



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

2007 2 0 2007

CERTIFIED MAIL - RETURN RECEIPT REQUESTED (70041160000303578490)

Mrs. Charlotte Randolph, President  
Lafourche Parish  
Post Office Drawer 5548  
Thibodaux, LA 70302

Re: EPA Docket Number: CWA-06-2007-2725

Dear Mrs. Randolph:

Enclosed is an administrative complaint issued by EPA alleging that Lafourche Parish has unlawfully discharged pollutants into waters of the United States in violation of Section 301(a) of the Clean Water Act, 33 U. S. C. §1311(a). The Complaint proposes that a civil penalty of \$40,000.000 be assessed for the violations.

Also enclosed is a copy of 40 C. F. R. Part 22 which sets forth the rules of procedure applicable to the case.

Lafourche Parish has the right to a hearing to contest the factual allegations in the Complaint. If Lafourche Parish admits the allegations or is found to be liable for the violations after a hearing, Lafourche Parish has the right to submit evidence relevant to the amount of the penalty to be assessed. If Lafourche Parish wishes to contest the allegations in the Complaint, it must file an answer within thirty days of your receipt of the Complaint. The answer should be sent to the EPA Regional Hearing Clerk at the following address:

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

If Lafourche Parish does not file an answer by the applicable deadline, a default order may be issued. If that occurs, the allegations in the Complaint will be deemed admitted by Lafouche Parish, and Lafourche Parish will have waived its right to a hearing on the allegations. Provided that the Complaint is legally sufficient, a penalty may be assessed and become due and payable without further proceedings thirty days after the default Order is issued.

If Lafourche Parish desires to settle this matter without further legal action, it may waive its right to a hearing and sign a Consent Agreement and Final Order and return it to EPA for approval by the appropriate EPA officials. Please be advised that by signing a Consent Agreement and Final Order Lafourche Parish will be agreeing to pay the penalty agreed to by the parties and will waive its right to appeal the Final Order. Please note, however, that EPA cannot execute and file any Consent Agreement and Final Order until it considers public comments, if any, submitted on the Complaint. You have the right to be represented by an attorney at any stage of the proceedings, including in any informal discussions with EPA.

Lafourche Parish may also resolve the case by paying the proposed penalty of \$40,000,000. To do so a cashier's check or certified check, payable to "Treasurer of the United States," should be mailed to the following address:

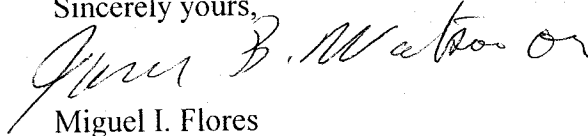
Regional Hearing Clerk  
U. S. EPA Region 6  
P. O. Box 371099M  
Pittsburgh, Pennsylvania 15251

"In the Matter of Lafourche Parish Docket # 06-2007-2725 ," should be clearly marked on the check to ensure proper credit for payment.

At the same time Lafouche Parish should also send a separate notice of payment, including a copy of the check, to each of the following persons: the Regional Hearing Clerk (6RC-D), Donna Mullins (6WQ-EM), and John Emerson (6RC-EW) at 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Following these procedures will ensure proper credit when payment is received. The case will then be concluded by the issuance of a Final Order.

If you have any questions or would like to receive an extension of the thirty-day deadline for filing an answer, please contact Donna Mullins at (214) 665-7576 or John Emerson at (214) 665-3137.

Sincerely yours,



Miguel I. Flores  
Director  
Water Quality Protection Division

Enclosures

cc: with copy of complaint:

Regional Hearing Clerk  
Furcy Zeringue, New Orleans District, Corps of Engineers

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6

FILED

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REGIONAL HEARING CLERK  
EPA REGION VI

In the Matter of  
  
Lafourche Parish,  
  
Respondent.

§ Docket No. CWA-06-2007-2725  
§  
§ Proceeding to Assess a  
§ Civil Penalty Under § 309(g)  
§ of the Clean Water Act  
§  
§ Administrative Complaint

### I. STATUTORY AUTHORITY

1. This class II Administrative Complaint is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by § 309(g) of the Clean Water Act (Act), 33 U. S. C. § 309(g). The Administrator has delegated such authority to the Regional Administrator of EPA Region 6 who has further delegated such authority to the Director of the Water Quality Protection Division of EPA Region 6 who is the Complainant in this action. This Complaint is issued in accordance with the Consolidated Rules of Practice, published at 40 C. F. R. Part 22.

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

2. Respondent Lafourche Parish is and at all times relevant to this action and the violations alleged herein (relevant time period) was a political subdivision of the State of Louisiana and a "person" as defined by Section 502(5) of the Act, 33 U. S. C. § 1362(5).

3. During the relevant time period, Section 301(a) of the Act, 33 U. S. C. § 1311(a), provided that it was unlawful for any person to discharge a pollutant from a point source to waters of the United States, except with the authorization of and in compliance with a permit issued under the Act.

4. During the relevant time period, 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 to waters of the United States.

5. On multiple occasions on or about March 3, 2006, Respondent and/or other persons and/or a business entity or entities acting at Respondent's request or direction and on its behalf discharged and caused the discharge of pollutants from point sources to waters of the United States without a permit issued under the Act in violation of Sections 301(a) and 309(g)(1)(A) of the Act, 33 U. S. C. §§ 1311(a) and 1319(g)(1)(A).

6. More particularly, during the construction of a drainage canal and the clearing of approximately 8.65 acres of forested, jurisdictional wetlands located in Section 19, Township 15 South, Range 17 East, Lafourche Parish, Louisiana, Respondent and/or said other parties discharged "dredged material" and "fill material," as defined by 40 C. F. R. § 232.2, by means of earth-moving and other equipment into said wetlands.

7. The dredged and fill material referred to in paragraph 6 above were "pollutants" as defined by Section 502(6) of the Act, 33 U. S. C. § 1362(6).

8. Each piece of equipment referred to in paragraph 6 above was a "point source" as defined by Section 502(14) of the Act, 33 U. S. C. § 1362(14).

9. The wetlands referred to in paragraph 6 above were "waters of the United States" as defined by 40 C. F. R. § 232.2.

10. During the relevant time period Respondent did not have a permit authorizing the discharges alleged in paragraphs 5 and 6 above.

11. Each unauthorized discharge was a violation of Section 301(a) of the Act, 33

U. S. C. § 1311(a).

12. Pursuant to Section 309(g)(2)(B) of the Act, 33 U. S. C. § 1319(g)(2)(B), Respondent is liable for administrative penalties in an amount not to exceed \$11,000 for each violation, up to a maximum of \$157,000 for this enforcement action, and is subject to injunctive relief.

### III. NOTICE TO STATE

13. EPA has notified the Louisiana Department of Environmental Quality of the filing of this Complaint and has afforded the state an opportunity to consult with EPA regarding the assessment of a civil penalty against Respondent.

### IV. NOTICE TO PUBLIC

14. As required by Section 309(g)(4)(A) of the Act, 33 U. S. C. § 1319(g)(4)(A), EPA has notified the public of the filing of this Complaint and has afforded the public thirty days in which to comment on the Complaint and the proposed penalty. At the expiration of the notice period, EPA will consider any comments submitted by the public.

### V. PROPOSED PENALTY

15. Based on the foregoing Findings of Fact and Conclusions of Law and pursuant to Sections 309(g)(1)(A) and (g)(2)(B) of the Act, 33 U.S.C. §§ 1319(g)(1)(A) and (g)(2)(B), Complainant finds that Respondent has committed the violations alleged in paragraphs 5 and 6 above and proposes to assess a class II civil penalty not to exceed \$11,000 per day for each day during which a violation occurred or continued, up to a maximum of \$157,000 for the violations alleged in this Complaint.

16. In determining the amount of the penalty EPA will consider the factors set forth in Section 309(g)(3) of the Act, 33 U. S. C. § 1319(g)(3), namely, the nature, circumstances, extent and gravity of the violations, Respondent's ability to pay a penalty, any history of such violations, the degree of culpability, economic benefit or savings, if any, resulting from the violations and such other factors as justice may require.

#### VI. FAILURE TO ANSWER

17. If Respondent wishes to admit, deny or explain any material allegation set forth in the above findings of fact or contest the amount of the penalty proposed, Respondent must file an answer to this Complaint within thirty days after receipt of the Complaint, regardless of whether Respondent requests a hearing on the allegations of the Complaint.

18. The requirements for an answer are set forth at 40 C. F. R. § 22.15. Respondent's failure in an answer to admit, deny or explain any material, factual allegation in the Complaint will constitute an admission of the allegation under 40 C. F. R. § 22.15(d).

19. If Respondent fails to file an answer within thirty days of service of the Complaint, Respondent may be found in default and a default order may be issued pursuant to 40 C. F. R. § 22.17. Respondent's default will constitute an admission of all facts alleged in the Complaint and a waiver of its right to contest such allegations.

20. Respondent must send its answer, including any request for a hearing, and all other pleadings and papers required to be filed with the Regional Hearing Clerk to:

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

21. The answer must be signed by Respondent's attorney or other representative and must include the information required by 40 C. F. R. § 22.15. All other pleadings must be similarly signed and filed with the Regional Hearing Clerk.

#### VII. NOTICE OF OPPORTUNITY TO REQUEST HEARING

22. Respondent may request a hearing to contest any material allegation set forth in this Complaint or to contest the appropriateness of the amount of the proposed penalty, pursuant to Section 309(g)(2)(B) of the Act, 33 U. S. C. § 1319(g)(2)(B), and 40 C. F. R. § 22.15(c). The hearing procedures are set forth at 40 C. F. R. §§ 22.21-22.26.

23. If a hearing is requested, persons who commented on the issuance of the Complaint during the public comment period will have a right to be heard and to present evidence at the hearing under Section 309(g)(4)(B) of the Act, 33 U. S. C. § 1319(g)(4)(B).

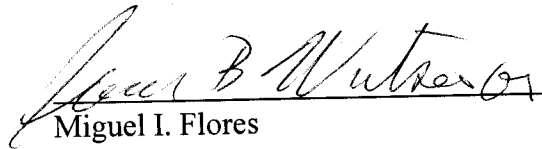
#### VIII. SETTLEMENT

24. If this action is settled without a hearing, it may be concluded by a quick resolution, pursuant to 40 C. F. R. § 22.18(a), or a Consent Agreement and Final Order, pursuant to 40 C. F. R. § 22.18(b). In a quick resolution, Respondent would pay the penalty proposed in the Complaint and a Final Order would be issued terminating the case. In a Consent Agreement and Final Order, Respondent would waive its right to a hearing on any matter stipulated to in the agreement or alleged in the Complaint. Any person who commented on this Complaint would be notified of the settlement and proposed final order and would be given thirty days to petition EPA to set aside any the Consent Agreement and Final Order and hold a hearing on the allegations of the Complaint.

25. Neither the assessment nor the payment of a penalty in resolution of this action will affect Respondent's continuing obligation to comply with all requirements of the Act, applicable regulations and permits and any compliance order issued under Section 309(a) of the Act, 33 U. S. C. § 1319(a), including an order relating to the violations alleged herein.

**AUG 20 2007**

\_\_\_\_\_  
Issuance Date



Miguel I. Flores

Director

Water Quality Protection Division



CERTIFICATE OF SERVICE

I certify that on AUG 20 2007 a true and correct copy of this

Complaint was deposited with the U. S. Postal Service, certified mail, return receipt requested, addressed to Charlotte A. Randolph, President, Lafourche Parish, P. O. Drawer 5548, Thibodaux, Louisiana 70302.

Dana Mulbis