



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TEXAS 75202 - 2733

October 24, 2016

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. James B. Cantrelle  
Parish President  
Thibodaux Government Complex  
402 Green Street  
Thibodaux, LA 70301

Re: Administrative Complaint; Docket Number CWA-06-2017-2704

Dear Mr. Cantrelle:

Enclosed is an Administrative Complaint (Complaint) issued for violation of Section 301(a) of the Clean Water Act (Act), 33 U.S.C. § 1311(a), which prohibits the unauthorized discharge of any pollutant into waters of the United States. Section 309 of the Act, 33 U.S.C. § 1319, authorizes the Environmental Protection Agency (EPA) to take appropriate enforcement action to ensure compliance with the Act, regulations, and applicable laws.

The enclosed Administrative Complaint is issued to LaFourche Parish (Respondent) for the discharge of dredged and fill material into waters of the United States, in violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a). The Complaint assesses a monetary penalty for the violations alleged.

Respondent has the right to request a hearing regarding the violations alleged in the Complaint and the proposed administrative civil penalty. Please refer to the enclosed 40 C.F.R. Part 22, "Consolidated Rules of Practice," for information regarding hearing and settlement procedures.

If you wish to contest the allegations in the Complaint, you must file an Answer within thirty (30) days of receipt of the enclosed Complaint by mailing your Answer to EPA's Regional Hearing Clerk at the following address:

Regional Hearing Clerk (6RC-D)  
U.S. Environmental Protection Agency, Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733

If you do not file an Answer by the applicable deadline, a default order may be issued. If that occurs, each allegation in the Complaint will be deemed to be admitted as true by you, and you will have waived your right to a hearing on said allegations. The proposed penalty may then be assessed and become due and payable, without further proceedings, thirty (30) days after an Order is issued upon default. Whether or not you request a hearing, we invite you to confer informally with the EPA. You have the right to be represented by an attorney, at any stage of the proceedings, including any informal discussions with EPA.

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6

FILED  
2016 OCT 26 AM 8:35  
REGIONAL HEARING CLERK  
EPA REGION VI

In the Matter of:	§ Docket No. CWA-06-2017-2704
	§
Lafourche Parish Government, a Louisiana Municipality	§ Proceeding to Assess a § Civil Penalty Under Section 309(g) § of the Clean Water Act
	§
Respondent.	§ Administrative Complaint

I. STATUTORY AUTHORITY

1. This Administrative Complaint (Complaint) is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Section 309(g) of the Clean Water Act (“the Act”), 33 U.S.C. § 1319(g). The Administrator has delegated the authority to issue this Complaint to the Regional Administrator of EPA Region 6, who has further delegated this authority to the Director of the Water Quality Protection Division, EPA Region 6. 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. The Lafourche Parish Government (“Respondent”) is a municipality established in the state of Louisiana and therefore considered a “person” as defined by Section 502(5) of the Act, 33 U.S.C. § 1362(5).

3. At all times relevant to the violations alleged herein, Section 301(a) of the Act, 33 U.S.C. § 1311(a), provides that it is 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. At all times relevant to the violations alleged herein, Section 309(g)(1)(A) of the Act, 33 U.S.C. § 1319(g)(1)(A), provides that 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, EPA is authorized to assess a civil penalty under Section 309(g) of the Act, 33 U.S.C. § 1319(g).

5. Section 404 of the Act, 33 U.S.C. § 1344, authorizes 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 into waters of the United States.

6. On multiple dates between approximately March 2, 2010, and approximately June 25, 2012, Respondent discharged, caused the discharge, directed the discharge, and/or agreed with other persons or business entities to discharge dredged material and/or discharge 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 to approximately 9.92 acres of forested wetlands at a point approximately 200 feet east of and parallel to Choctaw Road from about 963 Choctaw Road to 1343 Choctaw Road, in Section 8 & 17, Township 14 South, Range 17 East, Thibodaux, Lafourche Parish, Louisiana (“site”). The discharges were associated with the construction of a large earthen dam approximately 6 feet high, 14 feet wide, and 5280 feet long. Approximately 9.92 acres of jurisdictional wetlands were impacted in the construction of this project. The impacted wetlands were adjacent to, hydrologically connected to, or had a significant nexus to, a navigable-in-fact body of water.

7. The discharged dredged material and fill material are considered “pollutants,” as that term is defined by Section 502(6) of the Act, 33 U.S.C. § 1362(6).

8. Each piece of equipment used to carry out the discharge(s) acted as a “point source,” as

that term is defined by Section 502(14) of the Act, 33 U.S.C. § 1362(14).

9. The wetlands identified in paragraph 6 above are “waters of the United States,” as that term is defined by 40 C.F.R. § 232.2.

10. At no time during the period identified in paragraph 6 did Respondent have a permit issued by the U.S. Army Corps of Engineers which authorized the discharge(s) alleged.

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

12. Pursuant to 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 afforded the public reasonable opportunity to comment on the proposed penalty. At the expiration of the notice period, EPA will consider any comments filed by the public.

13. Based on these Findings of Fact and Conclusions of Law, EPA finds that Respondent committed the violations alleged herein and is liable for a civil penalty.

### III. PROPOSED PENALTY

14. Based on the foregoing Findings of Fact and Conclusions of Law, and pursuant to Sections 309(g)(1) and (g)(2)(B) of the Act, 33 U.S.C. §§ 1319(g)(1) and (g)(2)(B), EPA Region 6 finds that Respondent committed the violations alleged above and proposes to assess a Class II civil penalty \$177,000 for the violations alleged in this Complaint.

15. In determining the amount of the civil penalty, EPA considered 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 violation(s), and, with respect to Respondent’s ability to pay a civil penalty,

any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation(s), and such other factors as justice may require.

#### IV. FAILURE TO FILE AN ANSWER

16. If Respondent wishes to admit, deny, or explain any material allegation set forth in the above Findings of Fact and Conclusions of Law or contest the amount of the civil penalty proposed, Respondent must file an Answer to this Complaint within thirty (30) days after Respondent's receipt of the Complaint, regardless of whether Respondent requests a hearing on the allegations of the Complaint.

17. The requirements for an Answer are set forth at 40 C.F.R. § 22.15. Respondent's failure to file an Answer setting forth any such admission, denial, or explanation shall constitute an admission of all facts alleged, and waive Respondent's right to a hearing, pursuant to 40 C.F.R. § 22.15(d).

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

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

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

Respondent shall also send a copy of its Answer to this Complaint to the following EPA attorney

assigned to this case:

Jay Przyborski (6RC-EW)  
U.S. EPA Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, Texas 75202-2733

20. The Answer must be signed by Respondent's corporate representative or its attorney or other representative, if any, authorized to sign on behalf of Respondent, and include the information required by 40 C. F. R. §§ 22.5 and 22.15. All other pleadings must be similarly signed and filed with the Regional Hearing Clerk.

#### V. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

21. 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) of the Act, 33 U.S.C. § 1319(g)(2). The hearing procedures are set forth at 40 C.F.R. §§ 22.21-26.

22. If a hearing is requested, any person 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).

#### VI. SETTLEMENT


23. EPA encourages all parties against whom civil penalties are proposed to pursue the possibility of settlement through informal meetings with EPA. Regardless of whether a formal hearing is requested, a Respondent may confer informally with EPA about the alleged violations or the amount of the proposed penalty. Respondent may appear at any informal conference or formal hearing personally, by counsel or other representative, or both. To request an informal

conference on the matters described in this Complaint, please contact Raul Gutierrez at (504) 862-2371.

24. If this action is settled without a formal hearing and issuance of an opinion by the Presiding Officer, pursuant to 40 C.F.R. § 22.27, this action will be concluded by issuance of a Consent Agreement and Final Order (CAFO) pursuant to 40 C.F.R. § 22.18(b). The issuance of a CAFO would waive a Respondent's right to a hearing on any matter stipulated therein or alleged in the Complaint. Any person who commented on this Complaint would be notified and given an additional thirty (30) days to petition EPA to set aside any such CAFO and request a hearing on the issues raised in the Complaint. Such petition would be granted and hearing held only if the evidence presented by the petitioner's comments was material and not considered by EPA in the issuance of the CAFO.

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.

10/26/16  
\_\_\_\_\_  
Issuance date


  
\_\_\_\_\_  
William K. Honker, P.E.  
Director  
Water Division

CERTIFICATE OF SERVICE

I certify that on 10/26/2016 the original and a true and correct copy of this Complaint were filed with the Regional Hearing Clerk, EPA Region 6, and that true and correct copies of the Complaint were deposited with the U. S. Postal Service addressed to the following persons.

Certified mail, return receipt requested:

Mr. James B. Cantrelle, Parish President  
Thibodaux Government Complex  
402 Green Street  
Thibodaux, LA 70301

  
10/26/2016