



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1201 ELM STREET, SUITE 500  
DALLAS, TEXAS 75270

October 8, 2021

**TRANSMITTED VIA EMAIL**

Andre C. Broussard, Jr.  
Attorney  
876 School St.  
Houma, LA 70360-4626  
[acbroussardjr@gmail.com](mailto:acbroussardjr@gmail.com)

Re: Consent Agreement and Final Order, Docet No. CWA-06-2022-2704  
Regarding Cenac Towing Co., LLC

Dear Mr. Broussard:

Enclosed is the Consent Agreement and Final Order, issued by the United States Environmental Protection Agency, Region 6 (EPA), concerning the Lost Lake Camp Site Project located in Terrebonne Parish, Louisiana owned and operated by Cenac Towing Co., LLC. This Order requires Arlen B. Cenac, Jr. (Respondent) to comply with the provisions set forth in the attached Order. The EPA requests that you immediately confirm receipt of this e-mail and the attached Order by a response via e-mail. EPA understands that you are the attorney of record, and that Mr. Fred Dunham and Mr. Horace Thibodaux are Cenac's consultants and are authorized to discuss this matter on Cenac's behalf; therefore, this letter was also emailed to them. Please electronically sign the Order and e-mail it back to Chelsey Sherwood of my staff at [sherwood.chelsey@epa.gov](mailto:sherwood.chelsey@epa.gov). When EPA signs this Order, an electronic copy will be forwarded to you for your records.

The EPA acknowledges that the COVID-19 pandemic may impact your operations. If this is the case, please contact us regarding any specific issues you need to discuss. If you need assistance, or have questions regarding this Order, please contact Chelsey Sherwood, of my staff, at (214) 665-6452.

Sincerely,

STEPHEN  
GILREIN

Digitally signed by STEPHEN GILREIN  
DN: c=US, o=U.S. Government,  
ou=Environmental Protection Agency,  
cn=STEPHEN GILREIN,  
o=9 2342 14200300 100 1 1-680010016  
51794  
Date: 2021.10.08 11:08:07 -0500

Cheryl T. Seager, Director  
Enforcement and  
Compliance Assurance Division

Enclosure(s)

cc: [aux-la@charter.net](mailto:aux-la@charter.net)  
[fdunham@kourco.com](mailto:fdunham@kourco.com)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6  
Dallas, Texas 75270

FILED

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REGIONAL HEARING CLERK  
EPA REGION VI

In the Matter of

Arlen B. Cenac, Jr.

Respondent.

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Docket No. CWA-06-2022-2704

CONSENT AGREEMENT AND FINAL ORDER

I. PRELIMINARY STATEMENT

1. This Consent Agreement and Final Order (CAFO) is issued under the authority vested in the United States Environmental Protection Agency (EPA) pursuant to Section 309(g) of the Clean Water Act (the Act), 33 U.S.C. § 1319(g). This CAFO is issued to simultaneously commence and conclude this proceeding to assess a Class I civil penalty in accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), as described in the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits."
2. The EPA and Respondent (Parties) agree that settlement of the relevant matters without litigation will save time and resources, that it is in the public's interest, and that the entry of this CAFO is the most appropriate means of resolving such matters. Compliance with all the terms and conditions of this CAFO resolves only those violations alleged herein.
3. Respondent admits the jurisdictional allegations herein; however, Respondent neither admits nor denies the specific Findings of Fact and Conclusions of Law contained in this CAFO.
4. Respondent expressly waives any right to contest the factual allegations or conclusions of law contained in this CAFO and in this proceeding and waives its right to appeal the Final Order set forth herein.
5. Before the taking of any testimony, and without adjudication of any issue of law or fact, the Parties agree to the terms of this CAFO and to its issuance. Respondent consents to the assessment and payment of a civil penalty in the amount and by the method stated below.

## II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

6. Arlen B. Cenac, Jr. (Respondent) is a “person” as defined by Section 502(5) of the Act, 33 U.S.C. § 1362(5).
7. At all times relevant to the violation alleged herein (relevant time period), Respondent owned, controlled and or operated a project on real property, adjacent to Lost Lake at Latitude 29.328753, Longitude -91.095008 known as Lost Lake Camp Site in Terrebonne Parish, LA, with a mailing address of P.O. Box 2617, Houma, LA, 70361 (Subject Property).
8. On multiple dates between approximately October 15, 2017, and approximately December 4, 2018, Respondent and or Respondent’s contractor and or Respondent’s agent discharged, directed the discharge, and/or agreed with other persons or business entities to discharge “dredged material” and/or “fill material,” as those terms are 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 0.235 acres of tidal marsh and approximately 140 linear feet of bayou within the Subject Property. The impacted tidal marsh and unnamed bayou are adjacent to and within the high tide line of Fourleague Bay – Gulf of Mexico, a traditional navigable water.
9. Each piece of heavy equipment used during the excavation or construction activities which resulted in a discharge acted as a “point source” as that term is defined in Section 502(14) of the Act, 33 U.S.C. § 1362(14).
10. The dredged and fill material referred to in paragraph 8 was a “pollutant” as defined by Section 502(6) of the Act, 33 U.S.C. § 1362(6).
11. During the relevant time period, the impacted tidal marsh and bayou referred to in paragraphs 7 and 8 were adjacent to, hydrologically connected to, or had a significant nexus to “navigable waters” as that term is defined by Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 232.2, and as such, are “Waters of the United States” as defined by 40 C.F.R. § 232.2.



12. Under Section 301(a) of the Act, 33 U.S.C. § 1311(a), it is unlawful for any person to discharge a pollutant from a point source to navigable waters, except with the authorization of, and in compliance with, a permit issued under the Act. Section 404 of the Act, 33 U.S.C. § 1344, provides that the Secretary of the Army, acting through the Chief of Engineers for the U.S. Army Corps of Engineers (COE), may issue permits for the discharge of dredged or fill material into navigable waters.
13. At no time during the relevant time period did Respondent have a permit issued by the COE that authorized the discharges alleged in paragraph 8 above.
14. Respondent applied for an after-the-fact permit, and the application was received by COE on December 9, 2020. COE referred this case to EPA under the Memorandum of Agreement between the COE and the EPA concerning federal enforcement for the Section 404 Program of the Act dated February 5, 2021. EPA issued a Notice of Potential Violation and Opportunity to Confer (NOPVOC) letter on April 20, 2021, to Respondent.
15. Under Section 309(g)(1)(A) of the Act, 33 U.S.C. § 1319(g)(1)(A), the Administrator is authorized to assess a Class I or Class II civil penalty whenever, on the basis of any available information, the Administrator finds that a person has violated Section 301 of the Act, 33 U.S.C. § 1311.
16. Each day of unauthorized discharge by Respondent was a violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).
17. Under Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), Respondent is liable for a Class I civil penalty in an amount not to exceed \$22,584 per day for each day during which a violation continued, up to a maximum of \$56,460.
18. The State of Louisiana was notified and given an opportunity to consult with EPA regarding the proposed assessment of an administrative penalty against Respondent.
19. EPA notified the public of the proposed CAFO and afforded the public forty (40) days to comment on the proposed penalty in accordance with 40 C.F.R. § 22.45. At the expiration of the notice period, EPA received no comments from the public.

### III. TERMS OF SETTLEMENT

#### PENALTY PROVISIONS

20. Based on the foregoing Findings of Fact and Conclusions of Law, EPA Region 6, considering the relevant criteria pursuant to Section 309(g)(3) of the Act, 33 U.S.C. § 1319(g)(3), and acting pursuant to the authority of Section 309(g) of the Act, 33 U.S.C. § 1319(g), hereby orders that Respondent shall pay to the United States a civil penalty in the amount of eight thousand one hundred dollars (\$8,100.00) to settle the violations as alleged in this CAFO, in accordance with 40 C.F.R. § 22.18(c).
21. Payment shall be made by one of the following methods within thirty (30) days of the effective date of this CAFO:
- a. By mailing a bank check, a cashier's check or certified check, payable to "Treasurer of the United States," to:  
  
U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000
  - b. By wire transfer to:  
  
Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT Address = FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency"
  - c. By overnight mail (Express, Fedex, DHL, etc.) to:  
  
U.S. Environmental Protection Agency  
Government Lockbox(depends on type of payment, please refer to <https://www.epa.gov/financial/makepayment> for payment details)  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
Phone: 314-418-4087

- d. By credit card payments to <https://www.pay.gov/paygov/>  
(enter sfo 1.1 in the search field)

When paying by check, the case name and docket number (“In the Matter of Arlen B. Cenac, Jr., Respondent Docket No. CWA-06-2022-2704”) should be clearly marked on the check to ensure credit for payment.

22. Respondent shall send simultaneous notice of payment, including a copy of the check or other proof of payment, via email to each of the following:
- (a) Lorena Vaughn  
Regional Hearing Clerk (6ORC)  
U.S. Environmental Protection Agency, Region 6  
1201 Elm Street, Suite 500  
Dallas, Texas 75270-2102  
vaughn.loreana@epa.gov
  - (b) Chelsey Sherwood (6ECDWR)  
U.S. Environmental Protection Agency, Region 6  
1201 Elm Street, Suite 500  
Dallas, Texas 75270-2102  
sherwood.chelsey@epa.gov
  - (c) Tucker Henson (6ORCWE)  
U.S. Environmental Protection Agency, Region 6  
1201 Elm Street, Suite 500  
Dallas, Texas 75270-2102  
henson.tucker@epa.gov

Respondent’s adherence to these procedures will ensure proper credit when payment is received by EPA.

23. Respondent agrees not to claim, or attempt to claim, a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.
24. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty (30) days after the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid by the respective due date. Interest will be assessed at



- the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. See 40 C.F.R. § 13.11(b).
25. EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period that the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.
  26. Pursuant to Section 309(g)(9) of the Act, 33 U.S.C. § 1319(g)(9), any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States' enforcement expenses, including but not limited to attorneys' fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be twenty percent (20%) of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of each quarter.
  27. Failure by Respondent to pay the penalty assessed according to the terms of this CAFO, in full, by its due date, may subject Respondent to a civil action to collect the assessed penalty and any accrued interest and penalties.
  28. In the event a collection action is necessary, Respondent shall pay—in addition to any applicable penalty, fees, and interest described herein—all reasonable costs and expenses, including legal expenses and court costs, incurred by the United States for enforcement and collection proceedings for nonpayment of the amounts agreed hereunder, pursuant to Section 309(g)(9) of the Act, 33 U.S.C. 1319(g)(9). In any such collection action, the

validity, amount, and appropriateness of the penalty, and the terms of this CAFO shall not be subject to review.

#### IV. GENERAL PROVISIONS

29. EPA and Respondent agree to the use of electronic signatures for this matter. EPA and Respondent further agree to electronic service of this CAFO by email to the following addresses:

To EPA: [sherwood.chelsey@epa.gov](mailto:sherwood.chelsey@epa.gov)


To Respondent: [acbroussardjr@gmail.com](mailto:acbroussardjr@gmail.com)

30. Issuance of this CAFO does not relieve Respondent from responsibility to comply with all requirements of the Act and the requirements of any permits issued thereunder, as described in Section 309(g)(7) of the Act, 33 U.S.C. § 1319(g)(7), nor does it constitute a waiver by EPA of its right to enforce compliance with the requirements of Respondent's permits or other requirements of the Act by actions pursuant to Section 309 of the Act, 33 U.S.C. § 1319.
31. The provisions of this CAFO shall be binding upon Respondent, its officers or officials, managers, employees, and their successors or assigns, in their capacity on behalf of Respondent.
32. Each party agrees to bear its own costs and attorneys' fees in this matter, except to the extent that Respondent may be responsible for reasonable costs and expenses of enforcement and collection proceedings for failure to comply with the terms of this CAFO.
33. Each undersigned representative of the Parties to this agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this agreement and to execute and legally bind that party to it.



In recognition and acceptance of the foregoing:

Date: 10/19/2021

  
Arlen B. Cenac, Jr., Owner  
Cenac Towing Co., LLC

Date: December 3, 2021

  
Cheryl T. Seager, Director  
Enforcement and  
Compliance Assurance Division

Digitally signed by CHERYL SEAGER  
DN: c=US, o=U.S. Government, ou=Environmental  
Protection Agency, cn=CHERYL SEAGER,  
0.9.2342.19200300.100.1.1=68001003651793  
Date: 2021.12.03 15:28:14 -06'00'

FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged in the Complaint. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers', agents', servants', employees', successors', or assigns') obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the Consent Agreement. Pursuant to 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

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

**THOMAS  
RUCKI**

Digitally signed by THOMAS RUCKI  
DN: c=US, o=U.S. Government,  
ou=Environmental Protection Agency,  
cn=THOMAS RUCKI,  
0.9.2342.19200300.100.1.1-68001003655804  
Date: 2021.12.06 12:37:10 -0600

Thomas Rucki, Regional Judicial Officer  
EPA, Region 6

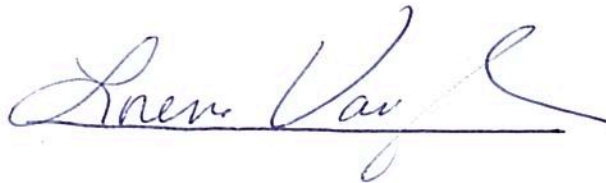
CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of December, 2021, the original of the foregoing Consent Agreement and Final Order was electronically delivered to the Regional Hearing Clerk, U.S. EPA, Region 6 (6ORC), 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that a true and correct copy was sent to the email address listed below:

Andre C. Broussard, Jr.  
Attorney  
876 School St.  
Houma, LA 70360-4626  
[acbroussardjr@gmail.com](mailto:acbroussardjr@gmail.com)

Copy electronically delivered:

Lorena Vaughn  
Regional Hearing Clerk (6ORC)  
U.S. Environmental Protection Agency, Region 6  
1201 Elm Street, Suite 500  
Dallas, Texas 75270-2102  
[vaughn.lorena@epa.gov](mailto:vaughn.lorena@epa.gov)

A handwritten signature in blue ink, appearing to read "Lorena Vaughn", is written over a horizontal line. The signature is cursive and includes a long, sweeping flourish at the end.