetate. Vegetation management of the restored area is allowed as long as it does not involve a discharge of fill material.

**IV. GENERAL PROVISIONS**

13. Respondent waives any and all claims for relief and otherwise available rights or remedies to judicial or administrative review that Respondent may have with respect to any issue or fact or law set forth in this Order on Consent, including, but not limited to, any right of judicial review of this Order on Consent under Sections 701 through 706 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

14. Respondent acknowledges the jurisdiction of EPA to issue the Section 309(a)(3) Order on Consent.
15. Issuance of this Order on Consent 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 to EPA.
16. 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. The failure to comply with this Order or the Act can result in civil penalties of up to \$59,973 per day of violation. If a criminal action is initiated by the U.S. Department of Justice, Respondent may be subject to a fine and/or imprisonment and may also become ineligible for certain government contracts, grants or loans under Section 508 of the Act, 33 U.S.C. § 1368.
17. Compliance with the terms and conditions of this Order on Consent does not relieve Respondent of the obligation to comply with any applicable federal, state or local law or regulation.
18. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of Paragraph 12 is restitution, remediation, or required to come into compliance with the law.
19. EPA and Respondent agree to the use of electronic signatures for this matter. EPA and Respondent further agree to electronic service of this Order on Consent by email to the following addresses:  
  
To EPA: [talbot.kristine@epa.gov](mailto:talbot.kristine@epa.gov) and [nystrom.thomas@epa.gov](mailto:nystrom.thomas@epa.gov)  
To Respondent: [larry\\_davison@att.net](mailto:larry_davison@att.net), copy to consultant: [budcorebios@gmail.com](mailto:budcorebios@gmail.com)
20. The parties shall bear their own costs and fees in this action, including attorneys' fees.
21. The effective date of this Order is the date it is signed by all parties.

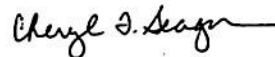
22. Each undersigned representative of the parties to this agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this agreement and to execute and legally bind that party to it.

In recognition and acceptance of the foregoing:

Date 4/22/22

  
Mr. Larry Davison  
Surfside Beach Estates

Date May 12, 2022

 Digitally signed by CHERYL SEAGER  
Date: 2022.05.12 17:02:19 -05'00'

Cheryl T. Seager, Director  
Enforcement and  
Compliance Assurance Division



Figure 1. Restoration Area

