

One Congress Plaza
111 Congress Avenue
Suite 1000
Austin, TX 78701-4073
512.691.4000 tel
512.691.4001 fax
www.kattenlaw.com

SARA M. BURGIN
sara.burgin@kattenlaw.com
(512) 691-4005 direct
(512) 532-0745 fax

April 8, 2015

VIA FEDERAL EXPRESS

Ms. Lorena Vaughn
Regional Hearing Clerk (6RC-D)
U.S. EPA Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

**Re: Docket No. CWA-06-2015-1722
In the Matter of Gulf Coast Waste Disposal Authority
Answer to Administrative Complaint and Request for Hearing**

Dear Ms. Vaughn:

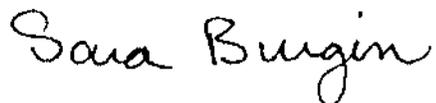
Enclosed for filing, pursuant to 40 CFR § 22.15, is an original and two copies of Respondent's Answer to Administrative Complaint and Request for Hearing ("Answer") in the above-cited Docket No. CWA-06-2015-1722.

Please file-stamp and return a copy to me in the enclosed self-addressed, stamped envelope.

By copy of this letter, the Answer is being sent to Mr. Ellen Chang-Vaughan.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Sara M. Burgin

Enclosures

cc: Ellen Chang-Vaughan, EPA Region 6
Sandy Van Cleave, TCEQ Enforcement Section
Ricky Clifton, Gulf Coast Waste Disposal Authority

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

FILED

2015 APR -9 PM 1:47

REGULATORY HEARING CLERK
REGION VI

In the Matter of	§	Docket No. CWA-06-2015-1722
	§	
Gulf Coast Waste Disposal Authority, Respondent	§	Proceeding to Assess a Class II Civil Penalty under Section 309(g) of the Clean Water Act
NPDES Permit No. TX0052591	§	

**RESPONDENT'S ANSWER TO ADMINISTRATIVE COMPLAINT
AND REQUEST FOR HEARING**

Gulf Coast Waste Disposal Authority ("Respondent") files this answer to the U.S. Environmental Protection Agency's ("EPA") Administrative Complaint and request for hearing.

RESPONSE TO FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. In response to paragraph 1, Respondent admits that it is a municipality and as such is a person as defined at Section 502(5) of the Clean Water Act ("CWA"), 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.
2. In response to paragraph 2, Respondent admits that it was an owner or operator within the meaning of 40 C.F.R. § 122.2.
3. In response to paragraph 3, Respondent admits that the Houston Ship Channel/Buffalo Bayou Tidal in Segment No. 1007 of the San Jacinto River Basin is a water of the United States within the meaning of Section 502 of the CWA, and 40 C.F.R. § 122.2.
4. In response to paragraph 4, Respondent admits the allegation to the extent that the Washburn Tunnel Facility and Respondent are subject to the CWA and the National Pollutant Discharge Elimination System ("NPDES") permit program.
5. To the extent paragraphs 5 and 6 make any allegations, Respondent admits the allegations.
6. To the extent paragraph 7 states that Respondent applied for and was issued NPDES Permit No. TX005259, which was effective from September 1, 2005, through April 1, 2014, Respondent denies the allegation. Respondent submits that it applied for and was issued NPDES Permit No. TX0052591, which was effective from September 1, 2005, through April 1, 2014. To the extent paragraph 7 states that Respondent applied for and was issued NPDES Permit No. TX0052591, which became effective on April 2, 2014, Respondent admits paragraph 7. Respondent denies that the last sentence of paragraph 7 adequately describes Respondent's compliance obligations since it fails to distinguish between two permits that contain different terms and conditions.

7. To the extent paragraph 8 alleges that the NPDES permit that became effective in 2005 contains the limitations set out in Attachment A to the Administrative Complaint, Respondent admits the allegation.
8. To the extent the first sentence of paragraph 9 makes any allegations, Respondent neither admits nor denies them. Respondent denies the second sentence of paragraph 9 because the time period to which it applies is unclear. Respondent is not currently required to file discharge monitoring reports (“DMRs”) with both the Texas Commission on Environmental Quality (“TCEQ”) and EPA.
9. To the extent paragraph 10 applies to DMRs filed by Respondent during the time period addressed in Attachment B to the Administrative Complaint, Respondent admits that Attachment B lists DMR results submitted on the dates and for outfalls identified.
10. To the extent paragraph 11 makes any allegations, Respondent neither admits nor denies them.
11. To the extent paragraph 12 makes any allegations, Respondent neither admits nor denies them.
12. In response to paragraph 13, Respondent neither admits nor denies that EPA notified the TCEQ of issuance of the Administrative Complaint.
13. In response to paragraph 14, Respondent neither admits nor denies that EPA notified the public and afforded the public an opportunity to comment.

RESPONSE TO PROPOSED PENALTY

14. In response to paragraphs 15 and 16, Respondent denies that the proposed penalty of \$110,000 adequately accounts for the statutory factors specified in Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3). The nature, circumstances, extent and lack of gravity of the violations identified in Attachment B to the Administrative Complaint, and considerations of justice, demand a lower penalty. A lower penalty is also justified by EPA’s 1995 Interim Clean Water Act Settlement Policy (“Settlement Policy”).
15. In response to paragraph 17, Respondent has filed an answer and request for hearing in response to the Administrative Complaint contesting certain of the proposed findings of fact/conclusions of law and the proposed penalty amount.
16. In response to paragraphs 18-27, Respondent has followed the requirements set forth in 40 CFR § 22.15. To the extent paragraphs 18-27 make an allegation concerning a proposed finding of fact or conclusion of law, Respondent denies the allegation.

REQUEST FOR HEARING AND INFORMAL SETTLEMENT CONFERENCE

17. Respondent requests a hearing to contest the appropriateness of the proposed penalty based upon factors set out in Section 309(g)(3), 33 U.S.C. § 1319(g)(3). Respondent also requests an information settlement conference in person or by telephone to pursue the possibility of settlement of these matters.

Respectfully submitted,

KATTEN MUCHIN ROSENMAN LLP

By: Sara Burgin
Sara M. Burgin
State Bar No. 13012470
111 Congress Avenue, Suite 1000
Austin, Texas 78701
Tel: 512.691.4005
Fax: 512.691.4001

ATTORNEYS FOR RESPONDENT
GULF COAST WASTE DISPOSAL AUTHORITY

CERTIFICATE OF SERVICE

I certify that on April 8, 2015, the foregoing Answer to Administrative Complaint and Request for Hearing was sent to the following persons in the manner specified:

Original and two copies
by overnight mail:

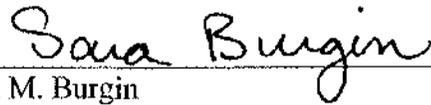
Regional Hearing Clerk (6RC-D)
U.S. EPA Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

Copy by overnight mail:

Ms. Ellen Chang-Vaughan (6RC-EW)
U.S. EPA Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

Copy by certified mail,
return receipt requested:

Mr. Sandy Van Cleave
Manager, Enforcement Section (MC-169)
Texas Commission on Environmental Quality
P. O. Box 13087
Austin, Texas 78711-3087



Sara M. Burgin