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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-06-2012-2710

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,



Robert W. Morgan

cc: T. Henson
G. Swain

FILED

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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY REGIONAL HEARING CLERK
REGION 6 EPA REGION VI

In the Matter of: * Docket No. CWA-06-2012-2710
*
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 answer 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 property known as the Proposed Megan's Way Subdivision, and which property is more particularly described on the official records of the Clerk and Recorder of Livingston Parish, Louisiana, said recorded property description being the best evidence of itself.

3. Paragraph 3 contains many broad allegations, including many definitions and terms of art peculiar to EPA and the Corps, for which Respondent is without sufficient information to admit or deny, 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. The allegations of fact contained in Paragraph 12 are admitted on information and belief.

13. The allegations of fact contained in Paragraph 13 are denied for lack of sufficient information upon which to justify a belief therein, and are neither admitted nor denied.

14. The allegation contained in Paragraph 14 is denied for lack of sufficient information upon which to justify a belief therein.

15. On information and belief, Respondent admits the allegations in Paragraph 15.

16. On information and belief, Respondent admits the allegations in Paragraph 16.

17. On information and belief, Respondent admits that EPA issued an Administrative Order, although it was not served on Respondent. Further, the content of the AO speaks for itself and is the best evidence of what is contained therein.

18. The allegations contained in Paragraph 18 state conclusions of law to which no response is required.

19. The allegations contained in Paragraph 19 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. Further answering, Respondent denies liability for civil penalties.

20. The allegations contained in Paragraph 20 are denied for lack of sufficient information upon which to justify a belief therein, and are neither admitted nor denied.

21. The allegations contained in Paragraph 21 are denied for lack of sufficient information upon which to justify a belief therein.

III. PROPOSED PENALTY

22. Paragraph 22 contains statements and conclusions of law for which no answer is required. Respondent is without sufficient information to admit or deny the allegations of fact contained in Paragraph 22, 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.

23. Respondent is without sufficient information to admit or deny the allegations contained in Paragraph 23, but avers that should it be found responsible to any extent, it should be 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 24 through 28, inclusive, of the Complaint.

V. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

Respondent acknowledges the specifications of Paragraphs 29 and 30, and hereby declares its intention to request a hearing in accordance with law and regulations.

VI. SETTLEMENT

Respondent acknowledges the specifications contained in Paragraphs 31 through 33 of the Complaint. Without conceding any of its defenses herein, Respondent intends to avail itself of the opportunities afforded to confer about the alleged violation and proposed penalty.

Respondent will endeavor to negotiate in good faith toward an equitable settlement, and should it deem a Settlement to be in its best interests and the interests of justice, will make every effort to pursue a fair and equitable outcome of this action, consistent with established law and procedure.

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.

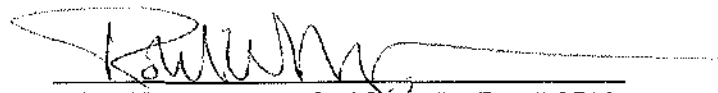
SIXTH AFFIRMATIVE DEFENSE

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
212 North Range Avenue
Denham Springs, Louisiana 70726
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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-EW)
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