



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

JAN 31 2011

Certified Mail: - Return Receipt Requested (7003 0500 0003 0870 3949)

Mr. Henry R. Stevenson, Jr.
Parkwood Land Company
2085 Galway Drive
Vidor, Texas 77662-2951

Re: Administrative Order, Docket Number CWA-06-2010-2708

Dear Mr. Stevenson:

Enclosed is an Administrative Order ("Order") issued by the Environmental Protection Agency, Region 6 ("EPA") to Mr. Henry R. "Sonny" Stevenson, Jr. and Parkwood Land Company ("Respondent") citing violations of the Clean Water Act ("Act"), 33 U.S.C. § 1251 et seq., resulting from dredge and fill activities involving wetlands located northeast of the I-10 bridge, located northeast of the Interstate Highway 10 and the Neches River intersection, west of Exit 856, near Rose City, Orange County, Texas, and referenced in Warranty Deed, instrument number 503215, Tract 3, as filed for record on September 20, 2006, in the Official Public Records of Orange County, Texas ("site"). Your compliance with the provisions of this Order is required.

Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of a pollutant from a point source into waters of the United States without permit authorization issued under the Act. Section 309(a) of the Act, 33 U.S.C. § 1319(a), authorizes the EPA to issue administrative orders requiring compliance with the Act and regulations promulgated thereunder.

The EPA has determined that the Respondent violated the Act by discharging pollutants to waters of the U.S. without permit authorization. The enclosed Order requires that Respondent take certain action(s), as specified, to comply with the Act. The EPA is authorized to issue an administrative order pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g), including the assessment of a civil penalty, at a later date, for the violations alleged in this Order.

Letter to Mr. Henry R. Stevenson, Jr.
Pg. 2

If you have any questions, please contact Ms. Barbara Aldridge of my staff at (214) 665-2712. For legal questions, you or your attorney may contact Mr. Russell Murdock of the Office of Regional Counsel at (214) 665-3189.

Sincerely yours,


Miguel I. Flores
 Director
Water Quality Protection Division

Enclosure

cc: John Davidson
Galveston District Office
U.S. Army Corps of Engineers

Charles Kibler, Jr.
The Kibler Law Firm

5. On multiple dates between August 9, 2007 and August 3, 2010, Respondents discharged, caused the discharge, and/or directed the discharge, of "discharge dredged material" and or "discharge fill material," as 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, in, on and into approximately 1.26 acres of wetlands within the subject property adjacent to the permitted repair of a levee surrounding the wetlands (Army Corps of Engineers Permit No. SWG-2007-01461). The 1.26 acres of wetlands impacted by Respondents' activities are identified on the attached aerial photograph as the red-lined areas. The impacted wetlands are adjacent to, hydrologically connected to, or have a significant nexus to, a navigable-in-fact body of water, in this case, the Nueces River.

6. During site visits on September 3, 2009, and July 22, 2010, Army Corps of Engineers representatives witnessed evidence of the unauthorized mechanized land clearing and filling of the wetlands.

7. Each piece of heavy equipment used during excavation or construction activities which resulted in a discharge acted as a "point source" as defined by Section 502(14) of the Act, 33 U.S.C. § 1362(14).

8. The dredged and fill material discharged was a "pollutant" as defined by Section 502(6) of the Act, 33 U.S.C. § 1362(6).

9. At all times relevant to the violations alleged herein, the 1.26 acres of wetlands referred to in paragraph 5, *supra*, were "navigable waters" as defined by Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 232.2.

10. At all times relevant to the violations alleged herein, Section 301(a) of the Act, 33 U.S.C. § 1311(a), provides that it is unlawful for any person to discharge a

pollutant from a point source to waters of the U.S., except with authorization of and in compliance with a permit issued under the Act.

11. At all times relevant to the violations alleged herein, 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 into navigable waters of the U.S.

12. At no time relevant to the discharges alleged in paragraph 5, *supra*, did Respondents have a permit issued by the Army Corps of Engineers which authorized the discharges alleged in paragraph 5.

13. On August 3, 2010, the Army Corps of Engineers issued a Cease & Desist Order to Respondents for the unauthorized discharge of fill material at the subject site (SWG-2007-01461)

14. Each unauthorized discharge was a violation of Section 303(a) of the Act, 33 U.S.C. § 1313(a).

15. Based on these Findings of Fact and Conclusions of Law, the EPA finds that Respondents committed the violations alleged herein.

III. ORDER

16. Based on the foregoing Findings of Fact and Conclusions of Law, and pursuant to the authority vested in Section 309(a) of the Act, 33 U.S.C. § 1319(a), the EPA ORDERS Respondents to immediately cease any discharge of dredged and/or fill material to waters of the United States and to:

a. within thirty (30) days of receipt of this Order, submit a plan to the EPA for the restoration of the 1.26 acres of impacted wetlands. The plan should include the

removal of all unauthorized fill and the planting of replacement wetland vegetation and vegetation on the levee slopes to facilitate erosion control. The plan should be submitted to Ms. Barbara J. Aldridge, EPA Region 6, (6WQ-EM), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Respondents shall commence implementation of the plan within fifteen (15) days following the EPA's approval of the plan. If Respondents fail to submit an acceptable plan or fail to successfully implement a plan upon approval, a restoration plan will be developed by the EPA which Respondents will implement within fifteen (15) days of receipt of the plan, and:

b. Respondents shall, within fifteen (15) days of the receipt of this Order, notify the EPA in writing of its intent to comply with this Order

IV. GENERAL PROVISIONS

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

18. If the EPA issues an administrative complaint, or a civil judicial action is initiated by the United States Department of Justice, Respondents may be ordered to pay a monetary penalty. If a criminal judicial action is initiated by the U.S. Department of Justice, Respondents may be subject to a monetary fine and/or imprisonment.

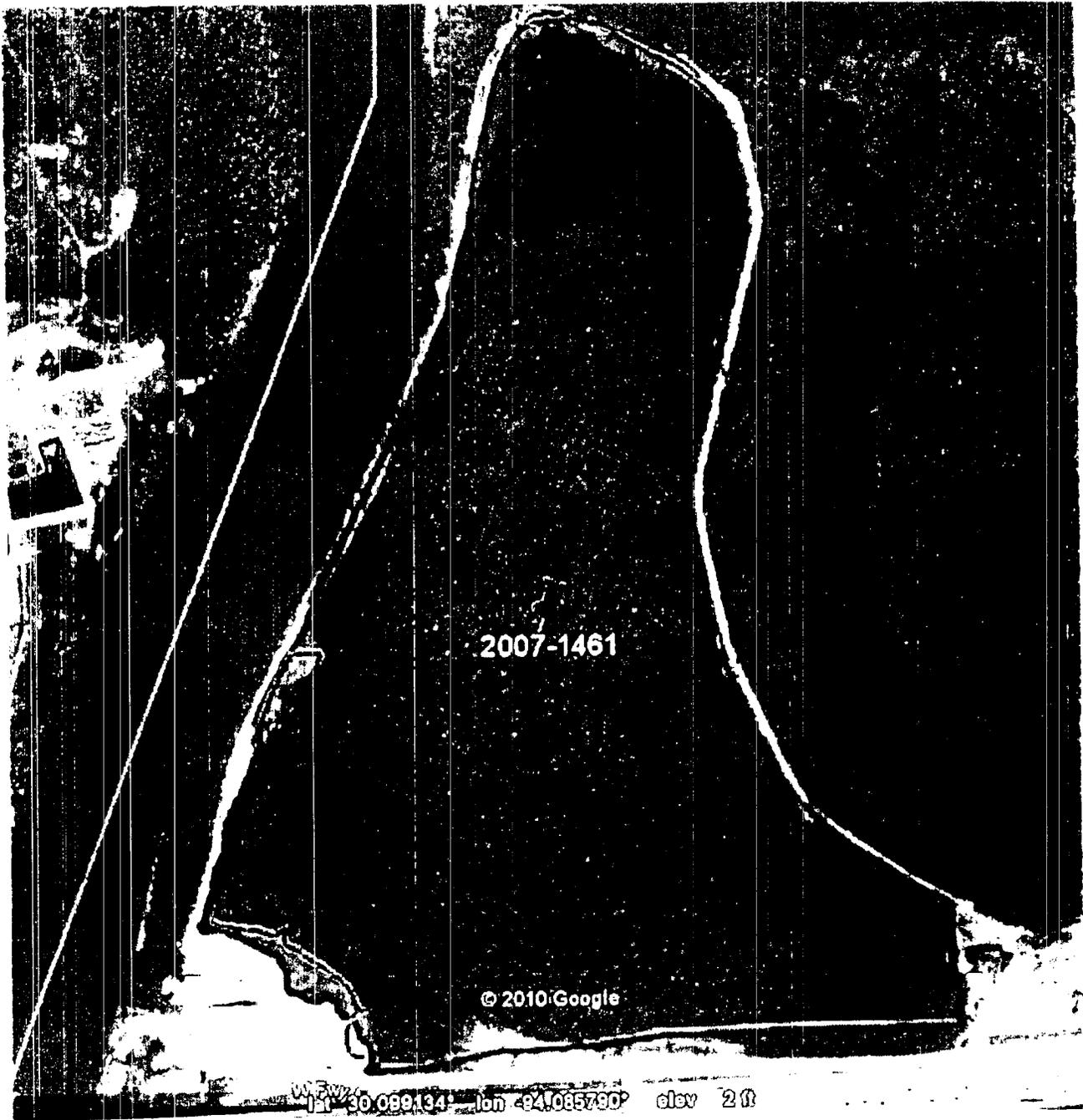
19. Failure to comply with this Order can result in civil penalties of up to \$37,500 per day of violation.

20. Compliance with the terms and conditions of this Order does not relieve Respondents of their obligation to comply with all applicable local, state, and federal laws.

21. The effective date of this Order is five (5) days after the issued date below.

Issued: 1/31/11


Miguel I. Flores
Director
Water Quality Protection Division



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