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February 27, 2013

Lorena Vaughn (6RC-D)  
Regional Hearing Clerk  
U.S. EPA Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, Texas 7502-2733

Re: Administrative Complaint; Docket Number CWA-06-2012-2712

Dear Lorena Vaughn:

Enclosed are the original and one copy of our Answer in the above referenced matter.

Please return to me in the enclosed Self Addressed Stamped Envelope a copy of the Answer stamped with the date and time of filing.

Thank you for your courtesies.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Morgan', followed by a long horizontal line extending to the right.

Robert W. Morgan

cc: T. Henson  
G. Swain

FILED

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UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6

REGIONAL HEARING CLERK  
EPA REGION VI

In the Matter of:	*	Docket No. CWA-06-2012-2712
	*	
Paco Swain Realty, L.L.C.	*	Proceeding to Assess a
A Louisiana Corporation,	*	Civil Penalty Under Section 309(g)
Respondent	*	of the Clean Water Act

**RESPONDENT'S ANSWER TO ADMINISTRATIVE COMPLAINT**

The Respondent in the above entitled action hereby answers the Administrative Complaint (the "Complaint") of the United States Environmental Protection Agency ("EPA") as follows:

**I. STATUTORY AUTHORITY**

The statement of statutory authority in the Complaint contains conclusions of law for which not response is required. To the extent that allegations of fact are stated which require an answer, they are denied.

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

1. Respondent admits that it is a limited liability company incorporated under the laws of the State of Louisiana. To the extent that this paragraph states conclusions of law, no response is required.

2. Respondent admits that it owned real property in Livingston Parish, Louisiana, upon which is a subdivision known as Louisiana Purchase Equestrian Estates, and which property is more particularly described on the official records of the Clerk and Recorder of Livingston Parish, Louisiana.

3. Respondent is without sufficient information to admit or deny the broad allegations contained in this paragraph, which contains many definitions and terms of art peculiar to EPA and the Corps, as well as conclusions of law for which no answer is required. Respondent denies damaging any wetlands in the course of any of its works.

4. The allegations contained in Paragraph 4 state conclusions of law to which no response is required.

5. The allegations contained in Paragraph 5 state conclusions of law to which no response is required.

6. The allegations contained in Paragraph 6 state conclusions of law to which no response is required.

7. The allegations contained in Paragraph 7 state conclusions of law to which no response is required.

8. The allegations contained in Paragraph 8 state conclusions of law to which no response is required.

9. Respondent admits that it did not have a permit issued by the Corps that authorized the discharges alleged herein, but does not admit that it violated any laws or regulations.

10. The allegations contained in Paragraph 10 state conclusions of law to which no response is required.

11. The allegations of fact contained in Paragraph 11 are denied for lack of sufficient information upon which to justify a belief therein, and are neither admitted nor denied.

12. On information and belief, Respondent admits the allegations of fact contained in Paragraph 12, but avers that no further work was done after the C&D Order was issued.

13. On information and belief, Respondent admits the allegations of fact in Paragraph 13. Respondent did not receive a response from the Corps to the letter.

14. The allegation contained in Paragraph 14 is denied for lack of sufficient information upon which to justify a belief therein. The Report referred to speaks for itself, contains many statements and conclusions, to many of which Respondent may not agree.

15. The allegations contained in Paragraph 15 state conclusions drawn from The Report, which speaks for itself, stating conclusions that might be issues of fact herein. To the extent that Respondent is required to respond to any such conclusions, they are denied for lack of sufficient information to justify a belief therein.

16. The allegations contained in Paragraph 16 state conclusions of law to which no response is required.

17. The allegations contained in Paragraph 17 state conclusions of law to which no response is required.

18. The allegations contained in Paragraph 18 are denied for lack of sufficient information on which to justify a belief therein.

19. The allegations contained in Paragraph 19 are denied for lack of sufficient information on which to justify a belief therein.

### **III. PROPOSED PENALTY**

20. The allegations contained in Paragraph 20 state conclusions of law to which no response is required. To the extent that facts are alleged, they are denied for lack of sufficient information upon which to justify a belief therein.

21. Respondent is without sufficient information to admit or deny the allegations contained in Paragraph 21, but avers that should it be found responsible to any extent, the interests of justice would be served by its being given every available consideration to mitigate its liability. Specifically, Respondent avers that it is without sufficient resources to pay more than a nominal civil penalty.

#### **IV. FAILURE TO FILE AN ANSWER**

Respondent hereby files its answer, in accordance with requirements stated in Articles 22 through 26, inclusive, of the Complaint.

#### **V. NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

Respondent acknowledges the specifications of Paragraphs 27 and 28, and hereby declares its intention to request a hearing in accordance with law and regulations.

#### **VI. SETTLEMENT**

Respondent acknowledges the specifications contained in Paragraphs 29 through 31 of the Complaint. Without conceding any of its defenses herein, Respondent will avail itself of the opportunity to pursue settlement with EPA, and should it deem a Settlement to be in its best interests and the interests of justice, will make its best efforts to pursue a fair and equitable outcome of this action.

FURTHER ANSWERING, Respondent asserts the following Affirmative Defenses:

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

The Complaint, and each count thereof attempted to be stated, fails to state a claim upon which relief can be granted against this answering Respondent.

**SECOND AFFIRMATIVE DEFENSE**

Respondent acted in good faith and with a reasonable belief that his actions were lawful at all times and places mentioned in The Complaint.

**THIRD AFFIRMATIVE DEFENSE**

The Complaint, and each count therein attempted to be stated, is barred by the equitable doctrine of laches.

**FOURTH AFFIRMATIVE DEFENSE**

Any alleged failure to comply with laws and regulations, or any compliance delay, was wholly or partially caused by the actions of the Federal and or State government, and civil penalties, if any, are inappropriate or should be reduced in proportion to the absolute or proportionate share of governmental responsibility.

**FIFTH AFFIRMATIVE DEFENSE**

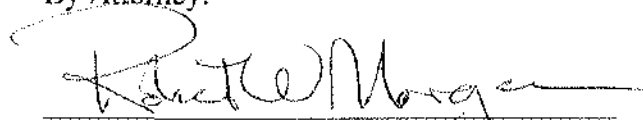
Any alleged failure to comply with laws and regulations, or any compliance delay, was wholly or partially attributable to causes beyond the reasonable control of the Respondent herein, and civil penalties, if any, should be reduced to the absolute or relative proportions.

**SIXTH AFFIRMATIVE DEFENSE**

Respondent, at all times and places mentioned in the Complaint, exercised good faith efforts to comply with applicable regulatory requirements.

Respectfully Submitted

By Attorney:



February 27, 2013

Date

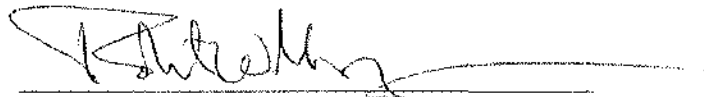
ROBERT W. MORGAN      La. Bar # 9713  
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Facsimile      225.271.8881  
morganlaw@bellsouth.net  
Counsel for Respondent

**CERTIFICATE OF SERVICE**

I certify that the foregoing Answer has been sent to the following persons on the date noted below, by regular mail or overnight courier:

Lorena Vaughn (6RC-D)  
Regional Hearing Clerk  
US EPA Region 6  
1445 Ross Avenue Suite 1200  
Dallas TX 75202-2733  
(Original and one copy)

Tucker Henson (6RC-FW)  
US EPA Region 6  
1445 Ross Av  
Dallas TX 75202-2733  
(Copy)



Robert W. Morgan  
212 N Range AV  
Denham Springs LA 70726

Dated: February 27, 2013