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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

In the Matter of * Docket No. CWA-06-2012-2712
*
Paco Swain Realty, L.L.C, *
a Louisiana Corporation, *
*
Respondent * RESPONDENT'S
PREHEARING EXCHANGE

RESPONDENT'S PREHEARING EXCHANGE

The Respondent, Paco Swain Realty, L.L.C., a Louisiana limited liability company, through its attorney, hereby files this Prehearing Exchange, which contains Respondent's responses to the Prehearing Order herein.

A. WITNESSES:

The Respondent may call the following witnesses at the hearing:

1. Gordon "Paco" Swain (fact witness), the respondent and the developer of the property upon which it is alleged in the complaint that violations occurred.
2. Gary Perkins (fact witness), one of the obligors on the debt of Louisiana Purchase Equestrian Estates.
3. Jason Harris (Expert Witness), engineer with Harris Environmental Services, Inc., who provided the initial Wetlands Assessment for LA Purchase Equestrian Estates, dated June 21, 2006.
4. Tim Kimmel (Expert Witness), Biologist, wetlands evaluation, remediation and mitigation.
5. A representative of the Livingston Parish Gravity Drainage District with jurisdiction over the drainage canals pertinent to the property.
6. Any witness named by Complainant.
7. Any rebuttal witness, as required.

Respondent does not anticipate the need to call any additional witness, but respectfully reserves the right to amend or supplement the witness list and to expand or otherwise modify the scope of testimony of any of these potential witnesses, where appropriate, and upon adequate notice to complainant and notice and order of this court.

Respondent's witnesses will not need an interpreter to facilitate their testimony.

Special accommodations under the Americans with Disabilities Act will not be needed for counsel or any of the witnesses or party representatives of Respondent.

B. EXHIBITS:

The Respondent may offer into evidence the following exhibits:

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>
Respondent No. 1	Wetland Assessment for LA Purchase Equestrian Estates Located on LA Highway 447 North of Walker, LA., dated June 21, 2006 by Harris Environmental Services, Inc.
Respondent No. 2	NPDES Permits issued to subdivision.
Respondent No. 3	Individual Ability to Pay Claim, Financial Data Request Form, with supporting documents

Any Exhibit listed or offered by the Complainant.

Any Exhibit the existence or probative value of which becomes known prior to hearing.

The Respondent respectfully reserves the right to amend its prehearing exchange to add, subtract or amend exhibits and/or documents.

C. PLACE FOR HEARING AND ESTIMATED TIME NEEDED:

The Respondent requests that the hearing be held in Livingston Parish, Louisiana (in accordance with CFR §§20.22(d) and 20.19(d)), and estimates that one (1) day at most will be needed to present its direct case. Translation services will not be needed.

D. ASSESSMENT OF CIVIL PENALTY:

The Respondent respectfully takes exception to the Penalty Calculation sought to be assessed by the Complainant.

Respondent asserts that it acted in good faith on the informed belief that any wetlands on the property were non-jurisdictional and that no permit was required. Further, any alteration of wetlands was minimal and resulted in no net loss of wetlands on the property. To the extent that any drainage was affected, it was through a redirection of flow and very little, if any, increase in volume leaving the property.

Care was taken in laying out the subdivision to minimize any disturbance of wetlands, and drainage outfalls were constructed so as not to adversely affect the canal or creek into which it drains, which is several miles away from a river (TNW) or major tributary. The volume of any discharge from the property is negligible in relation to that of relatively permanent waters (RPW) leading to the TNW and not sufficient to cause any adverse affect.

Ability to Pay Claim. An enumerated statutory factor to establish penalties is **Ability to Pay**. The Respondent is in dire financial straits, and is compiling documentation to submit with the Ability to Pay Claim form.

Respectfully submitted,



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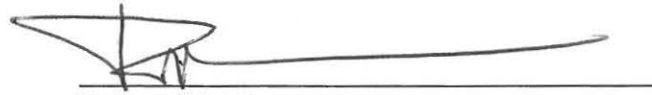
CERTIFICATE OF SERVICE

I certify that the foregoing Respondent's Prehearing Exchange, dated July 26, 2013, was filed with the Headquarters Hearing Clerk, U.S. Environmental Protection Agency, Office of Administrative Law Judges, 1300 Pennsylvania Avenue NW, M-1200, Washington DC 20004, and a true and correct copy was sent to the following on this 26th day of July, 2013, in the following manner:

VIA UPS:

M. Lisa Buschmann, Administrative Law Judge
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Robert W. Morgan

Dated: July 26, 2013