



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

MAY 22 2018

CERTIFIED MAIL 70171450000079130865  
RETURN RECEIPT REQUESTED

Mr. Robert B. Glover  
Glover Real Estate, LLC  
7 Plantation Park Drive  
Bluffton, South Carolina 29910

Re: Administrative Consent Agreement and Final Penalty Order No. CWA 04-2017-5502(b)

Dear Mr. Glover:

Enclosed is a copy of the Administrative Consent Agreement and Final Penalty Order that has been finalized by the U.S. Environmental Protection Agency, Region 4 and the Regional Judicial Officer. Please make note of the provisions under Section V.

Thank you for your cooperation in resolving this matter. Should you have any questions or concerns, please contact Mr. Mike Wylie at (404) 562-9409.

Sincerely,

A handwritten signature in black ink, appearing to read "MSW", written over a light blue horizontal line.

Mary S. Walker  
Director  
Water Protection Division

Enclosures

cc: Mr. Ivan Fanning  
U.S. Army Corps of Engineers, Charleston

Mr. Herb Nicholson  
SC Forestry Commission, Columbia

Mr. Alton Brown  
RLC, Savannah

Ms. Heather Preston  
SCDHEC, Columbia

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

IN THE MATTER OF: )  
)  
ROBERT B. GLOVER AND ) ADMINISTRATIVE  
GLOVER REAL ESTATE, LLC, ) CONSENT AGREEMENT AND  
) FINAL PENALTY ORDER  
)  
RESPONDENTS. ) Docket No.: CWA-04-2017-5502(b)

HEARING CLERK  
2018 MAY 22 PM 1:50

**CONSENT AGREEMENT**

**I. Statutory Authority**

1. This is a civil penalty proceeding under Section 309(g)(1) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(g)(1), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits*, published at 64 Fed. Reg. 40176 (July 23, 1999), codified at 40 Code of Federal Regulations (“C.F.R.”) Part 22.

2. The authority to take action under Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), is vested in the Administrator of the United States Environmental Protection Agency (“EPA”). The Administrator has delegated this authority to the Regional Administrator, Region 4, who in turn has delegated this authority to the Director of the Water Protection Division of the EPA, Region 4 (“Complainant”).

**II. Statutory and Regulatory Background**

3. Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), states “[w]henever, on the basis of any information available — the Administrator finds that any person has violated [section 301 of the CWA, 33 U.S.C. § 1311], . . . the Administrator . . . may, after consultation with the State in which the violation occurs, assess a class I civil penalty or a class II civil penalty under [33 U.S.C. § 1319(g)(2)].”

4. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), states “[e]xcept as in compliance with . . . [Section 404 of the CWA, 33 U.S.C. § 1314], the discharge of any [dredged or fill material] by any person shall be unlawful.” Section 404 of the CWA, 33 U.S.C. § 1344, authorizes the Secretary of the Army, acting through the Chief of Engineers, U.S. Army Corps of Engineers, to issue permits for the discharge of dredged or fill material into navigable waters.

5. Section 502(12) of the CWA, 33 U.S.C. § 1362(12), defines a “discharge of pollutants” as “[a]ny addition of any pollutant to navigable waters from any point source . . . .”

6. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), defines “point source” as “[a]ny discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit [or] discrete fissure . . . from which pollutants are or may be discharged.”

7. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines “navigable waters” as “[t]he waters of the United States, including the territorial seas.”

8. Federal regulations under 40 C.F.R. § 232.2 define the term “waters of the United States” to include “wetlands.”

9. Federal regulations under 40 C.F.R. § 232.2 and 33 C.F.R. § 328.3(b) define “wetlands” as “[t]hose areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.”

10. The term “Discharge Area” means the jurisdictional waters that have been impacted either through the discharge of dredged and/or fill material as a result of the unauthorized activities that are the subject of this enforcement action. More specifically, the Discharge Area is in jurisdictional wetlands and waters of the United States including approximately five acres of wetlands and approximately 1300 linear feet of a perennial stream located north of State Road S-27-53, in Jasper County, South Carolina, near 32.626° north latitude and 80.989° west longitude. The Discharge Area is indicated on the enclosed Exhibits A and B.

11. The term “Site” means the parcel or parcels of land on which the Discharge Area is located.

### **III. Allegations**

12. Robert B. Glover and Glover Real Estate, LLC (collectively, “Respondents”), at all times relevant to this Administrative Consent Agreement and Final Penalty Order, were the owners and operators of the Site.

13. Respondent Robert B. Glover is a “person” as defined by section 502(5) of the CWA, 33 U.S.C. § 1362(5). Respondent Glover Real Estate, LLC, is a company duly organized under the laws of the State of South Carolina and, as such, is a “person” as defined by section 502(5) of the CWA, 33 U.S.C. § 1362(5).

14. Commencing on or about July 2014, until late 2014, Respondents, and/or those acting on behalf of Respondents, discharged dredged and/or fill material into waters of the United States on the Site, without a permit, using a track hoe, a box-blade tractor, and a mini-excavator, during unauthorized dredge and fill activities associated with clearing, filling, and excavating wetlands and streams to expand two forestry roads (A and B), build waterfowl

impoundments and/or irrigation ponds, clear logging debris and beaver dams, and construct multiple water control structures. These violations resulted in impounding water over many dozens of acres of harvested forested wetlands and perennial streams. Currently, the unauthorized dredge and/or fill material remains in these waters of the United States.

15. Respondents' unauthorized activities impacted approximately five acres of wetlands that are part of a wetland complex that abuts the Coosawhatchie River and 1300 linear feet of an unnamed perennial tributary of the Coosawhatchie River, a navigable water of the United States.

16. The discharged dredged and/or fill material, including earthen material deposited at the Discharge Area, are "pollutants" as defined by Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

17. The track hoe, box-blade tractor, and min-excavator employed by Respondents to deposit the dredged and/or fill material at the Discharge Area are "point sources" as defined by Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

18. Respondents' placement of the dredged and/or fill material into the Discharge Area constitutes a "discharge of pollutants" as defined by Section 502(12) of the CWA § 502(12), 33 U.S.C. § 1362(12).

19. At no time during the discharge of dredged and/or fill material at the Discharge Area from July 2014 to late 2014, did Respondents possess a permit under Section 404 of the CWA, 33 U.S.C. § 1344, authorizing the discharge of dredged and/or fill material into the Discharge Area by Respondents. Each discharge by Respondents of pollutants into navigable waters without the required permit issued under Section 404 of the CWA, 33 U.S.C. § 1344, is a violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

20. Each day the material discharged by Respondents remains in waters of the United States without the required permit under Section 404 of the CWA, 33 U.S.C. § 1344, constitutes a day of violation of Section 301 of the CWA, 33 U.S.C. § 1311.

#### **IV. Stipulations and Findings**

21. Complainant and Respondents have conferred for the purpose of settlement under 40 C.F.R. Part 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without gathering any evidence or testimony, making of any argument, or adjudicating any issue in this matter, and in accordance with 40 C.F.R. Part 22.13(b), this Administrative Consent Agreement and Final Penalty Order ("CAFO") will simultaneously commence and conclude this matter.

22. For the purposes of this CAFO, Respondents admit the jurisdictional and the factual allegations set out above.

23. Respondents hereby waive their right to contest the allegations set out above and their right to appeal the Final Order accompanying this Consent Agreement.

24. Respondents consent to the assessment of and agree to pay the administrative penalty as set forth in this CAFO and consent to the other conditions set forth in this CAFO.

25. By signing this CAFO, Respondents certify that the information they have supplied concerning this matter was at the time of submission, and is, truthful, accurate, and complete for each such submission, response and statement. Respondents realize that there are significant penalties for submitting false or misleading information, including the possibility of fines and/or imprisonment for knowing submission of such information.

26. The EPA reserves the right to assess and collect any and all civil penalties for any violation described in this Consent Agreement to the extent that any information or certification provided by Respondents was materially false or inaccurate at the time such information or certification was provided to the EPA.

27. Complainant and Respondents agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of the CWA.

#### V. Payment

28. Under Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), and 40 C.F.R. § 19, and considering the nature of the violations and other relevant factors, the EPA has determined that One Hundred Twenty-Five Thousand dollars (\$125,000) is an appropriate civil penalty to settle this action.

29. Respondents shall submit payment of the penalty specified in the preceding paragraph within 30 days of the effective date of this CAFO via a cashier's or certified check, payable to the order of "Treasurer, United States of America." The check shall reference on its face the name of Respondents and the Docket Number of this CAFO. Such payment shall be submitted by U.S. Postal Service to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, MO 63197-9000

For other payment options, such as wire transfers, overnight mail, ACH, and online payments, please refer to Attachment A.

30. At the time of payment, Respondents shall send a separate copy of the check, and a written statement that payment has been made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk  
U.S. EPA, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

and

Mike Wylie  
Marine Regulatory and Wetlands  
Enforcement Section  
U.S. EPA, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

31. Civil penalty payments under this CAFO are penalties within the meaning of Section 162(f) of the Internal Revenue Code, 26 U.S.C. § 162(f), or of 26 C.F.R. § 1.162-21 and are not tax deductible expenditures for purposes of federal law.

32. Under Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), failure by Respondents to pay the penalty assessed by the CAFO in full by its due date may subject Respondents to a civil action to collect the assessed penalty plus interest (at currently prevailing rates from the effective date of this CAFO), attorney's fees, costs for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to twenty percent (20%) of the aggregate amount of such penalty and nonpayment penalty which are unpaid as of the beginning of such quarter. In any such collection action, the validity, amount, and appropriateness of the penalty and of this CAFO shall not be subject to review.

## **VI. General Provisions**

33. This CAFO shall not relieve Respondents of their obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit. Other than as expressed herein, compliance with this CAFO shall not be a defense to any actions subsequently commenced under federal laws and regulations administered by the EPA.

34. Nothing in this CAFO shall be construed as prohibiting, altering, or in any way limiting the ability of the United States to seek any other remedies or sanctions available by virtue of Respondents' violation of this CAFO or of the statutes and regulations upon which this agreement is based, or for Respondents' violation of any federal or state statute, regulation, or permit.

35. Except as otherwise set forth in this document, this CAFO constitutes a settlement by Complainant and Respondents of all claims for civil penalties under the CWA with respect to only those violations alleged in this CAFO. Except as otherwise set forth in this document, compliance with this CAFO shall resolve the allegations of violations contained in this CAFO. Nothing in this CAFO is intended to nor shall be construed to operate in any way to resolve any criminal liability of Respondents, or other liability resulting from violations that were not alleged in this CAFO. Other than as expressed in this document, Complainant does not waive any right to bring an enforcement action against Respondents for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.

36. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

37. This CAFO applies to and is binding upon Respondents and any officers, directors, employees, agents, successors, and assigns of Respondents.

38. The obligations of the Respondents under this CAFO are joint and several.

39. Any change in the legal status of Respondents including, but not limited to, any transfer of assets of real or personal property, shall not alter Respondents' responsibilities under this CAFO.

40. Each party shall bear its own costs and attorneys' fees in connection with the action resolved by this CAFO.

41. In accordance with 40 C.F.R. Part 22.5, the individuals below are authorized to receive service relating to this proceeding.

For Complainant:

Matthew Hicks  
Associate Regional Counsel  
U.S. Environmental Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
(404) 562-9670

For Respondents:

Robert B. Glover  
Glover Real Estate, LLC  
7 Plantation Park Drive  
Bluffton, South Carolina 29910  
(843)-815-4883

42. The parties acknowledge and agree that this CAFO is subject to the requirements of 40 C.F.R. § 22.45(c)(4), which provides a right to petition to set aside a consent agreement and proposed final order based on comments received during the public comment period.

43. Under Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and 40 C.F.R. § 22.38(b), Complainant represents that the State of South Carolina was provided a prior opportunity to consult with Complainant regarding this matter.

44. This CAFO in no way affects the rights of the Complainant as against any person or entity not a party to this CAFO.

45. Effective upon signature of this CAFO by Respondents, Respondents agree that the time period commencing on the date of their signatures and ending on the date the EPA receives from Respondents the payment required by this CAFO shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by the EPA related to the matters addressed in this CAFO and that, in any action brought by the EPA related to the matters addressed, Respondents will not assert, and may not maintain, any defense or claim based upon principles of statute of limitations, waiver, laches, estoppel, or other defense based on the passage of time during such period. If the EPA gives notice to Respondents that it will not make this CAFO effective, the statute of limitations shall begin to run again commencing ninety days after the date such notice is sent by the EPA.

## **VII. Release by Respondents**

46. Respondents hereby covenant not to sue and agree not to assert any claims or causes of action against the United States, including any department, agency or instrumentality of the United States, with respect to the matters addressed and resolved in this CAFO, including




but not limited to, any claim that any of the matters or actions described in this CAFO have resulted in a taking of Respondents' property without compensation.

**VIII. Effective Date**

47. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

**AGREED AND CONSENTED TO:**

For RESPONDENT, ROBERT B. GLOVER:

  
\_\_\_\_\_  
Robert B. Glover

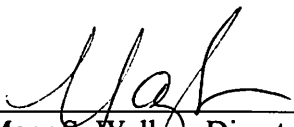
Date: 2.26.18

For RESPONDENT, GLOVER REAL ESTATE, LLC:

  
\_\_\_\_\_  
Robert B. Glover  
Glover Real Estate, LLC

Date: 2.26.18

For COMPLAINANT, U.S. ENVIRONMENTAL PROTECTION AGENCY:

  
\_\_\_\_\_  
Mary S. Walker, Director  
Water Protection Division  
U.S. EPA Region 4

Date: 5-11-18

## **ATTACHMENT A**

### **COLLECTION INFORMATION**

#### **WIRE TRANSFERS:**

Wire transfers should be directed to the Federal Reserve Bank of New York

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"

#### **OVERNIGHT MAIL:**

U.S. Bank

1005 Convention Plaza

Mail Station SL-MO-C2GL

St. Louis, MO 63101

Contact: Natalie Pearson

314-418-4087

#### **ACH (also known as REX or remittance express):**

Automated Clearinghouse (ACH) for receiving US currency

PNC Bank

808 17<sup>th</sup> Street, NW

Washington, DC 20074

Contact – Jesse White 301-887-6548

ABA = 051036706

Transaction Code 22 - checking

Environmental Protection Agency

Account 310006

CTX Format

#### **ON LINE PAYMENT:**

There is now an On Line Payment Option, available through the Dept. of Treasury.

This payment option can be accessed from the information below:

[WWW.PAY.GOV](http://WWW.PAY.GOV) (Enter sfo 1.1 in the search field Open form and complete required fields).

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

IN THE MATTER OF: )  
 )  
 Robert B. Glover and ) ADMINISTRATIVE  
 Glover Real Estate, LLC ) CONSENT AGREEMENT AND  
 ) FINAL PENALTY ORDER  
 )  
 RESPONDENTS. ) Docket No.: CWA-04-2017-5502(b)  
 )  
 \_\_\_\_\_ )

**FINAL ORDER**

In accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits*, 40 C.F.R. Part 22, and authorities delegated to me, the forgoing Consent Agreement is hereby approved and incorporated by reference into this Final Penalty Order. Under Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), Respondents are hereby ordered to comply with the terms of the foregoing Administrative Consent Agreement and Final Penalty Order.

U.S. ENVIRONMENTAL PROTECTION AGENCY



Onis "Trey" Glenn, III  
Regional Administrator  
U.S. EPA, Region 4

Date: 5/18/18

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have this day served a true and correct copy of the foregoing Administrative Consent Agreement and Final Order in the matter of: **Docket No. CWA-04-2017-5502(b)** on the parties listed below in the manner indicated:

EPA internal mail:

Mike Wylie  
Marine Regulatory and Wetlands  
Enforcement Section  
U.S. EPA, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
(404) 562-9409

By hand-delivery:

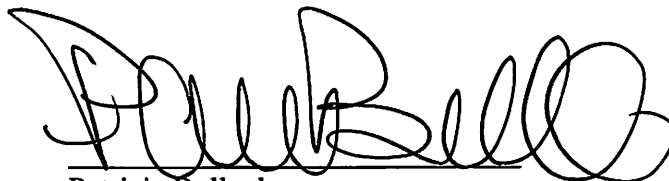
Matthew Hicks  
Associate Regional Counsel  
U.S. EPA, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
(404) 562-9670

By certified mail,  
return receipt requested

Robert B. Glover  
Glover Real Estate, LLC  
7 Plantation Park Drive  
Bluffton, South Carolina 29910  
(843)-815-4883

Dated:

5-22-18



Patricia Bullock  
Regional Hearing Clerk  
U. S. EPA, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
(404) 562-9511