

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

IN THE MATTER OF)
RODNEY O. CORR,)
) DOCKET NO. CWA-04-2008-5508
)
)
RESPONDENT)
_____)

DOCKET NO. CWA-04-2008-5508

HEAVENS CLERK

2009 APR 14 PM 4:11

RECEIVED
EPA REGION IV

**NOTICE OF AN EX PARTE COMMUNICATION
BY RESPONDENT**

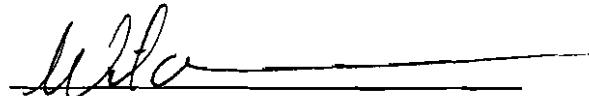
This notice is submitted by Complainant to notify the Administrative Law Judge that documents filed by Respondent and served on Judge Gunning and the Complainant are not identical.

Attached as Exhibit 1 is a copy of a letter, dated February 25, 2009, that was sent by the Respondent to The Honorable Barbara A. Gunning, the Administrative Law Judge assigned in this matter. Please note the highlighted language on the first page of Exhibit 1. Attached as Exhibit 2 is a copy of a similar letter, also dated February 25, 2009, that was addressed to EPA's counsel, Wilda W. Cobb. Exhibit 2 does not contain the language highlighted on Exhibit 1.

Mr. Corr's letters appear to result in an unintentional ex parte communication with the Judge. Mr. Corr is not represented by counsel. He may not understand the importance of communicating the same information to all parties, as required by 40 C.F.R. section 22.3, so that all parties are given the opportunity to reply. By way of reply, I did speak with Mr. Corr by phone on February 23, 2009, but I have no recollection of making the statement contained in the highlighted language in Exhibit 1

Respectfully submitted this 14th day of April, 2009.

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, Region 4**



Wilda W. Cobb
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
404-562-9519

2/25/09

EXHIBIT
1

Rodney O. Corr
Post Office Box 1147
Granbury, Tx 76048
(228) 323-8936

The Honorable Barbara A. Gunning
Administrative Law Judge
Office of Administrative Law Judges
U.S. Environmental Protection Agency
Mail Code 1900L
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: Administrative Consent Order
Docket No. CWA-04-2008-5508

Also Re: Administrative Consent Order
Docket No. CWA-04-2005-5762

Honorable Gunning:

I am writing to respond to the decision by the United States Environmental Protection Agency ("EPA"), Region 4, to issue a "Finding of Violation and Order of Compliance" dated Sept 4, 2008 (the "Order").

Please understand that there is an Administrative Consent Order already in place previously by United States Environmental Protection Agency office Region 4, William Sapp dated April 4, 2005. (answer enclosed)

This letter is still our position on the property.

In fact, it is our understanding that the United States Army Corp of Engineers ("Corps") and/ or Region 4 were aware of my development activities at the almost **now 48 months** before taking any **new** enforcement action. Likewise, EPA itself issued the Order almost six months after conducting its "enforcement" visit to the Site. This six month period of inaction by Region 4 led me to believe (and rely to his detriment) that the Site was not subject to EPA's jurisdiction. Waiting such an extensive period of time before commencing enforcement not only discredits the claims in the order, but such delay may also support a claim of estoppel against your agency if litigation ensues. **I'm exploring available legal recourses for repeated harassment by your agency and/ or the Corps in relation to the projects known as Ireland Street and St. Joseph Subdivision. We will be willing to submit documentation supporting the harassment claims.**

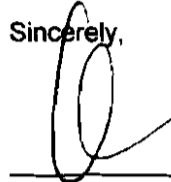
Understand that this property is not in my name and has been sold to another party. Maybe this is some Government oversight on the previous Administrative Consent Order that was never addressed by there office.

I'm currently owner financing this Subdivision to another party. I'm not able to make note of \$ 8,000.00 a month to the bank because of the Corp and EPA enforcement actions. This loan will go into foreclosure in the next 2-3 months and the Mobile Corp of Engineers and Atlanta Environmental Protection Agency will be liable for this action.

Also understand that Mrs. Cobb from EPA, Atlanta office said " I'm putting a lien on this property if you don't answer the Consent Order", which we have already answered.

Please be informed that it is my position that the Army Corps of Engineers or Environmental Protection Agency ("EPA") does not have any jurisdiction under the Clean Water Act over the property in question. It is also our position that the regulations promulgated pursuant to the Clean Water Act by both Agencies go beyond the provisions of the Clean Water Act as Passed by the United States Congress and are therefore outside the parameters set forth by that Act. Any attempt by the Corps of Engineers or EPA to enforce that part of its regulations which are not based in the law and in fact go beyond the law as set forth by Congress could result in employees of these Agencies operating outside of the scope of their employment which could subject them to litigation wherein they could be determined to be personally liable for their actions.

Sincerely,



Rodney O. Corr
25-Feb-09

cc: Wilda W. Cobb
Hon. J.P. Compretta
Sen. Thad Cochran

EXHIBIT
2

2/25/07

Rodney O. Corr
Post Office Box 1147
Granbury, Tx 76048
(228) 323-8936

Wilda W. Cobb
U.S. Environmental Protection Agency
U.S. EPA
61 Forsyth Street, SW
Atlanta, GA 30303-8960

Re: Administrative Consent Order
Docket No. CWA-04-2008-5508

Also Re: Administrative Consent Order
Docket No. CWA-04-2005-5762

Ms. Cobb:

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Sincerely,



Rodney O. Corr
25-Feb-09

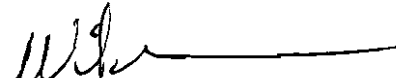
cc: Hon. Barbara Gunning
Hon. J.P. Compretta
Sen. Thad Cochran
Ms. Patricia A. Bullock

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:)
) ADMINISTRATIVE COMPLAINT
)
Rodney O. Corr)
) FOR CLASS II PENALTY
) UNDER SECTION 309(g)
) OF THE CLEAN WATER ACT,
RESPONDENT) 33 U.S.C. § 1319(g)
) Docket No.: CWA-04-2008-5508
_____)

CERTIFICATE OF SERVICE

I certify that the foregoing Notice dated April 14, 2009, was sent this day in the following manner to the addresses listed below.



Wilda Cobb
Attorney

Original and one Copy hand delivered to:

Patricia Bullock
Regional Hearing Clerk
US EPA/ Region 4
61 Forsyth Road
Atlanta Ga. 30342

Copy Certified Mail Return Receipt Requested to:

Rodney O. Corr
2320 Vienna Drive
Granbury, Texas 76048-1468

Copy sent by Regular Mail to:

The Honorable Barbara A. Gunning
Administrative Law Judge
Office of Administrative Law Judges
U. S. Environmental Protection Agency
Mail Code 1900L
1200 Pennsylvania, Avenue 20460
Washington, DC 20460

Copy sent by Fax to:

The Honorable Barbara A. Gunning
(202) 565-0044