LIST OF CONTENTS

APPENDIX A

LEAD ENFORCEMENT AGENCY IDENTIFICATION

The purpose of this form is to document the lead enforcement agency designation in accordance with the "Memorandum of Agreement (MOA) Between the Department of the Army and the Environmental Protection Agency (EPA) Concerning Federal Enforcement of the Section 404 Program of the Clean Water Act" dated January 19, 1989.

I. INFORMATION

1. Corps File Number:
   MVN 2012-01922-SW (UA), MVN 2010-00509-CY (EUA-ATF - withdrawn for enforcement)
2. Location (Lat/Long. Section. Township. Range): 29.869892, -90.763474 to 29.859640, -90.754380
   Sections 8 & 17, Township 14 South, Range 17 East, Choctaw Rd, Thibodaux, Lafourche Parish
3. Landowners:
   Percle, Bennie & Weldon, Penn J
4. Contractors:
   Unknown
5. Violators:
   Lafourche Parish Government-(Honorable Charlotte Randolph)
6. Date Violation Occurred: 06/25/2012 - Submitted EUA ATF project drawings.
   08/02/2012 (unauthorized activities/non-compliance of EUA permit conditions verified)
7. Date of Investigation & Corps Investigators: 08/02/2012
   John Herman, Robert Norris
8. Description of Unauthorized Activities: Unauthorized redistribution of fill material in association w/mechanized land-clearing in wetlands & waters of the US (levee construction)(10,301& 404).
9. Classification from Part III. D(1):
   (X) a. Repeat Violator(s)
   ( ) b. Flagrant Violator
   (X) c. Particular Case EPA May Request
   ( ) d. Corps Recommends Administrative Penalty

10. Completed Inspection Report (w/photos, maps, and an estimate of impacts in acres, linear feet, and/or cubic yards), and Preliminary Jurisdictional Determination Attached:
    Yes
11. ORMS Database Query Results for Landowners, Contractors, and/or Violators Attached:
    Yes
12. Corps Recommendations for Resolution:
    Criminal investigation.

II. EPA DETERMINATION

(X) EPA will act as lead enforcement agency.

( ) EPA declines the lead enforcement agency role and refers the matter back to the Corps pursuant to Part III. D(2) of the MOA. EPA's recommendations are:

If applicable:

EPA requested additional time (*date, time, Corps contact*):_____

_____

EPA requested additional information (*date, time, Corps contact, type of info*):

_____

_____

III. JOINT ENFORCEMENT STRATEGY (if applicable)

Corps Lead:

EPA Lead: See attached e-mail w/EPA requesting lead enforcement agency dtd 01/24/2012.

IV. CERTIFICATION (must be completed)

	Corps Representative	EPA Representative
Name/Title		
Signature/Date		

APPENDIX B

Section 404 Enforcement Case Referral Checklist

Required Items

X **Completed lead enforcement agency identification form**

X **Initial investigation report**

- **Responsible parties (e.g., violators, landowners, contractors, operators) with contact information (names, addresses, phone numbers)**
- **Location map and description, lat./long., section, township, range**
- **Site photographs, including descriptions, with a reference map and legend showing each photograph location by number and direction (ideally with GPS coordinates, date, time)**
- **Fill description, including type and estimated volume of dredged/fill material, date of fill activity (date of violation)**
- **Estimate of impacts by aquatic resource name and type (acres, linear feet, and/or cubic yards)**

X **Jurisdictional determination**

X **ORMS query results for: current and past permits issued for the site and/or to the violators, landowners, contractors, and operators anywhere; prior violations committed by the responsible parties; prior CWA 404 activity demonstrating knowledge of the program by the responsible parties**

X **Copies of ALL records in the case file including:**

- **Cease & desist / notice of violation letters**
- **Initial corrective measures required**
- **Incoming and outgoing correspondence, including emails**
- **Phone logs, conversation records**

Additional Items To Provide, If Available

X Wetland delineation
___ Potential endangered species impacts
___ Potential cultural or historic resource impacts
___ Tribal issues
X Documentation/discussion of cumulative and secondary impacts
___ Property ownership information (tax parcel ID & deed)
___ Consultant information
X Historic aerial photographs
X USGS topographic maps, soil surveys, NWI maps, FEMA maps, etc.
___ USGS gauging station location/ stream flow data

Norris, Robert F MVN

From: Heffner, Robert A MVN
Sent: Friday, January 25, 2013 7:19 AM
To: Norris, Robert F MVN
Subject: FW: Lafourche Parish Levee (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

FYI.

-----Original Message-----
From: Gutierrez.Raul@epamail.epa.gov [mailto:Gutierrez.Raul@epamail.epa.gov]
Sent: Thursday, January 24, 2013 3:51 PM
To: Heffner, Robert A MVN
Subject: RE: Lafourche Parish Levee (UNCLASSIFIED)

email works for me.

Raul Gutierrez, Ph.D.

Wetlands Section (6WQ-EM)
US EPA Region 6
1445 Ross Ave., Suite 1200
Dallas, Texas 75202
214-665-6697

From: "Heffner, Robert A MVN" <Robert.A.Heffner@usace.army.mil>
To: Raul Gutierrez/R6/USEPA/US@EPA
Cc: "Norris, Robert F MVN" <Robert.F.Norris@usace.army.mil>
Date: 01/24/2013 03:20 PM
Subject: RE: Lafourche Parish Levee (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Raul,

Thank you for the update. Would you prefer hardcopies via overland mail or electronic via email? Your call.

Thanks again,
Rob

-----Original Message-----
From: Gutierrez.Raul@epamail.epa.gov [mailto:Gutierrez.Raul@epamail.epa.gov <mailto:Gutierrez.Raul@epamail.epa.gov>]
Sent: Thursday, January 24, 2013 3:17 PM

To: Heffner, Robert A MVN
Subject: Lafourche Parish Levee

Rob,

The EPA would like to be lead enforcement agency regarding the Lafourche Parish Levee Violation, as per the 1989 MOA regarding the allocation of enforcement responsibilities. Please forward copies of any records and/or reports to the address listed below.

Thanks,
Raul Gutierrez, Ph.D.

Wetlands Section (6WQ-EM)
US EPA Region 6
1445 Ross Ave., Suite 1200
Dallas, Texas 75202
214-665-6697

Classification: UNCLASSIFIED
Caveats: NONE

Classification: UNCLASSIFIED
Caveats: NONE

Norris, Robert F MVN

From: Norris, Robert F MVN
Sent: Monday, November 19, 2012 11:34 AM
To: 'Tamara Mick'
Subject: Lafourche Parish Levee site Cease and Desist Order. (UNCLASSIFIED)
Attachments: C&D.pdf

Classification: UNCLASSIFIED
Caveats: NONE

T,
As you have requested.
Thanks,

Robert F. Norris
Investigator
USACE NOD
CEMVN-OD-SS
504-862-2271

Classification: UNCLASSIFIED
Caveats: NONE

DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P.O. BOX 60267
NEW ORLEANS, LOUISIANA 70160-0267

CEASE AND DESIST ORDER

REPLY TO ATTENTION OF
Operations Division
Surveillance and Enforcement Section

CASE NUMBER: MVN 2012-01922-SW

ISSUED TO: Honorable Charlotte Randolph dba Lafourche Parish Government

ADDRESS: P.O Drawer 5548, Thibodeaux, Louisiana 70301 PHONE: 985-446-8427

LOCATION OF WORK: At a point 200' east and parallel to/from 963 to 1200 Chocktaw Road, in Section 8, Township 14 South, Range 17 East, Thibodeaux, Lafourche Parish, Louisiana 70301

CHARACTER OF WORK: Unauthorized re-distribution of fill material in association with mechanized land-clearing in wetlands. Unauthorized deposition of fill material in wetlands and waters of the US.

APPARENT VIOLATION OF: [X] Section 10 of the Rivers and Harbors Act (RHA); [ ] Section 13 of the RHA; [X] Section 301 of the Clean Water Act (CWA); and/or [ ] Section 404 of the CWA.

This work was performed in waters of the United States and is therefore subject to Department of the Army (DA) regulatory authority. You are directed not to perform or allow any further unauthorized work at this site until proper authorization has been granted. Failure to abide by this Cease and Desist Order will result in appropriate legal action.

You are advised that violations of the RHA and/or the CWA may subject you to appropriate administrative and/or judicial action. Legal action could result in a fine and/or a court order to restore the site to preproject conditions. A DA permit application cannot be accepted until all legal issues are resolved. Any comments or defense you wish to submit on your behalf to explain why you failed to obtain a DA permit prior to conducting the above work should be submitted to the Chief, Surveillance and Enforcement Section, at the above address.

If we do not receive a written response from you within 20 days from the date shown below, we will proceed with appropriate action for resolution of the legal issues based on the information in our files.

Should you wish to discuss this matter further, or if you have any questions concerning wetlands and the permitting process, please contact the undersigned issuer at (504) 862-2271, or -2270.

Sincerely,

Edward R. Fleming
Colonel, US Army
District Commander

ISSUED BY: Robert F. Norris JOB TITLE: Investigator 07/31/2012

RECEIPT ACKNOWLEDGED: Charlotte D Randolph DATE: 7/31/12

Jul 10

C&D-gen com

Norris, Robert F MVN

From: Norris, Robert F MVN
Sent: Wednesday, August 01, 2012 9:53 AM
To: Serio, Pete J MVN
Cc: Heffner, Robert A MVN; Mayer, Martin S MVN
Subject: CCIR - Field Cease & Desist Order issued to the Honorable Charlotte Randolph dba Lafourche Parish Government, MVN-2012-01922-SW (UNCLASSIFIED)
Attachments: image2012-07-31-110435-1.jpg; Cease and desist order- Choctaw Road.pdf

Classification: UNCLASSIFIED
Caveats: NONE

CCIR

Who: Honorable Charlotte Randolph (Parish President) dba Lafourche Parish Government
What: Unauthorized deposition of fill material in wetlands and waters of the US in apparent violation of Section 10 of the RHA and Section 301 of the CWA.
When: Field Cease and Desist Order requesting comments issued on 07/31/2012.
Where: At a point 200' east of and parallel to/from 963 to 1200 Choctaw Road, in Sections 8 & 17, Township 14 South, Range 17 East, Thibodaux, Lafourche Parish, Louisiana 70301.
Why: Levee construction/flood control.
Impacts: Levee approximate wetland impacts 9.92 acres; Levee is +-5280 feet in length - 6'in elevation x 14'across the top.
Actions: Issued Field C&D requesting comments explaining why the work occurred prior to obtaining DA authorization.

Robert F. Norris
Investigator
USACE NOD
CEMVN-OD-SS
504-862-2271

Classification: UNCLASSIFIED
Caveats: NONE

VIOLATION REPORT FORM

ORM #: 2012-01922-SW **DATE REPORTED:** 7/30/12

REPORT TAKEN BY: COE-RFN

DATE ASSIGNED: 7/30/12 **INVESTIGATOR:** COE-RFN

	TELEPHONE NUMBERS	TYPE
V-NAME: Randolph, Charlotte		
d/b/a: Lafourche Parish Government	(985) 446-8427	Office
V-ADDRESS: E. of 963 to 1343 Choctaw Rd.	(985) 493-6600	Fax
Thibodaux, Louisiana 70301	(____)____-____	
AGENT:	(____)____-____	
CONSULTANT: Picciola & Associates, Inc.	(985) 632-5788	Office

PERSON MAKING VIOLATION ALLEGATION:	TELEPHONE NUMBER	TYPE
COE-CY/ATF Application	(____)____-____	

DESCRIPTION OF VIOLATION: Unauthorized deposition of fill material in wetlands and waters of the US & unauthorized redistribution of fill material in association with mechanized land-clearing in wetlands & waters of the US; both in conjunction w/flood protection levee construction.

LOCATION INFORMATION

PARISH: Lafourche **SITE SIZE:** 15.5+acres **WW:** St. James Canal/Grand Bayou

SECTION: 8, 17 **Quad:** Thibodaux NE (50C) ☐ **10**

TOWNSHIP: 14S **Lat:** 29.864657 **Soil Map:** PH29SS sh 2, 8 **AUTH:** ☐ **404**

RANGE: 17E **Long:** -90.759119 **Soil Types:** BB ☒ **BOTH**

OTHER SITE INFORMATION: POC Address: 402 Green St., P.O. Drawer 5548, Thibodaux, La 70302
Flood protection levee from Banana Pmp Sta (PT A)to St James Cnl protection levee (PT B)(ATF)
HUC: 08090301 East Central Louisiana Coastal. Louisiana. NWI - PFO2F.

INITIAL CONTACT DATE: 7/30/12 **BY:** COE-RFN

☒ **Existing JD #:** 2003-00068-JLM, 2002-03157-SZ (both JD's adjacent & abutting project site).

☒ **Permit Exists - P#:** EUA MVN 2010-00509-CY for initial protection levee (no ATF approvals).

☐ **Not a Regulated Activity** - ____ **[NPR]**

☐ **No Violation Exists** - ____ **[NPR]**

DATE VIOLATION CONFIRMED: 7/30/12

☒ **Cease and Desist Information Complete Date:** 7/31/12

☒ **Cease and Desist Order: Type:** Field **Rcvd:** 7/31/12 **Comments: - Rcvd:** ____

☐ **Tolling Agreement: - Rcvd:** ____ **Forwarded:** ____

☒ **ATF Application: - Rcvd:** 3/2/10 **Forwarded:** ____

☒ **JD #:** 2012-01922-SU **Finish Date:** 1/24/13 **Forwarded:** ____

☐ **Restoration** - ____

☐ **Admin. Close** - ____

OTHER RESOLUTION: ____

DATE RESOLVED: ____ **DATE CLOSED:** ____

NOTES: 08/02/2012: Field site investigation this date revealed unauthorized levee construction in tidal cypress swamp. Emergency Use Authorization for original levee authorized placement of levee at a point parallel and diagonal to Choctaw Rd, unauthorized levee placed approximately 200' from the edge of Choctaw Rd. The emergency levee was returned to pre-existing condition by (cont.)

ENFORCEMENT CHECKLIST:

(1) **Regulatory Authority:** 10 ☐ 404 ☐ BOTH ☒

(2) **Is the property 100% wetland?** YES ☒ NO ☐ UNKNOWN ☐

(3) **What is the size of the wetland impact?** 15.5+acres

(4) **Are the wetlands tidally influenced?** YES ☒ NO ☐

(5) **Are other waters impacted?** YES ☒ NO ☐

(6) **If yes, these waters are...** 404 ONLY ☐ TIDAL ☒ NAVIGABLE ☒

(7) **Was hauled fill deposited on site?** YES ☐ NO ☒

(8) **Mechanized land clearing?** YES ☒ NO ☐

(9) **Ditching?** YES ☒ NO ☐

(10) **Other unauthorized activity?** _____

ADDITIONAL COMMENTS/NOTES: by degrading the levee and placing it back into the borrow canal. Pictures taken for file inclusion.

01/24/2013: EPA requested Lead Enforcement.

CEMVN-OD-SS

MEMORANDUM For Information

SUBJECT: Violation No. MVN 2012-01922-SW - Lafourche Parish Government

1. This unauthorized activity was self-reported via Department of the Army permit application w/updated project drawings dated 06/25/2012. The DOA - ATF permit application was received in the permitting section on 03/02/2010 (MVN 2010-00509-CY - Emergency Use Authorization - ATF) with incomplete project drawings. Subsequent submitted project drawings dated 6/25/2012 showing unauthorized modifications to original permit project site and unauthorized construction of a flood protection levee in another area outside of original EUA permit project area. An unauthorized constructed levee (approximately 5280' long, approximately 6'foot in elevation, and approximately 14' wide at the top-impacting directly and indirectly approximately 24-acres of forested wetlands) located at a point approximately 200'east of and parallel to and from about 963 to about 1343 Choctaw Road (flood protection levee from Banana Pump Station to the Saint James Canal), in Sections 8 & 17, Township 14 South, Range 17 East, Thibodaux, Lafourche Parish, Louisiana 70301.

2. Unauthorized deposition of fill material in wetlands and waters of the US, unauthorized re-distribution of fill material in association with mechanized land-clearing in wetlands and waters of the US, and unauthorized dredge and re-deposition of fill spoil material in wetlands and navigable waters of the US,; apparent violations of Section 10 of the Rivers and Harbors Act (RHA), Sections 301 and 404 of the Clean Waters Act (CWA).

3. On 7/31/2012, historical JD's for partial project site noted; MVN 2003-00068-JLM (adjacent and abutting) & MVN 2002-03157-SZ (adjacent and abutting). Historical permit #'s for this project site area: (Lafourche Parish Wetlands) 101.

4. On 7/31/2012, made initial inquiry contact with Lafourche Parish Government. Issued Field Cease and Desist Order Requesting Comments as to why the work was done without proper authorizations this date for unauthorized levee construction in wetlands and waters of the US.

5. On 8/01/2012, received signed Field Cease & Desist Order Requesting Comments.

6. On 8/02/2012, field site investigation revealed unauthorized levee construction on alleged project site. Pictures taken for file inclusion. MVN 2010-00509-CY (ATF) permit application withdrawn this date for enforcement action due to unauthorized levee work done on project site.

- 07/31/2012: JD's for site; MVN 2003-00068, MVN 2002-03157.
- 07/30/2012: COE-RFN assigned to investigate this unauthorized activity.
- 02/09/2011: Letter sent to PH President (Ms. Randolph) explaining what needed to be done to get those projects permitted.
- 08/23/2010: Sent e-mail to Kerry Babin (LPG DPW Director) recapping conversation regarding unresolved permitting issues.
- 07/01/2010: E-mail sent to Bob Passman containing drawings and info to complete application. Comment: All he has to do is put info on application, approve dwgs, and send in.
- 03/15/2010: Received DOA ATF Application w/incomplete drawings. Bob Passman notified in several e-mails w/reference to this.
- 12/16/2009: Site visit conducted with members of the PH DPW and
- survey crew to show them where to put the levee.
- 12/15/2009: Emergency Authorization granted.

Robert F. Norris
Investigator
USACE NOD

7. On 08/06/2012, e-mail sent to Kerry Babin (DPW), referencing the FSI and the unauthorized activities and non-compliance issues.

8. On 11/19/2012, unauthorized activity information sent to EPA this date.

   On 11/28/2012, field site investigation this date revealed project site had been subdivided and structures placed on and in three lots.

9. On 12/06/2012, e-mail sent to Lafourche PH president requesting response to the Cease & Desist Order.

10. On 01/08/13, called Lafourche Parish President's Office as follow-up to the e-mail sent in December.

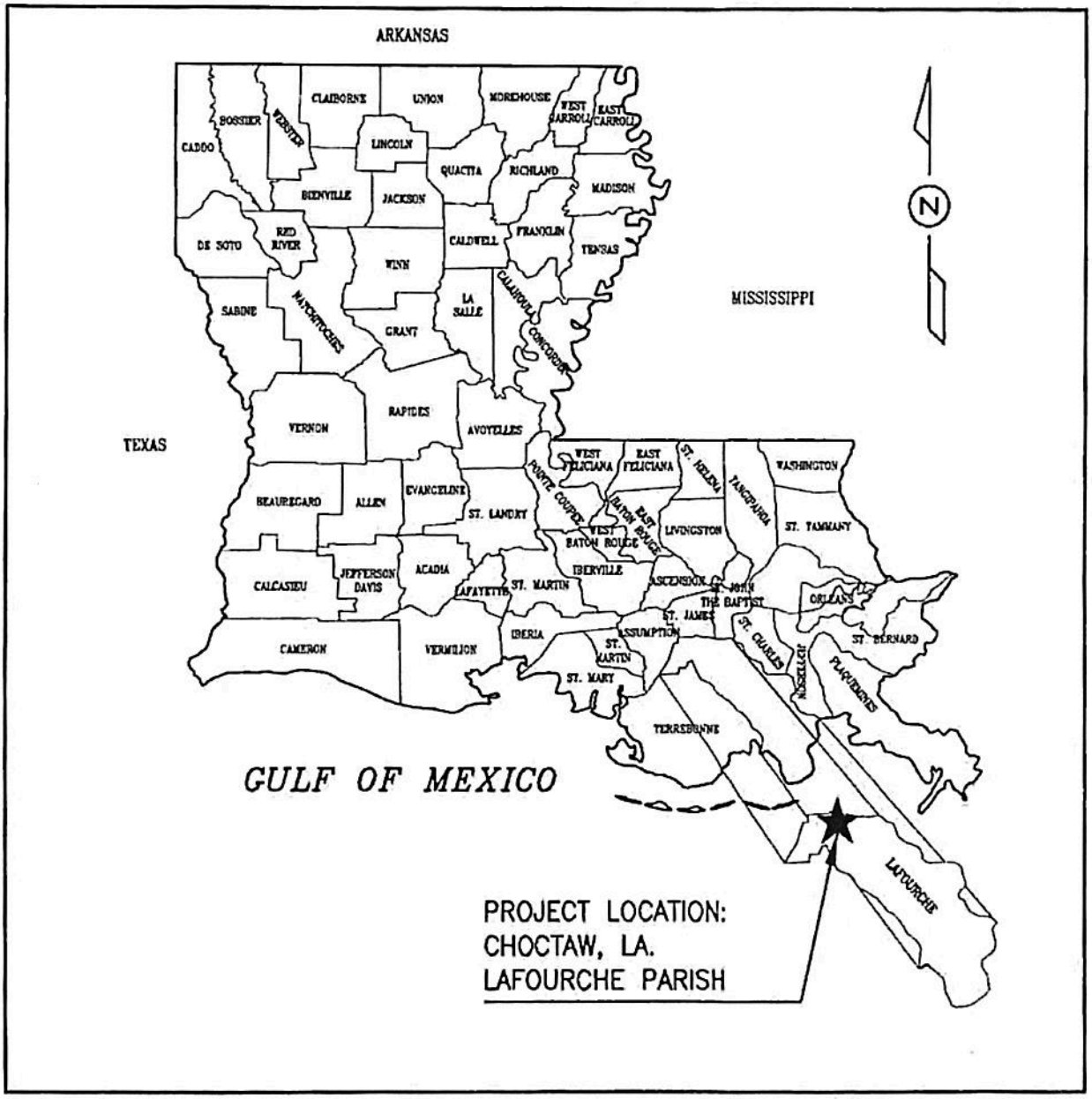
11. On 01/24/2013, meeting with Lafourche Parish Officials; Ms. Charlotte Randolph, Kerry Babin, Archie Chiasson, and Joe Picciola (Consultant to Parish). Meeting notes enclosed in file.

12. On 01/24/2013, Preliminary Jurisdictional Determination issued this date for the project site denoting unauthorized activities on project site.

13. On 01/24/2013, EPA requested Lead Enforcement.

Chronological Summary of Events

- 01/24/2013: EPA requested lead enforcement agency regarding Lafourche Parish Levee unauthorized activities.
- 01/24/2013: Preliminary Jurisdictional Determination issued for project site denoting unauthorized activities.
- 01/24/2013: Meeting with Parish Officials at NOD.
- 01/08/2013: Follow-up to sent e-mail.
- 12/06/2012: E-mail sent to PH Government.
- 11/28/2012: Additional field site investigation this date revealed part of the project site had been subdivided and structures placed on three of the lots.
- 11/19/2012: Violation information sent to EPA.
- 08/06/2012: E-mail sent to Kerry Babin, referencing the FSI and the unauthorized activities and non-compliance issues.
- 08/02/2012: FSI confirmed unauthorized activity on project site.
- 08/02/2012: Application withdrawn for enforcement action.
- 08/01/2012: Received signed Field C&D Requesting Comments.
- 07/31/2012: Issued Field C&D Requesting Comments.



STATE VICINITY MAP

NOT TO SCALE

BANANA PUMP STATION TO ST. JAMES CANAL LEVEE

PROPOSED: BANANA PUMP STATION TO ST. JAMES CANAL PROTECTION LEVEE

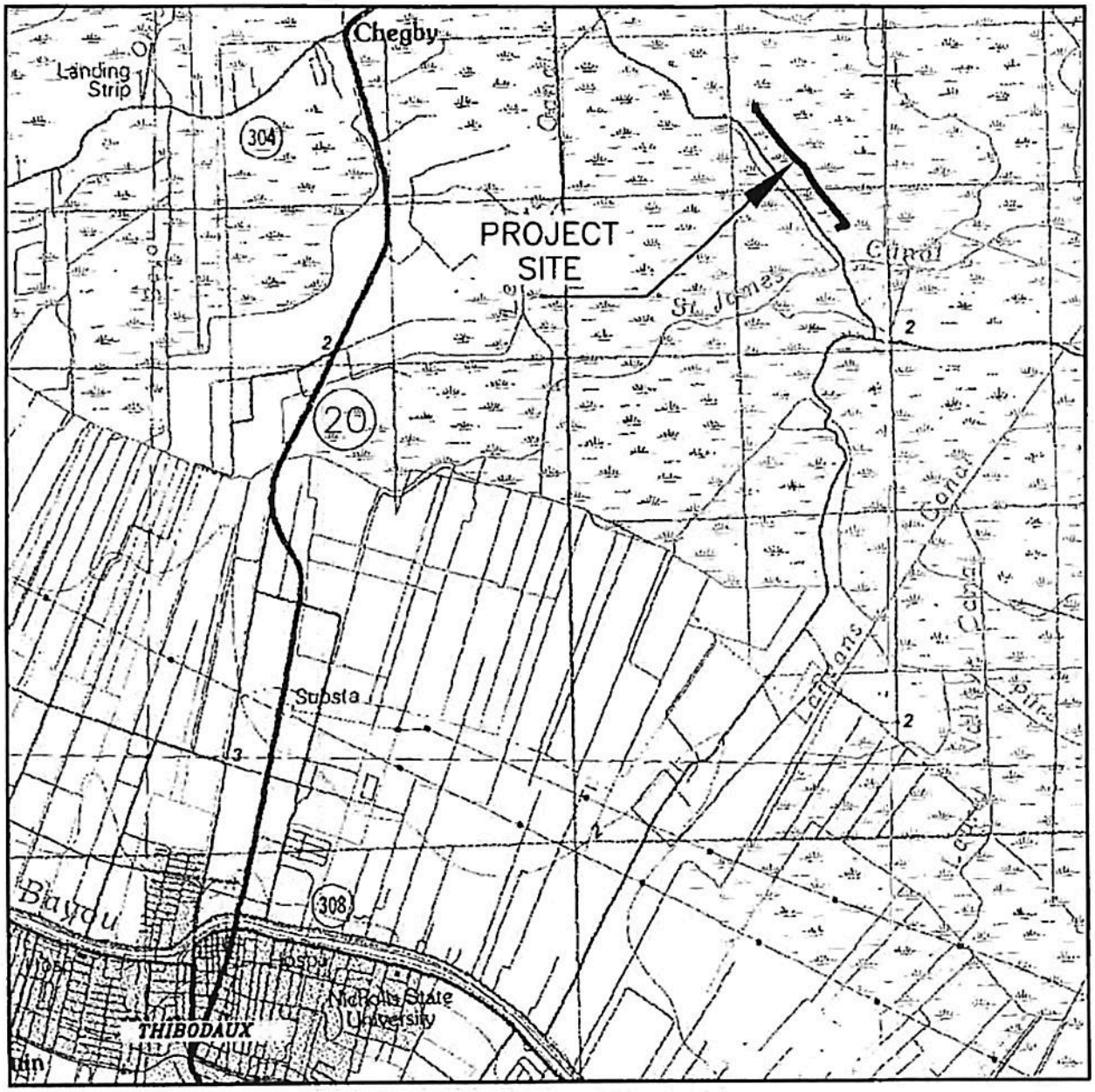
APPLIED BY: LAFOURCHE PARISH GOVERNMENT

AREA: CHOCTAW, LOUISIANA, LAFOURCHE PARISH

PRELIMINARY

PICCIOLA & ASSOCIATES, INC.
CIVIL ENGINEERS
LAND SURVEYORS
NAVAL ARCHITECTS
MARINE ENGINEERS
P.O. BOX. 687
CUT OFF, LOUISIANA 70345
(985) 632-5766

J.N. 0112-1201 DATE: 06-25-12 SHEET 1 OF 5



LOCAL VICINITY MAP

5,000 0 5,000

SCALE: 1" = 5,000'

PROPOSED: PROTECTION LEVEE LOCATED BETWEEN BANANA PUMP STATION TO ST. JAMES CANAL LEVEE

APPLIED BY: LAFOURCHE PARISH GOVERNMENT

AREA: NEAR CHOCTAW LOUISIANA – LAFOURCHE PARISH

PROPERTY IS LOCATED IN SECTION 8 AND 17 OF T-14-S AND R-17-E

LATITUDE = 29° 51' 55.12"

LONGITUDE = 90° 45' 33.36"

(LAT. & LONG. IS LOCATED APPROXIMATELY IN THE CENTER OF THE SITE)

NOTES:

1. ALL ELEVATIONS ARE BASED OFF OF NORTH AMERICAN VERTICAL DATUM (N.A.V.D.) OF 1988, U.S. SURVEY FEET, EPOCH 2006.81 DATA.

PICCIOLA & ASSOCIATES, INC.

CIVIL ENGINEERS — NAVAL ARCHITECTS

LAND SURVEYORS — MARINE ENGINEERS

P.O. BOX. 687
CUT OFF, LOUISIANA 70345
(985) 632-5786

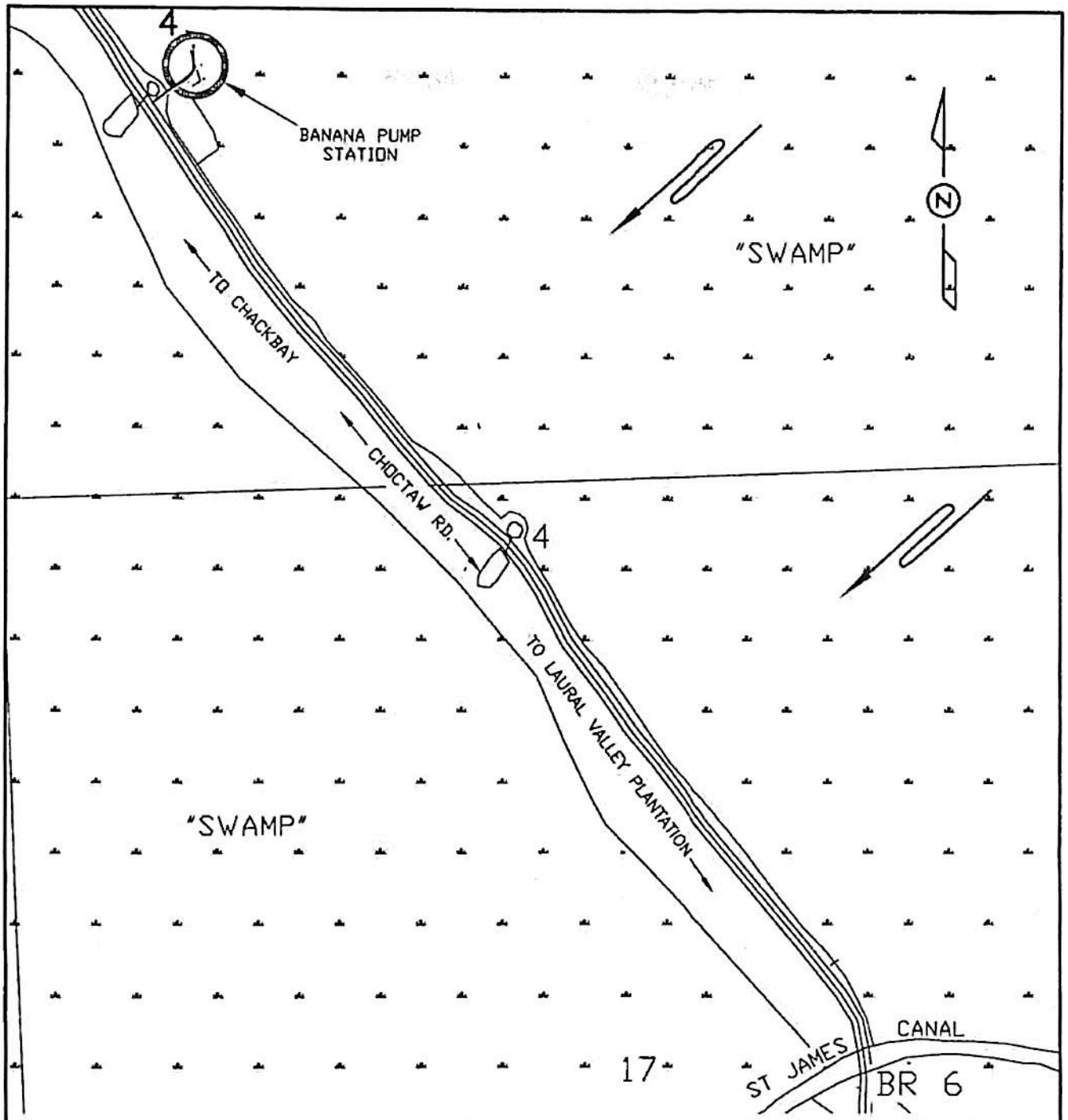
J.N. 0112-1201

DATE: 06-25-12

PRELIMINARY

SHEET 2 OF 5

E:\12-DIR\01121201 LPG - Choupic Levee C Compliance\ACAD\CURRENT\Banana Pump-Permit Plans-0112-1201\02-Local Vic Map\01-Local Vic Map_0112-1201.dwg, Layout1, 7/25/2012 1:42:13 PM, justinR



OVERVIEW SITE PLAN PRE-EXISTING CONDITIONS

600 0 600

SCALE: 1" = 600'

NOTE:
DURING 2009 HEAVY RAIN HIGH WATER FLOWS EAST TO WEST

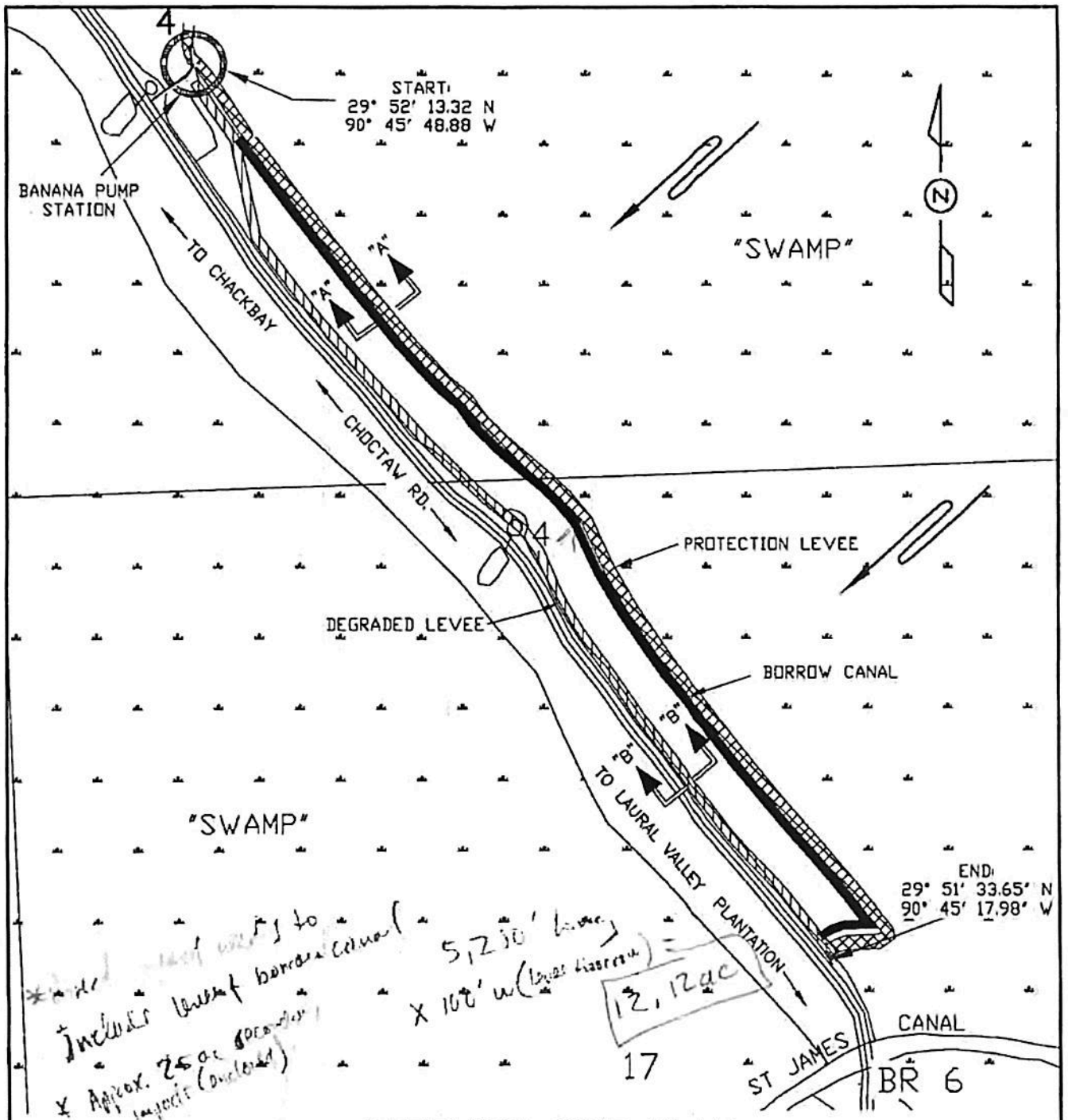
LEGEND
WETLAND SWAMP
WATER FLOW

PRELIMINARY

PICCIOLA & ASSOCIATES, INC.
CIVIL ENGINEERS
LAND SURVEYORS
NAVAL ARCHITECTS
MARINE ENGINEERS
P.O. BOX. 687
CUT OFF, LOUISIANA 70345
(985) 632-5766

J.N. 0112-1201 DATE: 06-25-12 SHEET 3 OF 5

Z:\WORK\temporary locations\0112-1201-Chouoic levee C Permit\Banana Pump-Permit Plans-0112-1201\03-Pre Existing\01-Pre-Existing_0112-1201..dwg, 04-Over View, 7/24/2012 10:54:38 AM, lustin



Include least borrow canal (5,230' long) x 100' w (least borrow) = 12.12ac

* Approx. 25 ac (per [illegible] impact (included)

OVERVIEW SITE PLAN

600 0 600

SCALE: 1" = 600'

PROTECTION LEVEE

LEVEE LENGTH: ±5,280 FT.
LEVEE APPROXIMATE AREA: 9.92 ACRES

EMERGENCY LEVEE

LEVEE LENGTH: ±4,725 FT.
LEVEE APPROXIMATE AREA: 7.58 ACRES

NOTE:
DURING 2009 HEAVY RAIN HIGH WATER FLOWS EAST TO WEST

PRELIMINARY

LEGEND

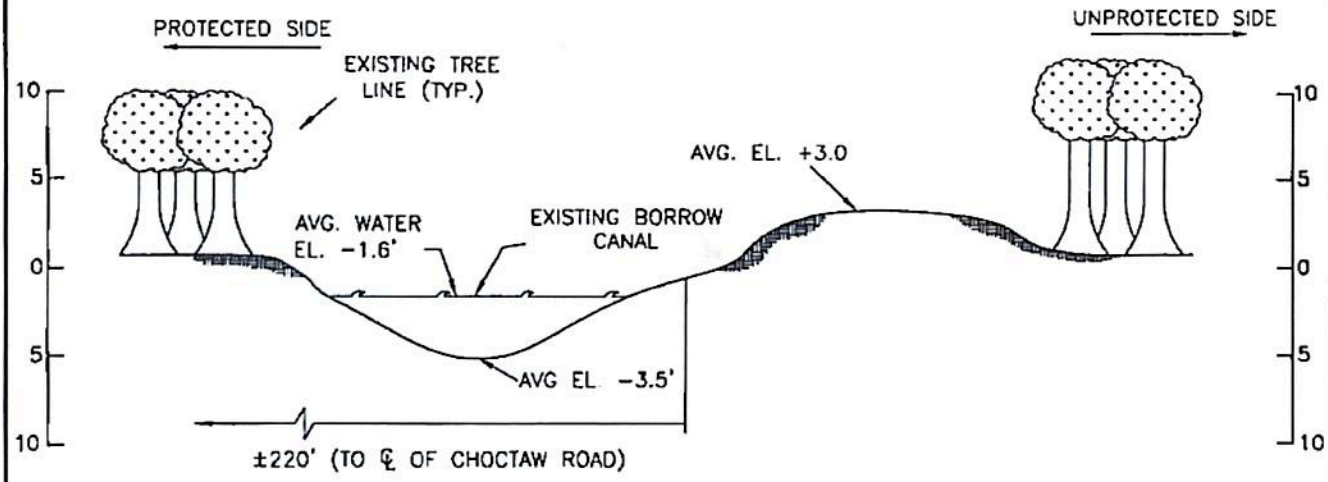
- CROSS SECTION
- PROTECTION LEVEE
- DEGRADED EMERGENCY LEVEE
- WETLAND SWAMP
- BORROW CANAL
- WATER FLOW

PICCIOLA & ASSOCIATES, INC.
CIVIL ENGINEERS — LAND SURVEYORS — NAVAL ARCHITECTS — MARINE ENGINEERS
P.O. BOX. 887
CUT OFF, LOUISIANA 70345
(985) 632-5788

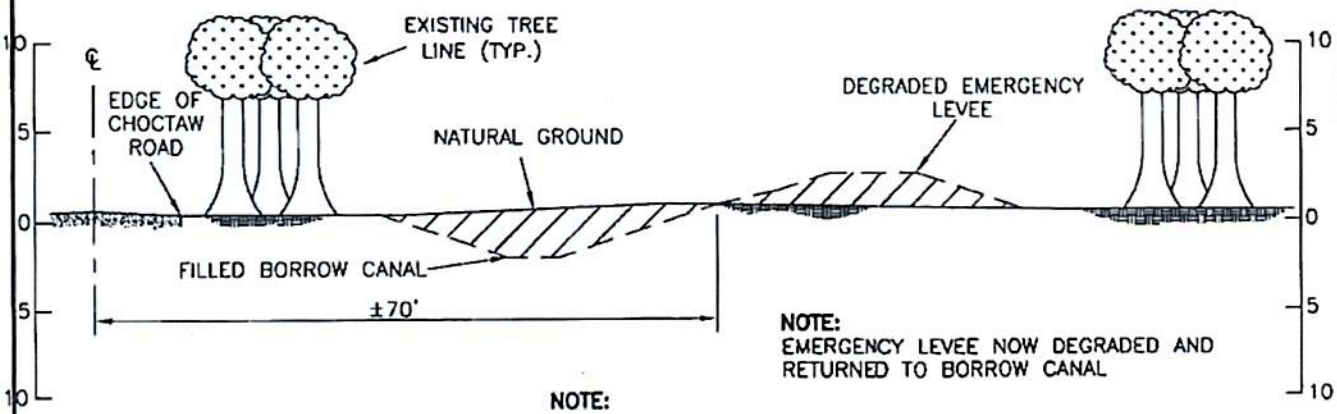
J.N. 0112-1201 DATE: 06-25-12 SHEET 4 OF 5

Z:\WORK\temporary locations\0112-1201-Chcuoic levee C Permit\Banana Pump-Permit Plans-0112-1201\04-Site Plan\01-Site Plan_0112-1201.dwg, Layout1, 7/25/2012 2:44:25 PM, lustinB

CROSS SECTION "A"–"A"
PROTECTION LEVEE



CROSS SECTION "B"–"B"
DEGRADED EMERGENCY LEVEE



NOTE:

1. EMERGENCY LEVEE WAS BUILT DURING FLOOD EVENT IN 2009. LEVEE STARTED AT BANANA PUMP STATION WITH AN OFFSET OF ±200 FT. FROM THE CENTERLINE OF CHOCTAW ROAD. AFTER ±350 FT. THE ALIGNMENT OF THE LEVEE SHIFTED TOWARD CHOCTAW ROAD AND CONTINUED TO RUN ADJACENT TO CHOCTAW ROAD UNTIL IT REACHED THE ST. JAMES CANAL.
2. AFTER THE FLOOD EVENT, HIGH WATERS FELL TO NORMAL LEVELS AND THE PARISH WAS ABLE TO CONSTRUCT THE PROTECTION LEVEE ±200FT FROM THE CENTERLINE OF CHOCTAW ROAD. AFTER THE PROTECTION LEVEE WAS COMPLETE, THE EMERGENCY LEVEE WAS RETURNED TO ITS PRE-EXISTING CONDITION BY DEGRADING THE MATERIAL AND PLACING IT BACK INTO THE BORROW CANAL.

20 0 20

HORIZONTAL SCALE: 1" = 20'

10 0 10

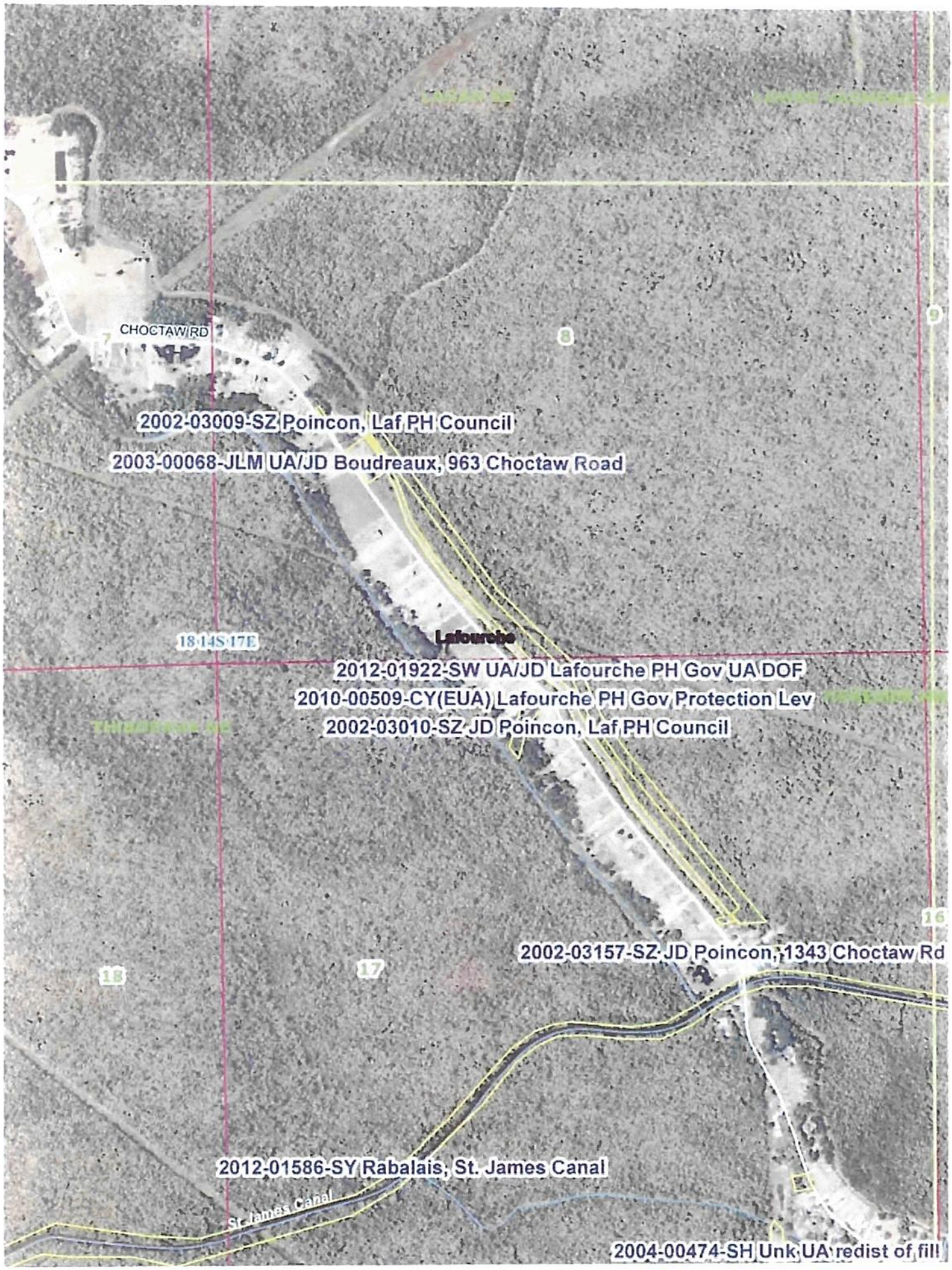
VERTICAL SCALE: 1" = 10'

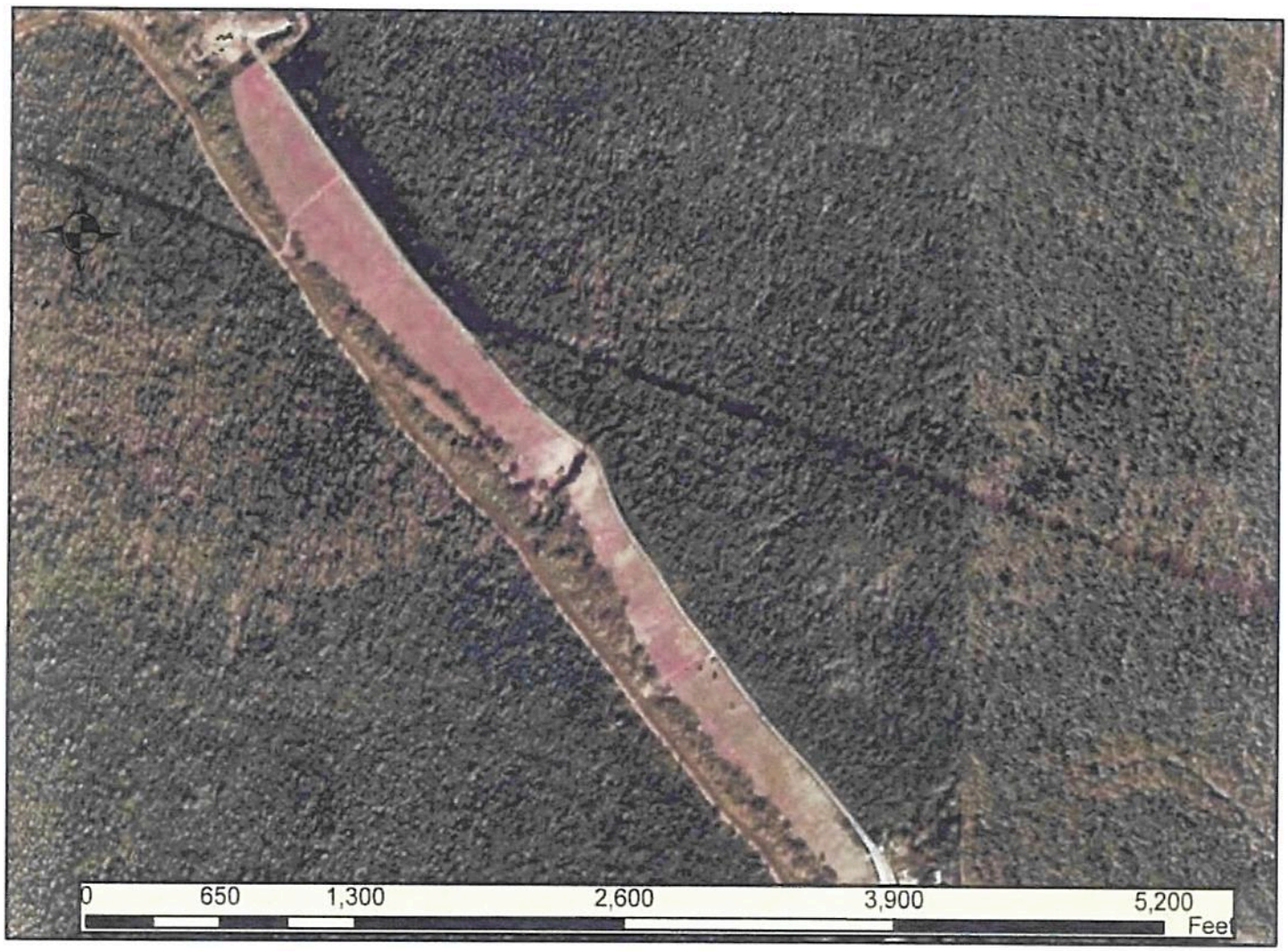
PICCIOLA & ASSOCIATES, INC.
CIVIL ENGINEERS · LAND SURVEYORS · NAVAL ARCHITECTS · MARINE ENGINEERS
P.O. BOX. 687
CUT OFF, LOUISIANA 70345
(985) 632-5788

J.N. 0112-1201 DATE: 06-25-12 SHEET 5 OF 5

PRELIMINARY

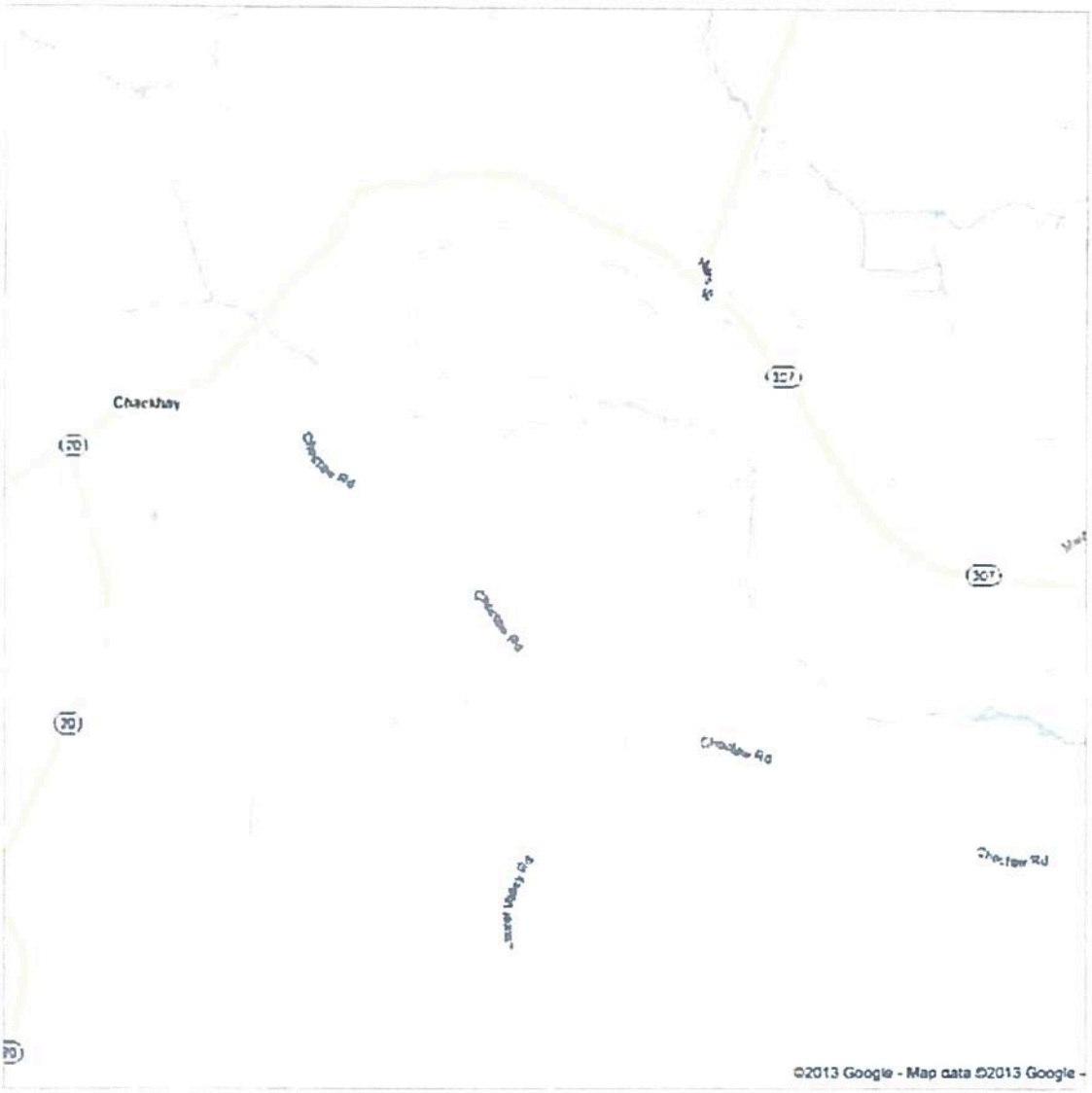
MVN 2012-01922-SW UA/JD Lafourche Parish Government
Unauthorized redistribution of fill material in association
with mechanized land-clearing in wetlands and waters of the US. (2011)


CHOCTAW RD
7
8
9
2002-03009-SZ Poincon, Laf PH Council
2003-00068-JLM UA/JD Boudreaux, 963 Choctaw Road
18 14S 17E
Lafourche
2012-01922-SW UA/JD Lafourche PH Gov UA DOF
2010-00509-CY(EUA) Lafourche PH Gov Protection Lev
2002-03010-SZ JD Poincon, Laf PH Council
16
2002-03157-SZ JD Poincon, 1343 Choctaw Rd
18
17
2012-01586-SY Rabalais, St. James Canal
St James Canal
2004-00474-SH Unk UA redist of fill



MVN 2012-01922-SW UA/JD Lafourche Parish Government
Unauthorized redistribution of fill material in association with mechanized land-clearing in wetlands and waters of the US. (1998)

Google



06/03/2011


2
1
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©2010 Google

Summary of Comments on Scanned Document

Page: 1

Number: 1 Author: B2ODSRFN Subject: Sticky Note Date: 2/26/2013 10:34:30 AM
Pictures #27 & #28 looking east at the exhaust of the Banana Pump Station and looking south behind Boudreaux's property.

Number: 2 Author: B2ODSRFN Subject: Sticky Note Date: 2/26/2013 10:34:28 AM
Picture #26 showing the Banana Pump Station, and looking at the northeastern end of the levee.

Number: 3 Author: B2ODSRFN Subject: Sticky Note Date: 2/26/2013 10:37:31 AM
Pictures #29,#30, & #31 Looking east at debris left over from construction of levee and west through Percle's property to Choctaw Rd showing structures placed in wetlands.

Number: 4 Author: B2ODSRFN Subject: Sticky Note Date: 2/26/2013 10:43:31 AM
Pictures #38, #39, #40, #41 & #42 showing cleared lots for sale, some with structures.

Number: 5 Author: B2ODSRFN Subject: Sticky Note Date: 2/26/2013 10:44:48 AM
Picture #38 showing degraded EUA Levee and pipeline ROW from Choctaw Rd.

Number: 6 Author: B2ODSRFN Subject: Sticky Note Date: 2/26/2013 10:38:21 AM
Picture #32 looking west through to Choctaw Road at to pipeline ROW and looking south at the levee footprint.

Number: 7 Author: B2ODSRFN Subject: Sticky Note Date: 2/26/2013 10:39:15 AM
Picture #33 looking south at the bend of the levee down to the corner.

Number: 8 Author: B2ODSRFN Subject: Sticky Note Date: 2/26/2013 10:45:59 AM
Pictures #114 - #121 showing EUA levee during construction.

Number: 9 Author: B2ODSRFN Subject: Sticky Note Date: 2/26/2013 10:40:48 AM
Pictures #34,#35,#36 & #37 looking north at the degraded EUA levee and into the swamp.

Banana Pump Station

(1)

← Northwestern end of Choctaw Rd. Levee

(2) #27

(3)

4


08.01.2012


08.01.2012

outfall pipe

8

(9)

(4)
(9)

Old E A Lewis Row

(10)

(18) #36

(11)

Old Eva Lewel Road

#37

(12)

Old EA Level Row

Tree debris pushed to the sides

(13)


Old Electric Row
Pipeline Row
08.01.2012


Septic Tank
w/out full pipe
WATER
METER
08.01.2012

(14)

(15)

(16)

#42

(15)

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

This preliminary JD finds that there "*may be*" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

District Office: New Orleans District | File ORM #: MVN-2012-01922 | PJD Date: Jan 24, 2013

State: LA | City/County: Lafourche

Nearest Waterbody: St. James Canal

Location: TRS, Lat/Long or UTM: Sec 8 & 17, T14S, R17E; center coordinates: Lt 29.86457 N, Lo 90.75875 W

Name/Address of Person Requesting PJD: Corps Unauthorized Activity Investigation - LPA

Identify (Estimate) Amount of Waters in the Review Area:

Non-Wetland Waters: linear ft ___ width ___ acres ___ | Stream Flow: ___

Wetlands: 12 acre(s) | Cowardin Class: Palustrine forested

Name of Any Water Bodies on the Site Identified as Section 10 Waters: Tidal: ___ Non-Tidal: ___

☑ Office (Desk) Determination
☐ Field Determination | Date of Field Trip: ___

SUPPORTING DATA: Data reviewed for preliminary JD (check all that apply - checked items should be included in case file and, where checked and requested, appropriately reference sources below)

- ☐ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: ___
- ☐ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - ☐ Office concurs with data sheets/delineation report.
  - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps
- ☐ Corps navigable waters' study: ___
- ☑ U.S. Geological Survey Hydrologic Atlas:
  - ☐ USGS NHD data
  - ☑ USGS 8 and 12 digit HUC maps
- ☐ U.S. Geological Survey map(s). Cite quad name: ___
- ☑ USDA Natural Resources Conservation Service Soil Survey. Citation: Web Soil Survey
- ☑ National wetlands inventory map(s). Cite name: USFWS shape file - PFO2F-Palustrine Forested, Needle-leaved deciduous, Seasonally flooded
- ☐ State/Local wetland inventory map(s): ___
- ☑ FEMA/FIRM maps: FEMA FIRM Community Panel Number 225202 01 0517 Effective Date April 17, 1985
- ☑ 100-year Floodplain Elevation is: Undetermined
- ☐ Photographs: ☑ Aerial (Name & Date): 08/01/05 08/10
  - ☐ Other (Name & Date): ___
- ☑ Previous determination(s). File no. and date of response letter: 2003-00005 dated March 10, 2003 for adjacent property
- ☑ Other information (please specify): LIDAR data indicates most of property is below 1 foot elevation (NAVD88)

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

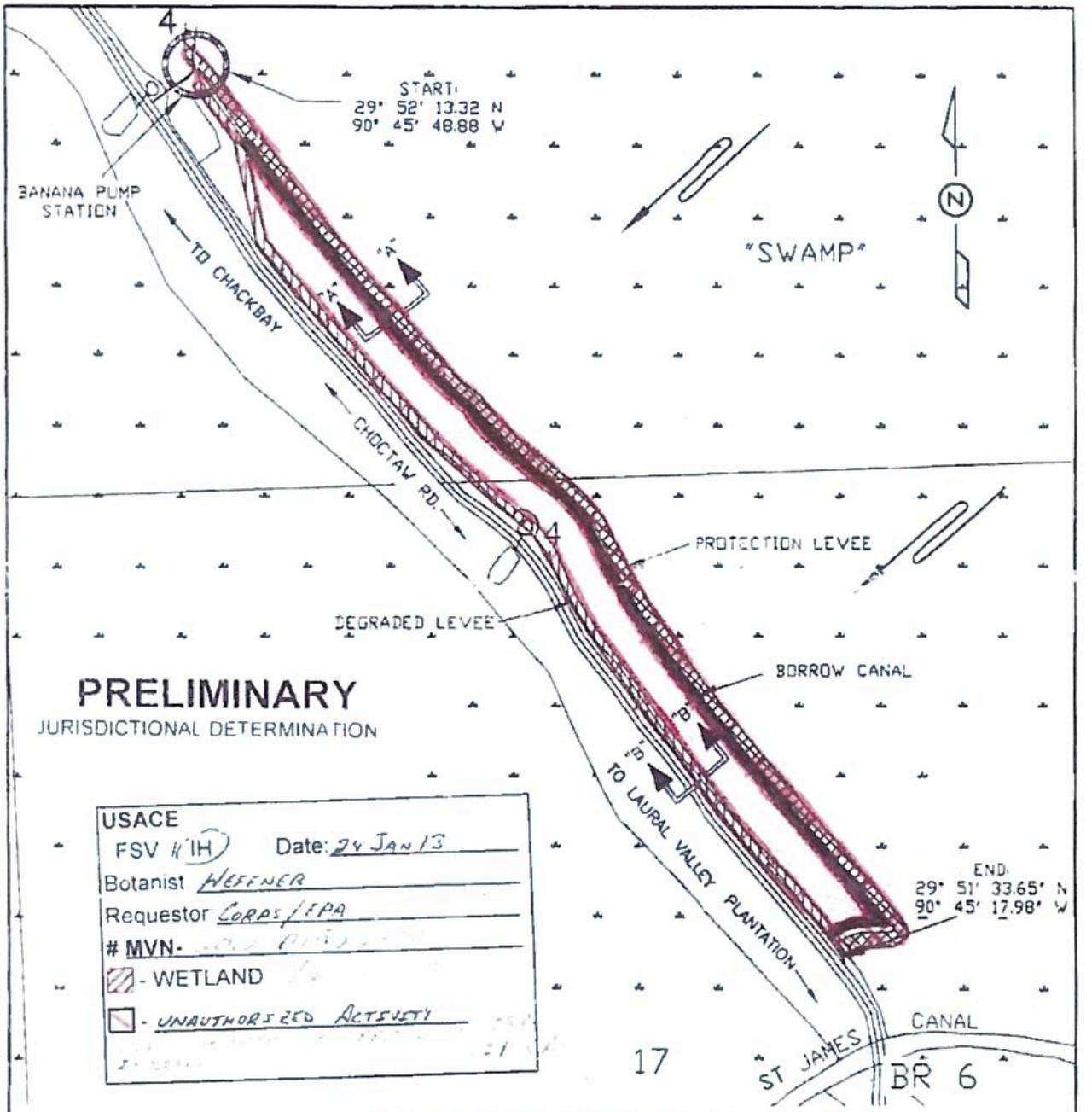
Signature and Date of Regulatory Project Manager (REQUIRED)

Signature and Date of Person Requesting Preliminary JD (REQUIRED, unless obtaining the signature is impracticable)

EXPLANATION OF PRELIMINARY AND APPROVED JURISDICTIONAL DETERMINATIONS:

(1) The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has the option to request an approved JD in this instance and at this time.

(2) In the circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (a) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (b) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that based on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (c) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (d) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (e) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (f) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in fact meet the jurisdictional criteria, and that activity are navigable waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (g) whether the applicant chooses to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). By doing that administrative appeal becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable.



OVERVIEW SITE PLAN

600 0 600
SCALE: 1" = 600'

PROTECTION LEVEE
LEVEE LENGTH: ±5,280 FT.
LEVEE APPROXIMATE AREA: 9.92 ACRES

EMERGENCY LEVEE
LEVEE LENGTH: ±4,725 FT.
LEVEE APPROXIMATE AREA: 7.58 ACRES

NOTE:
DURING 2009 HEAVY RAIN HIGH WATER FLOWS EAST TO WEST

LEGEND
- CROSS SECTION
- PROTECTION LEVEE - EXISTING, UNAUTHORIZED
- DEGRADED EMERGENCY LEVEE - AUTHORIZED BY EMERGENCY PERMIT
- WETLAND SWAMP
- BORROW CANAL - UNAUTHORIZED
- WATER FLOW

PICCIOLA & ASSOCIATES, INC.
P.O. BOX 167
GOLDEN MEADOW, LOUISIANA 70343
(985) 632-6788

J.N. 0112-1201 DATE: 06-25-12 SHEET 4 OF 5

Z:\WORK\temporary locations\0112-1201 Chouest levee C Permit\Banana Pump-Permit Plans 0112-1201\01 Site Plan\01 Site Plan_0112-1201.dwg, Layout1, 7/25/2012 2:44:25 PM, kstull

20-030-0068

FILE

DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P.O. BOX 60267
NEW ORLEANS, LOUISIANA 70160-0267

March 13, 2003

REPLY TO
ATTENTION OF

Operations Division
Surveillance and Enforcement Section

F
Lowet
40'+
Pecola Lee

Mr. David Poincon
Lafourche Parish Council
Post Office Drawer 5548
Thibodaux, Louisiana 70302

Dear Mr. Poincon:

Reference is made to your request, on behalf of Mr. Keith Boudreaux, for a U.S. Army Corps of Engineers' (Corps) jurisdictional determination on property located in Section 8, Township 14 South, Range 17 East, in Lafourche Parish, Louisiana (enclosed map). Specifically, this project is identified as the installation of a culvert to provide drainage, and a levee, at 963 Choctaw Road.

A field inspection of the property was conducted on January 13, 2003. Based on the results of this investigation, we have determined that this property is wetland and subject to Corps' jurisdiction. A Department of the Army permit under Section 404 of the Clean Water Act will be required prior to the deposition or redistribution of dredged or fill material into this wetland.

You and your client are advised that this approved jurisdictional determination is valid for a period of 5 years from the date of this letter unless new information warrants revision prior to the expiration date.

Should there be any questions concerning these matters, please contact Ms. Jennifer Martin at (504) 862-1316 and reference our Account No. 20-030-0068. If you have specific questions regarding the permit process or permit applications, please contact our Eastern Evaluation Section at (504) 862-1950.

Sincerely,

John Bryan

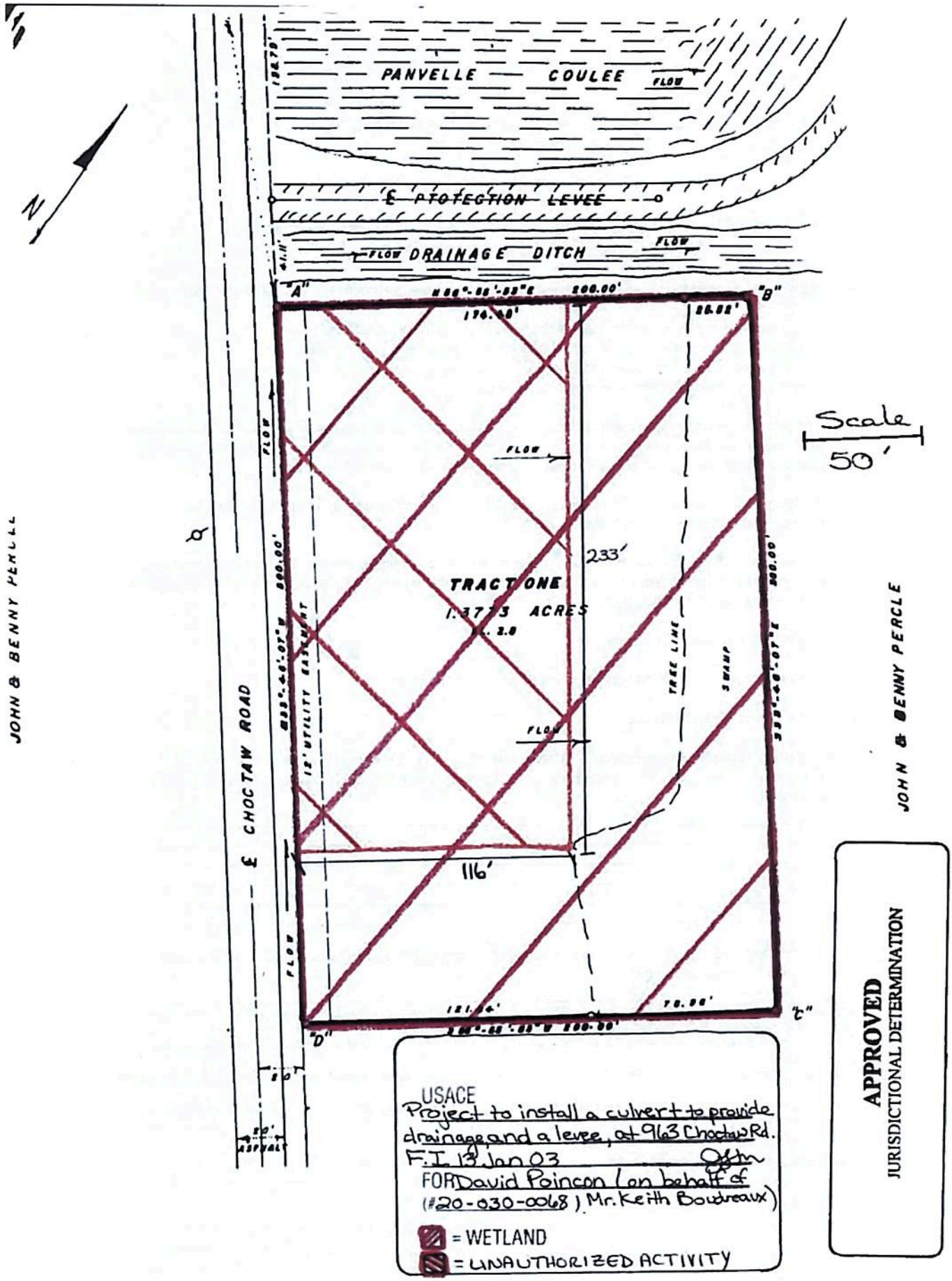
for Ronald J. Ventola
Chief, Regulatory Branch

Enclosure

Copy Furnished:

Mr. Keith Boudreaux
963 Choctaw Road
Thibodaux, Louisiana 70301

USACE-JD-F00021127


PANVELLE COULEE
FLOW
℄ PROTECTION LEVEE
FLOW DRAINAGE DITCH
FLOW
"A"
"B"
"C"
"D"
N 84°-55'-53"E 200.00'
174.50'
25.02'
Scale
50'
FLOW
233'
TRACT ONE
1.3773 ACRES
TREE LINE
SWAMP
12' UTILITY EASEMENT
S 33°-46'-07"W 800.00'
S 33°-46'-07"E 800.00'
116'
121.64'
70.96'
S 84°-55'-53"W 200.00'
℄ CHOCTAW ROAD
JOHN & BENNY PERCLE
JOHN & BENNY PERCLE
APPROVED
JURISDICTIONAL DETERMINATION
USACE
Project to install a culvert to provide drainage and a levee, at 963 Choctaw Rd.
F.I. 13 Jan 03
FOR David Poincon (on behalf of Mr. Keith Boudreaux)
(#20-030-0068)
= WETLAND
= UNAUTHORIZED ACTIVITY

U.S. Army Corps of Engineers - New Orleans District
Regulatory Branch

Basis for Jurisdictional Determination[1]

Applicant: David Poincon (on behalf of Mr. Keith Boudreaux)
File Number: 20-030-0068 Date: March 12, 2003

☒ **A. Property referenced in the attached correspondence contains waters of the United States based on:**

☒ The presence of wetlands determined by the occurrence of hydrophytic vegetation, hydric soils and wetland hydrology.[2] The wetlands are adjacent to navigable or interstate waters, or eventually drain or flow into navigable or interstate waters through a tributary system that may include man-made conveyances such as ditches or channelized streams.[3]

☐ The presence of waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, i.e., navigable waters of the United States (in part). Includes all property below the ordinary high water mark of the navigable stream or channel.[4]

☐ The presence of waters which are subject to the ebb and flow of the tide, including tidal wetlands, i.e., navigable waters of the United States (in part).[2,4]

☐ The presence of one or more tributaries (stream channels, man-made conveyances, lakes, ponds, rivers, etc.) that eventually drain or flow into navigable or interstate waters. Includes property below the ordinary high water mark of the tributary.[4]

☐ The presence of interstate waters.[4]

☐ The presence of an impoundment(s) of waters of the United States.

☐ The presence of territorial seas.

☐ The site contains other waters such as intrastate lakes, rivers, streams, mudflats, sandflats, wetlands, sloughs, or natural ponds, the use degradation or destruction of which could affect interstate or foreign commerce.

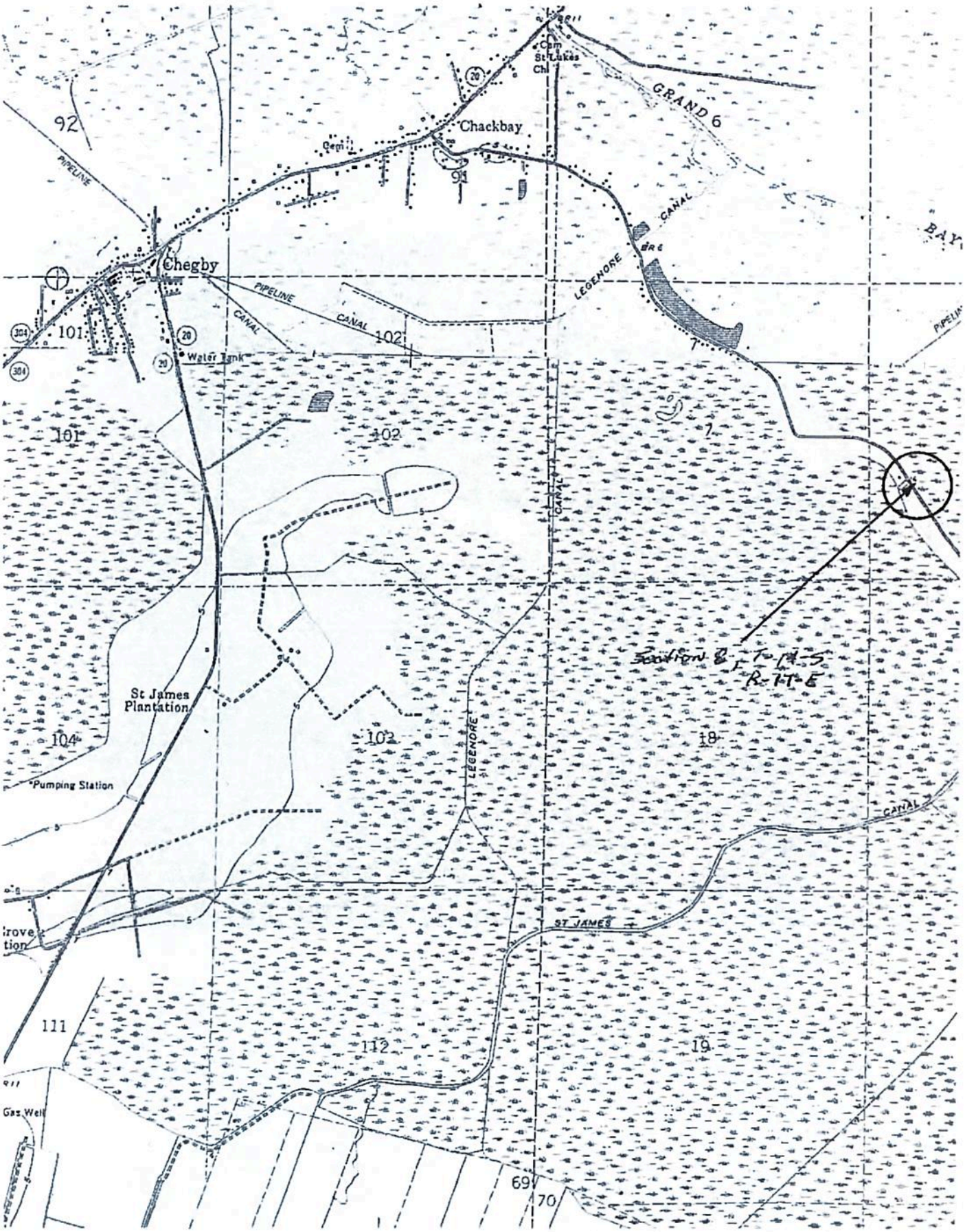
_____
_____
_____
_____
_____
_____

☐ **B. Property referenced in the attached correspondence does not include or contain any of the waters of the United States described above.**

---

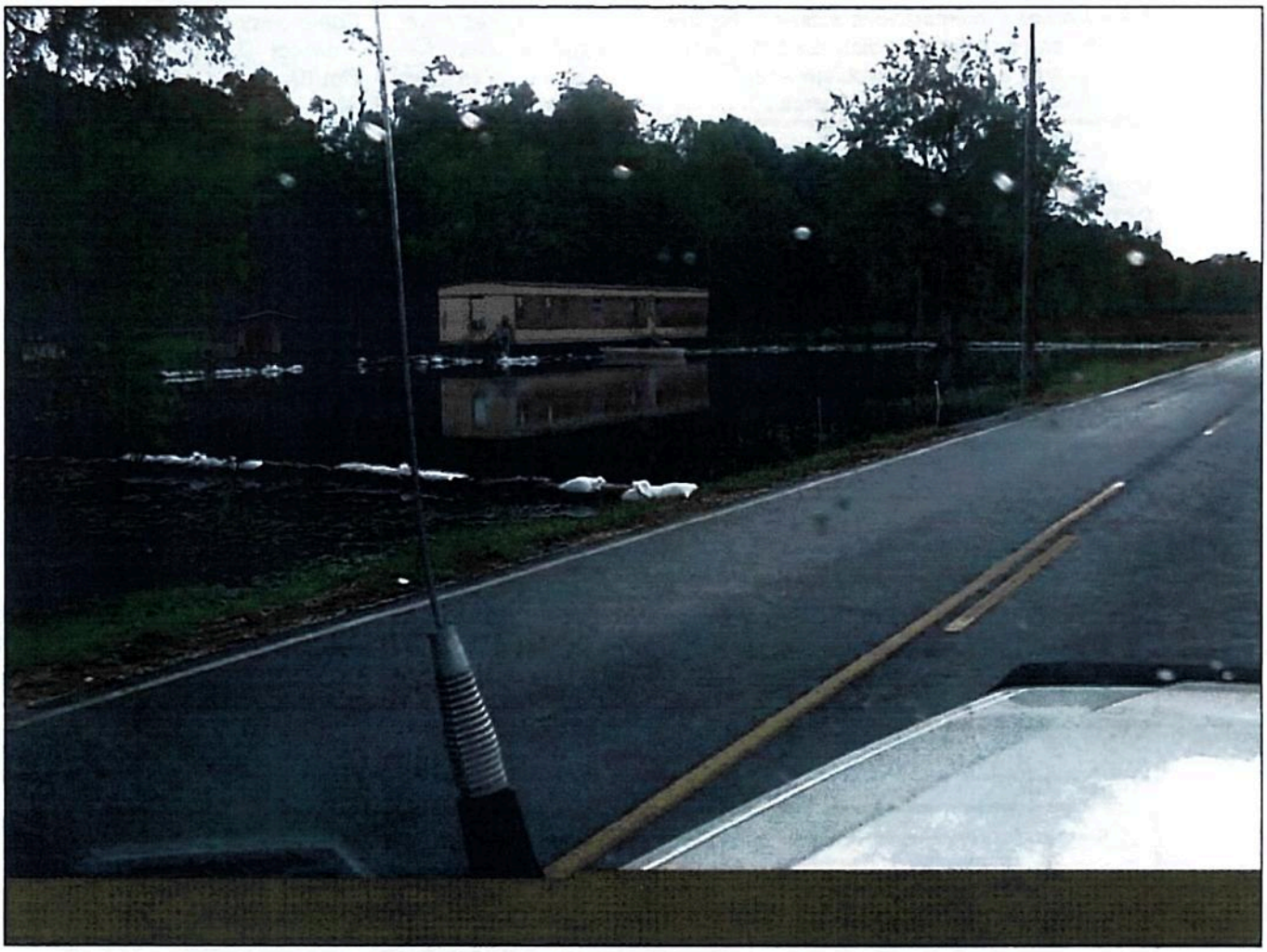
[1] The decision regarding this action is based on the following rationale and on information found in the administrative record. The administrative record documents the District's decision-making process, the basis for the decision, and the final decision.
[2] Wetlands are identified and delineated using the methods and criteria established in the Corps of Engineers Wetland Delineation Manual (87 Manual).
[3] Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, etc. are "adjacent wetlands".
[4] The lateral limits of waters of the U.S. are/or have been determined by the high tide line, ordinary high water mark, and/or by the limit of adjacent wetlands.

Project Manager: Jennifer Martin


Chackbay
Chegby
GRAND 6
PIPELINE
CANAL
LEGENORE
BAY
Water Tank
St James Plantation
Pumping Station
ST JAMES
Gas Well
92
91
101
102
104
111
112
18
19
69
70
Section 8, T-14-S
R-1-E

Keith Boudreaux
963 Choctaw Road

Keith Boudreaux
963 Choctaw Road



DATA FORM
ROUTINE WETLAND DETERMINATION
(1987 COE Wetlands Delineation Manual)

20-030-0068

Project/Site: Installation of a culvert to provide drainage, and a levee, at 963 Choctaw Road Applicant/Owner: David Poincon / Keith Boudreaux Investigator: Jennifer Martin/Bill Nethery	Date: 13 Jan 03 County: Lafourche State: LA
Do Normal Circumstances exist on the site? **Yes** No Is the site significantly disturbed (Atypical Situation)? Yes **No** Is the area a potential Problem Area? Yes **No** (If needed, explain on reverse.)	Community ID: ____ Transect ID: ____ Plot ID: 1

VEGETATION

Dominant Plant Species	Stratum	Indicator	Dominant Plant Species	Stratum	Indicator
1. Quercus nigra	T	FAC	9.		
2. Salix nigra	T	OBL	10.		
3. Populus heterophylla	T	OBL	11.		
4. Alternanthera philoxeroides	H	OBL	12.		
5. Saururus cernuus	H	OBL	13.		
6. Salvinia minima	H	OBL	14.		
7. Hydrocotyle umbellata	H	OBL	15.		
8. Carex sp.	H	—	16.		

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-). 7/7 = 100%

Remarks: FAC-neutral = 6:0 = 100% wet

HYDROLOGY

✓ Recorded Data (Describe in Remarks):
- __ Stream, Lake, or Tide Gauge
- ✓ Aerial Photographs
- __ Other

__ No Recorded Data Available

Field Observations:

Depth of Surface Water: — (in.)

Depth to Free Water in Pit: — (in.)

Depth to Saturated Soil: ____ (in.)

Wetland Hydrology Indicators:

Primary Indicators:
- __ Inundated
- __ Saturated in Upper 12 Inches
- __ Water Marks
- ✓ Drift Lines
- ✓ Sediment Deposits
- __ Drainage Patterns in Wetlands

Secondary Indicators (2 or more required):
- ✓ Oxidized Root Channels in Upper 12 Inches
- ✓ Water-Stained Leaves
- ✓ Local Soil Survey Data
- ✓ FAC-Neutral Test
- __ Other (Explain in Remarks)

Remarks:

SOILS

Map Unit Name (Series and Phase): BB (Barbary-Fausse association)

Drainage Class: VPD

Field Observations Confirm Mapped Type? Yes No

Taxonomy (Subgroup): thermic Typic Hydraquents

Profile Description:

Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist)	Mottle Abundance/Contrast	Texture, Concretions, Structure, etc.
0-4		10YR 2/1		(peat)	organic layer w/ silty loam
4-16		10YR 5/1	10YR 5/6	common	clay loam

Hydric Soil Indicators:

- ___ Histosol
- ___ Histic Epipedon
- ___ Sulfidic Odor
- ___ Aquic Moisture Regime
- ___ Reducing Conditions
- ✓ Gleyed or Low-Chroma Colors
- ___ Concretions
- ___ High Organic Content in Surface Layer in Sandy Soils
- ___ Organic Streaking in Sandy Soils
- ✓ Listed on Local Hydric Soils List
- ___ Listed on National Hydric Soils List
- ___ Other (Explain in Remarks)

Remarks:

Soil closest to road Sharkey (no Commerce found)

WETLAND DETERMINATION

Hydrophytic Vegetation Present?	Yes	No (Circle)
Wetland Hydrology Present?	Yes	No
Hydric Soils Present?	Yes	No

(Circle)

Is this Sampling Point Within a Wetland? Yes No

Remarks:

Approved by HQUSACE 2/92

DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P. O. BOX 60267
NEW ORLEANS, LOUISIANA 70160-0267

20-020-3157

December 12, 2002

REPLY TO
ATTENTION OF
Operations Division
Surveillance and Enforcement Section

Mr. David Poincon
Lafourche Parish Council
Post Office Drawer 5548
Thibodaux, Louisiana 70302

Dear Mr. Poincon:

Reference is made to your request for a U.S. Army Corps of Engineers' (Corps) jurisdictional determination on property located in Section 17, Township 14 South, Range 17 East, in Lafourche Parish, Louisiana (enclosed map). Specifically, this property is identified as the site of proposed drainage maintenance off of Choctaw Road.

Based on review of recent maps, aerial photography, soils data and information supplied with your request, we have determined that part of the property is wetland and subject to Corps' jurisdiction. The approximate limits of the wetland are designated in red on the map. A Department of the Army (DA) permit under Section 404 of the Clean Water Act will be required prior to the deposition or redistribution of dredged or fill material into this wetland. Additionally, a DA permit will be required if you propose to deposit dredged or fill material in the area designated as a water of the United States.

You are advised that this approved jurisdictional determination is valid for a period of five years from the date of this letter unless new information warrants revision prior to the expiration date.

Should there be any questions concerning these matters, please contact Mr. Furcy Zeringue at (504) 862-2099 and reference our Account No. 20-020-3157. If you have specific questions regarding the permit process or permit applications, please contact our Eastern Evaluation Section at (504) 862-1950.

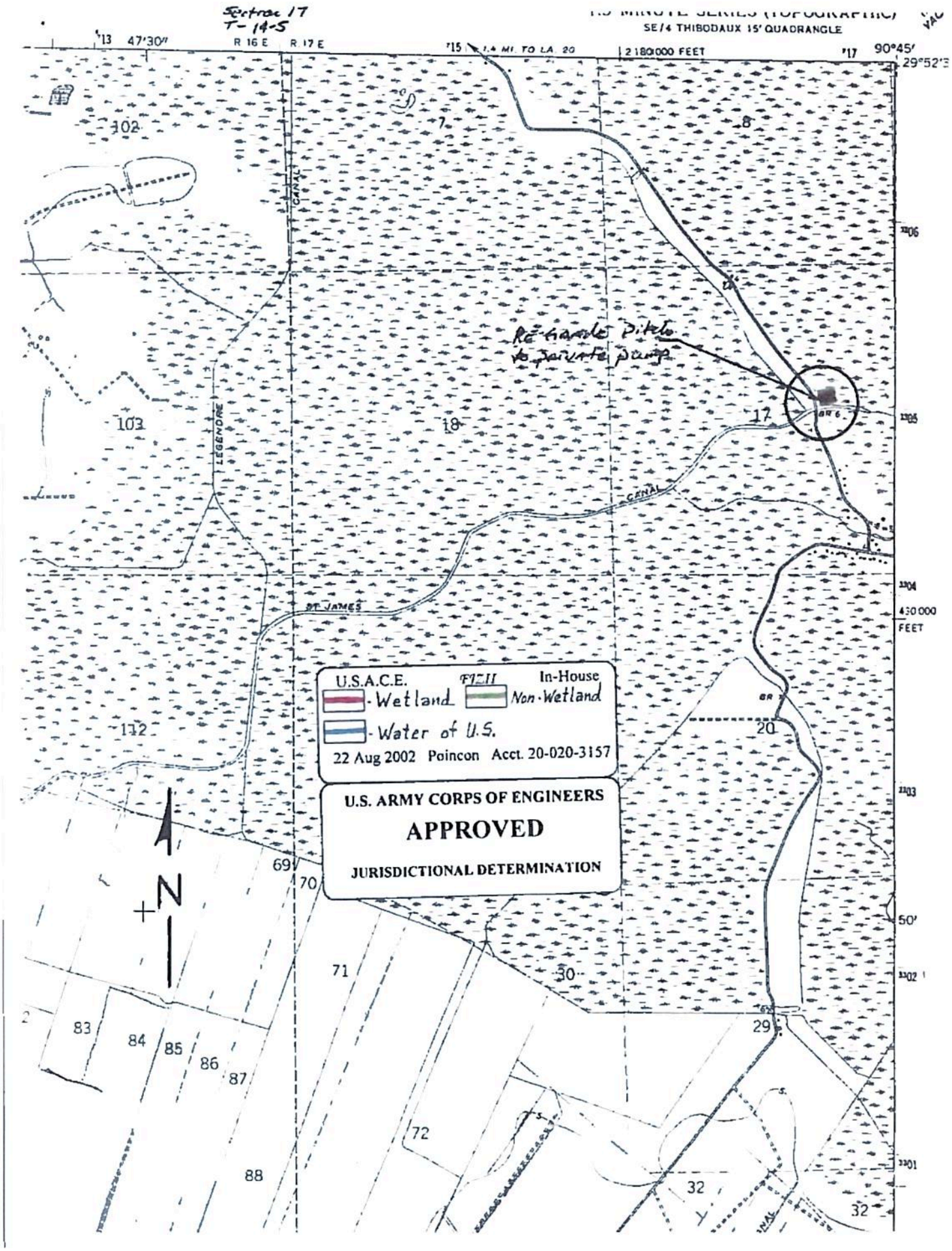
Sincerely,

John Bruce

for Ronald J. Ventola
Chief, Regulatory Branch

Enclosure

USACE-JD-F00020880


Section 17
T-14-S
SE/4 THIBODAUX 15' QUADRANGLE
R 16 E
R 17 E
1.4 MI. TO LA 20
2 180 000 FEET
90°45'
29°52'
47'30"
CANAL
LEGENDRE
ST. JAMES
Re-Grade Pitch to private pump
BR 6
430 000 FEET
U.S.A.C.E.
In-House
Wetland
Non-Wetland
Water of U.S.
22 Aug 2002 Poincon Acct. 20-020-3157
U.S. ARMY CORPS OF ENGINEERS
APPROVED
JURISDICTIONAL DETERMINATION
N

U.S. Army Corps of Engineers - New Orleans District
Regulatory Branch

Basis for Jurisdictional Determination[1]

Applicant: Mr. David Poincon **File Number:** 20-020-3157 **Date:** 6 Dec. 2002

☒ **A. Property referenced in the attached correspondence contains waters of the United States based on:**

☒ The presence of wetlands determined by the occurrence of hydrophytic vegetation, hydric soils and wetland hydrology.[2] The wetlands are adjacent to navigable or interstate waters, or eventually drain or flow into navigable or interstate waters through a tributary system that may include man-made conveyances such as ditches or channelized streams.[3]

☐ The presence of waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, i.e., navigable waters of the United States (in part). Includes all property below the ordinary high water mark of the navigable stream or channel.[4]

☐ The presence of waters which are subject to the ebb and flow of the tide, including tidal wetlands, i.e., navigable waters of the United States (in part).[2,4]

☒ The presence of one or more tributaries (stream channels, man-made conveyances, lakes, ponds, rivers, etc.) that eventually drain or flow into navigable or interstate waters. Includes property below the ordinary high water mark of the tributary.[4]

☐ The presence of interstate waters.[4]

☐ The presence of an impoundment(s) of waters of the United States.

☐ The presence of territorial seas.

☐ The site contains other waters such as intrastate lakes, rivers, streams, mudflats, sandflats, wetlands, sloughs, or natural ponds, the use degradation or destruction of which could affect interstate or foreign commerce.

_____
_____
_____
_____
_____
_____
_____

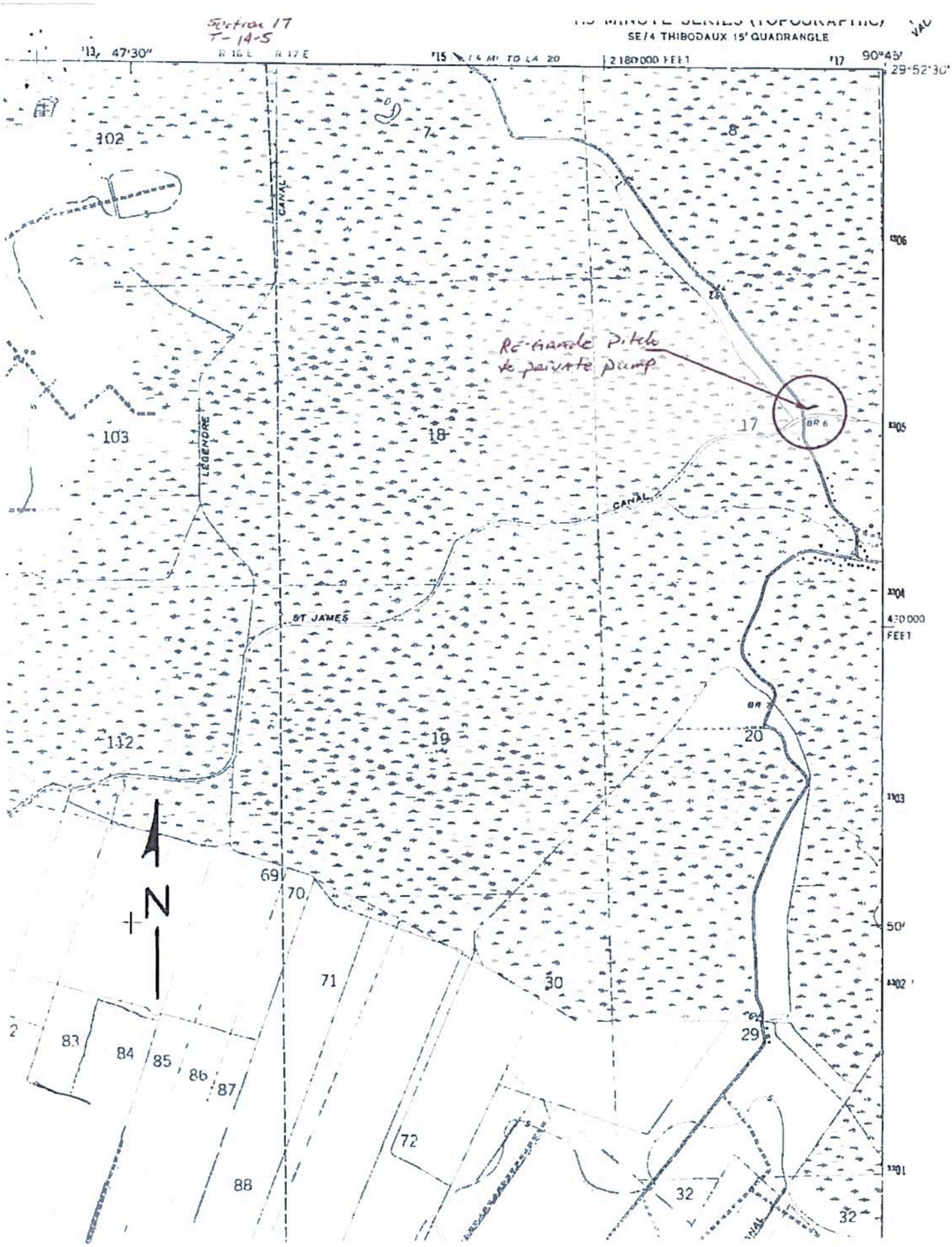
☐ **B. Property referenced in the attached correspondence does not include or contain any of the waters of the United States described above.**

[1] The decision regarding this action is based on the following rationale and on information found in the administrative record. The administrative record documents the District's decision-making process, the basis for the decision, and the final decision.
[2] Wetlands are identified and delineated using the methods and criteria established in the Corps of Engineers Wetland Delineation Manual (87 Manual).
[3] Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, etc. are "adjacent wetlands".
[4] The lateral limits of waters of the U.S. are/or have been determined by the high tide line, ordinary high water mark, and/or by the limit of adjacent wetlands.

Project Manager: Furcy Zeringue

1343 Choctaw Road
Ditch leading to private pump

1343 Choctaw Road
Ditch leading to private pump


Section 17
T-14-S
SE/4 THIBODAUX 15' QUADRANGLE
47'30"
R 16 E
R 17 E
2 180 000 FEET
90°45'
29°52'30"
102
7
8
CANAL
Re-Grade Pitch
to private pump
103
18
17
BR 6
LEGENDRE
CANAL
ST JAMES
430 000
FEET
112
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BR 7
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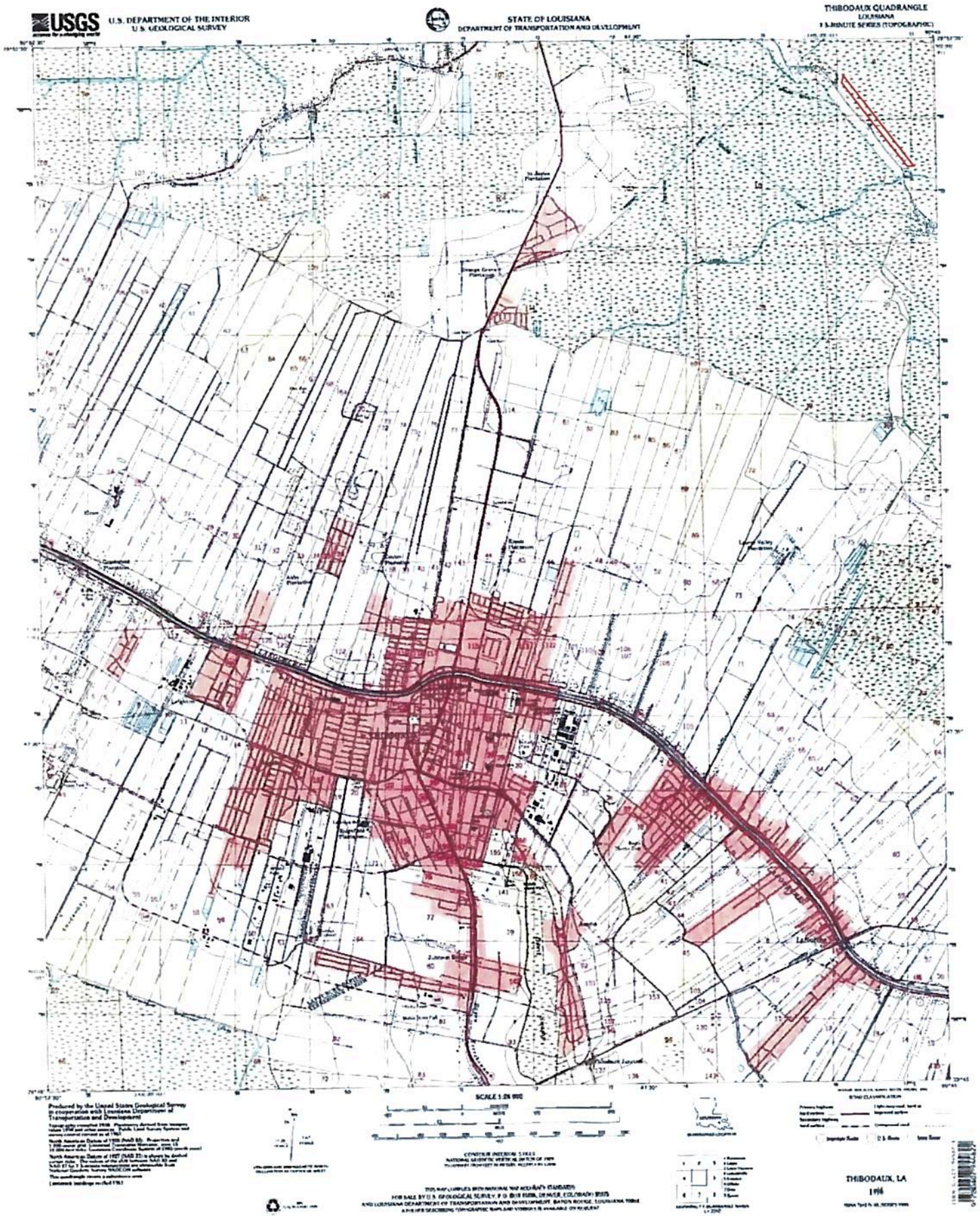
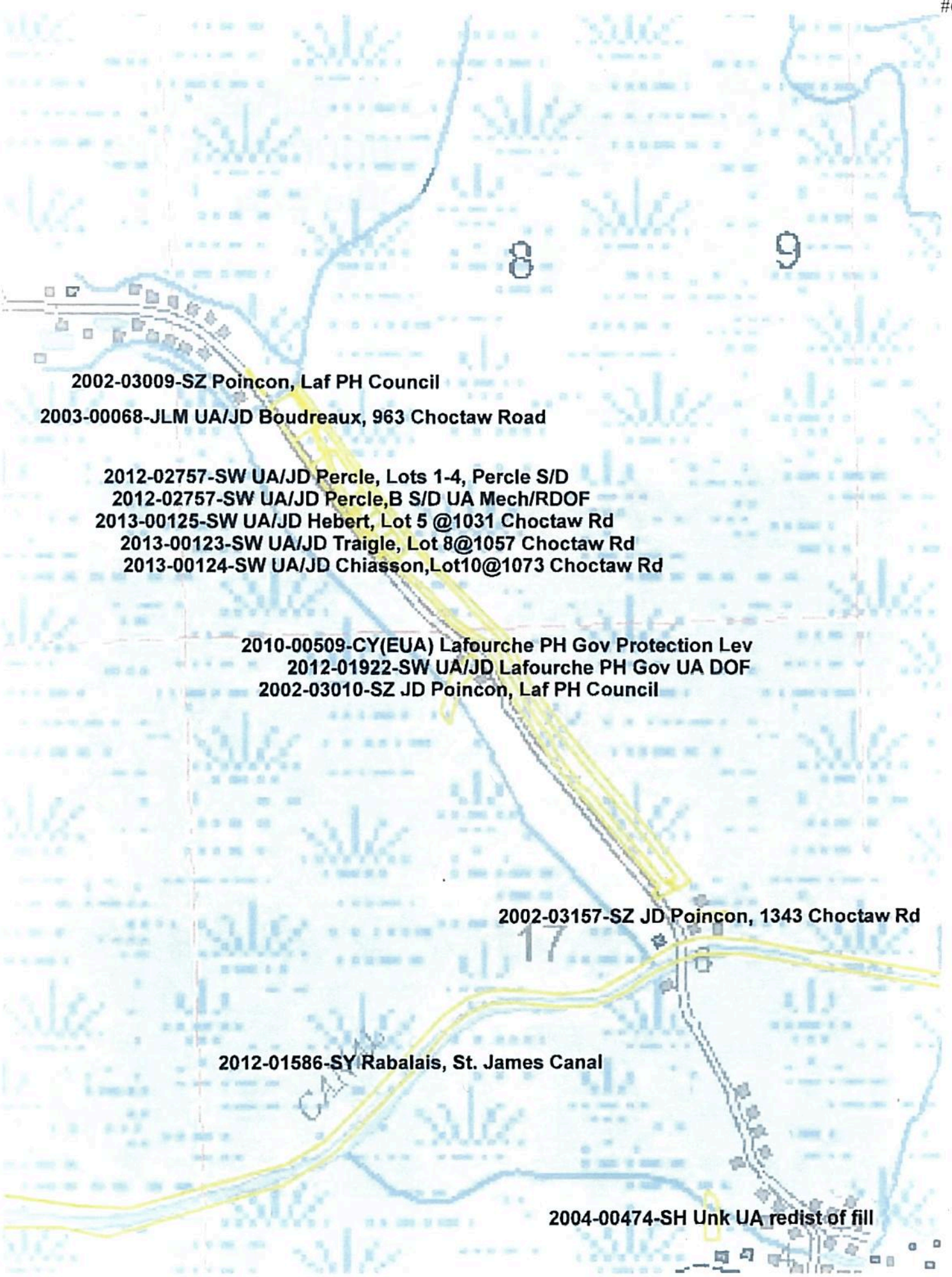

USGS
U.S. DEPARTMENT OF THE INTERIOR
U.S. GEOLOGICAL SURVEY
STATE OF LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
THIBODAUX QUADRANGLE
LOUISIANA
7.5-MINUTE SERIES (TOPOGRAPHIC)
SCALE 1:24 000
THIBODAUX, LA
1996


8
9
2002-03009-SZ Poincon, Laf PH Council
2003-00068-JLM UA/JD Boudreaux, 963 Choctaw Road
2012-02757-SW UA/JD Percle, Lots 1-4, Percle S/D
2012-02757-SW UA/JD Percle,B S/D UA Mech/RDOF
2013-00125-SW UA/JD Hebert, Lot 5 @1031 Choctaw Rd
2013-00123-SW UA/JD Traigle, Lot 8@1057 Choctaw Rd
2013-00124-SW UA/JD Chiasson,Lot10@1073 Choctaw Rd
2010-00509-CY(EUA) Lafourche PH Gov Protection Lev
2012-01922-SW UA/JD Lafourche PH Gov UA DOF
2002-03010-SZ JD Poincon, Laf PH Council
2002-03157-SZ JD Poincon, 1343 Choctaw Rd
17
2012-01586-SY Rabalais, St. James Canal
2004-00474-SH Unk UA redist of fill

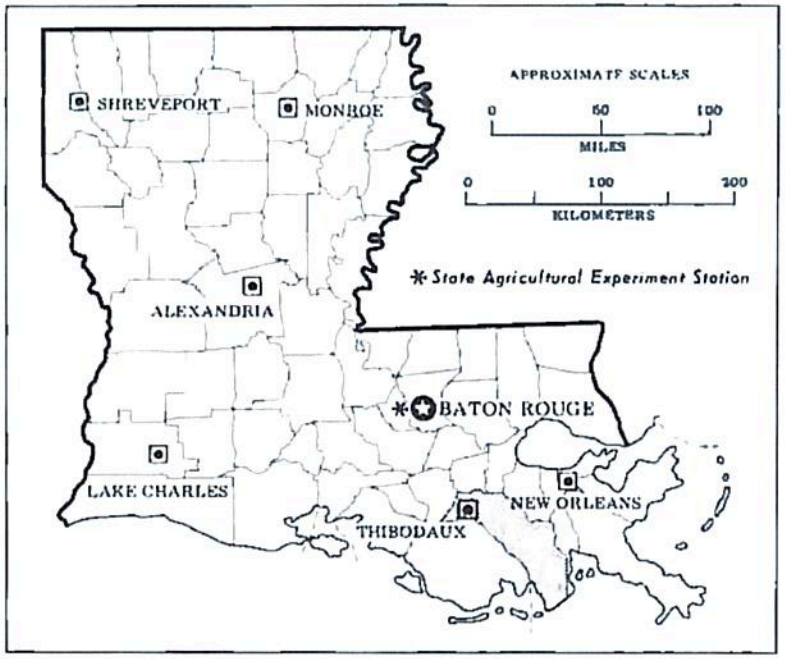
#61

Jnited States
Department of
Agriculture

Soil
Conservation
Service

In cooperation with
Louisiana Agricultural
Experiment Station and
Louisiana State
Soil and Water
Conservation Committee

Soil Survey of Lafourche Parish, Louisiana



Location of Lafourche Parish in Louisiana

SOIL LEGEND

The first letter, always a capital, is the initial letter of the soil name. The second letter is a capital if the mapping unit is broadly defined. If otherwise, it is a small letter.

SYMBOL	NAME
Ac	Amesbury muck
Am	Alemania muck, drained
AN	Allemands-Larose association
Ba	Barataria-Fausse silty clays
Bt	Belleair-Scatlake association
Cm	Commerce silt loam
Ce	Commerce silty clay loam
FA	Fausse-Shakley association
FE	Fausse loamy fine sand, frequently flooded
KE	Kenner muck
LA	Lafitte-Clovelly association
Na	Nara muck
Rv	Rita Variant muck
SA	Scatlake muck
SC	Scatlake-Fausse complex
Sh	Shakley silty clay loam
Sk	Shakley clay
Sv	Shakley clay, occasionally flooded
TB	Timbalier-Belleair association
Tr	Tremiss clay, frequently flooded
Va	Vacherie silt loam

1/ The condition of the units of mapping shown here differs in the survey area, but has been considered and thought to be acceptable for the proposed use of the soil.

CONVENTIONAL AND SPECIAL SYMBOLS LEGEND

CULTURAL FEATURES

BOUNDARIES

- National, state or provincial
- County or parish
- Minor civil division
- Reservation (national forest or park, state forest or park, and large airport)
- Land grant
- Limit of soil survey (data)
- Field to field boundary & meaning
- AD HOC BOUNDARY (NAME)
- Small airport, airfield, park, oil field, cemetery, or flood pool

STATE COORDINATE TICK

LAND DIVISION CORNERS (sections and land grants)

ROADS

- Divided (median shown if scale permits)
- Other roads
- Trail

ROADS EMBLEM & DESIGNATIONS

- Interstate
- Federal
- State
- County, farm or ranch

RAILROAD

POWER TRANSMISSION LINE (normally not shown)

PIPE LINE (normally not shown)

FENCE (normally not shown)

LEVEES

- With road
- Without road
- With railroad

DAMS

- Large (to scale)
- Medium or small

PITS

- Gravel pit
- Mine or quarry

MISCELLANEOUS CULTURAL FEATURES

- Farmstead, house (only on urban areas)
- Church
- School
- Indian mound (label)
- Located object (label)
- Tank (label)
- Wind or solar
- Windmill
- Kitchen midden

WATER FEATURES

DRAINAGE

- Perennial, double line
- Perennial, single line
- Intermittent
- Drainage end
- Canal or ditch
  - Double-line (label)
  - Drainage and/or irrigation

LAKES, PONDS AND RESERVOIRS

- Perennial
- Intermittent

MISCELLANEOUS WATER FEATURES

- Marsh or swamp
- Spring
- Well, artesian
- Well, irrigation
- Wet spot

SPECIAL SYMBOLS FOR SOIL SURVEY

SOIL DELINEATIONS AND SYMBOLS

ESCARPMENTS

- Bedrock (points down slope)
- Other than bedrock (points down slope)

SHORT STEEP SLOPE

GULLY

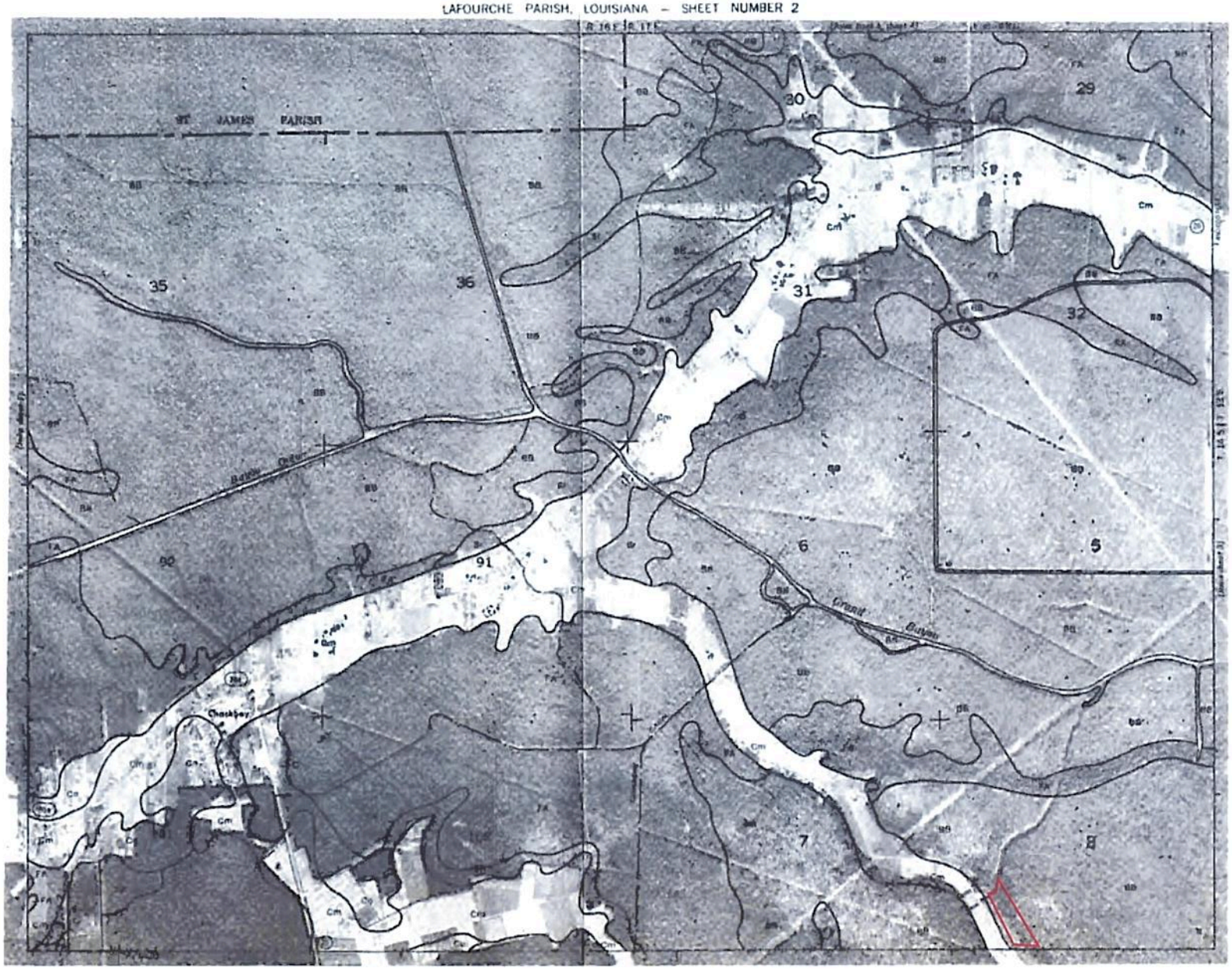
DEPRESSION OR SINK

SOIL SAMPLE SITE (normally not shown)

MISCELLANEOUS

- Blowout
- Clay spot
- Gravel spot
- Gumbo, slick or salty spot (wet)
- Dumps and other similar non farm areas
- Permanent soil or peat
- Rock outcrop (includes sandstone and shale)
- Saline spot
- Sandy spot
- Severely eroded spot
- Slope or slip (tips point downslope)
- Stony spot, very stony spot

LAFOURCHE PARISH, LOUISIANA — SHEET NUMBER 2



This soil survey map was compiled by the U.S. Department of Agriculture, Soil Conservation Service, and cooperating agencies. Base maps are prepared from 1980 aerial photography. Coordinate grid ticks and land division corners, if shown, are approximately positioned.

LA FOURCHE PARISH, LOUISIANA NO. 2

#65

This soil survey map was compiled by the U. S. Department of Agriculture, Soil Conservation Service, and cooperating agencies. Base maps are prepared from 1980 aerial photography. Coordinate grid ticks and land division corners, if shown, are approximately positioned.

Hydric Soils List for Louisiana

BALDWIN (LA0029) VERTIC OCHRAQUALFS	THERMIC	P	0 -2.0	DEC-APR	<6.0	NONE-RARE				2B3	0-1% 1-3% 0-3% UNDULAT
BALIZE (LA0185) TYPIC HYDRAQUENTS	THERMIC	VP	+3 -1.0	JAN-DEC	<6.0	FREQUENT	V LONG	JAN-DEC		2B3,3, 4	ALL
BALIZE, DRAINED (LA0195) TYPIC HYDRAQUENTS	THERMIC	P	0.5-1.5	JAN-DEC	<6.0	RARE				2B3	ALL
BANCKER (LA0175) TYPIC HYDRAQUENTS	THERMIC	VP	+1.-0.5	JAN-DEC	<6.0	FREQUENT	V LONG	JAN-DEC		2B3,3, 4	ALL
BARBARY (LA0036) TYPIC HYDRAQUENTS	THERMIC	VP	+1 -0.5	JAN-DEC	<6.0	FREQUENT	BRIEF-V LONG	JAN-DEC		2B3,3, 4	ALL

LOUISIANA
HYDRIC SOILS -- CONTINUED

REVISED DECEMBER

(THE "HYDRIC CRITERIA NUMBER" COLUMN INDICATES WHAT CAUSED THE SOIL TO BE INCLUDED IN THE HYDRIC LIST. SEE THE "CRITERIA FOR HYDRIC SOILS" TO DETERMINE THE MEANING OF THIS COLUMN.)

SERIES AND SUBGROUP	TEMPER-ATURE	DRAIN-AGE CLASS	HIGH WATER TABLE DEPTH	HIGH WATER TABLE MONTHS	PERM. WITHIN 20 INCHES	FLOODING FREQUENCY	FLOODING DURATION	FLOODING MONTHS	HYDRIC CRI-TERIA NUMBER	CAPABI CRITICAL PHASE CRITERIA
BASILE (LA0033) TYPIC GLOSSAQUALFS	THERMIC	P	0 -1.5	DEC-MAY	<6.0	NONE-COMMON	BRIEF-LONG	JAN-DEC	2B3,4	0-1% FREQ
BELLPASS (LA0111) TERRIC MEDISAPRISTS	THERMIC	VP	+1 -0.5	JAN-DEC	<6.0	FREQUENT	V LONG	JAN-DEC	1,3,4	ALL
BIBB (AL0033) TYPIC FLUVAQUENTS	THERMIC	P	0.5-1.0	DEC-APR	<6.0	COMMON	BRIEF-LONG	DEC-MAY	2B3,4	OCCAS FREQ
#*BIENVILLE, FLOODED (LA0184) PSAMMENTIC PALEUDALFS	THERMIC	SE	4.0-6.0	DEC-APR	<6.0	FREQUENT	LONG	JAN-DEC	4	FREQ
BONN (LA0004) GLOSSIC NATRAQUALFS	THERMIC	P	0 -2.0	DEC-APR	<6.0	NONE-COMMON	BRIEF	NOV-JUN	2B3	0-1 FREQ

flooding. Some soils on low positions are occasionally flooded. Elevation ranges from about 1 foot to 5 feet above sea level. Slopes are long and smooth and less than 1 percent.

This map unit makes up about 9 percent of the land area of the parish. It is about 98 percent Sharkey soils and 2 percent soils of minor extent.

The Sharkey soils have a surface layer of very dark gray to very dark grayish brown clay and a subsoil of dark gray and gray clay. In some areas the surface layer is dark gray and very dark grayish brown silty clay loam.

Of minor extent are the somewhat poorly drained Commerce and Vacherie soils on intermediate positions and the poorly drained, frequently flooded Tunica soils on low positions.

Most of the rarely flooded soils in this map unit are used for cultivated crops and pasture. The occasionally flooded soils are mainly in woodland. Sugarcane, soybeans, grain sorghum, and rice are the main crops.

This unit is moderately well suited to cultivated crops and well suited to pasture. Wetness, flooding, and poor tilth are the main limitations. A good drainage system and fertilizer are needed for crops and pasture.

This unit is well suited to southern hardwood production. Wetness and flooding are the main limitations. American sycamore, cherrybark oak, eastern cottonwood, green ash, pecan, and sweetgum are suitable trees.

This unit is poorly suited to urban development. Wetness, flooding, very slow permeability, and very high shrink-swell potential are the main limitations.

Soils of the swamps and marshes that are ponded and frequently flooded

The five map units in this group consist mainly of level, very poorly drained, mucky and clayey soils in swamps and marshes. These soils are ponded and flooded most of the time.

These map units make up about 78 percent of the land area of the parish. Most of the area is in native vegetation and is used as habitat for wetland wildlife and recreation.

3. Barbary-Fausse

Level, very poorly drained soils that have a semifluid, mucky or clayey surface layer and semifluid, clayey underlying material or a clayey subsoil; in swamps

This map unit consists of soils in swamps that are ponded and flooded most of the time. Elevation ranges from sea level to about 3 feet above sea level. Slope is less than 0.1 percent.

This map unit makes up about 16 percent of the land area of the parish. It is about 57 percent Barbary soils, 31 percent Fausse soils, and 12 percent soils of minor extent.

The Barbary soils are in the lowest positions on the map unit. They have a thin surface layer of very dark grayish brown, semifluid muck and underlying material of gray and dark greenish gray, semifluid clay.

The Fausse soils are on low natural levees of distributary channels. They have a surface layer of very dark grayish brown clay and a subsoil and underlying material of gray, dark gray, and greenish gray clay.

Of minor extent are the poorly drained Sharkey soils on narrow, low ridges.

Most of the soils in this map unit are in woodland and are used as habitat for wetland wildlife and for recreation. A small acreage is in oil and gas wells and in crawfish ponds.

This unit is well suited to habitat for wetland wildlife and to recreation. It provides habitat for waterfowl, furbearers, alligators, squirrels, swamp rabbits, and nongame birds. Hunting and other outdoor activities are popular in areas of this unit.

This unit is poorly suited to southern hardwood production. Special equipment is needed to harvest trees because of wetness, flooding, and the low load supporting capacity of the soils.

This unit is not suited to cropland, pasture, or to urban development. The limitations of wetness, flooding, and low strength are too severe for these uses.

4. Allemands-Kenner-Larose

Level, very poorly drained soils that have a semifluid, mucky surface layer and semifluid, mucky and semifluid, clayey underlying material; in freshwater marshes

This map unit consists of soils in freshwater marshes that are ponded and flooded most of the time. Elevation ranges from sea level to about 1 foot above sea level. Slope is less than 0.5 percent.

This map unit makes up about 22 percent of the land area of the parish. It is about 59 percent Allemands soils, 21 percent Kenner soils, 12 percent Larose soils, and 8 percent soils of minor extent.

The Allemands soils are in broad basins. They have a moderately thick surface layer of very dark grayish brown, semifluid muck and underlying material of gray, semifluid clay, muck, and mucky clay.

The Kenner soils are in broad basins. They have a thick surface layer of dark brown, semifluid muck and underlying material of very dark grayish brown, semifluid mucky clay. Thin layers of gray, semifluid clay are within the surface layer.

The Larose soils are on submerged natural levees along waterways. They have a thin surface layer of very dark gray, semifluid muck and underlying material of gray, dark gray, and greenish gray, semifluid clay.

Of minor extent are the very poorly drained Clovelly and Lafitte soils. These soils are in small areas of brackish marsh that intrude into the freshwater marsh. Many small ponds and streams are in most areas.

Allemands soils commonly are near Barbary, Bellpass, Clovelly, Larose, Kenner, and Rita soils. All of these soils except Barbary soils are in positions similar to those of the Allemands soils. The Barbary soils are in swamps and are semifluid, mineral soils. The Larose and Rita soils are mineral soils. The Bellpass and Clovelly soils are more saline than Allemands soils. Kenner soils have thin layers of mineral material in the upper part of the profile.

Typical pedon of Allemands muck, 200 feet north of Bully Camp boat landing, sec. 19, T. 18 S., R. 21 E.

Oa1—0 to 2 inches; very dark grayish brown (10YR 3/2) muck; about 45 percent fiber, 15 percent rubbed; massive; does not flow between fingers when squeezed; dominantly herbaceous material; about 20 percent mineral; slightly acid; clear smooth boundary.

Oa2—2 to 18 inches; very dark grayish brown (10YR 3/2) and dark brown (10YR 3/3) muck; about 30 percent fiber, 3 percent rubbed; massive; flows easily between fingers when squeezed leaving large residue in hand; dominantly herbaceous material; 20 percent mineral; slightly acid; abrupt smooth boundary.

IIC1g—18 to 36 inches; gray (5Y 5/1) clay; about 5 percent root fragments; massive, slightly sticky; flows easily between fingers when squeezed leaving small residue in hand; neutral; clear smooth boundary.

Oa3—36 to 38 inches; very dark gray (10YR 3/1) muck; about 3 percent fiber, 1 percent rubbed; massive; flows easily between fingers when squeezed leaving no residue in hand; dominantly herbaceous material; about 40 percent mineral; neutral; abrupt smooth boundary.

IIC2g—38 to 42 inches; dark grayish brown (10YR 4/2) mucky clay; massive; flows easily between fingers when squeezed leaving small residue in hand; mildly alkaline; clear smooth boundary.

IIC3g—42 to 72 inches, gray (5Y 5/1) clay; massive; flows easily between fingers when squeezed leaving large residue in hand; moderately alkaline.

The thickness of the organic material ranges from 16 to 51 inches. The mineral underlying material is dominantly clay, but thin strata of loamy material are in some pedons.

The surface tier, from 0 to 12 inches, has hue of 10YR, value of 2 to 4, and chroma of 1 or 2. The content of rubbed fiber ranges from 5 to 30 percent. Reaction ranges from strongly acid to neutral in undrained pedons and from extremely acid to strongly acid in pedons that have been drained.

The organic material in the subsurface tier, from 12 to 36 inches, has hue of 10YR or 7.5YR, value of 2 to 4, and chroma of 1 to 3. The content of fiber ranges from 1 to 10 percent after rubbing. Reaction ranges from slightly acid to mildly alkaline in undrained pedons. In drained pedons, reaction ranges from strongly acid to slightly acid.

The IICg horizon has hue of 5Y, 5G, and 5GY, value of 4 or 5, and chroma of 1 or 2. Reaction ranges from slightly acid to moderately alkaline in undrained pedons. In drained pedons, reaction ranges from very strongly acid to slightly acid in that part of the IICg horizion above a depth of 40 inches and from slightly acid to moderately alkaline below a depth of 40 inches.

Barbary series

The Barbary series consists of very poorly drained, very slowly permeable, semifluid, mineral soils that formed in clayey alluvium. These soils are in swamps and are ponded and flooded most of the time. Elevation ranges from sea level to about 3 feet above sea level. Slope is less than 0.1 percent.

Soils of the Barbary series are very-fine, montmorillonitic, nonacid, thermic Typic Hydraquents.

Barbary soils commonly are near Fausse and Sharkey soils and are similar to Larose and Scatlake soils. Both Fausse and Sharkey soils are on slightly higher positions than Barbary soils and have B horizons with n value of 0.7 or less. The Larose and Scatlake soils are in nearby marshes and have fewer logs and stumps than Barbary soils. In addition, Scatlake soils are more saline.

Typical pedon of Barbary muck, in an area of Barbary-Fausse association, 7 miles northwest of Thibodaux, 0.5 mile west of Highway 309, south of main Sun Oil tram, sec. 77, T. 15 N., R. 15 E.

O2—0 to 2 inches; very dark grayish brown (10YR 3/2) muck; massive; few fragments of wood; flows easily between fingers when squeezed leaving a small residue; about 40 percent mineral; slightly acid; clear wavy boundary.

A1—2 to 9 inches; dark gray (10YR 4/1) mucky clay; massive; flows easily between fingers when squeezed leaving hand empty; neutral; clear smooth boundary.

C1g—9 to 38 inches; gray (5Y 5/1) clay; common medium distinct dark yellowish brown (10YR 4/4) mottles; massive; flows easily between fingers when squeezed leaving hand empty; pockets and vertical streaks of dark greenish gray (5BG 4/1); neutral; gradual wavy boundary.

C2g—38 to 62 inches; dark greenish gray (5BG 4/1) clay; few fine distinct dark yellowish brown (10YR 4/4) mottles; massive; flows easily between fingers when squeezed leaving hand empty; few buried large logs and stumps; moderately alkaline.

Depth to firm mineral layers commonly is more than 60 inches. Reaction ranges from slightly acid to mildly alkaline in the O2 horizon, neutral to mildly alkaline in

the A1 horizon, and from neutral to moderately alkaline in the C horizon.

The O2 horizon has hue of 10YR or 7.5YR, value of 2 or 3, and chroma of 1 or 2. It is peat or muck.

The A horizon has hue of 10YR, value of 3 or 4, and chroma of 1 or 2. It is mucky clay or clay.

The C horizon has hue of 10YR, 5Y, 2.5Y, 5BG, and 5GY, value of 4 or 5, and chroma of 1. Few to many buried logs, stumps, and wood fragments are in the C horizon.

Bellpass series

The Bellpass series consists of very poorly drained, very slowly permeable, saline, organic soils that formed in moderately thick accumulations of herbaceous plant material overlying semifluid, clayey alluvium. These soils are in saline marshes and are ponded and flooded most of the time. Elevation ranges from sea level to 1 foot above sea level. Slope is less than 0.2 percent.

Soils of the Bellpass series are clayey, montmorillonitic, euic, thermic Terric Medisaprists.

Bellpass soils are similar to Allemands and Clovelly soils, and commonly are near Scatlake and Timbalier soils. Allemands and Clovelly soils are less saline than Bellpass soils. Scatlake soils are mineral soils. The Timbalier soils have thicker organic layers than Bellpass soils.

Typical pedon of Bellpass muck, in an area of Timbalier-Bellpass association, 3.25 miles southeast of Golden Meadow, 1,600 feet east of Bayou Lafourche, on south side of a large canal:

Oa1—0 to 6 inches; very dark grayish brown (10YR 3/2) muck; about 15 percent fiber, 5 percent rubbed; massive; flows easily between fingers when squeezed leaving hand empty; many live roots; dominantly herbaceous fiber; about 50 percent mineral; moderately alkaline; clear smooth boundary.

Oa2—6 to 10 inches; black (10YR 2/1) muck; about 10 percent fiber, 5 percent rubbed; massive; flows easily between fingers when squeezed leaving hand empty; few live roots; dominantly herbaceous fiber; about 70 percent mineral; moderately alkaline; clear smooth boundary.

Oa3—10 to 26 inches; black (10YR 2/1) muck; about 10 percent fiber, trace rubbed; massive; flows easily between fingers when squeezed leaving hand empty; dominantly herbaceous fiber; about 50 percent mineral; moderately alkaline; abrupt smooth boundary.

IIAbg—26 to 32 inches; very dark gray (5Y 3/1) mucky clay; massive; flows easily between fingers when squeezed leaving hand empty; moderately alkaline; abrupt smooth boundary.

IIC1g—32 to 58 inches, dark greenish gray (5BG 4/1) clay; massive; flows easily between fingers when squeezed leaving hand empty; moderately alkaline; clear smooth boundary.

IIC2g—58 to 74 inches; dark greenish gray (5BG 4/1) clay; massive; flows slowly between fingers when squeezed leaving a small residue; moderately alkaline; clear smooth boundary.

The thickness of the organic soil material ranges from 16 to 51 inches. The organic material is dominantly from herbaceous plants. Reaction of the organic layers ranges from neutral to moderately alkaline. Reaction of the mineral layers is mildly alkaline or moderately alkaline. The organic layers are dominantly sapric material. Some pedons have a surface layer of hemic or fibric material, but the accumulated thickness of this layer is less than one-half the total thickness of the organic horizons. The electrical conductivity of the saturation extract ranges from 8 to 16 millimhos per centimeter in all or part of the upper 30 inches.

The O layer has hue of 10YR or 7.5YR, value of 2 to 4, and chroma of 1 or 2, or it is neutral. Mineral content averages 40 to 70 percent.

The IIAbg horizon has hue of 10YR or 5Y, value of 2 to 4, and chroma of 1 or 2, or it is neutral. It is clay or mucky clay.

The IICg horizon has hue of 10YR, 5Y, 5BG, 5GY, and 5G, value of 4 to 6, and chroma of 1, or it is neutral. It is clay or silty clay and has n value of from 0.7 to more than 1.

Clovelly series

The Clovelly series consists of very poorly drained, very slowly permeable, saline, semifluid, organic soils that formed in moderately thick accumulations of herbaceous plant material overlying clayey alluvium. These soils are in brackish coastal marshes that are ponded and flooded most of the time. Elevation ranges from sea level to 1 foot above sea level. Slope is less than 0.2 percent.

Soils of the Clovelly series are clayey, montmorillonitic, euic, thermic Terric Medisaprists.

Clovelly soils are similar to Allemands and Bellpass soils and commonly are near Lafitte and Scatlake soils. Allemands soils are less saline than Clovelly soils, and Bellpass soils are more saline. The Lafitte soils have organic layers that are more than 51 inches thick. Scatlake soils are saline, mineral soils.

Typical pedon of Clovelly muck, in an area of Lafitte-Clovelly association, 3.75 miles east of Golden Meadow, at the end of Yankee Canal, 150 feet north of Shell dam:

TABLE 17.--SOIL AND WATER FEATURES

["Flooding" and "water table" and terms such as "rare," "brief," "apparent," and "perched" are explained in the text. The symbol < means less than;> means more than. Absence of an entry indicates that the feature is not a concern or that data were not estimated]

Soil name and map symbol	Hydrologic group	Flooding			High water table			Subsidence		Risk of corrosion	
		Frequency	Duration	Months	Depth	Kind	Months	Initial	Total	Uncoated steel	Concrete
					Ft			In	In		
AE: Allemands	D	Frequent	Very long	Jan-Dec	+1-0.5	Apparent	Jan-Dec	8-25	16-51	High	Moderate.
Am: Allemands	D	Rare	---	---	2-4.0	Apparent	Jan-Dec	8-25	16-51	High	High.
AN*:											
Allemands	D	Frequent	Very long	Jan-Dec	+1-0.5	Apparent	Jan-Dec	8-25	16-51	High	Moderate.
Larose	D	Frequent	Very long	Jan-Dec	+2-0.5	Apparent	Jan-Dec	2-12	5-15	High	Moderate.
BB*:											
Barbary	D	Frequent	Very long	Jan-Dec	+1-0.5	Apparent	Jan-Dec	3-12	6-15	High	Moderate.
Fausse	D	Frequent	Very long	Jan-Dec	+1-1.5	Apparent	Jan-Dec	---	---	High	Low.
BE*:											
Bellpass	D	Frequent	Very long	Jan-Dec	+1-0.5	Apparent	Jan-Dec	8-25	6-51	High	Moderate.
Scatlake	D	Frequent	Very long	Jan-Dec	+1-0.5	Apparent	Jan-Dec	3-12	6-15	High	Moderate.
Cm, Co: Commerce	C	None	---	---	1.5-4.0	Apparent	Dec-Apr	---	---	High	Low.
FA*:											
Fausse	D	Frequent	Very long	Jan-Dec	+1-1.5	Apparent	Jan-Dec	---	---	High	Low.
Sharkey	D	Frequent	Brief to very long.	Dec-Jun	0-2.0	Apparent	Dec-Apr	---	---	High	Low.
FE: Felicity	A	Frequent	Brief	Jan-Dec	2.0-3.0	Apparent	Jan-Dec	---	---	High	Moderate.
KE: Kenner	D	Frequent	Very long	Jan-Dec	+1-0.5	Apparent	Jan-Dec	15-30	>51	High	Moderate.
LA*:											
Lafitte	D	Frequent	Very long	Jan-Dec	+1-0.5	Apparent	Jan-Dec	15-30	>51	High	Moderate.
Clovelly	D	Frequent	Very long	Jan-Dec	+1-0.5	Apparent	Jan-Dec	8-25	16-51	High	Moderate.
Ra: Rita	D	Rare	---	---	0-3.0	Apparent	Jan-Dec	1-5	4-10	High	High.

See footnote at end of table.

TABLE 17.--SOIL AND WATER FEATURES--Continued

Soil name and map symbol	Hydrologic group	Flooding			High water table			Subsidence		Risk of corrosion	
		Frequency	Duration	Months	Depth	Kind	Months	Initial	Total	Uncoated steel	Concrete
					Ft			In	In		
Rv: Rita Variant	D	Rare	---	---	0-3.0	Apparent	Jan-Dec	1-5	4-10	High	High.
SA: Scatlake	D	Frequent	Very long	Jan-Dec	+1-0.5	Apparent	Jan-Dec	3-12	6-15	High	Moderate.
SC*:											
Scatlake	D	Frequent	Very long	Jan-Dec	+1-0.5	Apparent	Jan-Dec	3-12	6-15	High	Moderate.
Felicity	A	Frequent	Brief	Jan-Dec	2.0-3.0	Apparent	Jan-Dec	---	---	High	Moderate.
Sh, Sk: Sharkey	D	Rare	---	---	0-2.0	Apparent	Dec-Apr	---	---	High	Low.
Sr: Sharkey	D	Occasional	Brief to very long.	Dec-Jun	0-2.0	Apparent	Dec-Apr	---	---	High	Low.
TB*:											
Timbalier	D	Frequent	Very long	Jan-Dec	+1-0.5	Apparent	Jan-Dec	15-30	>51	High	Low.
Bellpass	D	Frequent	Very long	Jan-Dec	+1-0.5	Apparent	Jan-Dec	8-25	16-51	High	Moderate.
Tn*: Tunica	D	Frequent	Brief to long.	Jan-Jun	1.5-3.0	Apparent	Jan-Apr	---	---	High	Moderate.
Va: Vacherie	C	None	---	---	1.0-3.0	Apparent	Dec-Apr	---	---	High	Low.

* See description of the map unit for composition and behavior characteristics of the map unit.

DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P.O. BOX 60267
NEW ORLEANS, LOUISIANA 70160-0267

REPLY TO
ATTENTION OF

Operations Division
Surveillance and Enforcement Section

Memo

To: Bob Norris

From: Rob Heffner

Subject: Notes from Jan 24, 2012 meeting with Lafourche Parish representatives re: Choctaw Rd Levee

Attended by Corps: John Herman, Kenny Blanke, Rob Heffner, Martin Mayer; Lafourche Parish: Kerry Babin, Archie Chaisson, Charlotte Randolph, Joe Picciola (consultant to Parish)

According to Ms Randolph, the levee was moved to its present location because that is where the parish held a servitude.
According to Ms. Randolph and Kerry Babin, the work was undertaken by the local public works employees without their authorization. Chris Boudreaux lives in the area and is the Emergency Preparedness Director. David Ockman is the Field Office Supervisor. They were named as being potentially responsible for the work.

We also discussed we were coordinating with EPA for a lead agency determination per our MOA. The parish talked about moving the levee back to its location authorized by emergency permit. They were advised to work up their plans but not to take in action until it was determined who would be the lead agency and to discuss their plans with that agency.

Attendance Roster

Applicant Lafourche Parish Gov't Date 1/24/13
Corps No. MVN 2010-0509-CY Parish Lafourche
Purpose Unauthorized levee along Choctawhatchee Rd. b/w Bayou Pump Sta. and St. James Canal, and other Non-compliant issues assoc. w/ Choupic Levees

1 John M. Herman	Regulatory	USACE	(504) 862-1581
2 Kenny Blanke	Project Manager	USACE	504 862-1217
3 ROB WEFFNER	Regulatory	USACE	504-862-1288
4 Martin Mayer	Regulatory	USACE	504.862.2255
5 * Kerry Babin	Public Works Laf. Parish Govt.	L.P.G	985-537-7621
6 ARCHIE CHAISSON II	LAF PARISH GOVT	LPG	985-446-8427
7 Charlotte Randolph	Laf Parish	LPG	985446 8427
8 Joe Piciotto	Consultant to LPG	Piciotto & Assoc.	985-632-5786
9			
10			
11			
12			
13			
14			
15			

December 13, 2012

Operations Division
Central Evaluation Section

Subject: Unauthorized Levee Project MVN 2010-0509-CY

Charlotte A. Randolph, Parish President
Lafourche Parish Government
Post Office Box 5548
Thibodaux, Louisiana 70302

Mrs. Randolph:

This letter is in reference to the above Department of the Army permit number which granted emergency authorization (EA) in December 2009 to Lafourche Parish Government (LPG) to clear, grade, excavate and deposit fill material to construct and maintain a levee from Banana Pump Station to St. James Canal located along Choctaw Road, Chackbay (Choupic), Louisiana, in Lafourche Parish.

As a follow-up to our email we sent to you on December 6, 2012, we want to reiterate that our August 2, 2012, site visit to this project revealed the construction of an unauthorized levee. As you are aware, the levee alignment we granted EA for had been built, but was degraded shortly thereafter, and then a new levee was constructed further into the swamp. A setback of the alignment was neither reviewed nor authorized by this office, thus resulting in the issuance of a Cease & Desist (C&D) Order issued July 31, 2012 (enclosed), and subsequently signed by you. We have not yet received a response to this C&D from the parish. Also discovered during our site visit was the initiation of development of several lots within an area that had been determined jurisdictional wetlands by this office and most importantly, located in the area where the EA levee alignment was granted. Activities observed were the clearing of some of the lots, placement of fill and an individual sewage treatment plant. Mr. Babin, other parish staff, and representatives from Picciola and Associates also observed these activities. We advised all present to monitor the situation and ensure further development within these areas does not occur until it is resolved. Unfortunately, a follow-up site inspection was conducted by our Surveillance and Enforcement (S&E) Section on November 28, 2012, and it was discovered that the above noted lots now had dwellings constructed on them (enclosed). The land owner (Mr. Bennie Perele) had sold these lots, and he was issued a C&D (enclosed). A response to the C&D from Mr. Perele is still pending. The construction of these home sites has unnecessarily complicated this situation further. As we indicated to you in our email dated August 6, 2012 (enclosed), we expected the parish's full cooperation in bringing this issue to resolution. These recent actions by the land owner, and the lack of action by the parish, have made matters difficult and may result in legal action. We again strongly advise the parish to ensure that any further development in this area not occur, and to work

FILE
Herman
X1581

cooperatively with us towards resolution of the levee violation. We request that you respond to our C&D immediately so we can promptly move forward on this matter and attempt to contain further complication.

In addition, we still have unresolved non-compliance permit deficiencies regarding Choupic Levees A, C and D that need to be corrected. We request your immediate attention and action on these permits so they can be brought into compliance.

Should you have any questions regarding what has been explained above, please do not hesitate to contact John M. Herman of this office at (504) 862-1581. Please be advised that failure to comply with our request may result in permit revocation which could lead to further legal action.

Mayer
DD-SC

Sincerely,

Pete J. Serio
Chief, Regulatory Branch

PSerio
DD-S

Enclosures

DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P.O. BOX 60267
NEW ORLEANS, LOUISIANA 70160-0267

CEASE AND DESIST ORDER

REPLY TO ATTENTION OF

Operations Division
Surveillance and Enforcement Section

CASE NUMBER: MVN 2012-01922-SW

ISSUED TO: Honorable Charlotte Randolph dba Lafourche Parish Government

ADDRESS: P.O Drawer 5548, Thibodeaux, Louisiana 70301 PHONE: 985-446-8427

LOCATION OF WORK: At a point 200' east and parallel to/from 963 to 1200 Chocktaw Road, in Section 8, Township 14 South, Range 17 East, Thibodeaux, Lafourche Parish, Louisiana 70301

CHARACTER OF WORK: Unauthorized re-distribution of fill material in association with mechanized land-clearing in wetlands. Unauthorized deposition of fill material in wetlands and waters of the US.

APPARENT VIOLATION OF: [X] Section 10 of the Rivers and Harbors Act (RHA); [ ] Section 13 of the RHA; [X] Section 301 of the Clean Water Act (CWA); and/or [ ] Section 404 of the CWA.

This work was performed in waters of the United States and is therefore subject to Department of the Army (DA) regulatory authority. You are directed not to perform or allow any further unauthorized work at this site until proper authorization has been granted. Failure to abide by this Cease and Desist Order will result in appropriate legal action.

You are advised that violations of the RHA and/or the CWA may subject you to appropriate administrative and/or judicial action. Legal action could result in a fine and/or a court order to restore the site to preproject conditions. A DA permit application cannot be accepted until all legal issues are resolved. Any comments or defense you wish to submit on your behalf to explain why you failed to obtain a DA permit prior to conducting the above work should be submitted to the Chief, Surveillance and Enforcement Section, at the above address.

If we do not receive a written response from you within 20 days from the date shown below, we will proceed with appropriate action for resolution of the legal issues based on the information in our files.

Should you wish to discuss this matter further, or if you have any questions concerning wetlands and the permitting process, please contact the undersigned issuer at (504) 862-2271, or -2270.

Sincerely,

Edward R. Fleming
Colonel, US Army
District Commander

ISSUED BY Robert F. Norris JOB TITLE: Investigator 07/31/2012

RECEIPT ACKNOWLEDGED: Charlotte Randolph DATE: 7/31/12

C&D-gen.com

Norris, Robert F MVN

From:	Norris, Robert F MVN
Sent:	Wednesday, August 01 2012 9 53 AM
To:	Serio, Pete J MVN
Cc:	Heffner, Robert A MVN; Mayer, Martin S MVN
Subject:	CCIR - Field Cease & Desist Order issued to the Honorable Charlotte Randolph dba Lafourche Parish Government, MVN-2012-01922-SW (UNCLASSIFIED)
Attachments:	image2012-07-31-110435-1 jpg; Cease and desist order- Choctaw Road pdf

Classification: UNCLASSIFIED
Caveats: NONE

CCIR

Who: Honorable Charlotte Randolph (Parish President) dba Lafourche Parish Government
What: Unauthorized deposition of fill material in wetlands and waters of the US in apparent violation of Section 10 of the RHA and Section 301 of the CWA.
When: Field Cease and Desist Order requesting comments issued on 07/31/2012.
Where: At a point 200' east of and parallel to/from 963 to 1200 Choctaw Road, in Sections 8 & 17, Township 14 South, Range 17 East, Thibodaux, Lafourche Parish, Louisiana 70301.
Why: Levee construction/flood control.
Impacts: Levee approximate wetland impacts 9.92 acres; Levee is +-5280 feet in length - 6' in elevation x 14' across the top.
Actions: Issued Field C&D requesting comments explaining why the work occurred prior to obtaining DA authorization.

Robert F. Norris
Investigator
USACE NOD
CEMVN-OD-SS
504-862-2271

Classification: UNCLASSIFIED
Caveats: NONE

DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P.O. BOX 60267
NEW ORLEANS, LOUISIANA 70160-0267

CEASE AND DESIST ORDER

REPLY TO
ATTENTION OF

Operations Division
Surveillance and Enforcement Section

CASE NUMBER: 2012-02757-SW

ISSUED TO: MR. BENNIE PERCLE

ADDRESS: 540 HWY 304, THIBODAUX, LA PHONE: 504-414-3698-C 504-633-2094

LOCATION OF WORK: NORTHEAST SIDE OF CHOCTAW ROAD (LOTS 1-10, 11) IN SECTIONS 8 & 17, TOWNSHIP 14 SOUTH, RANGE 17 EAST, THIBODAUX, LAFOURCHE PH, LA.

CHARACTER OF WORK: UNAUTHORIZED DEPOSITION OF FILL MATERIAL IN ASSOCIATION WITH MECHANIZED LAND CLEARING IN WETLANDS

APPARENT VIOLATION OF: ☒ Section 10 of the Rivers and Harbors Act (RHA); ☐ Section 13 of the RHA; ☒ Section 301 of the Clean Water Act (CWA); and/or ☐ Section 404 of the CWA.

This work was performed in waters of the United States and is therefore subject to Department of the Army (DA) regulatory authority. You are directed not to perform or allow any further unauthorized work at this site until proper authorization has been granted. Failure to abide by this Cease and Desist Order will result in appropriate legal action.

You are advised that violations of the RHA and/or the CWA may subject you to appropriate administrative and/or judicial action. Legal action could result in a fine and/or a court order to restore the site to preproject conditions. A DA permit application cannot be accepted until all legal issues are resolved. Any comments or defense you wish to submit on your behalf to explain why you failed to obtain a DA permit prior to conducting the above work should be submitted to the Chief, Surveillance and Enforcement Section, at the above address.

If we do not receive a written response from you within 20 days from the date shown below, we will proceed with appropriate action for resolution of the legal issues based on the information in our files.

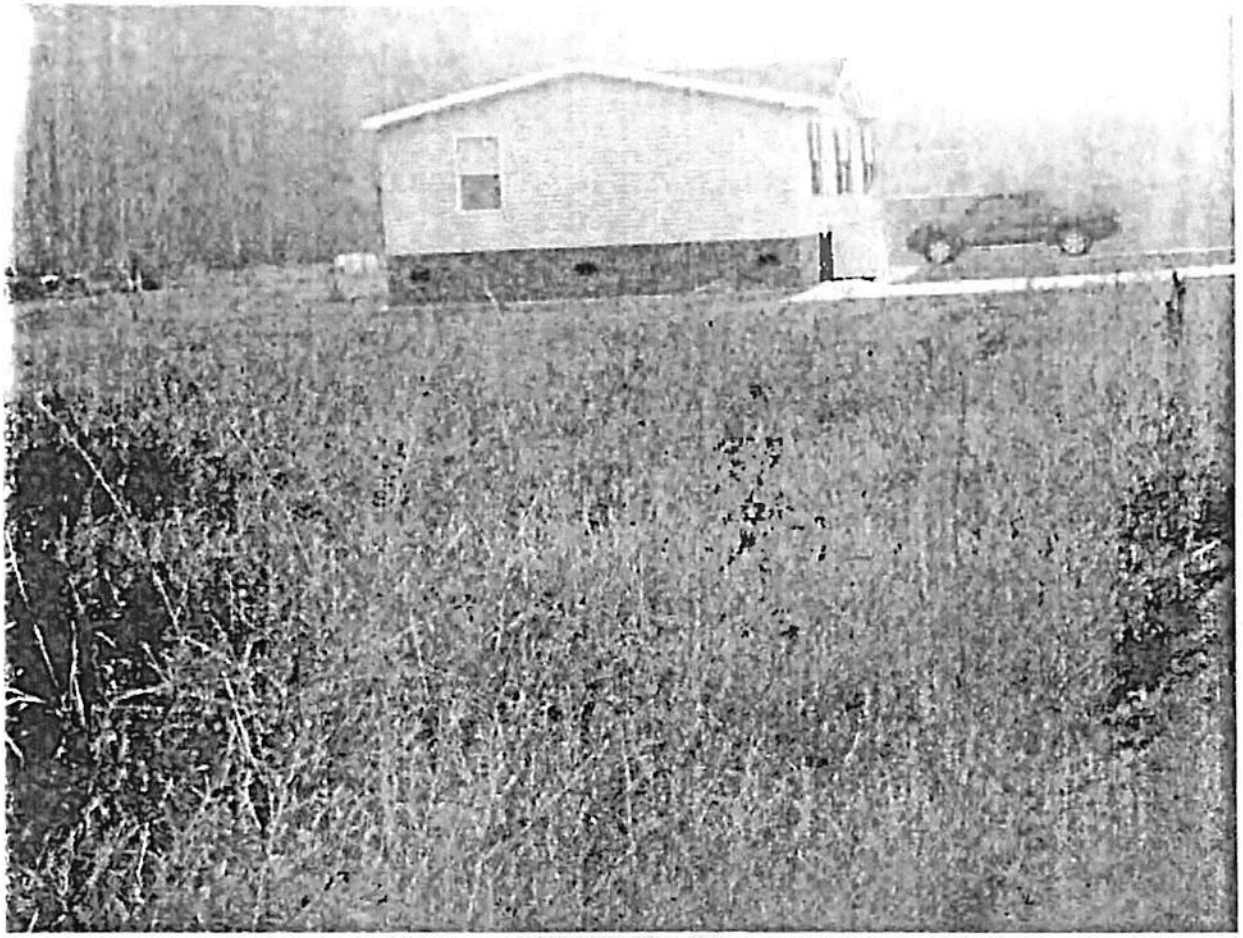
Should you wish to discuss this matter further, or if you have any questions concerning wetlands and the permitting process, please contact the undersigned issuer at (504) 862-2271, or -2270.

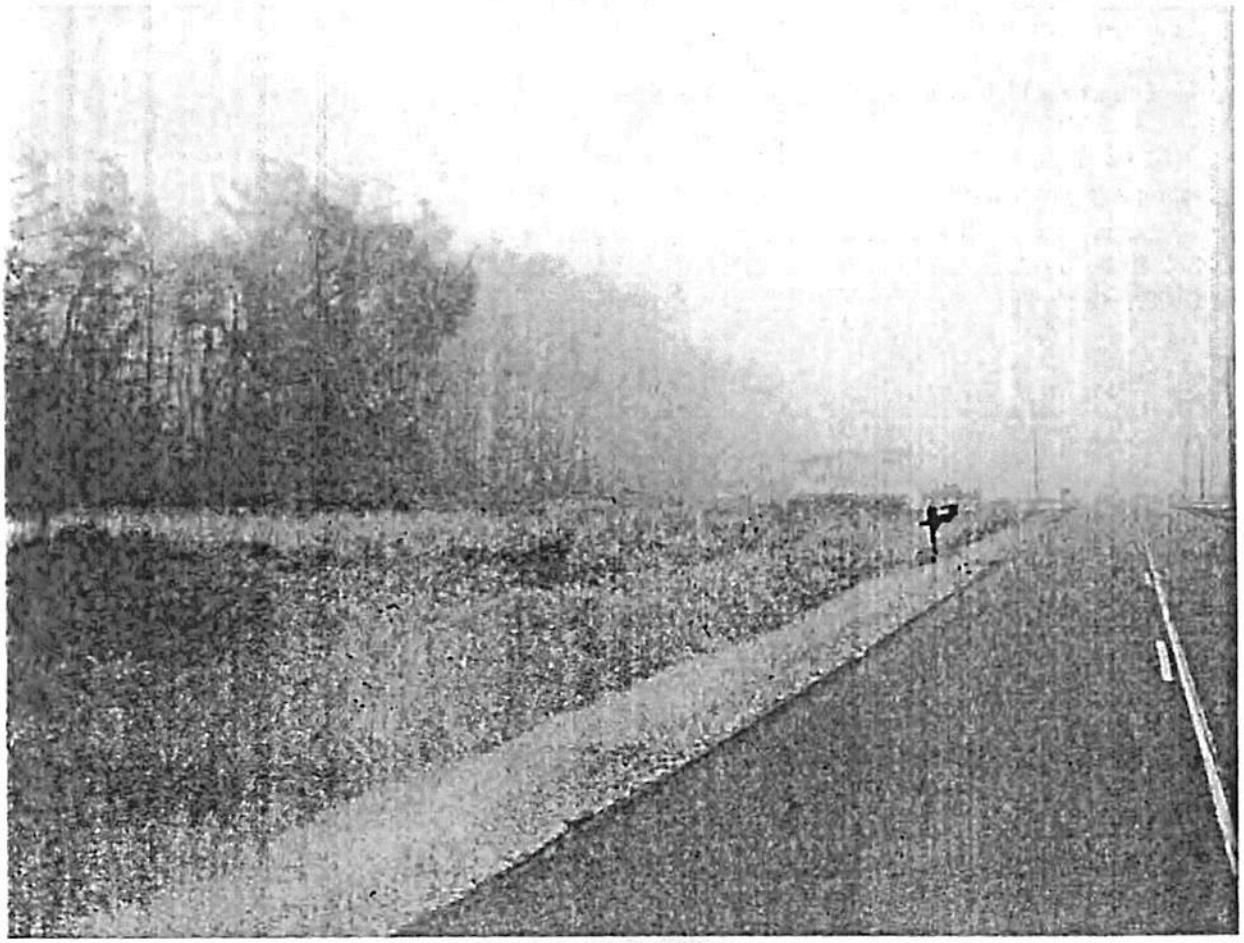
Sincerely,

Edward R. Fleming
Colonel, US Army
District Commander

ISSUED BY: Robert F. Norris JOB TITLE: INVESTIGATOR 11/28/12

RECEIPT ACKNOWLEDGED: Bennie Percle DATE: 11-25-12





SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Charlotte A. Randolph
Lafourche Parish Gov't
P.O. Box 5548
Thibodaux, LA 70302

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X Michelle Adams ☐ Agent ☐ Addressee

B. Received by (Printed Name) Michelle Adams
C. Date of Delivery 12/19/12

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7011 0470 0002 5910 1343

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

7011 0470 0002 5910 1343

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Sent To Charlotte A. Randolph
Street, Apt. No.; or PO Box No.
City, State, ZIP+4

PS Form 3800, August 2006 See Reverse for Instructions

Herman, John M MVN

From:	Herman, John M MVN
Sent:	Monday, August 06, 2012 2:07 PM
To:	'babinkj@lafourchegov.org'
Cc:	'randolphca@lafourchegov.org'; 'Brad Adams'; Bob Norris MVN
Subject:	Lafourche Parish Gov't - Choupic Levees non-compliance and Choctaw Rd. unauthorized levee (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Mr. Babin,

Thank you and your staff for meeting with us out on Choctaw Road last week. As you know, the granted alignment for the Choctaw Road Emergency Authorization (EA) levee project has been degraded and a new, unauthorized levee alignment constructed further into the swamp. A Cease & Desist (C&D) Order has been issued to the parish and this issue will be handled by our Surveillance and Enforcement Section. We expect and appreciate the parish's full cooperation in this matter.

In addition to the Choctaw Road issue, we also conducted a permit compliance inspection for Choupic Levee D (Corps permit # MVN 2005-1631-CY) and Choupic Levee C (MVN 2005-1630-CY). If the parish will recall, activities associated with the construction and/or upgrade of those levees were done so without authorization. As such, this office issued a C&D to the Lafourche Parish Government and the U.S. Environmental Protection Agency (EPA) issued an Administrative Order requiring the connectivity between the inside/outside levee be maintained by cutting gaps in the levees. During the permitting evaluation process, it was determined by both the Corps and EPA that the levee alignment could remain with compensatory mitigation and the establishment of a more permanent structure within the levees to maintain hydrology. During last week's inspection, we discovered the following discrepancies resulting in permit non-compliance:

Choupic Levee C

1. Screw-gate culverts were not locked in the open position, as required in the permit's special conditions. In regards to locks, the screw-gate culverts did not have the wheel mechanism (handle) required to open and close the gate and may be an adequate practice so long as these gates cannot be operated by unauthorized personnel (i.e., property owners, etc.).

2. There is no staff gauge or pump station along Bayou Onion, which will prohibit the evaluated and permitted operation of the system (i.e., open and closing of culverts are based on staff gauge readings- see permit drawing).

3. Screw-gate culvert 6 could not be observed due to the land owner prohibiting access.

4. There is another screw-gate culvert in the levee near screw-gate culvert 7 that is unauthorized and was in the closed position. It was suggested that this was probably placed there by the land owner. This screw-gate culvert needs to be removed or included within the permit drawings. If included, the screw-gate portion of the culvert will have to be modified to only allow authorized parish personnel to operate. Any unauthorized operation or tampering with these screw-gate culverts will affect hydrologic conditions in the area, result in permit non-compliance and could jeopardize the integrity of the system should they need to be operated in an emergency.

Choupic Levee D

1. Screw-gate culverts were not locked in the open position, as required in the permit's special conditions.

2. There is no staff gauge or pump station along Bayou Onion.

We were not able to inspect Choupic Levee A but it has come to our attention that the required screw-gate culverts (three) are not in place at this time, thus resulting in non-compliance and the parish's inability to operate the system as permitted.

In light of our findings, we strongly encourage the Lafourche Parish Government to comply with the terms and conditions of these permits and will allow 30-days from the date of this email to correct these deficiencies before we conduct a follow-up inspection.

Should you have any questions or would like to discuss, please do not hesitate to contact me.

Thank you,

John

JOHN M. HERMAN

Senior Project Manager

US Army Corps of Engineers

New Orleans District

Regulatory Branch

Phone: (504) 862-1581

Fax: (504) 862-2574/2117

john.herman@us.army.mil

Classification: UNCLASSIFIED
Caveats: NONE

Herman, John M MVN

From:	Herman, John M MVN
Sent:	Thursday, December 06, 2012 8:23 AM
To:	'randolphca@lafourchegov.org'
Cc:	Mayer, Martin S MVN; Serio, Pete J MVN; Robert Heffner MVN ; Norris, Robert F MVN; 'Kerry J. Babin'
Subject:	Lafourche Parish Gov't Choctaw Road Levee Project (UNCLASSIFIED)
Attachments:	ChoctawRdPictures.pdf; LPG C&D-CCIR.pdf; Percle C&D.pdf

Classification: UNCLASSIFIED
Caveats: NONE

Mrs. Randolph,

On August 6, 2012, we sent an email to Mr. Babin (copied you) regarding our August 2, 2012, site visit to the Choctaw Rd. levee project (i.e., Banana Pump Station to St. James Canal). As you are aware, the levee alignment we granted emergency authorization (EA) for in December 2009 had been built, but was degraded shortly thereafter, and then a new levee was constructed further into the swamp. A setback of the alignment was neither reviewed nor authorized by this office, thus resulting in the issuance of a Cease & Desist (C&D) Order (attached). We have not yet received a response to this C&D from the parish. Also discovered during our site visit was the initiation of development of several lots within an area that had been determined jurisdictional wetlands by this office and most importantly, located in the area where the EA levee alignment was granted. Activities observed were the clearing of some of the lots, placement of fill and an individual sewage treatment plant. Mr. Babin, other parish staff, and representatives from Picciola and Associates also observed these activities. We advised all present to monitor the situation and ensure further development within these areas does not occur until it is resolved. Unfortunately, a follow-up site inspection was conducted by our Surveillance and Enforcement (S&E) Section on November 28, 2012, and it was discovered that the above noted lots now had dwellings constructed on them (attached). The land owner that had sold these lots (Mr. Bennie Percle), was issued a C&D (attached). A response to the C&D from Mr. Percle is still pending. The construction of these home sites has unnecessarily complicated this situation further. As we indicated to you in our email dated August 6, 2012, we expected the parish's full cooperation in bringing this issue to resolution. These recent actions by the land owner, and the lack of action by the parish, have made matters difficult and may result in legal action. We again strongly advise the parish to ensure that any further development in this area not occur, and to work cooperatively with us towards resolution of the levee violation. We request that you respond to our C&D immediately so we can promptly move forward on this matter and attempt to contain further complication.

On another note, have the non-compliance permit deficiencies regarding Choupic Levees A, C and D been corrected? If so, a follow-up inspection needs to be conducted by this office (see emails dated August 6, 2012, and September 6, 2012).

Should you have any questions, please do not hesitate to call. Your attention in this matter is of utmost importance.

Thank you,

JOHN M. HERMAN

Senior Project Manager

US Army Corps of Engineers

New Orleans District

Regulatory Branch

Phone: (504) 862-1581

Fax: (504) 862-2574/2117

john.herman@us.army.mil

Classification: UNCLASSIFIED
Caveats: NONE

DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P.O. BOX 60267
NEW ORLEANS, LOUISIANA 70160-0267

CEASE AND DESIST ORDER

REPLY TO
ATTENTION OF

Operations Division
Surveillance and Enforcement Section

CASE NUMBER: 2012-02757-SW

ISSUED TO: MR. BENNIE PERCLE

ADDRESS: 540 HWY 304, THIBODAUX, LA PHONE: ~~504-414-3698-C~~ 504-633-2094

LOCATION OF WORK: NORTHEAST SIDE OF CHOCTAW ROAD (LOTS 1-10, 11) IN SECTIONS 8 & 17, TOWNSHIP 14 SOUTH, RANGE 17 EAST, THIBODAUX, LAFOURCHE PH, LA.

CHARACTER OF WORK: UNAUTHORIZED DEPOSITION OF FILL MATERIAL IN ASSOCIATION WITH MECHANIZED LAND CLEARING IN WETLANDS

APPARENT VIOLATION OF: ☒ Section 10 of the Rivers and Harbors Act (RHA); ☐ Section 13 of the RHA; ☒ Section 301 of the Clean Water Act (CWA); and/or ☐ Section 404 of the CWA.

This work was performed in waters of the United States and is therefore subject to Department of the Army (DA) regulatory authority. You are directed not to perform or allow any further unauthorized work at this site until proper authorization has been granted. Failure to abide by this Cease and Desist Order will result in appropriate legal action.

You are advised that violations of the RHA and/or the CWA may subject you to appropriate administrative and/or judicial action. Legal action could result in a fine and/or a court order to restore the site to preproject conditions. A DA permit application cannot be accepted until all legal issues are resolved. Any comments or defense you wish to submit on your behalf to explain why you failed to obtain a DA permit prior to conducting the above work should be submitted to the Chief, Surveillance and Enforcement Section, at the above address.

If we do not receive a written response from you within 20 days from the date shown below, we will proceed with appropriate action for resolution of the legal issues based on the information in our files.

Should you wish to discuss this matter further, or if you have any questions concerning wetlands and the permitting process, please contact the undersigned issuer at (504) 862-2271, or -2270.

Sincerely,

Edward R. Fleming
Colonel, US Army
District Commander

ISSUED BY: Robert F. Norris JOB TITLE: INVESTIGATOR 11/28/12

RECEIPT ACKNOWLEDGED: Bennie Percle DATE: 11-23-12

DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P.O. BOX 60267
NEW ORLEANS, LOUISIANA 70160-0267

CEASE AND DESIST ORDER

REPLY TO ATTENTION OF

Operations Division
Surveillance and Enforcement Section

CASE NUMBER: MVN 2012-01922-SW

ISSUED TO: Honorable Charlotte Randolph dba Lafourche Parish Government

ADDRESS: P.O Drawer 5548, Thibodeaux, Louisiana 70301 PHONE: 985-446-8427

LOCATION OF WORK: At a point 200' east and parallel to/from 963 to 1200 Chocktaw Road, in Section 8, Township 14 South, Range 17 East, Thibodeaux, Lafourche Parish, Louisiana 70301

CHARACTER OF WORK: Unauthorized re-distribution of fill material in association with mechanized land-clearing in wetlands. Unauthorized deposition of fill material in wetlands and waters of the US.

APPARENT VIOLATION OF: [X] Section 10 of the Rivers and Harbors Act (RHA); [ ] Section 13 of the RHA; [X] Section 301 of the Clean Water Act (CWA); and/or [ ] Section 404 of the CWA.

This work was performed in waters of the United States and is therefore subject to Department of the Army (DA) regulatory authority. You are directed not to perform or allow any further unauthorized work at this site until proper authorization has been granted. Failure to abide by this Cease and Desist Order will result in appropriate legal action.

You are advised that violations of the RHA and/or the CWA may subject you to appropriate administrative and/or judicial action. Legal action could result in a fine and/or a court order to restore the site to preproject conditions. A DA permit application cannot be accepted until all legal issues are resolved. Any comments or defense you wish to submit on your behalf to explain why you failed to obtain a DA permit prior to conducting the above work should be submitted to the Chief, Surveillance and Enforcement Section, at the above address.

If we do not receive a written response from you within 20 days from the date shown below, we will proceed with appropriate action for resolution of the legal issues based on the information in our files.

Should you wish to discuss this matter further, or if you have any questions concerning wetlands and the permitting process, please contact the undersigned issuer at (504) 862-2271, or -2270.

Sincerely,

Edward R. Fleming
Colonel, US Army
District Commander

ISSUED BY: Robert F. Norris JOB TITLE: Investigator 07/31/2012

RECEIPT ACKNOWLEDGED: Charlotte O Randolph DATE: 7/31/12

Norris, Robert F MVN

From: Norris, Robert F MVN
Sent: Wednesday, August 01, 2012 9 53 AM
To: Serio, Pete J MVN
Cc: Heffner, Robert A MVN; Mayer, Martin S MVN
Subject: CCIR - Field Cease & Desist Order issued to the Honorable Charlotte Randolph dba Lafourche Parish Government, MVN-2012-01922-SW (UNCLASSIFIED)
Attachments: image2012-07-31-110435-1 jpg; Cease and desist order- Choctaw Road pdf

Classification: UNCLASSIFIED
Caveats: NONE

CCIR

Who: Honorable Charlotte Randolph (Parish President) dba Lafourche Parish Government
What: Unauthorized deposition of fill material in wetlands and waters of the US in apparent violation of Section 10 of the RHA and Section 301 of the CWA.
When: Field Cease and Desist Order requesting comments issued on 07/31/2012.
Where: At a point 200' east of and parallel to/from 963 to 1200 Choctaw Road, in Sections 8 & 17, Township 14 South, Range 17 East, Thibodaux, Lafourche Parish, Louisiana 70301.
Why: Levee construction/flood control.
Impacts: Levee approximate wetland impacts 9.92 acres; Levee is +-5280 feet in length - 6'in elevation x 14'across the top.
Actions: Issued Field C&D requesting comments explaining why the work occurred prior to obtaining DA authorization.

Robert F. Norris
Investigator
USACE NOD
CEMVN-OD-SS
504-862-2271

Classification: UNCLASSIFIED
Caveats: NONE

Norris, Robert F MVN

From: Heffner, Robert A MVN
Sent: Wednesday, February 13, 2013 10:26 AM
To: Nethery, William R MVN; Norris, Robert F MVN
Subject: FW: Lafourche Levee Violations (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

FYI.

-----Original Message-----
From: Archie P. Chaisson [mailto:chaissonap@lafourchegov.org]
Sent: Wednesday, February 13, 2013 10:14 AM
To: Heffner, Robert A MVN; Mayer, Martin S MVN; Herman, John M MVN
Cc: Charlotte A. Randolph; Kerry J. Babin
Subject: Lafourche Levee Violations

Good Morning All:

We have received a verbal notice that EPA will be handling the violation rather than NOD. We are awaiting an official word from them, but in the mean time we have begun to meet internally regarding possible paths forward.

We have also instructed our Permits Office to not issue and Building Permits on those parcels of property affected by this levee. This should halt any further development in that area.

Again, we will await an official letter from EPA and proceed accordingly. Should you have any questions or require any further information please feel free to contact me at any time.

Archie P. Chaisson, III | Parish Administrator

Lafourche Parish Government

402 Green Street |Thibodaux,. LA 70302

Main: (985) 446-8427 | Mobile: (985) 637-5245

chaissonap@lafourchegov.org <mailto:chaissonap@lafourchegov.org> | www.lafourchegov.org <http://www.lafourchegov.org/>

Classification: UNCLASSIFIED

Herman, John M MVN

From: Kerry J. Babin [babinkj@lafourchegov.org]
Sent: Monday, August 06, 2012 2:55 PM
To: Herman, John M MVN
Cc: Charlotte A. Randolph; Brad Adams; Norris, Robert F MVN
Subject: RE: Lafourche Parish Gov't - Choupic Levees non-compliance and Choctaw Rd. unauthorized levee (UNCLASSIFIED)

Mr. John.

Thank you for your prompt report.

I will visit with my staff and work on a plan to address the deficiencies noted in your inspection. I was briefed this morning on the challenges presented by several landowners in the area who are prohibiting access and we will attempt to educate those parties, and encourage their cooperation. We will begin working on achieving compliance ASAP.

Thanks

Kerry

From: Herman, John M MVN [mailto:John.M.Herman@usace.army.mil]
Sent: Monday, August 06, 2012 2:07 PM
To: Kerry J. Babin
Cc: Charlotte A. Randolph; Brad Adams; Norris, Robert F MVN
Subject: Lafourche Parish Gov't - Choupic Levees non-compliance and Choctaw Rd. unauthorized levee (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Mr. Babin,

Thank you and your staff for meeting with us out on Choctaw Road last week. As you know, the granted alignment for the Choctaw Road Emergency Authorization (EA) levee project has been degraded and a new, unauthorized levee alignment constructed further into the swamp. A Cease & Desist (C&D) Order has been issued to the parish and this issue will be handled by our Surveillance and Enforcement Section. We expect and appreciate the parish's full cooperation in this matter.

In addition to the Choctaw Road issue, we also conducted a permit compliance inspection for Choupic Levee D (Corps permit # MVN 2005-1631-CY) and Choupic Levee C (MVN 2005-1630-CY). If the parish will recall, activities associated with the construction and/or upgrade of those levees were done so without authorization. As such, this office issued a C&D to the Lafourche Parish Government and the U.S. Environmental Protection Agency (EPA) issued an Administrative Order requiring the connectivity between the inside/outside levee be maintained by cutting gaps in the levees. During the permitting evaluation process, it was determined by both the Corps and EPA that the levee alignment could remain with compensatory mitigation and the establishment of a more permanent structure within the levees to maintain hydrology. During last week's inspection, we discovered the following discrepancies resulting in permit non-compliance:

Choupic Levee C

1. Screw-gate culverts were not locked in the open position, as required in the permit's special conditions. In regards to locks, the screw-gate culverts did not have the wheel mechanism (handle) required to open and close the gate and may be an adequate practice so long as these gates cannot be operated by unauthorized personnel (i.e., property owners, etc.).

2. There is no staff gauge or pump station along Bayou Onion, which will prohibit the evaluated and permitted operation of the system (i.e., open and closing of culverts are based on staff gauge readings- see permit drawing).

3. Screw-gate culvert 6 could not be observed due to the land owner prohibiting access.

4. There is another screw-gate culvert in the levee near screw-gate culvert 7 that is unauthorized and was in the closed position. It was suggested that this was probably placed there by the land owner. This screw-gate culvert needs to be removed or included within the permit drawings. If included, the screw-gate portion of the culvert will have to be modified to only allow authorized parish personnel to operate. Any unauthorized operation or tampering with these screw-gate culverts will affect hydrologic conditions in the area, result in permit non-compliance and could jeopardize the integrity of the system should they need to be operated in an emergency.

Choupic Levee D

1. Screw-gate culverts were not locked in the open position, as required in the permit's special conditions.

2. There is no staff gauge or pump station along Bayou Onion.

We were not able to inspect Choupic Levee A but it has come to our attention that the required screw-gate culverts (three) are not in place at this time, thus resulting in non-compliance and the parish's inability to operate the system as permitted.

In light of our findings, we strongly encourage the Lafourche Parish Government to comply with the terms and conditions of these permits and will allow 30-days from the date of this email to correct these deficiencies before we conduct a follow-up inspection.

Should you have any questions or would like to discuss, please do not hesitate to contact me.

Thank you.

John

JOHN M. HERMAN

Senior Project Manager

US Army Corps of Engineers

New Orleans District

Regulatory Branch

Phone: (504) 862-1581

Fax: (504) 862-2574/2117

john.herman@us.army.mil

Norris, Robert F MVN

From: Amanda M. Mattingly [martorelliam@lafourchegov.org]
Sent: Tuesday, July 31, 2012 3:09 PM
To: Norris, Robert F MVN
Cc: Charlotte A. Randolph; Chris L. Boudreaux
Subject: Cease and Desist- Choctaw Road- Lafourche Parish Case number MVN 2012-01922-SW
Attachments: Cease and desist order- Choctaw Road.pdf

Mr. Norris,

Please see the attached Cease and Desist order signed by President Randolph. I am putting the original in the mail. Please let me know if I can be of further assistance.

Thank you,

Amanda M. Mattingly

Executive Assistant

Office of the Parish Administrator

Lafourche Parish Government

Phone: 985-446-8427

Fax:985-446-3528

Martorelliam@lafourchegov.org

DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P.O. BOX 60267
NEW ORLEANS, LOUISIANA 70160-0267

REPLY TO ATTENTION OF

CEASE AND DESIST ORDER

Operations Division
Surveillance and Enforcement Section

CASE NUMBER: MVN 2012-01922-SW

ISSUED TO: Honorable Charlotte Randolph dba Lafourche Parish Government

ADDRESS: P.O Drawer 5548, Thibodeaux, Louisiana 70301 PHONE: 985-446-8427

LOCATION OF WORK: At a point 200' east and parallel to/from 963 to 1200 Chocktaw Road, in Section 8, Township 14 South, Range 17 East, Thibodeaux, Lafourche Parish, Louisiana 70301

CHARACTER OF WORK: Unauthorized re-distribution of fill material in association with mechanized land-clearing in wetlands. Unauthorized deposition of fill material in wetlands and waters of the U.S.

APPARENT VIOLATION OF: [X] Section 10 of the Rivers and Harbors Act (RHA); [ ] Section 13 of the RHA; [X] Section 301 of the Clean Water Act (CWA); and/or [ ] Section 404 of the CWA.

This work was performed in waters of the United States and is therefore subject to Department of the Army (DA) regulatory authority. You are directed not to perform or allow any further unauthorized work at this site until proper authorization has been granted. Failure to abide by this Cease and Desist Order will result in appropriate legal action.

You are advised that violations of the RHA and/or the CWA may subject you to appropriate administrative and/or judicial action. Legal action could result in a fine and/or a court order to restore the site to preproject conditions. A DA permit application cannot be accepted until all legal issues are resolved. Any comments or defense you wish to submit on your behalf to explain why you failed to obtain a DA permit prior to conducting the above work should be submitted to the Chief, Surveillance and Enforcement Section, at the above address.

If we do not receive a written response from you within 20 days from the date shown below, we will proceed with appropriate action for resolution of the legal issues based on the information in our files.

Should you wish to discuss this matter further, or if you have any questions concerning wetlands and the permitting process, please contact the undersigned issuer at (504) 862-2271, or -2270.

Sincerely,

Edward R. Fleming
Colonel, US Army
District Commander

ISSUED BY: Robert F. Norris JOB TITLE: Investigator 07/31/2012

RECEIPT ACKNOWLEDGED: Charlotte D Randolph DATE: 7/31/12

CAT. NO. 1280

Herman, John M MVN

From: Brad Adams [brad@picciola.com]
Sent: Thursday, July 26, 2012 1:58 PM
To: Herman, John M MVN
Subject: RE: Chackbay site visit report Dec. 16, 2009 (UNCLASSIFIED)

John,

I spoke with Kerry Babin and David Ockman with the parish. They will both be present for the Banana Pump Sta. to St. James Canal Levee and David will have an ATV available to inspect the culverts for the levees afterword.

My cell is 985-691-2145.

Thanks,

BRAD M. ADAMS, E.I.T.
PICCIOLA & ASSOCIATES, INC.
985-632-5786 OFFICE
985-632-2407 FAX

-----Original Message-----
From: Herman, John M MVN [mailto:John.M.Herman@usace.army.mil]
Sent: Thursday, July 26, 2012 11:30 AM
To: Brad Adams
Subject: RE: Chackbay site visit report Dec. 16, 2009 (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Brad, Thursday of next week sounds good. We will meet at the Lady of Prompt Succor Catholic Church at 10 am. After checking out the Banana Pump Sta. to St. James canal levee, we will check the Choupic Levee C as we discussed. Also, I will need to inspect Choupic Levees A & D for culvert compliance. The parish should be present and should provide an ATV or UTV for the inspection since this is several miles of levee. Also, please provide me with a contact number.

Thanks,
John

JOHN M. HERMAN
Senior Project Manager
US Army Corps of Engineers
New Orleans District
Regulatory Branch
Phone: (504) 862-1581
Fax: (504) 862-2574/2117

Herman, John M MVN

From: Herman, John M MVN
Sent: Thursday, August 18, 2011 1:04 PM
To: 'Steve P. Folse'
Subject: RE: Status Report (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Steve, thanks for the quick response. What about the status of the unpermitted levee and road side berm along Choctaw Rd.?

>JOHN M. HERMAN
>Senior Project Manager
>US Army Corps of Engineers
>New Orleans District
>Regulatory Branch
>Phone: (504) 862-1581
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>john.herman@us.army.mil
>
In order to assist us in improving our service to you, please complete the survey found at
http://per2.nwp.usace.army.mil/survey.html

-----Original Message-----
From: Steve P. Folse [mailto:FolseSP@lafourchegov.org]
Sent: Thursday, August 18, 2011 1:01 PM
To: Herman, John M MVN
Subject: RE: Status Report (UNCLASSIFIED)

Afternoon John

The field supervisor told me he in the process of knocking down the section of levee that needs to be returned to ground level.

He claims that all screw gates and culverts are in place.

Once he completes the levy work we will contact you for inspection.

As per the new levee in Choctaw, I will get with Bob Passman next week and look at the drawing and start on the permits.

I'll be here till 5 today and return on Monday

Thanks

Steve Folse

Department of Public Works
P. O. Box 425
4876 Highway 1
Mathews, Louisiana 70375
(985) 493-6915 or (985) 537-7603
Fax (985) 493-6600
stevef@lafourchegov.org

"Nobody Who Ever Gave His Best.....Regretted It."

-----Original Message-----
From: Herman, John M MVN [mailto:John.M.Herman@usace.army.mil]
Sent: Thursday, August 18, 2011 12:38 PM
To: Steve P. Folse
Subject: Status Report (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Steve,

I just want to check to make sure you got this email we sent to you a couple of weeks back and to see if you have any questions. Please let me know the status of these actions.

Thank you,

John

>JOHN M. HERMAN
>Senior Project Manager
>US Army Corps of Engineers
>New Orleans District
>Regulatory Branch
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>Fax: (504) 862-2574/2117
>john.herman@us.army.mil
>
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Herman, John M MVN

From: Herman, John M MVN
Sent: Monday, August 23, 2010 10:31 AM
To: 'kerryb@lafourchegov.org'
Subject: Lafourche Parish Gov't unresolved permit issues

Mr. Babin,

As a recap to our conversation last Thursday, I want to reiterate our concerns for those pending unresolved permit issues still facing Lafourche Parish Government (LPG), as we discussed; and to offer you some recommendations to help get the LPG back into permit compliance.
As you know, we granted emergency authorization (EA) on Dec. 15, 2009, and conducted a site visit with parish officials to determine the most practicable and least environmentally-damaging levee alignment that would provide the desired flood protection while minimizing impacts to forested wetlands, thus resulting in substantial savings to the parish (local tax payers) for the pending compensatory mitigation.

The EA granted resulted in the construction of a levee along Choctaw Rd. from Banana Pump Sta. to St. James Canal, a small levee along Choctaw Rd. ditch near 6th Ward School, and the placement of some fill in the low areas on top of Choupic Levee A (north). Once an EA is granted, we require that a permit application with drawings be submitted to this office within 30-days of the approval so that we can begin the permit process. The Levee A situation was very minor with minimal disturbance to adjacent wetlands and did not require any further action regarding the existing permit. The new levee between Banana Pump Sta. and St. James Canal is still an unresolved issue. We need an adequate set of drawings to move this project forward. If LPG has the capability of producing drawings in-house (i.e., engineering dept., etc.), I recommended to Mr. Passman that he coordinate with them. Mr. Passman indicated that LPG did not have that capability. As such, I then recommended that LPG retain the services of NRP (Scott Nesbit) since they already had them under contract. In addition to the EA, our site visit also discovered an unauthorized activity (permit non-compliance) associated with Choupic Levee C. This activity involved the construction of approximately 700 feet of new levee in wetlands which circumvented the existing levee already in place. It is difficult to understand how this occurred when we had just issued the permit a month or so earlier. Either LPG personnel responsible for this levee did not coordinate its construction with the proper people or the unauthorized activity was done by non-parish personnel, maybe the land owner. I tend to thinks it's the latter. In any event, we need to get these issues resolved and here is what I recommend:

1. Banana Pump sta. to St. James Canal (Corps # MVN 2010-509-CY) – Need a complete application and set of drawings. If parish is not capable of producing an acceptable set, then I suggest that you obtain the service of someone who can assist LPG. Once the application is determined complete, the project will be placed on public notice. Any substantive adverse comments will be forwarded to LPG, or designee, for addressing. Once concerns have been adequately addressed, if any, then compensatory mitigation will be required.

2. Small levee along Choctaw Rd. ditch near 6th Ward School (Corps # MVN 2010-508-CY) – In an effort to assist LPG in this permit and facilitate the resolution of this action, I have personally drawn these drawing, provided the necessary information to be filled in the permit application and forwarded them to Mr. Passman for his review and approval. I received no response. These drawings need to be checked for accuracy and correctness. If OK, please have these drawings signed and emailed back to me. We will resume the permitting process and issued the permit as soon as we can providing there are no outstanding issues, which I don't believe there will be any.

3. Choupic Levee C permit non-compliance (Corps # MVN 2005-1630-CY) – The original permit needs to be modified to show approx. 700 feet of new (unauthorized) levee that will tie into the existing levees (authorized alignments). The existing levee that was circumvented does not provide any flood protection and would need be leveled and returned to preproject elevations. Forested vegetation will be allowed to naturally regenerate in this area. If successful, no additional action will be required. If unsuccessful, or there is a dominance of unwanted exotic species, then replanting will be required.

4. Special permit conditions for Choupic Levees A, C & D require that screw-gate culverts be placed in identified locations to allow for unimpeded hydrologic exchange between the swamp and the area behind the levees. This is a critical requirement since these areas natural hydrology are currently blocked. As permitted, there are 3 screw-gate culverts for Levee A, 8 for Levee D, and 12 for Levee C bringing the total to 23 screw-gate culverts.

By sending this email, I hope I have adequately conveyed our concerns regarding the above unresolved issues. Please let us know the course of action LPG is or will pursue in this matter. Should you have any questions or would like to discuss, please do not hesitate to contact me. Your attention in this matter is greatly appreciated.

John

>JOHN M. HERMAN
>Senior Project Manager
>US Army Corps of Engineers
>New Orleans District
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>Fax: (504) 862-2574/2117
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Herman, John M MVN

From: Herman, John M MVN
Sent: Thursday, July 01, 2010 4:06 PM
To: 'Robert D. Passman'
Subject: Lafourche Parish Gov't after-the-fact permit for small roadside levee along Choctaw Rd. near 6th Ward School (MVN 2010-508-CY)
Attachments: document2010-07-01-151003.pdf

Bob,

I have attached some drawings that I put together to assist you for the Choctaw Rd. roadside levee. Please review and let me know if they're accurate. If so, please sign and date the drawings and return back to me. Also, the permit application was not filled out completely. As such, I have provided the language for those blocks that were not complete. Just put what I have in those blanks. Also, since Charlotte has already signed the permit application, you do not have to get her to resign. Please use the following information to complete the permit application and email back to me:

Block 16: you will have to provide the section/township/range (if not sure, get with somebody who does) Block 18: excavate roadside ditch on north side of Choctaw Rd. and deposit material adjacent to ditch to form a small roadside levee for approx. 1,583 feet. Road side levee will tie-in to existing levees to the east and west. All work will be done from Choctaw Rd. with an excavator. No trees will be cut.
Block 19: To construct and maintain a small roadside levee along the north side of Choctaw Rd. ditch to prevent floodwaters from crossing the road from the north during high water events, thus allowing the road to remain open and safe passage.
Block 20: To construct a small road side levee to prevent flooding of the road during high water events.
Block 21: Approx. 470 cubic yards of existing ditch material Block 22: Approx. 0.18 of an acre Block 23: The project is site specific and cannot be avoided as it will close a gap between two existing levees. The project will minimize adverse impacts by using the smallest levee possible to avoid/minimize road flooding.

Why is it taking you and/or the parish so long to provide the information we requested? What is the status of the other permit applications/drawings for the levee along Choctaw Rd. between Banana Pump Sta. & St. James Canal and the Choupic Levee C modification/noncompliance? After our site visit several weeks back, has the parish considered my recommendation to retain their agents (Gregg Fell/Scott Nesbit) to complete the Choupic Levee C project since they already have the information? Please provide me with the name and phone number of the person heading Dept. Public Works. Also, you told me months back that the screw-gate culverts had been ordered, what is the status of those screw-gated culverts and what is the time-line for their placement into the levees?

Should you have any questions, please do not hesitate to contact me. Your attention in this matter is greatly appreciated.

Thank you,

>JOHN M. HERMAN
>Senior Project Manager
>US Army Corps of Engineers
>New Orleans District
>Regulatory Branch
>Phone: (504) 862-1581
>Fax: (504) 862-2574/2117

>john.herman@us.army.mil
>
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-----Original Message-----
From: Herman, John M MVN
Sent: Thursday, March 18, 2010 4:47 PM
To: 'Robert D. Passman'
Subject: Lafourche Parish Gov't (LPG) permit requests

Bob,

I have reviewed the permit applications for the small ditch levee along Choctaw Rd. near 6th Ward School and the Emergency Authorization levee along Choctaw Rd. between Banana P/S and St. Louis Canal. Both are incomplete and drawings need major help. I sent you a permit packet a week or so ago to help assist you in the permit application and drawings. There are some sample drawings in there that you can use as a guide.

1. The small ditch levee along Choctaw Rd. near 6th Ward School has been assigned Corps Permit No. MVN 2010-508-CY. Blocks 16 & 19-23 were not filled out. Blocks 18 & 19 were not filled out correctly. The drawings need a vicinity map, a plan view drawing showing all aspects of the project, and a cross-sectional drawing. Be sure to include all dimensions and fill quantities. You can also add any pertinent information (i.e., notes, bullets, etc.) that you feel is necessary.

2. The emergency authorization (permit) granted on December 15, 2009, has been assigned Corps Permit No. MVN 2010-509-CY. Block 18 should be a little more descriptive/detailed to better explain the activity. Also, be sure to include all aspects of the project in this block such as are there any structures, pump stations, culverts, etc. involved? How will the area behind the levee (protected side) be drained? Will it tie-in to another system, etc.? All this needs to be explained and then showed in the drawings. Block 21 amount of cubic yards appears to be too much (4,752' long x 14' wide x 6' high = 14,728 c/yds). This is probably inaccurate because the drawing doesn't show the base width of the levee. Block 22 would better be served in acres and not linear feet since it will indicate what the wetland impacts will be. Block 23 should read that the levee was constructed as close Choctaw Rd. as practicable to minimize the amount of forested wetlands that would be enclosed behind the levee. The requirement for the drawings are the same as above.

Also, since I already have a signed application from Mrs. Randolph, she would not have to sign new one. If this is too much to handle, I recommended in my last email that LPG retain the agent that worked on the Choupic Levees. If LPG chooses to do this in-house, they should, at a minimum, utilize current or contracted personnel that are capable of producing adequate drawings such as that produced through a CADD system for example. This will benefit LPG by reducing time, cost and would allow LPG to maintain a computer/digital copy of the drawings in case future modifications are needed.

Should you have any questions, please contact me.

Thank you,

>JOHN M. HERMAN
>Senior Project Manager
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Herman, John M MVN

From: Herman, John M MVN
Sent: Thursday, March 18, 2010 4:47 PM
To: 'Robert D. Passman'
Subject: Lafourche Parish Gov't (LPG) permit requests

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Should you have any questions, please contact me.

Thank you,

>JOHN M. HERMAN
>Senior Project Manager
>US Army Corps of Engineers
>New Orleans District
>Regulatory Branch
>Phone: (504) 862-1581
>Fax: (504) 862-2574/2117

Herman, John M MVN

From: Herman, John M MVN
Sent: Monday, January 04, 2010 11:40 AM
To: Mayer, Martin S MVN
Subject: RE: Lafourche Parish SitRep 22 Dec 2009

Sounds good!

>JOHN M. HERMAN
>Senior Project Manager
>US Army Corps of Engineers
>New Orleans District
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-----Original Message-----
From: Mayer, Martin S MVN
Sent: Monday, January 04, 2010 11:22 AM
To: Jones, Heath E MVN; Herman, John M MVN
Cc: Rosado Rivera, Alejandro J MVN; Stack, Michael J MVN; Krehely, Michael A MVN; Serio, Pete J MVN; Accardo, Christopher J MVN
Subject: RE: Lafourche Parish SitRep 22 Dec 2009

Good morning Heath.

In response to your e-mail, John Herman (X1588) will be working on the Emergency/ATF permits for the subject projects. As stated during our site visit, the parish will have 30 days of having received MVN approval (granted by Chris Accardo on Dec 15, 2009) to come in with the follow up permit application. We are looking to inspect the sites either this week or next, but we have previously scheduled meetings/site visits for other activities we need to work through. Since they have approval to do emergency work, there shouldn't be any outstanding public safety issues. I would suggest we get parish/OEP personnel over here ASAP to go over the ongoing and proposed projects and discuss the application process. Thanks,

Martin

-----Original Message-----
From: Jones, Heath E MVN

Sent: Monday, December 28, 2009 9:17 AM
To: Mayer, Martin S MVN
Cc: Rosado Rivera, Alejandro J MVN; Stack, Michael J MVN; Krehely, Michael A MVN
Subject: FW: Lafourche Parish SitRep 22 Dec 2009

Martin,

See Alex's email below. Lafourche parish is looking for a timeframe for the inspection by regulatory. I'm not sure who is handling these emergency permits for OD, so please pass along to the appropriate person if it's not you.

Thanks,
Heath

-----Original Message-----
From: Rosado Rivera, Alejandro J MVN
Sent: Monday, December 28, 2009 8:59 AM
To: Jones, Heath E MVN
Subject: RE: Lafourche Parish SitRep 22 Dec 2009

Talked with Chris Boudreaux, EOC Director, here is what I got:

Emergency Permit #2: This is near the school, they are filling the ditch, apparently the potato levee is leaking but no harm to the general public.

Emergency Permit#1: this is near the Pump at Choptaw Rd, Holding really good, they should be finished by next Wednesday.

Emergency Permit #3: This is in the Choupic area, the levee behind Landry Ln is done. The other levee that goes across and ties to the existing levee is going slow because the material is really soft. They got another smaller equipment on site to help the others.

Overall, they had .5" to 1" of rain during the end of last week. They sent somebody to check how fast the water was going down and by monitoring marks on the trees, he says its about 1" every 24 hrs. They want to know when somebody is going out there to see the work and he wants to know when does he have to submit the after the fact permit. He said he has never done it in the past and doesn't want to be late doing so.

Let me know if you need anything else from me!

Sincerely;

Alejandro J. Rosado, 23529 EIT, CST II
USACE New Orleans District
West Bank Area Office
5750 Bayou Estate Ave
P.O. Box 2246
Marrero, LA 70072
Office: 504-862-1747
fax: 504-340-1269
Blackberry: 504-235-6727

email: alejandro.j.rosadorivera@usace.army.mil

-----Original Message-----
From: Jones, Heath E MVN
Sent: Monday, December 28, 2009 8:19 AM
To: Rosado Rivera, Alejandro J MVN
Subject: RE: Lafourche Parish SitRep 22 Dec 2009

Anything going on with Lafourche this week?

-----Original Message-----
From: Rosado Rivera, Alejandro J MVN
Sent: Tuesday, December 22, 2009 10:11 PM
To: DLL-MVN-EOC Internal
Cc: Slayter, Joey MVN; Johnson, Jehu B MVN
Subject: Lafourche Parish SitRep 22 Dec 2009

All,

See attached.

Sincerely;

Alejandro J. Rosado, 23529 EIT, CST II
USACE New Orleans District
West Bank Area Office
5750 Bayou Estate Ave
P.O. Box 2246
Marrero, LA 70072
Office: 504-862-1747
fax: 504-340-1269
Blackberry: 504-235-6727
email: alejandro.j.rosadorivera@usace.army.mil

South end EU

After

#114

Chectaw Rd

Small dam [illegible] overflow flood

#119

#120

FH level sign [illegible] a [illegible]

E W Chickamauga Ck. lower nr midway

LAFOURCHE PARISH GOVERNMENT

P.O. Drawer 5548 • Thibodaux, LA 70302 • Telephone 985.446.8427
Thibodaux 800.834.8832 Fax 985.446.8459 • Raceland 800.794.3160 Fax 985.537.7707
www.lafourchegov.org

Charlotte A. Randolph, *Parish President*

Department of Public Works

February 25, 2009

MAR 2 2010

Mr. John Herman
United States Corp of Engineers
New Orleans District
P.O. Box 60207
New Orleans, LA 70160-0267

Dear John,

I am enclosing the application for a permit to the United States Coop of Engineers for the Choctaw Road Project from Banana Pump Station to the St. James Canal. Please contact me with any questions that you may have on this matter.

Sincerely,

Robert D .Passman
Compliance Officer

Certified Mail # 7008 28100001 0824 9169

APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT
(33 CFR 325)

OMB APPROVAL NO. 0710-0003
EXPIRES: 31 August 2012

Public reporting burden for this collection of information is estimated to average 11 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters, Executive Services and Communications Directorate, Information Management Division and to the Office of Management and Budget, Paperwork Reduction Project (0710-0003). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. Please DO NOT RETURN your form to either of those addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the proposed activity.

PRIVACY ACT STATEMENT

Authorities: Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344, Marine Protection, Research, and Sanctuaries Act, Section 103, 33 USC 1413; Regulatory Programs of the Corps of Engineers; Final Rule 33 CFR 320-332. Principal Purpose: Information provided on this form will be used in evaluating the application for a permit. Routine Uses: This information may be shared with the Department of Justice and other federal, state, and local government agencies, and the public and may be made available as part of a public notice as required by Federal law. Submission of requested information is voluntary, however, if information is not provided the permit application cannot be evaluated nor can a permit be issued. One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.

(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)

1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMPLETE
MVN-2010-00509-CY		MAR 02 2010	

(ITEMS BELOW TO BE FILLED BY APPLICANT)

5. APPLICANT'S NAME:
First - Middle - Last -
Company - Lafourche Parish Government
E-mail Address - robertp@lafourchegov.org

6. APPLICANT'S ADDRESS
Address - P.O. Drawer 5548
City - Thibodaux State - La Zip - 70301 Country -

7. APPLICANT'S PHONE NOs. W/AREA CODE
a. Residence b. Business 985 446-8427 c. Fax 985 493-6600

8. AUTHORIZED AGENT'S NAME AND TITLE (an agent is not required)
First - Middle - Last -
Company -
E-mail Address -

9. AGENT'S ADDRESS
Address -
City - State - Zip - Country -

10. AGENT'S PHONE NOs. W/AREA CODE
a. Residence b. Business c. Fax

STATEMENT OF AUTHORIZATION

11. I hereby authorize, Robert Passman to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

Charlotte B Randolph 3/1/10
APPLICANT'S SIGNATURE DATE

NAME, LOCATION, AND DESCRIPTION OF PROJECT OR ACTIVITY

12. PROJECT NAME OR TITLE (see instructions)
Banana Pump Station/ St. James Canal Levee Project

13. NAME OF WATERBODY, IF KNOWN (if applicable)
St. James Canal

14. PROJECT STREET ADDRESS (if applicable)
Address near 1200 Choctaw Road
City Thibodaux State - LA Zip - 70301

15. LOCATION OF PROJECT
Latitude: °N 29.86506 beginning 29o 52 187 end 29o 51 569
Longitude: °W -90.76063 beginning 090o 45 824 end 090o 45 292

16. OTHER LOCATION DESCRIPTIONS, IF KNOWN (see instructions)
State Tax Parcel ID Municipality
Section - 8 Township - 14-S Range - 17-E

17. DIRECTIONS TO THE SITE
From Hwy 20(Chackbay) turn right on Choctaw Rd: travel 2.4 miles, on left is Banana P/S , levee begins there

18 Nature of Activity (Description of project, include all features)

build a levee from Banana P/S(pt A) to St. James Canal (pt B)

19 Project Purpose (Describe the reason or purpose of the project, see instructions)

During heavy rains, flooding occurs along Choctaw Road,potentially flooding roads & homes in area.(This is an ATF permit request)

USE BLOCKS 20-23 IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED

20 Reason(s) for Discharge

Spoils will be used to construct levee to protect this area from flooding. Levee being constructed is 4752' long by 6' in elevation and14' across the top

21 Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards

Type Amount in Cubic Yards	Type Amount in Cubic Yards	Type Amount in Cubic Yards
Dirt/ 28512 cy		

22 Surface Area in Acres of Wetlands or Other Waters Filled (see instructions)

Acres

Or

Liner Feet 4752

23 Description of Avoidance, Minimization, and Compensation (see instructions)

efforts were made during construction to build levee as far a possible away from the trees and other areas to minimise damage to area

24 Is Any Portion of the Work Already Complete? Yes ☑ No ☐ IF YES, DESCRIBE THE COMPLETED WORK

levee is complete with a few exceptions

25 Addresses of Adjoining Property Owners, Lessees, Etc., Whose Property Adjoins the Waterbody (If more than can be entered here, please attach a supplemental list)

Address - Penn J Weldon 340 Hwy 20 other land owner Benny Percle 540 Hwy 304, Thibodaux, LA 70301

City - Thibodaux State - LA Zip - 70301

26 List of Other Certifications or Approvals/Denials Received from other Federal, State, or Local Agencies for Work Described in This Application

AGENCY	TYPE APPROVAL*	IDENTIFICATION NUMBER	DATE APPLIED	DATE APPROVED	DATE DENIED
none					

* Would include but is not restricted to zoning, building, and flood plain permits

27 Application is hereby made for a permit or permits to authorize the work described in this application. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

Charlotte D Randolph 3/1/10

SIGNATURE OF APPLICANT DATE SIGNATURE OF AGENT DATE

The application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than $10,000 or imprisoned not more than five years or both

December 16, 2009

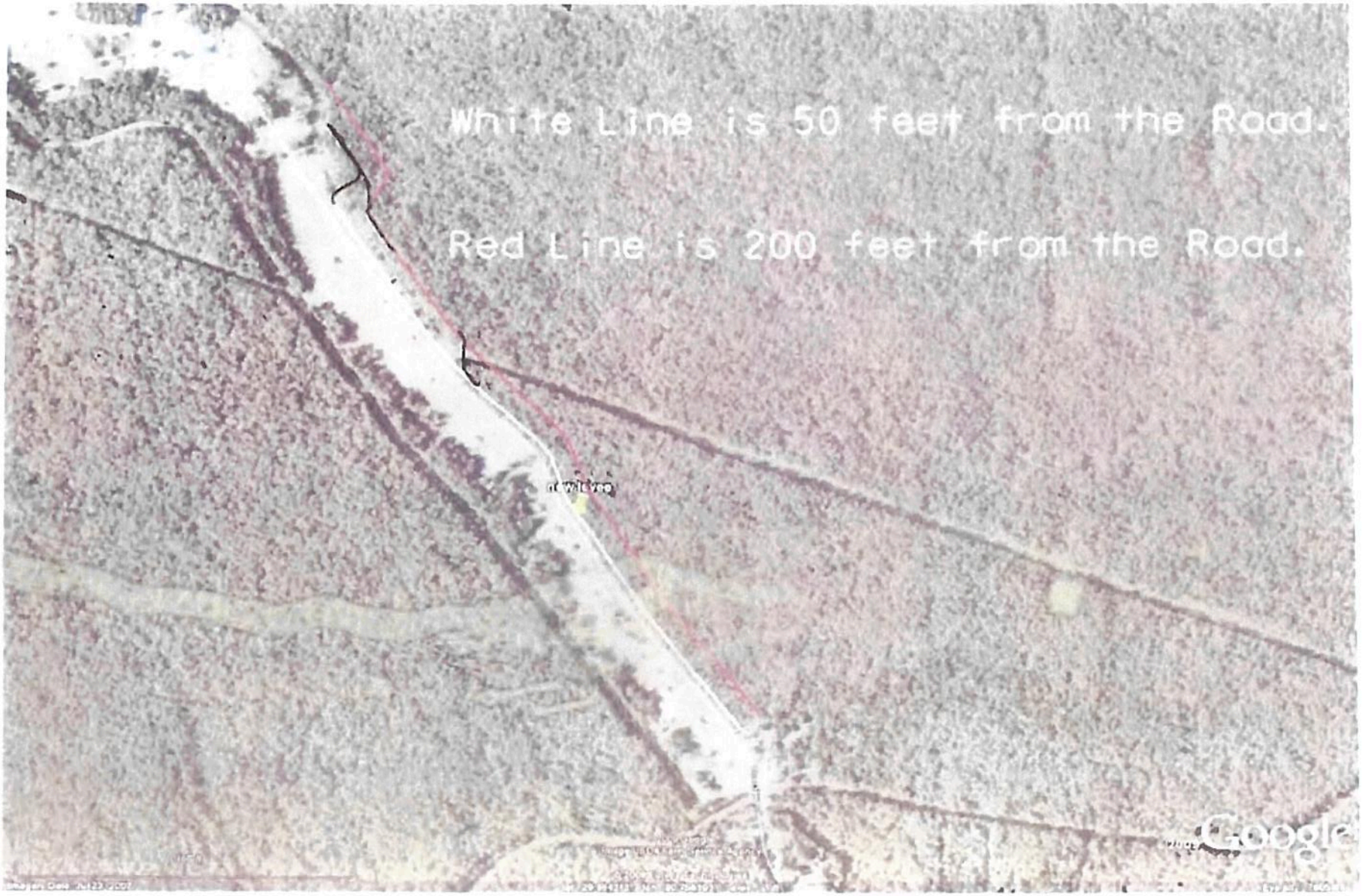
Site visit report for an emergency authorization to Lafourche Parish for potential residential flooding in the Chackbay, LA and Choctaw Road area in upper Lafourche Parish

Corps Regulatory personnel, Martin Mayer and John Herman, and Corps Liaison to Lafourche Parish Jehu Johnson met with Lafourche Parish officials David Ockman and Gary Washington to evaluate levee overtopping in Chackbay and nearby flooding on Choctaw Rd. We were told that homes were being flooded and wanted to assist the parish in the placement of an interim levee. Once onsite, there were no homes flooded but still serious concern for a few as discussed below.

The first area we visited was in Chackbay along a levee (pending permit issuance) that traversed an existing pipeline rights-of-way (ROW). The ROW is approximately 150 feet wide and appears to be slightly lower in elevation compared to the levee at its flanks. This area has elongated water filled boudin bags and sandbags placed on top of the levee holding back the water with only a few inches of freeboard remaining. Parish personnel indicated that the water elevation was higher the day before and acknowledge that it has dropped. There is some seepage underneath/between the sandbags. The levee and sandbags are working at the moment but the concern remains for the next two days where there is high chance of additional rain in the area. Also of concern was a nearby gap in the levee that was part of a restoration order administered by EPA as an interim measure to allow for unimpeded hydrologic exchange between the swamp and wetlands enclosed behind the levee. Levee erosion and seepage through the gap was increasing and so was filled (plugged) to prevent further deterioration. For both locations, a small amount of material was taken (scrapped) from the back side of the levee and used in conjunction with the boudin/sandbags to raise levee elevation where needed. This levee is also known as Chackbay Levee A and is currently in the process of being permitted pending finalization of compensatory mitigation by Lafourche Parish.

The second area we visited and to which most of the attention was focused on was along Choctaw Rd. (Hwy 20) where several sections of road were being overtopped from high water coming from the swamp at the northern side of the road between an existing parish levee/drainage canal (north west) and St. James Canal ? (southeast). This area already has an existing levee on the south side of Choctaw Rd. but <u>no levee</u> along the northern side. There are only two residences on the north side of Choctaw Rd. while the majority of the homes are located on the south side. Choctaw Rd. appeared to be offering some protection for those homes on the south side of the road by serving as a barrier to slow down water, at least to road elevation. Some yards were flooded at various locations. Of the homes observed, none were flooded. There were 2-3 homes that could flood if the water level rises another 6-inches or so. These homes were located on the south side of Choctaw Rd. The other homes observed seem to be built higher in elevation and so didn't appear to be in immediate danger. We also met with a survey crew from Picciola and Associates who were going to flag-out the levee alignment so parish personnel could begin construction of an interim levee to hopefully eliminate any flooding. After investigating the onsite situation, Corps personnel (Regulatory & Liaison representative) along with Lafourche Parish personnel (Mr. Ockman & Mr. Washington) and the head land surveyor discussed the alignment of the interim levee. In an effort to reduce unnecessary impacts to high quality swamp habitat while achieving adequate flood protection for area homes, we indicated that it would be in the best interest of

everyone if the interim levee was placed somewhere within 60 feet of so from Choctaw Rd. Then the parish (applicant) would apply for an after-the-fact permit within 30-days for a permanent structure if they wish. Our main emphasis to the parish personnel and the surveying crew is that they maintain the alignment as close to the road as practicable. Without any geotech data onsite to determine quality of material, we believe the better material to construct the interim levee is located closer to the road. The further distance from the road and into the swamp, the more likely the decline in material quality and the wider and taller the levee would have to be. Also from a compensatory mitigation standpoint, all wetland impacts (primary and secondary) would have to be mitigated for. By keeping the alignment as close to the road, this would help to minimize impacts to the maximum extent practicable, thus reducing future mitigation cost associated with these impacts.


White Line is 50 feet from the Road.
Red Line is 200 feet from the Road.
Google

Before

16 #128

17

20

21

28

29

32

33

Herman, John M MVN

From: Johnson, Jehu B MVN
Sent: Tuesday, December 15, 2009 1:36 PM
To: Herman, John M MVN
Cc: Accardo, Christopher J MVN; DLL-MVN-EOC Internal; Serio, Pete J MVN; Duke, Ronnie W MVN; Colletti, Jerry A MVN; Stack, Michael J MVN; Mayer, Martin S MVN
Subject: RE: Emergency Permit for new levee in Lafourche

John.

At this time the side slopes and width of crown are not known. Since this area is currently under some water they plan on piling the soil up at whatever width it can hold. They plan on working through the rain and mud since they are very worried about the continued drainage through this area.

Access will be straight off of Choctaw Road to the site.

I will tell them to include all the finished dimensions and the other things you included in the ATF permit.

Jehu Johnson, E.I.T.
U.S. Army Corps of Engineers
USACE-MVN-ED-F
504-862-1650 (office)
504-250-3903 (cell)

-----Original Message-----
From: Stack, Michael J MVN
Sent: Tuesday, December 15, 2009 1:13 PM
To: Mayer, Martin S MVN; Herman, John M MVN; Johnson, Jehu B MVN
Cc: Accardo, Christopher J MVN; DLL-MVN-EOC Internal; Serio, Pete J MVN; Duke, Ronnie W MVN; Colletti, Jerry A MVN
Subject: RE: Emergency Permit for new levee in Lafourche

Jehu - Work with the parish to get as many of the details together that you can that Martin is requesting below and forward to John.

John - Jay provided the GPS coordinates and the attached pictures in the original which should give you a good idea of where it is.

Everyone please keep in mind that this flooding is happening now, if we had time to put together maps and plans, we wouldn't need an emergency permit.

Thanks,
Mike

Mike Stack Jr., P.E.
Chief, Emergency Management
US Army Corps of Engineers
New Orleans District
Office: (504) 862-1159
Cell: (314) 809-7036

-----Original Message-----
From: Mayer, Martin S MVN
Sent: Tuesday, December 15, 2009 12:59 PM
To: Colletti, Jerry A MVN; Herman, John M MVN
Cc: Accardo, Christopher J MVN; DLL-MVN-EOC Internal; Stack, Michael J MVN; Serio, Pete J MVN; Duke, Ronnie W MVN
Subject: RE: Emergency Permit for new levee in Lafourche

John:

Please take lead on this. With justification, we can consider granting emergency approval, but we'll need some plans showing the work, where it's located, size of borrow areas, levee dimensions, access routes, etc. We got a description below, but no maps or plans. Any work approved will require mitigation for wetland impacts and, unless allowed to stay via after the fact permit approval, will be temporary. Thanks.

Martin
-----Original Message-----
From: Colletti, Jerry A MVN
Sent: Tuesday, December 15, 2009 12:33 PM
To: Mayer, Martin S MVN
Cc: Accardo, Christopher J MVN; DLL-MVN-EOC Internal; Stack, Michael J MVN; Serio, Pete J MVN
Subject: RE: Emergency Permit for new levee in Lafourche

Martin: Pete's gone for the day. Please coordinate with the EOC on this matter.

Gerard A. (Jerry) Colletti
Assistant Chief, Operations Division
504-862-2302
504-862-1720 (fax)
jerry.a.colletti@usace.army.mil

-----Original Message-----
From: Stack, Michael J MVN
Sent: Tuesday, December 15, 2009 11:51 AM
To: Serio, Pete J MVN
Cc: Accardo, Christopher J MVN; Colletti, Jerry A MVN; DLL-MVN-EOC Internal
Subject: FW: Emergency Permit for new levee in Lafourche
Importance: High

Pete,

Please see below and attached. Jehu is our Liaison out in Lafourche Parish. The Parish is requesting an emergency permit to construct levees to prevent flooding on the area. Can we provide assistance?

Thanks,
Mike

Mike Stack Jr., P.E.
Chief, Emergency Management
US Army Corps of Engineers
New Orleans District
Office: (504) 862-1159
Cell: (314) 809-7036

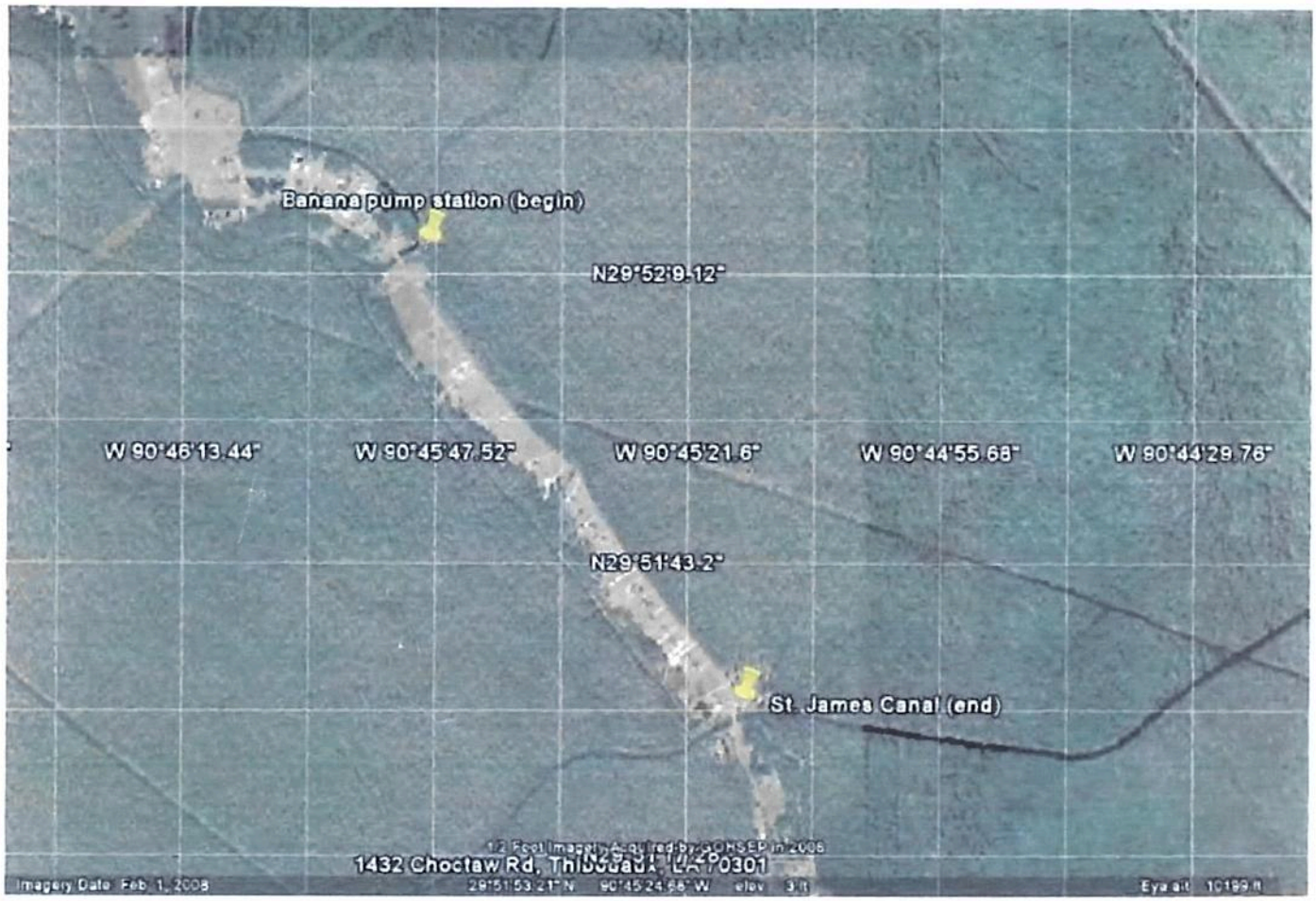
-----Original Message-----
From: Johnson, Jehu B MVN
Sent: Tuesday, December 15, 2009 11:32 AM
To: Stack, Michael J MVN
Cc: DLL-MVN-EOC Internal; Slayter, Joey MVN; Eric G. Benoit
Subject: Emergency Permit for new levee in Lafourche

I have attached a map of the area and the GPS coordinates of the start and stop are as follows:
Start 29.863104N 90.758387W
Stop 29.859585N 90.754062W

The area they wish to build the levee is to the east of Choctaw Road. It would tie into two existing local levees. The road is low in several spots and lets water over it. They have ROW to 200 feet past the edge of road. The area is heavily forested, some of which will need to come down to place the levee. They plan on digging a borrow pit next to the levee and piling the dirt up. The current plan is for the levee to be 5 to 6 feet high. I have been told 200 homes are directly threatened by the floodwaters with several more if the water causes a nearby bayou to overtop as well.

They have requested not only a emergency permit but a permit to leave the levee permanently in place afterwards.

Thank you,
Jehu Johnson, E.I.T.
U.S. Army Corps of Engineers
USACE-MVN-ED-F
504-862-1650 (office)
504-250-3903 (cell)


Banana pump station (begin)
N29°52'9.12"
W 90°46'13.44"
W 90°45'47.52"
W 90°45'21.6"
W 90°44'55.68"
W 90°44'29.76"
N29°51'43.2"
St. James Canal (end)
1432 Choctaw Rd, Thibodaux, LA 70301
Imagery Date: Feb 1, 2008
29°51'53.21" N 90°45'24.66" W elev 3 ft
Eye alt 10199 ft

EPA REGION 6, Wetlands Protection Section ICIS ✓ Chart ✓

WETLANDS ENFORCEMENT FIELD INSPECTION REPORT FORM

[This form is to be completed in the field then placed into the case file. After that, no changes shall be made to these notes unless clearly noted and dated on the form. A supplemental information form should be used for additional information obtained after the field inspection]

Pre-Inspection Planning Checklist: (make sure you have considered these things):

___ Expected weather/appropriate clothing
___ Check In/Out plan
___ Hard hat, sunglasses, gloves
___ Vehicle checked, including fuel level
___ Camera, GPS, shovel
___ Water, First Aid Kit

Date of Inspection 03 / 12 / 2014 EPA Inspector(s) Raul Gutierrez
Case/File#_____ Statute: CWA 404 Other:_____

Others Present (List)

Name	Representing

1. TYPE OF ENFORCEMENT INSPECTION

(check one in each column if Compliance Monitoring Action involved)

Initial Site Visit _____
Follow-up Site Visit X CWA-06-2013-2715
ATF Permit Compliance _____
Enforcement Compliance____
Other_____

Compliance Monitoring Reason:
Citizen complaint _____
Core program _____

2. SITE LOCATION / FACILITY:

Case Name: (discharger/Company/site) : Lafourche Ph Govt

Address/City/County/State 1348 Choctaw Rd

Thibodaux State LA Zip 70301

Lat.: 29.865 Long.: -90.759
(measured in field _____ estimated in office ✓)

Other Location info _____

3. REPORTING (circle one for each item)

Was a potential violation observed? (Y) N
Did you inform the facility of this violation during the inspection? Y (N)
Did the facility take any actions towards restoring the violation while you were there? Y (N)
Did you discuss general wetlands regulations with a representative of the project? Y (N)
Did you discuss project/site specific wetlands regulations with a representative of the project? Y (N)

4. DESCRIPTION OF WORK (Describe violation here, also attach sketch on page 3)

no restoration has commenced

Work in Progress? _____ Date work started? _____

Approximate Amount of Fill _____

5. PHOTOS:
How many photos were taken? Ø
Approximate location and perspective of each photo should be noted in field sketch (page 3)

6. BRIEF DESCRIPTION OF WETLANDS
Description of Wetlands Impacted, including dominant plant species

Soils Information: _____

Hydrology: _____

Description of Impacts to wetland functions (current/planned)

7. PARTY DOING WORK: Lafourche Pl Govt

Address : 402 Green St Thibodaux, LA 70302

Phone: 985-446-8427

Information Provided: _____

Other responsible parties: _____

Address : _____

Phone: _____

Information Provided: _____

Photo Log: (Note point of photo in field sketch)

Subject/Direction	File Name/number (can be added at office)
1:	
2:	
3.	
4:	
5:	
6.	

Field Notes and sketches prepared by _____ (sign)

EPA REGION 6, Wetlands Protection Section ICIS____ Chart____

WETLANDS ENFORCEMENT FIELD INSPECTION REPORT FORM

[This form is to be completed in the field then placed into the case file. After that, no changes shall be made to these notes unless clearly noted and dated on the form. A supplemental information form should be used for additional information obtained after the field inspection]

Pre-Inspection Planning Checklist: (make sure you have considered these things):

___ Expected weather/appropriate clothing
___ Check In/Out plan
___ Hard hat, sunglasses, gloves
___ Vehicle checked, including fuel level
___ Camera, GPS, shovel
___ Water, First Aid Kit

Date of Inspection 03 / 30 / 2016
Case/File# WE-0434

EPA Inspector(s) Raul Gutierrez
Statute: CWA 404 Other:_____

Others Present (List)

Name	Representing
Jay	EPA
Rob Heffner, John Herman, Kenny Blanke	USACE
Jim Cantrell, Dan Mathieune	Lafourche Pb Govt

1. TYPE OF ENFORCEMENT INSPECTION

(check one in each column if Compliance Monitoring Action involved)

Initial Site Visit _____
Follow-up Site Visit ✓
ATF Permit Compliance _____
Enforcement Compliance____
Other_____

Compliance Monitoring Reason:
Citizen complaint _____
Core program _____

2. SITE LOCATION / FACILITY:

Case Name: (discharger/Company/site) : Lafourche Pb Choctaw Rd levee

Address/City/County/State 963 to 1343 Choctaw Rd

Thibodaux LA State LA Zip 70301

Lat.: 29.8659 Long.: -90.7598
(measured in field _____ estimated in office ✓)

Other Location info _____

3. REPORTING (circle one for each item)

Was a potential violation observed? (Y) N
Did you inform the facility of this violation during the inspection? (Y) N
Did the facility take any actions towards restoring the violation while you were there? Y (N)
Did you discuss general wetlands regulations with a representative of the project? (Y) N
Did you discuss project/site specific wetlands regulations with a representative of the project? (Y) N

4. **DESCRIPTION OF WORK** (Describe violation here, also attach sketch on page 3)

levee in cypress tupelo swamp

Work in Progress? _____ Date work started? _____

Approximate Amount of Fill _____

5. **PHOTOS**:
How many photos were taken? Ø
Approximate location and perspective of each photo should be noted in field sketch (page 3)

6. **BRIEF DESCRIPTION OF WETLANDS**
Description of Wetlands Impacted, including dominant plant species

CT swamp w oak component

Soils Information: _____

Hydrology: _____

Description of Impacts to wetland functions (current/planned)

7. **PARTY DOING WORK**: Lafourche Pl Govt

Address : PO Drawer 5548 Thibodaux, LA 70301

Phone: _____

Information Provided: _____

Other responsible parties: _____

Address : _____

Phone: _____

Information Provided: _____

PROJECT/SITE SKETCH

Photo Log: (Note point of photo in field sketch)

Subject/Direction	File Name/number (can be added at office)
1:_____	_____
2:_____	_____
3._____	_____
4:_____	_____
5:_____	_____
6._____	_____

Field Notes and sketches prepared by _____ (sign)

LAFOURCHE PARISH GOVERNMENT
feeding & fueling America

402 Green Street • Thibodaux, LA 70302
Telephone 985.446.8427 • Fax 985.446.3528
www.lafourchegov.org

Charlotte A. Randolph, Parish President **Executive**

August 29, 2013

Dr. Raul Gutierrez, Ph.D.
Wetlands Section (6WQ-EM)
US EPA Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202

RE: Administrative Order, Docket Number CWA-06-2013-2715

Dear Dr. Gutierrez:

In response to the above-captioned Administrative Order, please accept this letter as Lafourche Parish Government's official Corrective Action Plan for the violation that occurred along Choctaw Road in Thibodaux, Louisiana. Please note the following steps that will be taken by Lafourche Parish Government to comply with your office's Administrative Order.

Lafourche Parish has contracted with a local engineer, Picciola and Associates, Inc., to complete the After the Fact (ATF) Permit Application on behalf of the Parish. We have submitted our As Built Drawings to the New Orleans District USACE to indicate the alignment in which the levee was constructed. We have directed our engineer to review his construction plans for the originally approved levee segment so that the unauthorized segment of levee may be degraded and originally approved alignment may be constructed in the proper manner.

We plan to secure the final After the Fact permit within 60 days and then proceed with the degrading and reconstruction of the levee segment. We anticipate that we can complete the degrading and reconstruction of the new levee segment within 30 to 45 days of approval. Enclosed you will find the As Builts Drawings representing the depiction of the levee location.

We will also be working with the New Orleans District to reduce impacts to wetland areas during this work. The Best Management Practices will be utilized both during and after construction to ensure that impacts are minimized. While we anticipate some mitigation costs from the original unauthorized construction, we would like to explore the option of mitigating on site in the hopes that we can restore the area actually impacted rather than purchasing mitigation bank credits.

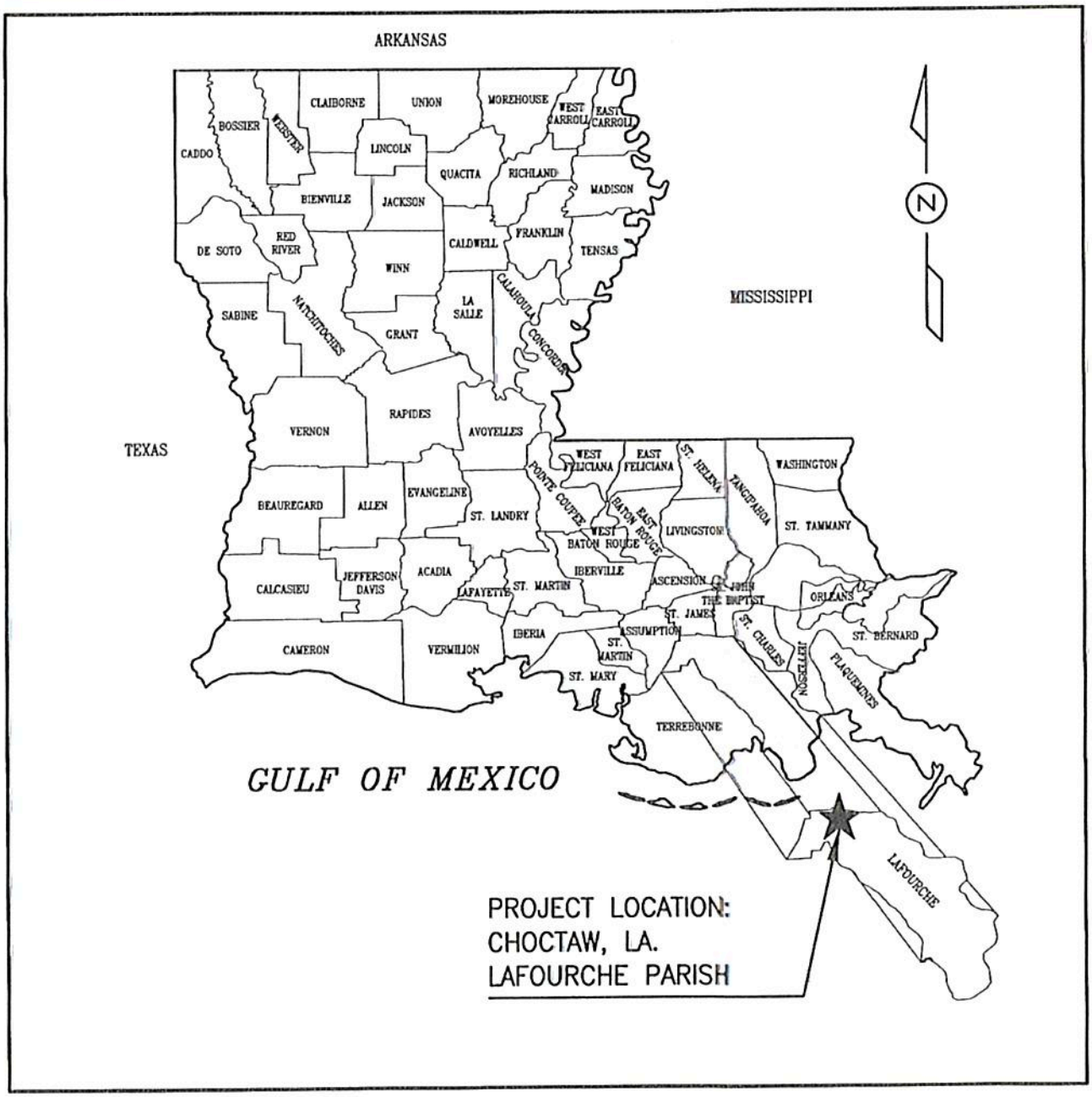
On behalf of Lafourche Parish Government, I would like to thank you for working with us throughout this project so that we can continue to provide flood protection to the residents of this area.

If you have any questions please feel free to contact me at 985-446-8427 or via email at chaissonap@lafourchegov.org.

Sincerely,

Archie P. Chaisson, III
Parish Administrator
Lafourche Parish Government

Cc: Martin Mayer, Regulatory Branch Chief, USACE – NOD
Joe Picciola, Picciola and Associates, Inc.



STATE VICINITY MAP

NOT TO SCALE

BANANA PUMP STATION TO ST. JAMES CANAL LEVEE

PROPOSED: BANANA PUMP STATION TO ST. JAMES CANAL PROTECTION LEVEE

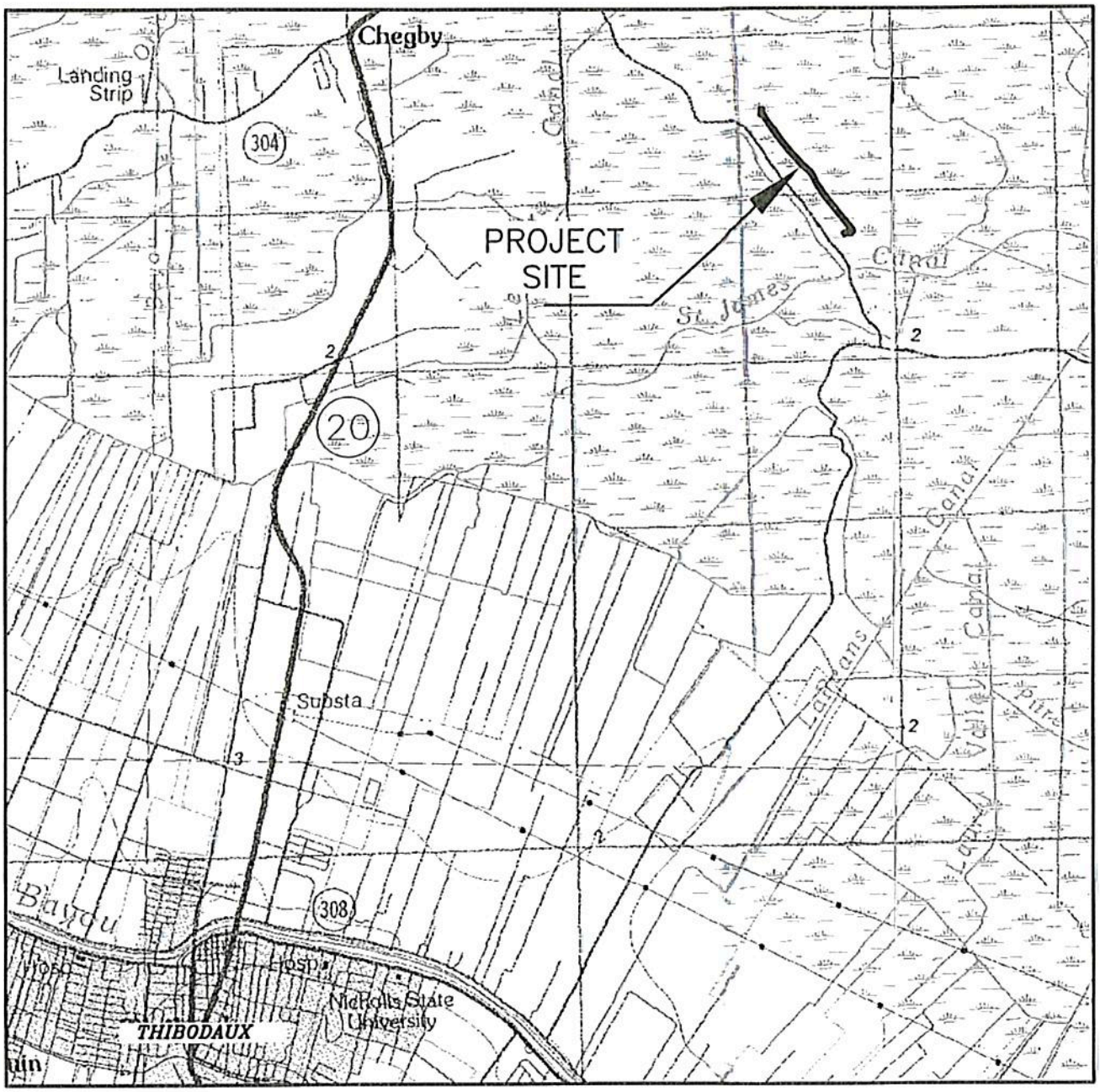
APPLIED BY: LAFOURCHE PARISH GOVERNMENT

AREA: CHOCTAW, LOUISIANA, LAFOURCHE PARISH

PRELIMINARY

PICCIOLA & ASSOCIATES, INC.
CIVIL ENGINEERS
LAND SURVEYORS
NAVAL ARCHITECTS
MARINE ENGINEERS
P.O. BOX. 687
CUT OFF, LOUISIANA 70345
(985) 632-5786

J.N. 0112-1201 DATE: 06-25-12



LOCAL VICINITY MAP

5,000 0 5,000

SCALE: 1" = 5,000'

PROPOSED: PROTECTION LEVEE LOCATED BETWEEN BANANA PUMP STATION TO ST. JAMES CANAL LEVEE

APPLIED BY: LAFOURCHE PARISH GOVERNMENT

AREA: NEAR CHOCTAW LOUISIANA – LAFOURCHE PARISH

PROPERTY IS LOCATED IN SECTION 8 AND 17 OF T–14–S AND R–17–E

LATITUDE = 29° 51' 55.12"

LONGITUDE = 90° 45' 33.36"

(LAT. & LONG. IS LOCATED APPROXIMATELY IN THE CENTER OF THE SITE)

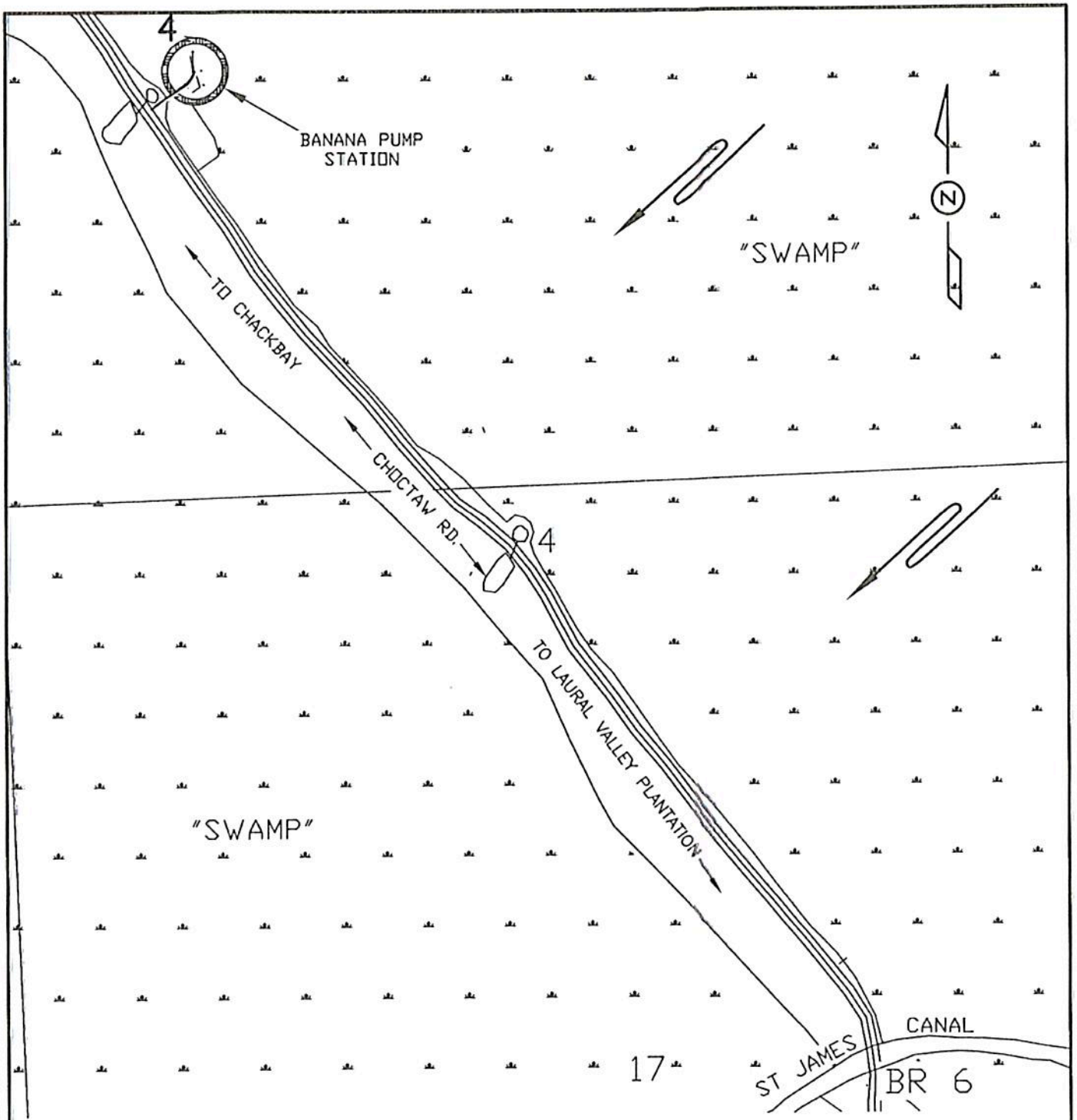
NOTES:

1. ALL ELEVATIONS ARE BASED OFF OF NORTH AMERICAN VERTICAL DATUM (N.A.V.D.) OF 1988, U.S. SURVEY FEET, EPOCH 2006.81 DATA.

PRELIMINARY

PICCIOLA & ASSOCIATES, INC.
CIVIL ENGINEERS · NAVAL ARCHITECTS
LAND SURVEYORS · MARINE ENGINEERS
P.O. BOX. 687
CUT OFF, LOUISIANA 70345
(985) 632-5786

J.N. 0112–1201 DATE: 06–25–12



OVERVIEW SITE PLAN PRE-EXISTING CONDITIONS

600 0 600
SCALE: 1" = 600'

NOTE:
DURING 2009 HEAVY RAIN HIGH WATER FLOWS EAST TO WEST

LEGEND
WETLAND SWAMP
WATER FLOW

PRELIMINARY

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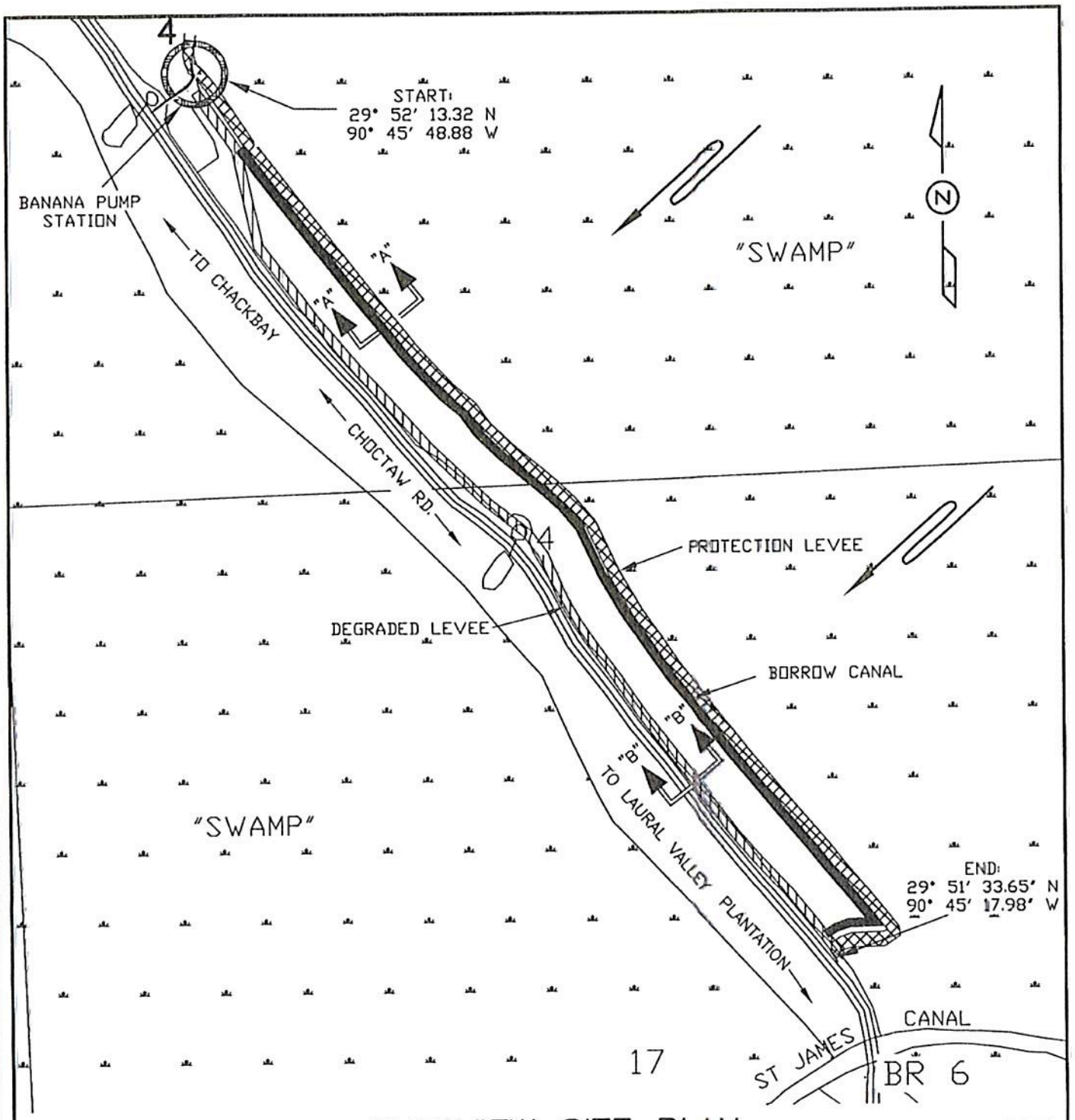
J.N. 0112-1201 DATE: 06-25-12 SHEET 3 OF 5



OVERVIEW SITE PLAN

600 0 600

SCALE: 1" = 600'

PROTECTION LEVEE

LEVEE LENGTH: ±5,280 FT.
LEVEE APPROXIMATE AREA: 9.92 ACRES

EMERGENCY LEVEE

LEVEE LENGTH: ±4,725 FT.
LEVEE APPROXIMATE AREA: 7.58 ACRES

PRELIMINARY

NOTE:
DURING 2009 HEAVY RAIN HIGH WATER FLOWS EAST TO WEST

LEGEND

- CROSS SECTION
- PROTECTION LEVEE
- DEGRADED EMERGENCY LEVEE
- WETLAND SWAMP
- BORROW CANAL
- WATER FLOW

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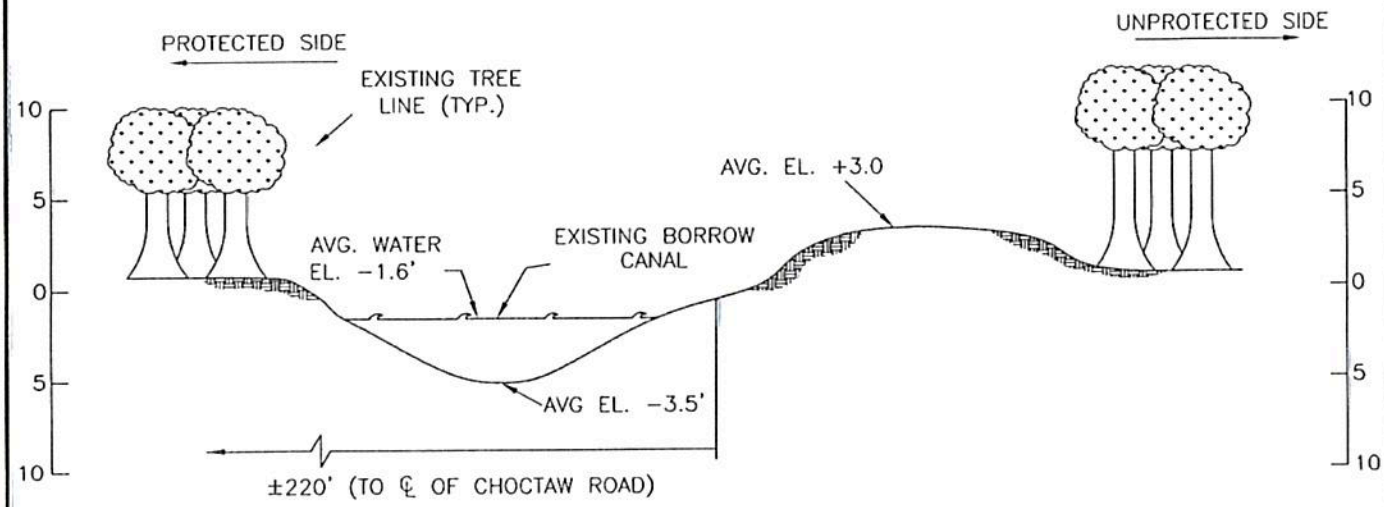
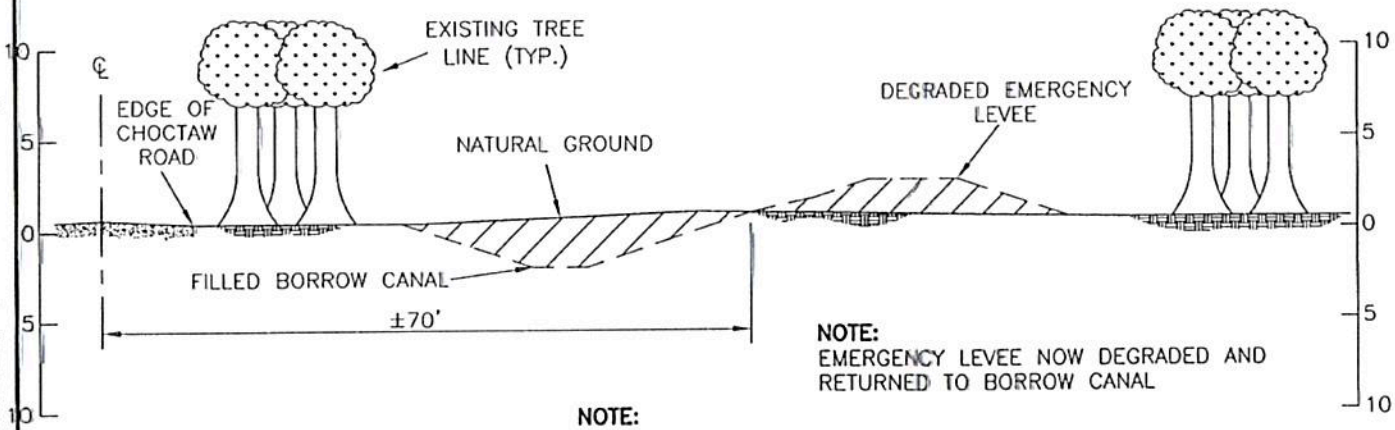
J.N. 0112-1201 DATE: 06-25-12 SHEET 4 OF 5

CROSS SECTION "A"–"A"
PROTECTION LEVEE



CROSS SECTION "B"–"B"
DEGRADED EMERGENCY LEVEE



NOTE:

1. EMERGENCY LEVEE WAS BUILT DURING FLOOD EVENT IN 2009. LEVEE STARTED AT BANANA PUMP STATION WITH AN OFFSET OF ±200 FT. FROM THE CENTERLINE OF CHOCTAW ROAD. AFTER ±350 FT. THE ALIGNMENT OF THE LEVEE SHIFTED TOWARD CHOCTAW ROAD AND CONTINUED TO RUN ADJACENT TO CHOCTAW ROAD UNTIL IT REACHED THE ST. JAMES CANAL.
2. AFTER THE FLOOD EVENT, HIGH WATERS FELL TO NORMAL LEVELS AND THE PARISH WAS ABLE TO CONSTRUCT THE PROTECTION LEVEE ±200FT FROM THE CENTERLINE OF CHOCTAW ROAD. AFTER THE PROTECTION LEVEE WAS COMPLETE, THE EMERGENCY LEVEE WAS RETURNED TO ITS PRE–EXISTING CONDITION BY DEGRADING THE MATERIAL AND PLACING IT BACK INTO THE BORROW CANAL.

20 0 20

HORIZONTAL SCALE: 1" = 20'

10 0 10

VERTICAL SCALE: 1" = 10'

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PRELIMINARY

J.N. 0112–1201 DATE: 06–25–12 SHEET 5 OF 5

EPA REGION 6, Wetlands Protection Section ICIS ✓ Chart ✓

WETLANDS ENFORCEMENT FIELD INSPECTION REPORT FORM

[This form is to be completed in the field then placed into the case file. After that, no changes shall be made to these notes unless clearly noted and dated on the form. A supplemental information form should be used for additional information obtained after the field inspection]

Pre-Inspection Planning Checklist: (make sure you have considered these things):

___ Expected weather/appropriate clothing
___ Check In/Out plan
___ Hard hat, sunglasses, gloves
___ Vehicle checked, including fuel level
___ Camera, GPS, shovel
___ Water, First Aid Kit

Date of Inspection 08 / 14 / 2013 EPA Inspector(s) Raul Gutierrez
Case/File#_____ Statute: CWA 404 Other:_____

Others Present (List)

Name	Representing
Alison Kitto	EPA
Brian Oberlies	USACE
Mike Windham	USACE
Archie	Lafourche Pb Govt

1. TYPE OF ENFORCEMENT INSPECTION

(check one in each column if Compliance Monitoring Action involved)

Initial Site Visit ✓
Follow up Site Visit_____
ATF Permit Compliance _____
Enforcement Compliance____
Other_____

Compliance Monitoring Reason:
Citizen complaint _____
Core program ✓

2. SITE LOCATION / FACILITY:

Case Name: (discharger/Company/site) : Choctaw Road Levee

Address/City/County/State 963 to 1343 Choctaw Road
Thibodaux LA State LA Zip 70301

Lat.: 29.8659 Long.: -90.7598
(measured in field _____ estimated in office ✓)

Other Location info _____

3. REPORTING (circle one for each item)

Was a potential violation observed? (Y) N
Did you inform the facility of this violation during the inspection? (Y) N
Did the facility take any actions towards restoring the violation while you were there? Y (N)
Did you discuss general wetlands regulations with a representative of the project? (Y) N
Did you discuss project/site specific wetlands regulations with a representative of the project? (Y) N

4. DESCRIPTION OF WORK (Describe violation here, also attach sketch on page 3)

levee in cypress tupelo swamp

Work in Progress? No Date work started?

Approximate Amount of Fill

5. PHOTOS:
How many photos were taken? 8
Approximate location and perspective of each photo should be noted in field sketch (page 3)

6. BRIEF DESCRIPTION OF WETLANDS
Description of Wetlands Impacted, including dominant plant species

cypress tupelo swamp w/some oak closer to road

Soils Information:

Hydrology: tidally influenced

Description of Impacts to wetland functions (current/planned)

wetlands cleared & filled; some wetlands hydrologically isolated

7. PARTY DOING WORK: Lafourche Pk Govt

Address : PO Drawer 5548, Thibodaux, LA 70301

Phone:

Information Provided:

Other responsible parties:

Address :

Phone:

Information Provided:

 PROJECT/SITE SKETCH

see Corps diagram

Photo Log: (Note point of photo in field sketch)

Subject/Direction	File Name/number (can be added at office)
1:	
2:	
3.	
4:	
5:	
6.	

Field Notes and sketches prepared by [signature] (sign)

31 Jul 12

DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P.O. BOX 60267
NEW ORLEANS, LOUISIANA 70160-0267

CEASE AND DESIST ORDER

REPLY TO
ATTENTION OF

Operations Division
Surveillance and Enforcement Section

CASE NUMBER: MVN 2012-01922-SW

ISSUED TO: Honorable Charlotte Randolph dba Lafourche Parish Government

ADDRESS: P.O Drawer 5548, Thibodeaux, Louisiana 70301 PHONE: 985-446-8427

LOCATION OF WORK: At a point 200' east and parallel to/from 963 to 1200 Chocktaw Road, in Section 8, Township 14 South, Range 17 East, Thibodeaux, Lafourche Parish, Louisiana 70301

CHARACTER OF WORK: Unauthorized re-distribution of fill material in association with mechanized land-clearing in wetlands. Unauthorized deposition of fill material in wetlands and waters of the U.S.

APPARENT VIOLATION OF: [X] Section 10 of the Rivers and Harbors Act (RHA); [ ] Section 13 of the RHA; [X] Section 301 of the Clean Water Act (CWA); and/or [ ] Section 404 of the CWA.

This work was performed in waters of the United States and is therefore subject to Department of the Army (DA) regulatory authority. You are directed not to perform or allow any further unauthorized work at this site until proper authorization has been granted. Failure to abide by this Cease and Desist Order will result in appropriate legal action.

You are advised that violations of the RHA and/or the CWA may subject you to appropriate administrative and/or judicial action. Legal action could result in a fine and/or a court order to restore the site to preproject conditions. A DA permit application cannot be accepted until all legal issues are resolved. Any comments or defense you wish to submit on your behalf to explain why you failed to obtain a DA permit prior to conducting the above work should be submitted to the Chief, Surveillance and Enforcement Section, at the above address.

If we do not receive a written response from you within 20 days from the date shown below, we will proceed with appropriate action for resolution of the legal issues based on the information in our files.

Should you wish to discuss this matter further, or if you have any questions concerning wetlands and the permitting process, please contact the undersigned issuer at (504) 862-2271, or -2270.

Sincerely,

Edward R. Fleming
Colonel, US Army
District Commander

ISSUED BY: Robert F. Norris JOB TITLE: Investigator 07/31/2012

RECEIPT ACKNOWLEDGED: Charlotte O Randolph DATE: 7/31/12

OVER

VIOLATION REPORT FORM

ORM #: 2012-01922-SW DATE REPORTED: 7/30/12

REPORT TAKEN BY: COE-RAH

DATE ASSIGNED: 7/30/12 INVESTIGATOR: COE-RFN

V-NAME: Randolph, Charlotte

d/b/a: Lafourche Parish Government

V-ADDRESS: E. of 963 to 1343 Choctaw Rd.
Thibodeaux, Louisiana 70301

AGENT:

CONSULTANT: Picciola & Associates, Inc.

TELEPHONE NUMBERS	TYPE
(985) 446-8427	Office
(985) 493-6600	Fax
( ) -	
( ) -	
(985) 632-5788	Office

PERSON MAKING VIOLATION ALLEGATION: COE-CY/Application

TELEPHONE NUMBER: ( ) - TYPE:

DESCRIPTION OF VIOLATION: Unauthorized deposition of fill material in wetlands and waters of the US. Unauthorized redistribution of fill material in association with mechanized land-clearing in wetlands and waters of the US.

LOCATION INFORMATION

PARISH: Lafourche SITE SIZE: 7.9+acres WW: St. James Canal/Grand Bayou

SECTION: 8, 17 Quad: Thibodaux NE (50C)

TOWNSHIP: 14S Lat: 29.864657 Soil Map: PH29SS pg 2,8

RANGE: 17E Long: -90.759119 Soil Types: BB, Cm

AUTH: ☐ 10 ☐ 404 ☒ BOTH

OTHER SITE INFORMATION: In CZ.
Protection Levee from Banana Pump Sta. (PT A) to St. James Cnl Protection Levee (PT B) (ATF).
HUC: 08090301 East Central Louisiana Coastal. Louisiana. NWI - PFO2F.

INITIAL CONTACT DATE: 7/30/12 BY: COE-RFN

☒ Existing JD #: 2003-00068-JLM part of project site (Boudreaux site @ 963 Choctaw Rd).

☒ Permit Exists - P#: EUA MVN 2010-00509-CY for first Protection Levee.

☐ Not a Regulated Activity - [NPR]

☐ No Violation Exists - [NPR]

DATE VIOLATION CONFIRMED: 7/30/12

☒ Cease and Desist Information Complete Date: 7/30/12

☒ Cease and Desist Order: Type: Field Rcvd: 7/31/12 Comments: - Rcvd:

☐ Tolling Agreement: - Rcvd: Forwarded:

☒ ATF Application: - Rcvd: 7/30/12 Forwarded:

☐ JD #: Finish Date: Forwarded:

☐ Restoration -

☐ Admin. Close -

OTHER RESOLUTION:

DATE RESOLVED: DATE CLOSED:

NOTES: 08/02/2012: Field site investigation this date revealed unauthorized levee construction in tidal cypress swamp. Emergency Use Authorization for original levee authorized placement of levee at a point parallel and diagonal to Choctaw Rd, unauthorized levee placed approximately 200' from the centerline of Choctaw Rd. The emergency levee was returned to pre-existing condition by (cont)

LAFOURCHE PARISH GOVERNMENT
feeding & fueling America

402 Green Street • Thibodaux, LA 70302
Telephone 985.446.8427 • Fax 985.446.3528
www.lafourchegov.org

Charlotte A. Randolph, Parish President

Executive

June 18, 2014

Dr. Raul Gutierrez, Ph.D.
Wetlands Section (6WQ-EM)
US EPA Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202

RE: Administrative Order, Docket Number CWA-06-2013-2715

Dear Dr. Gutierrez:

In response to the above mentioned Administrative Order and our letter containing our corrective action plan dates 29 August 2013 we would like to formally request that the Administrative Order be waived and that Lafourche Parish be allowed to leave the existing levee where it is currently located. This request is based on multiple factors including economics, continued flood protection for that community and further damage to the wetland area.

The levee, as it exists today, was built during an emergency situation to protect a community for flooding. We do accept responsibility for the survey markers being placed in the wrong location; however the action at the time necessitated a fast response to protect our residents. For the parish to degrade the existing levee from the Banana Pump Station to the pipe line crossing would cost us significant time and money, not only in labor and fuel costs but also in additional mitigation costs for the damage we will cause by moving this levee. The parish will also have to buy our several different property owners along that segment of levee to be able to build the levee in the proper location. This is money that the parish has not budgeted for and cannot afford.

The levee, as it exists today, provides flood protection for 100 homes and several businesses within the Choctaw Community. Removing this levee would increase their vulnerability and could lead to major flooding damage during a severe or tropical weather event. As stated above, this levee was built during an emergency situation, as were most of the levees in the Sixth Ward of Lafourche parish, to protect our resident from impending flooding. Forcing the removal of this levee would reverse several years to continued flood protection for this area and leave our resident at risk.

Finally, the levee as it exists today was built in a wetland area and we are prepared to mitigate for those impacts. However, forcing us to degrade the existing levee and move it inward toward Choctaw Road would cause additional damage to the wetland areas and force us to incur additional mitigation costs.

I believe that when you weigh the economic, flood protection and wetland impacts you will also see that the best course of action is to leave the existing levee in its current location. We are prepared however, to act on the Corrective Action Plan submitted to you last year that would let the levee segment from the Banana Pump Station to the Pipeline Crossing remain and we would move the segment from the Pipeline Crossing to the St. James Canal to the approved location. Again we ask for your consideration in this matter and we are willing to meet with you and your superiors in Dallas if necessary.

If you have any questions please feel free to contact me at 985-446-8427 or via email at chaissonap@lafourchegov.org.

Sincerely,

Archie P. Chaisson, III
Parish Administrator
Lafourche Parish Government

Cc: Martin Mayer, Regulatory Branch Chief, USACE – NOD
Joe Picciola, Picciola and Associates, Inc.

LAFOURCHE PARISH GOVERNMENT

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Charlotte A. Randolph, Parish President

Executive

August 29, 2013

Dr. Raul Gutierrez, Ph.D.
Wetlands Section (6WQ-EM)
US EPA Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202

RE: Administrative Order, Docket Number CWA-06-2013-2715

Dear Dr. Gutierrez:

In response to the above-captioned Administrative Order, please accept this letter as Lafourche Parish Government's official Corrective Action Plan for the violation that occurred along Choctaw Road in Thibodaux, Louisiana. Please note the following steps that will be taken by Lafourche Parish Government to comply with your office's Administrative Order.

Lafourche Parish has contracted with a local engineer, Picciola and Associates, Inc., to complete the After the Fact (ATF) Permit Application on behalf of the Parish. We have submitted our As Built Drawings to the New Orleans District USACE to indicate the alignment in which the levee was constructed. We have directed our engineer to review his construction plans for the originally approved levee segment so that the unauthorized segment of levee may be degraded and originally approved alignment may be constructed in the proper manner.

We plan to secure the final After the Fact permit within 60 days and then proceed with the degrading and reconstruction of the levee segment. We anticipate that we can complete the degrading and reconstruction of the new levee segment within 30 to 45 days of approval. Enclosed you will find the As Builts Drawings representing the depiction of the levee location.

We will also be working with the New Orleans District to reduce impacts to wetland areas during this work. The Best Management Practices will be utilized both during and after construction to ensure that impacts are minimized. While we anticipate some mitigation costs from the original unauthorized construction, we would like to explore the option of mitigating on site in the hopes that we can restore the area actually impacted rather than purchasing mitigation bank credits.

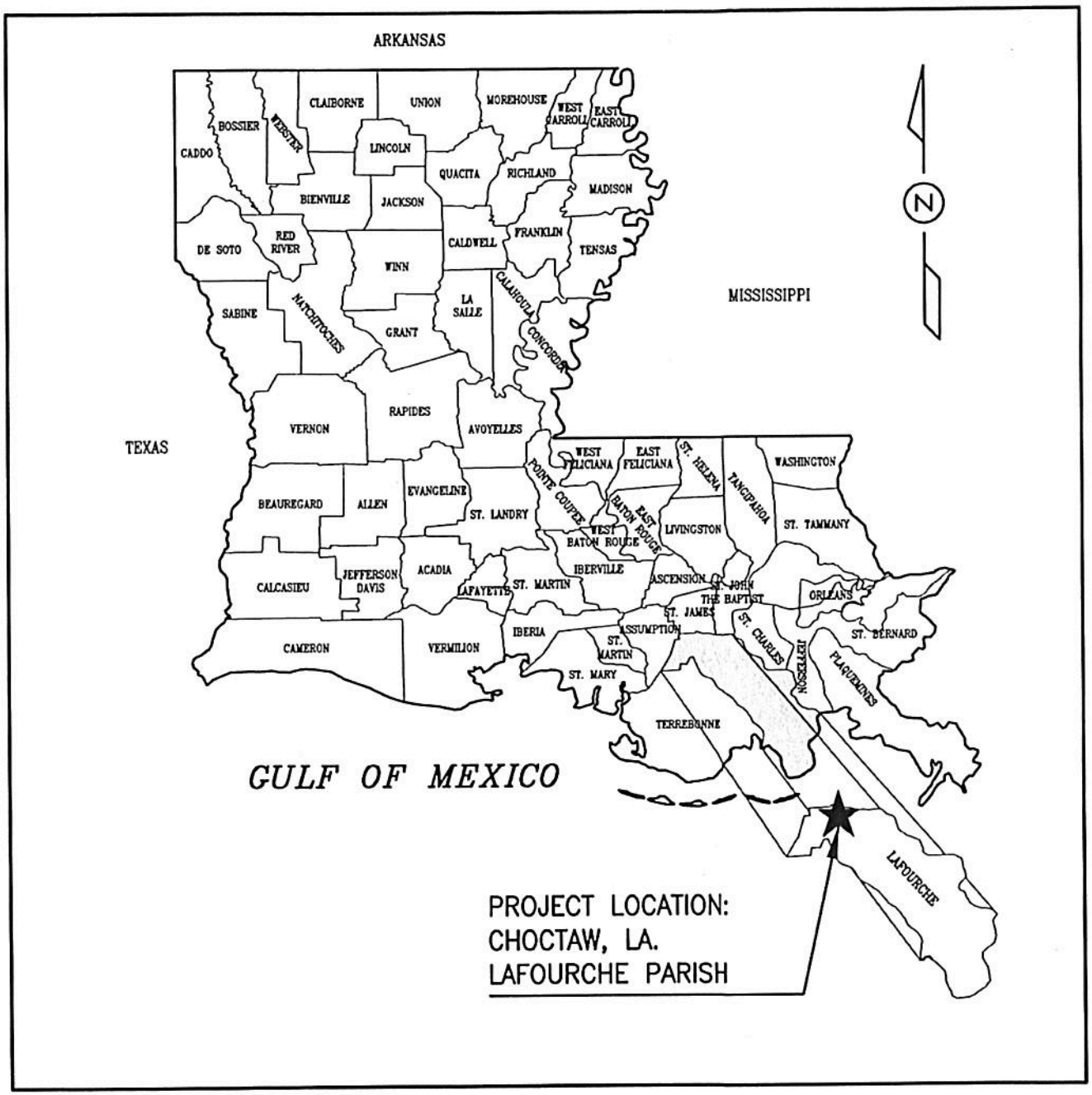
On behalf of Lafourche Parish Government, I would like to thank you for working with us throughout this project so that we can continue to provide flood protection to the residents of this area.

If you have any questions please feel free to contact me at 985-446-8427 or via email at chaissonap@lafourchegov.org.

Sincerely,

Archie P. Chaisson, III
Parish Administrator
Lafourche Parish Government

Cc: Martin Mayer, Regulatory Branch Chief, USACE – NOD
Joe Picciola, Picciola and Associates, Inc.



STATE VICINITY MAP

NOT TO SCALE

BANANA PUMP STATION TO ST. JAMES CANAL LEVEE

PROPOSED: BANANA PUMP STATION TO ST. JAMES CANAL PROTECTION LEVEE

APPLIED BY: LAFOURCHE PARISH GOVERNMENT

AREA: CHOCTAW, LOUISIANA, LAFOURCHE PARISH

PRELIMINARY

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NAVAL ARCHITECTS MARINE ENGINEERS
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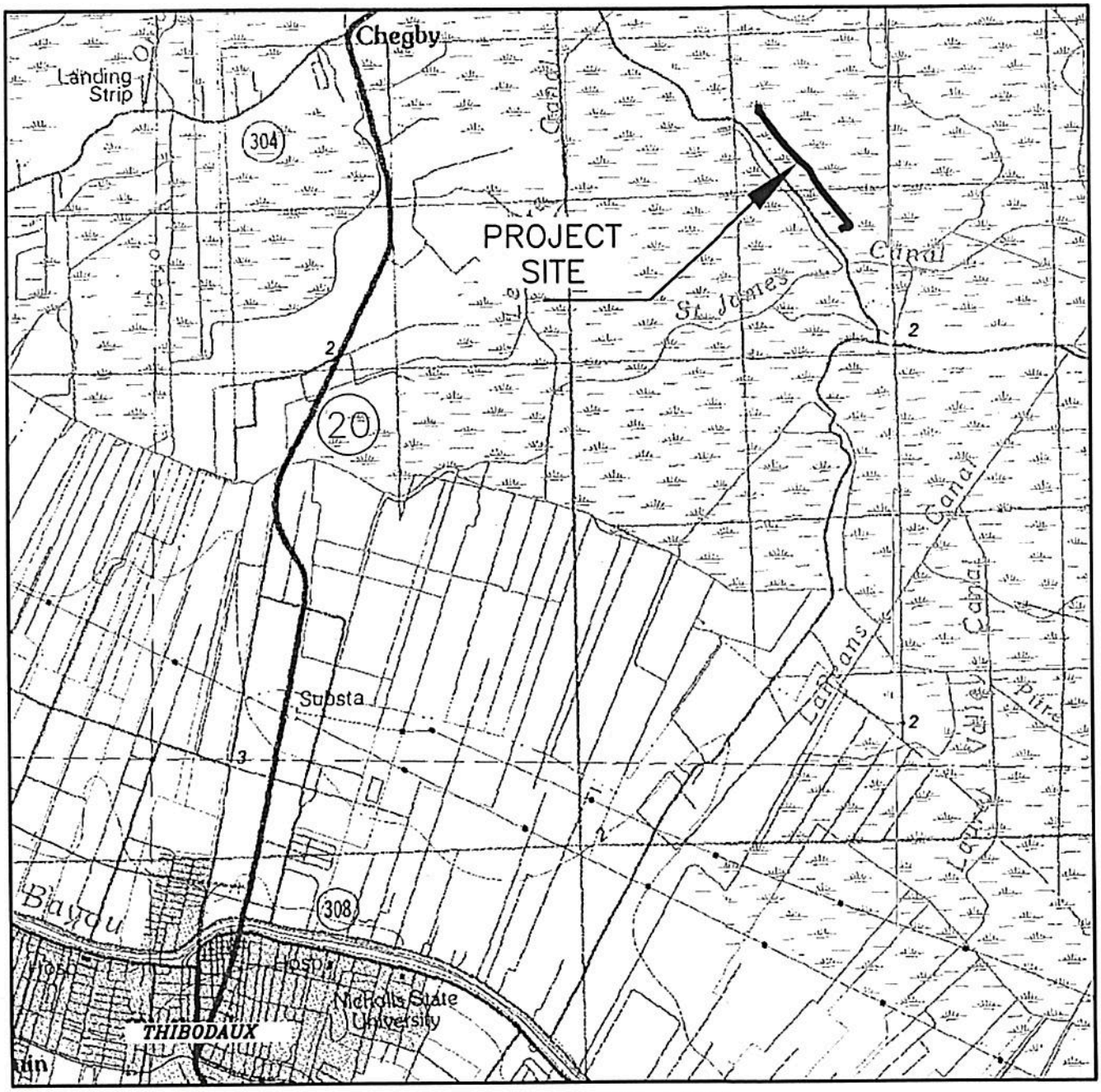
J.N. 0112-1201 DATE: 06-25-12



LOCAL VICINITY MAP

5,000 0 5,000

SCALE: 1" = 5,000'

PROPOSED: PROTECTION LEVEE LOCATED BETWEEN BANANA PUMP STATION TO ST. JAMES CANAL LEVEE

APPLIED BY: LAFOURCHE PARISH GOVERNMENT

AREA: NEAR CHOCTAW LOUISIANA – LAFOURCHE PARISH

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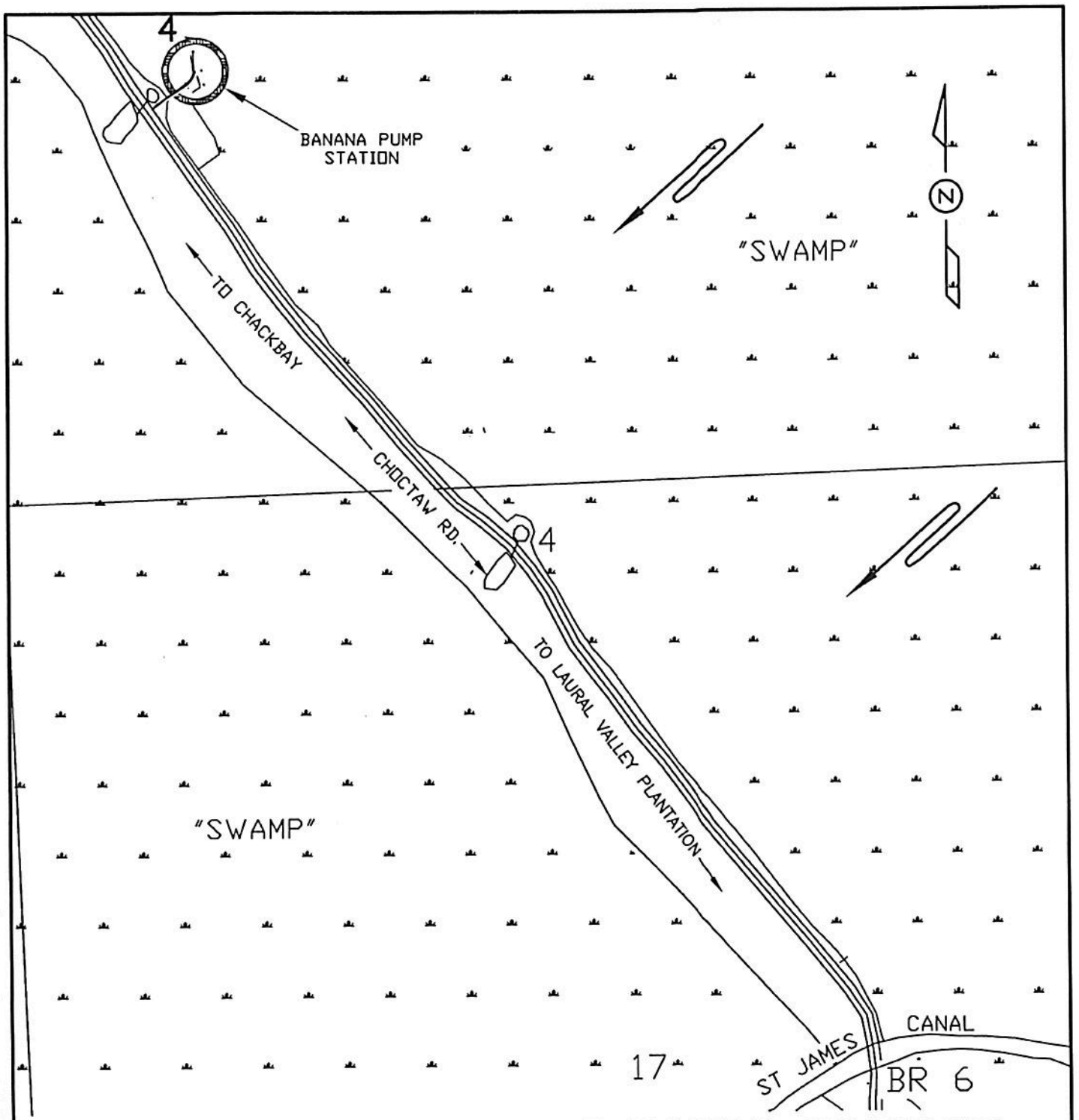

OVERVIEW SITE PLAN PRE-EXISTING CONDITIONS

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SCALE: 1" = 600'

NOTE:
DURING 2009 HEAVY RAIN HIGH WATER FLOWS EAST TO WEST

PRELIMINARY

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WETLAND SWAMP
WATER FLOW

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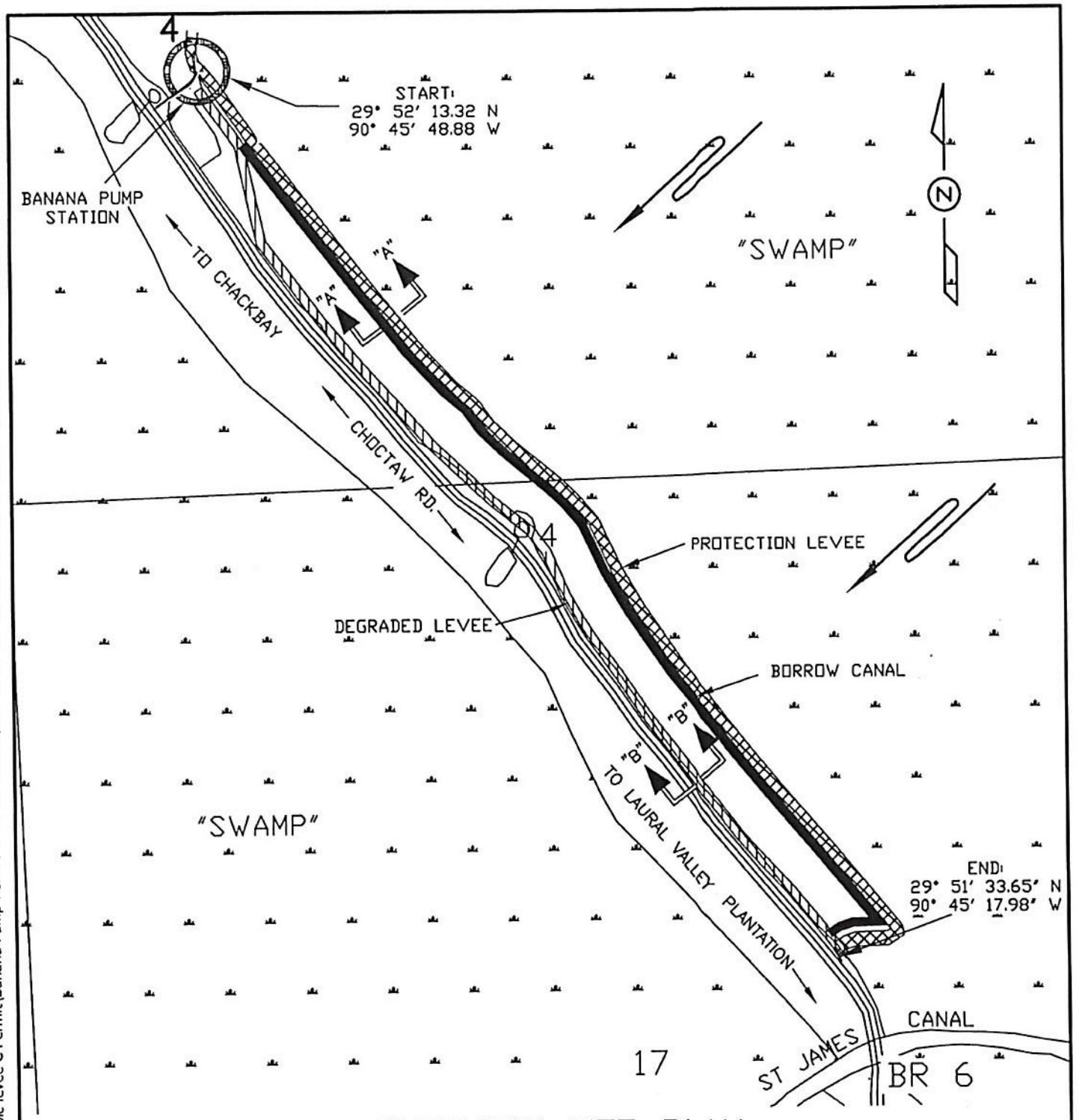
J.N. 0112-1201 DATE: 06-25-12 SHEET 3 OF 5



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- CROSS SECTION
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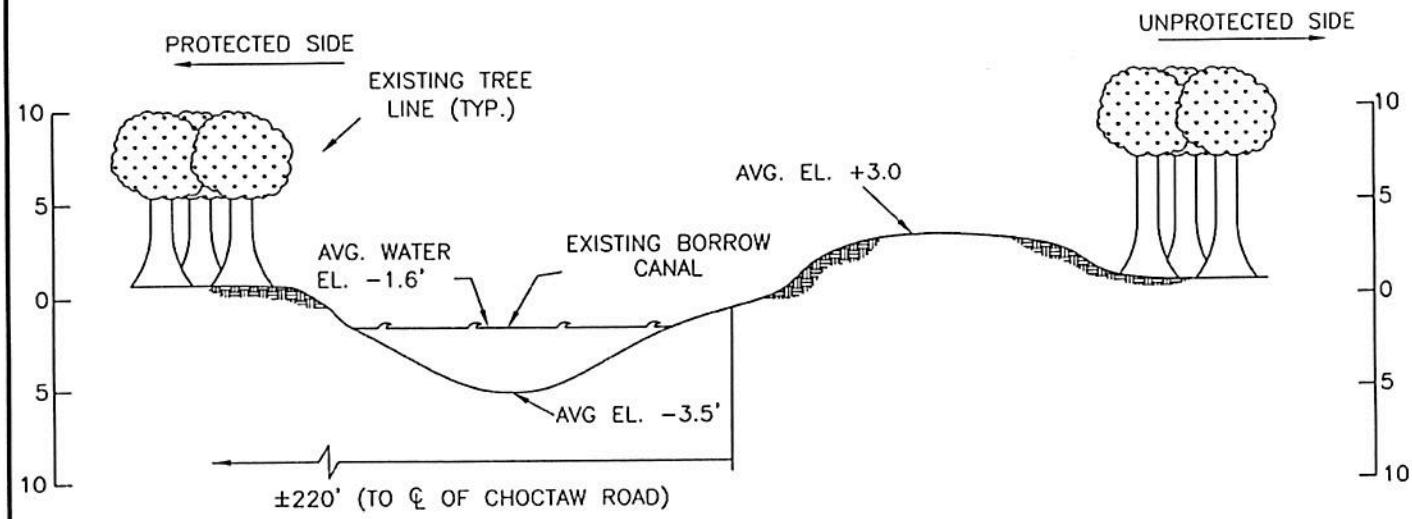
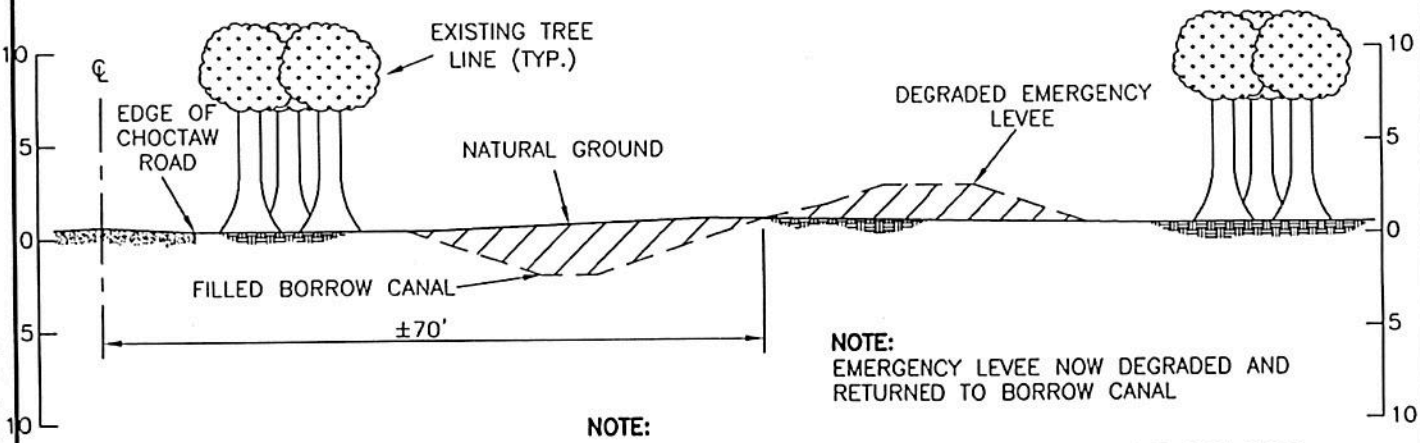
CROSS SECTION "A"–"A"
PROTECTION LEVEE



CROSS SECTION "B"–"B"
DEGRADED EMERGENCY LEVEE



NOTE:
EMERGENCY LEVEE NOW DEGRADED AND RETURNED TO BORROW CANAL

NOTE:

1. EMERGENCY LEVEE WAS BUILT DURING FLOOD EVENT IN 2009. LEVEE STARTED AT BANANA PUMP STATION WITH AN OFFSET OF ±200 FT. FROM THE CENTERLINE OF CHOCTAW ROAD. AFTER ±350 FT. THE ALIGNMENT OF THE LEVEE SHIFTED TOWARD CHOCTAW ROAD AND CONTINUED TO RUN ADJACENT TO CHOCTAW ROAD UNTIL IT REACHED THE ST. JAMES CANAL.
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20 0 20

HORIZONTAL SCALE: 1" = 20'

10 0 10

VERTICAL SCALE: 1" = 10'

PICCIOLA & ASSOCIATES, INC.
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(985) 632-5788

PRELIMINARY

J.N. 0112–1201 DATE: 06–25–12 SHEET 5 OF 5

Chart 6/10/13
ICIS 6/27/13

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

JUN 10 2013

Certified Mail - Return Receipt Requested (7007 1490 0002 3734 2124)

Honorable Charlotte Randolph
dba Lafourche Parish Government
Post Office Drawer 5548
Thibodeaux, Louisiana 70301

Re: Administrative Order, Docket Number CWA-06-2013-2715

Dear Ms. Randolph:

Enclosed is an Administrative Order (Order) issued by the Environmental Protection Agency Region 6 (EPA) to Lafourche Parish Government (Respondent) citing violations of the Clean Water Act (the Act), 33 U.S.C. § 1251 *et seq.*, resulting from dredge and fill activities related to the construction of a levee involving approximately 9.92 acres of jurisdictional wetlands, from 963 Choctaw Road to 1343 Choctaw Road, in Sections 8 & 17, Township 14 South, Range 17 East, Thibodaux, Louisiana (site). Your compliance with the provisions of this Order is required.

Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of a pollutant from a point source into waters of the United States without permit authorization issued under the Act. Section 309(a) of the Act, 33 U.S.C. § 1319(a), authorizes the EPA to issue administrative orders requiring compliance with the Act and regulations promulgated thereunder.

The EPA has determined that Respondent violated the Act by discharging pollutants into waters of the United States without permit authorization as witnessed by representatives from the New Orleans District Corps of Engineers during a site visit on July 31, 2012. The enclosed Order requires that Respondent take certain action(s), as specified, to comply with the Act. The EPA is authorized to issue an administrative penalty order pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g), including the assessment of a civil penalty, at a later date, for the violations alleged in this Order.

If you should need further assistance, please contact Dr. Raul Gutierrez at (214) 665-6697 for technical questions or Mr. Russell Murdock at (214) 665-3189 for legal questions.

Sincerely yours,

for William K. Honker, P.E.
Director
Water Quality Protection Division

Enclosure

cc: New Orleans District Corps of Engineers

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

	§	
In the Matter of:	§	Docket No. CWA-06-2013-2715
	§	
Lafourche Parish Government,	§	
	§	
a Louisiana Municipality	§	Proceeding Under Section
	§	309(a) of the Clean Water Act
Respondent	§	

ADMINISTRATIVE ORDER

I. AUTHORITY

1. The following Findings of Facts and Conclusions of Law are made and an Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 309(a) of the Clean Water Act ("the Act"), 33 U.S.C. § 1319(a). The Administrator has delegated this authority to issue this Order to the Regional Administrator of EPA Region 6 who has further delegated such authority to the Director of the Water Quality Protection Division, EPA Region 6.

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. 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 and 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.

4. Each piece of heavy equipment used during excavation or construction activities which resulted in a discharge acted as a "point source" as defined by Section 502(14) of the Act, 33 U.S.C. § 1362(14).

5. The dredged and/or fill material discharged was a "pollutant" as defined by Section 502(6) of the Act, 33 U.S.C. § 1362(6).

6. At all times relevant to the violations alleged herein, the approximately 9.92 acres of forested wetlands referred to in paragraph 3, *supra*, were "navigable waters" as defined by Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 232.2.

7. 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.

8. At all times relevant to the violations alleged herein, Section 404 of the Act, 33 U.S.C. § 1344, authorized the Secretary of the Army, acting through the Chief of Engineers for the U.S.

Army Corps of Engineers ("COE"), to issue permits for the discharge of dredged and/or fill material into navigable waters of the United States.

9. At no time relevant to the discharges alleged in paragraph 3, *supra*, did Respondent have a permit issued by the COE that authorized the discharges alleged in paragraph 3.

10. Each day of unauthorized discharge was a violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

11. Based on these Findings of Fact and Conclusions of Law, the EPA finds that Respondent committed the violations alleged herein.

III. ORDER

12. Based on the foregoing Findings of Fact and Conclusions of Law and pursuant to the authority vested in Section 309(a) of the Act, 33. U.S.C. § 1319(a), the EPA orders Respondent to immediately cease any discharge of dredged and/or fill material into waters of the United States. In addition, Respondent shall restore the wetlands described in paragraph 3 to pre-project conditions.

IV. GENERAL PROVISIONS

13. Respondent may seek federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706. Section 706, which is set forth at http://uscode.house.gov/download/pls/05C7.txt, states the scope of such review.

14. Issuance of this Section 309(a)(3) Compliance Order shall not be deemed an election by EPA to forego any administrative action or judicial civil or criminal action to seek penalties, fines, or other relief under the Act for the violations alleged herein, or other violations that become known to EPA. EPA reserves the right to seek any remedy available under the law that it deems appropriate.

15. If the EPA issues an administrative complaint or a civil judicial action is initiated by the U.S. Department of Justice, Respondent may be ordered to pay a monetary penalty. If a criminal judicial action is initiated by the U.S. Department of Justice, Respondent may be subject to a monetary fine and/or imprisonment.

16. Failure to comply with this Order or the Act can result in civil judicial penalties of up to $37,500 per day of violation. The actual determination of the amount of any penalty will be made by the relevant United States District Court after considering the seriousness of Respondent's violations, Respondent's economic benefit (if any) resulting from the violations, any history Respondent may have of such violations, any good faith efforts Respondent has made to comply with legal requirements, the economic impact a penalty may have upon Respondent, and such other matters as justice may require.

17. Compliance with the terms and conditions of this Order does not relieve Respondent of its obligation to comply with any applicable local, state, and federal laws.

18. The effective date of this Order is the date it is received by Respondent.

Issued: 6/10/13
Date

for William K. Honker, P.E.
Director
Water Quality Protection Division

DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P.O. BOX 60267
NEW ORLEANS, LOUISIANA 70160-0267

REPLY TO
ATTENTION OF:

MAR 13 1998

Operations Division
Surveillance and Enforcement Section

SUBJECT: Violation No. 199702894

A & D Investments, Inc.
Attn: Mr. Harold S. Davidson
Post Office Box 605
Denham Springs, Louisiana 70727-0605

Dear Mr. Davidson:

This is in reply to your letter of September 8, 1997, with respect to our Cease and Desist Order of April 24, 1997, and your Department of the Army (DA) permit application dated January 7, 1998, concerning the unauthorized deposition of fill for a residential development and construction of a residential canal off the Amite River near French Settlement, Louisiana. Your project, identified as the proposed Sandy Ridge subdivision, is located in Section 58, Township 8 South, Range 4 East, Livingston Parish, Louisiana.

You are reminded not to perform or allow any further unauthorized work at this site until proper authorization has been granted. Failure to abide by this order will result in appropriate legal action.

The unpermitted work you performed in a navigable water of the United States could have subjected you to judicial proceedings for violation of Section 10 and the Rivers and Harbors Act (R&HA) and Section 301 of the Clean Water Act (CWA). These proceedings could have resulted in a statutory penalty, restoration, or other appropriate relief. However, after reviewing the investigative findings and considering your willingness to cooperate, I have determined that such judicial proceedings are not warranted in this case at this time.

CERTIFIED MAIL NO. _____
RETURN RECEIPT REQUESTED

FILE

As the acceptance of an after-the-fact permit application will cause no additional adverse impact, we will accept your application for the work conducted, as well as any additional work necessary to complete your project. If it is later found to be in the total public interest to deny the permit request, civil action to restore the area to preproject conditions will then be considered.

A record of this violation will be kept on permanent file. You are cautioned that any further discharge of fill without proper authorization may result in an enforcement action, including possible litigation. Your prior knowledge of federal permitting requirements and the activities associated with the previous enforcement action will be taken into account. Federal regulations state that criminal action may be recommended for willful or repeated violations.

To summarize, by this letter the U.S. Army Corps of Engineers, a) directs you to stop all unauthorized work, b) acknowledges receipt of your application for an after-the-fact DA permit, c) defers all legal issues, and d) advises you that appropriate legal action will be taken if you are involved in further unauthorized activities.

If you have any questions concerning this matter, please contact Mr. Eugene J. Curole at (504) 862-2275.

Sincerely,

BRUZA
OD-SS

VENTOLA
OD-S

NACHMAN
OC

GUILLOT
OD

Albert J. Guillot, P.E.
Chief, Operations Division
for
William L. Conner
Colonel, U.S. Army
District Engineer

See page 3 for copies furnished.

(33 CFR 325)

Expires October 199

Public reporting burden for this collection of information is estimated to average 5 hours per response, including the time for reviewing instructions, searching data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Servi Directorate of Information Operations and Reports, 1216 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302; and to the Office of Management Paperwork Reduction Project (0710-0003), Washington, DC 20503. Please DO NOT RETURN your form to either of those addresses. Completed applicat submitted to the District engineer having jurisdiction over the location of the proposed activity.

PRIVACY ACT STATEMENT

Authority: 33 USC 401, Section 10; 1413, Section 404. Principal Purpose: These laws require permits authorizing activities in, or affecting, navigable waters United States, the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping ocean waters. Routine Uses: Information provided on this form will be used in evaluating the application for a permit. Disclosure: Disclosure of requested in voluntary. If information is not provided, however, the permit application cannot be processed nor can a permit be issued.

One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (drawings and instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not co full will be returned.

(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)

1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMP

(ITEMS BELOW TO BE FILLED BY APPLICANT)

5. APPLICANT'S NAME Harold S. Davidson	8. AUTHORIZED AGENT'S NAME AND TITLE (an agent is not required) Thom C. Davidson
6. APPLICANT'S ADDRESS A & D Investment, Inc. P O Box 605 Denham springs, LA 70727 - 0605	9. AGENT'S ADDRESS Krebs, LaSalle, LeMieux Consultants, Inc P O. Box 19688 New Orleans, LA 70179 - 9688
7. APPLICANT'S PHONE NOS. W/AREA CODE	10. AGENT'S PHONE NOS. W/AREA CODE
a. Residence b. Business (504) 664 - 9414	a. Residence b. Business (504) 837 - 9470

11. STATEMENT OF AUTHORIZATION

I hereby authorize, Thom Davidson to act in my behalf as my agent in the processing of this application and to furnish, upon request supplemental information in support of this permit application.

Harold S. Davidson 1-7-98

APPLICANT'S SIGNATURE DATE

NAME, LOCATION AND DESCRIPTION OF PROJECT OR ACTIVITY

12. PROJECT NAME OR TITLE (see instructions)

Sandy Ridge Subdivision, Continuation

13. NAME OF WATER BODY, IF KNOWN (IF APPLICABLE) Branch off a residential canal off the Amite River	14. PROJECT STREET ADDRESS (IF APPLICABLE) Off Samantha Drive in the Sandy Ridge Subdivision, in P. Vincent, Louisiana.
15. LOCATION OF PROJECT Livingston Parish — COUNTY Louisiana — STATE	

16. OTHER LOCATION DESCRIPTIONS, IF KNOWN, (SEE INSTRUCTIONS)

The canal extension is located in the Sandy Ridge Subdivision in Section 58, Township 8 South, Range 4 East, off Brickyard Ro Vincent, Louisiana.

17. DIRECTIONS TO THE SITE

Progressing eastward toward French Settlement from the intersection and coincidence of LA Hwy 16 from Denham Springs and from Prairieville in the village of Port Vincent, turn right on Brickyard Road; turn right off Brickyard Road onto Creekround Street, and right onto Drive. The second filing lies to the left and around the end of Samantha drive.

ENG FORM 4345
SNDYRDG2.FM2

Continue a canal extension off an existing, authorized, residential canal, two boat slips, and a drainage ditch; clear, grade and fill and waterfront homesites according to a previously permitted plan.

19. Project Purpose (Describe the reason or purpose of the project, see instructions)

Continued development of a planned residential subdivision with waterfront lots in a mixed wetland / nonwetland area on a buildin the Amite River.

USE BLOCKS 20 - 22 IF DREDGED AND / OR FILL MATERIAL IS TO BE DISCHARGED

20. Reason(s) for Discharge

The primary reason for the dredging is to create a canal to provide recreational, navigational access to residents in the developing Sa subdivision. The dredged material is to be used for road base fill, and for grading to improve the esthetics, landscaping and homesites in the s

21. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards

Approximately 20,994 cubic yards of material will be or have been dredged to create the navigational canal extensions. Of this material approximately 16,492 cubic yards will be or have been dredged from designated wetlands. See attached sheets for details

22. Surface Area in Acres of Wetlands or Other Waters Filled (see instructions)

2.77 Combined acres of wetlands filled and to be filled
1.05 Combined acres of wetlands excavated and to be excavated
0.82 Acres of wetlands cleared, not filled or excavated
0.07 Acres of wetlands excavated for ditch
0.07 Acres of wetlands filled with ditch spoil
4.78 TOTAL ACRES OF WETLANDS AFFECTED AND TO BE AFFECTED

See attached sheets for a detailed presentation of areas affected and to be affected.

23. Is Any Portion of the Work Already Complete? Yes X No _____ IF YES, DESCRIBE THE COMPLETED WORK

Applicant acquired the property with a 404 / Section 10 Permit in a Sheriff's Sale. Applicant failed to understand that the permit ha Applicant proceeded to extend the canal as previously permitted into the Second Filing as previously planned and authorized only to discov work was no longer authorized. Applicant is filing for a permit to correct this situation.

24. Addresses of Adjoining Property Owners, Lessees, Etc., Whose Property Adjoins the Water body (If more than can be entered here, please attach a supplemental list.

Mr. Norwood Williams
1644 Cora Drive
Baton Rouge, LA 70815

25. List of Other Certifications or Approvals / Denials Received from other Federal, State or Local Agencies for Work Described in This Application.

AGENCY	TYPE OF APPROVAL *	IDENTIFICATION NUMBER	DATE APPLIED	DATE APPROVED	DATE DENIED
DNR/CZM	CUP		Concurrently		
DEQ	Water Quality Certification		Concurrently		

*WOULD INCLUDE BUT IS NOT RESTRICTED TO ZONING, BUILDING AND FLOOD PLAIN PERMITS

26. Application is hereby made for a permit or permits to authorize the work described in this application. I certify that the information in this application is comr accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

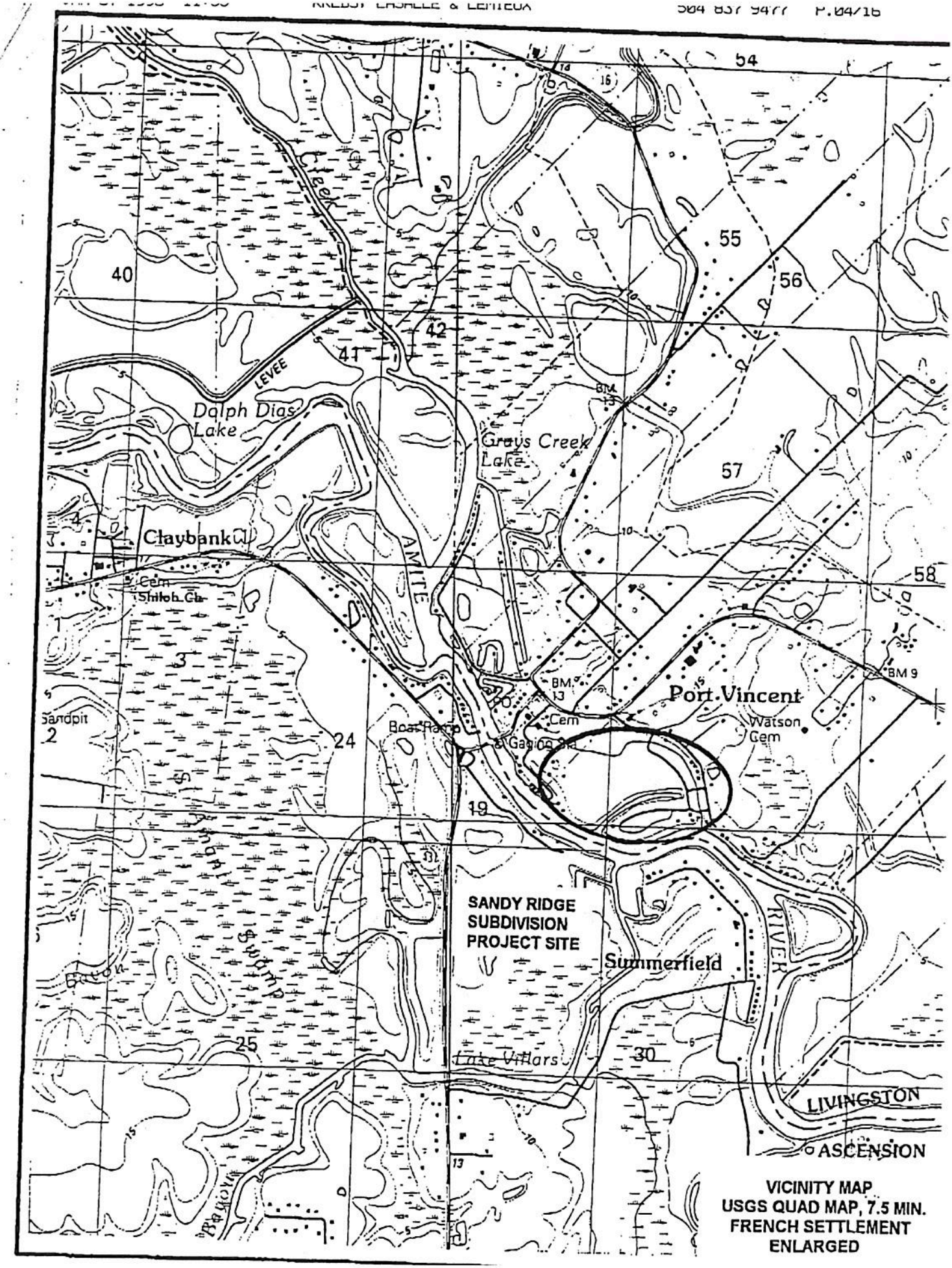
Harold S. Davidson — SIGNATURE OF APPLICANT — 1-7-98 DATE

Thomas C. Davidson — SIGNATURE OF AGENT — 1/7/98 DATE

The application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block been filled out and signed.

18 U.S.C. Section 1001 provides that Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceal up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document kno to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than $10,000 or imprisoned not more than five years or both.

TOTAL P.03



VICINITY MAP
USGS QUAD MAP, 7.5 MIN.
FRENCH SETTLEMENT
ENLARGED

DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P.O. BOX 60267
NEW ORLEANS, LOUISIANA 70160-0267

FILE
4223

REPLY TO
ATTENTION OF:

October 29, 1993

Operations & Readiness Division
Surveillance & Enforcement Section

Mr. Harold S. Davidson
Post Office Box 605
Denham Springs, Louisiana 70727-0605

Dear Mr. Davidson:

This is in regard to your letter of October 19, 1993, for a jurisdictional determination for proposed work on Lots 4, 11 & 14 in the Sandy Ridge Subdivision in Sections 57 & 58, Township 8 South, Range 4 East in Livingston Parish, Louisiana.

Based on an earlier on site inspection, the information you provided, a review of aerial photography, study of soils information, and our knowledge of the area, we have determined that these three lots can be developed with single family residences, either camps or homes. A permit from the Corps of Engineers under Section 404 of the Clean Water Act will not be required so long as the small areas of wetlands identified on Lot 4 are avoided.

This determination is only applicable to the permit program administered by the Corps of Engineers. It does not eliminate the need to obtain other Federal, state or local approvals before beginning the work.

Should you have any questions regarding this matter, please contact Thom Davidson at (504) 862-1270.

Sincerely,

Thom Davidson

Ronald J. Ventola
Chief, Regulatory Functions Branch

www.laforestry.com
318-443-2558

Nethery, William R MVN

From: Spencer Varnado [SVarnado@Geosyntec.com]
Sent: Tuesday, September 01, 2015 8:56 AM
To: Nethery, William R MVN
Subject: [EXTERNAL] RE: Harold Davidson/George Allen site-Livingston

Bill,

The Logger's name is Brent O'neal. His company is O'neal Enterprises. When you write him up, send the C&D to me and I'll pass along to Mr. George Allen or Mr. Harold Davidson to deliver to Brent, if that is ok. I don't have his mailing address, and neither Mr. George nor Mr. Harold can put their hands on it right now.

Additionally, a response from Alvin Fairburn and Assoc. for their C&D should be to you very soon. I think they mailed it yesterday.

Let me know if you have any questions in the meantime.

Thanks,

Spencer

Spencer D. Varnado
Scientist/Project Manager

5420 Corporate Boulevard
Suite 202
Baton Rouge, LA 70808
Direct: 225.325.3218
Phone: 225.929.7333 Ext. 3218
Fax: 225.929.7334
Mobile: 225.603.0018
Blockedwww.Geosyntec.com

-----Original Message-----
From: Nethery, William R MVN [mailto:William.R.Nethery@usace.army.mil]
Sent: Tuesday, August 25, 2015 8:57 AM
To: Spencer Varnado
Subject: RE: Harold Davidson/George Allen site-Livingston

OK Spencer thanks. Yes, this C&D is only for this site (as per the usual); it's just that the logging operation and road weren't covered by the silvicultural exemption in this case.

Take care, Bill

-----Original Message-----
From: Spencer Varnado [mailto:SVarnado@Geosyntec.com]
Sent: Tuesday, August 25, 2015 8:40 AM
To: Nethery, William R MVN
Subject: [EXTERNAL] RE: Harold Davidson/George Allen site-Livingston

Bill,

Thanks for the update. I spoke to Mr. George Allen, and he is contacting Eddie to make sure he responds to the C&D promptly. I inquired again about the logger's information, and he is going to send it to me today when he gets to his office.

The question Mr. George asked, which I find to be a valid question, is will the logger's C&D be for this site only? I'm assuming so, and the reasoning for issuing is to make sure the logger is aware of the regulations and is not a repeat offender. Is this the case?

Thank you. I'll be in touch,

Spencer

Spencer D. Varnado
Scientist/Project Manager

5420 Corporate Boulevard
Suite 202
Baton Rouge, LA 70808
Direct: 225.325.3218
Phone: 225.929.7333 Ext. 3218
Fax: 225.929.7334
Mobile: 225.603.0018
Blockedwww.Geosyntec.com

-----Original Message-----
From: Nethery, William R MVN [mailto:William.R.Nethery@usace.army.mil]
Sent: Tuesday, August 25, 2015 7:32 AM
To: Spencer Varnado
Subject: Harold Davidson/George Allen site-Livingston

Hey Spencer, I got the hard copy of the comments, thanks. Meanwhile, we won't be in a position to accept a restoration plan, ATF application or anything until we get all the comments and review the situation with EPA. I appreciate you seeking the contractor's information, we will be issuing a C&D to that party as well and expecting comments. A C&D was also delivered to Fairburn Assoc. (Eddie) and we will need comments from them, too.

EPA REGION 6, Wetlands Protection Section ICIS ✓ Chart ✓

WETLANDS ENFORCEMENT FIELD INSPECTION REPORT FORM

[This form is to be completed in the field then placed into the case file. After that, no changes shall be made to these notes unless clearly noted and dated on the form. A supplemental information form should be used for additional information obtained after the field inspection]

Pre-Inspection Planning Checklist: (make sure you have considered these things):

___ Expected weather/appropriate clothing
___ Check In/Out plan
___ Hard hat, sunglasses, gloves
___ Vehicle checked, including fuel level
___ Camera, GPS, shovel
___ Water, First Aid Kit

Date of Inspection 02/19/2014
Case/File#_____

EPA Inspector(s) Raul Gutierrez
Statute: CWA 404 Other:_____

Others Present (List)

Name	Representing
Bill Nethery	USACE
Andrew Bennett	USACE

1. TYPE OF ENFORCEMENT INSPECTION

(check one in each column if Compliance Monitoring Action involved)

Initial Site Visit ✓
Follow-up Site Visit_____
ATF Permit Compliance _____
Enforcement Compliance_____
Other_____

Compliance Monitoring Reason:
Citizen complaint _____
Core program _____

MVN-2009-~~0738~~ 03087-SQ

2. SITE LOCATION / FACILITY:

Case Name: (discharger/Company/site) : AiD Investment, Inc

Address/City/County/State 8608 Florida Blvd

Denham Springs State LA Zip 70726

Lat.: 30°28.856' Long.: 90°55.737'
(measured in field _____ estimated in office ✓)

Other Location info _____

3. REPORTING (circle one for each item)

Was a potential violation observed? (Y) N
Did you inform the facility of this violation during the inspection? Y (N)
Did the facility take any actions towards restoring the violation while you were there? Y (N)
Did you discuss general wetlands regulations with a representative of the project? Y (N)
Did you discuss project/site specific wetlands regulations with a representative of the project? Y (N)

4. **DESCRIPTION OF WORK** (Describe violation here, also attach sketch on page 3)

road through forested wetlands

Work in Progress? Yes Date work started?

Approximate Amount of Fill

5. **PHOTOS**:
How many photos were taken? 8
Approximate location and perspective of each photo should be noted in field sketch (page 3)

6. **BRIEF DESCRIPTION OF WETLANDS**
Description of Wetlands Impacted, including dominant plant species

mixed pine-hardwood forest

Soils Information:

Hydrology:

Description of Impacts to wetland functions (current/planned)

7. **PARTY DOING WORK**: Mr. George Allen & Mr. Harold Davidson

Address : A&D Enterprises, PO Box 605 Denham Springs LA 70727

Phone: (225)413-6416

Information Provided:

Other responsible parties: Mr Brent O'Neal

Address : Contractor- O'Neal Enterprises

Phone:

Information Provided:

 PROJECT/SITE SKETCH

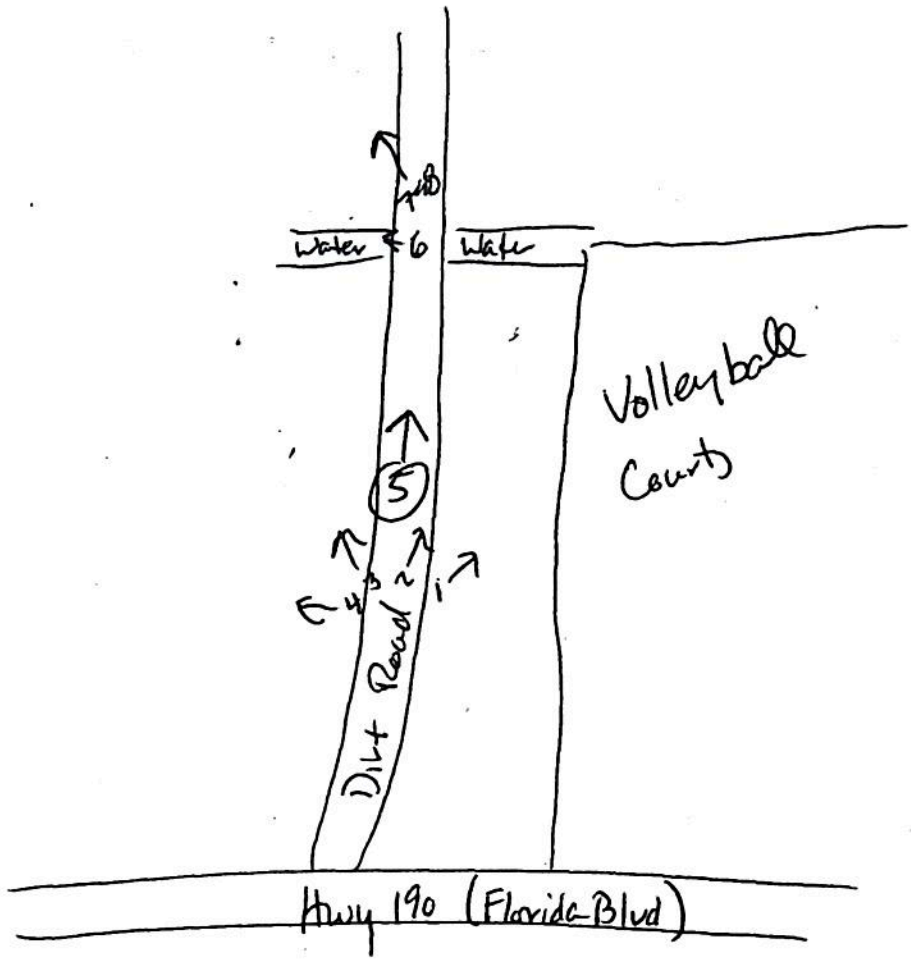


Photo Log: (Note point of photo in field sketch)

	Subject/Direction	File Name/number (can be added at office)
1:	1-4 → overview of site at entrance on dirt road	
2:	5 - looking toward far end of property	
3:	6 - culvert/ditch	
4:	7 - erosion along road into ditch	
5:	8 - overview of wetland forest	
6.		

Field Notes and sketches prepared by [signature] (sign)


Florida Blvd
190
4&5
6
7&8
3
1&2
© 2016 Google
767 ft
Imagery Date: 8/26/2015
1989
30°28'44.73" N 90°55'46.97" W elev 38 ft

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

In the Matter of:	§	
	§	
	§	
A & D Investment, Inc.	§	DOCKET NO. CWA-06-2016-2715
	§	
Respondent	§	

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. A & D Investment, Inc. ("Respondent") is a corporation which was incorporated under the laws of the State of Louisiana, and as such, Respondent is a "person," as that term is defined at Section 502(5) of the Act, 33 U.S.C. § 1362(5), and 40 C.F.R. §§ 122.2 and 232.2.

7. At all times relevant to the violations alleged herein ("relevant time period"), Respondent owned real property ("the Property"), a tract of approximately 51 acres, located at the approximate coordinates 30.482457 and -90.928902, along US Hwy 190, in Section 32, Township 6 South, Range 3 East, Denham Springs, Livingston Parish, Louisiana.

8. On multiple dates between approximately June 29, 2015, and August 6, 2015, 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 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 one acre of jurisdictional wetlands within the subject property as those terms are defined by Section 502 of the Act, 33 U.S.C. § 1362, and 40 C.F.R. § 232.2.

9. During the relevant time period, the one acre of jurisdictional wetlands referred to in paragraph 8, *supra,* were adjacent to, hydrologically connected to, or had a significant nexus to "navigable waters" as defined by Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 232.2, and as such, the one acre of jurisdictional wetlands are "waters of the United States," as that term is defined by 40 C.F.R. § 232.2.

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

11. Each piece of equipment used for the discharge(s) acted as a "point source" as that term is defined at Section 502(14) of the Act, 33 U.S.C. § 1362(14).

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 waters of the United States, except with the authorization of, and in compliance with, a permit issued under the Act.

13. Under Section 404 of the Act, 33 U.S.C. § 1344, the Secretary of the Army, acting through the Chief of Engineers for the United States Army Corps of Engineers ("Corps"), is authorized to issue permits for the discharge of dredged or fill material into navigable waters of the United States.

14. At no time during the relevant time period did Respondent have a permit issued by the Corps authorizing the discharges alleged herein.

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 is 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 $16,000 per day for each day during which a violation continues, up to a maximum of $37,500.

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

A. 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 thirty-three thousand seven hundred fifty dollars ($33,750.00) 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. Bank
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 A & D Investment, Inc., Docket No. CWA-06-2016-2715") 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, to each of the following:

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

(b) Jeanene Peckham
Enforcement Officer (6WQ-EM)
Water Quality Protection Division
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

(c) Kristine Talbot
Assistant Regional Counsel (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

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. See 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. See 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. To execute this Agreement, Respondent shall forward this copy of the CAFO, with original signature, to:

Ms. Kristine Talbot (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

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:

Harold Davidson
A & D Investment, Inc.

Date 6/22/16

George Allen
A & D Investment, Inc.

Date 6/22/16

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

Date 7/6/16

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: 7-7-16

Regional Judicial Officer
EPA, Region 6
Thomas Rucki

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of July, 2016, the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, U.S. EPA, Region 6 (6RC-D), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and that a true and correct copy was placed in the United States Mail, by certified mail, return receipt requested, addressed to the following:

Mr. Harold Davidson
Mr. George Allen
A & D Investment, Inc.
P.O. Box 605
Denham Springs, LA 70727-0605

Copy hand-delivered:

Ms. Kristine Talbot (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Date: 07/13/2016 Janene Peckham

NOTICE TO CUSTOMERS
THE PURCHASE OF AN INDEMNITY BOND AND AFFIDAVIT MAY BE REQUIRED BEFORE THIS CHECK WILL BE REPLACED IN THE EVENT IT IS LOST, MISPLACED OR STOLEN.

47078

OFFICIAL CHECK

FIRST GUARANTY BANK
P O Box 2009 • Hammond, LA 70404-2009

DATE June 28, 2016

PAY TO THE ORDER OF Treasury of United States $ *****33,750.00

THIRTY-THREE THOUSAND SEVEN HUNDRED FIFTY AND 00/100 DOLLARS

AUTHORIZED BY

AUTHORIZED BY
Two Signatures Required

REMITTER: A & D INVESTMENT INC
PURPOSE: Docket #CWA-06-2016-2715

⑈047078⑈ ⑆065404340⑆ 10413⑈

Security Features Included. Details on back.

DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P.O. BOX 60267
NEW ORLEANS, LOUISIANA 70160-0267

REPLY TO ATTENTION OF
Operations Division
Surveillance and Enforcement Section

CEASE AND DESIST ORDER

CASE NUMBER: MVN 2009-03087-SQ

ISSUED TO: Mr. Harold Davidson, A+D Investments, Inc

ADDRESS: 8008 Florida Blvd, Denham Springs, LA 70726 PHONE: 225 413-6416

LOCATION OF WORK: 51-acre tract on & south of US Hwy 190, in Section 32, Township 6 South, Range 3 East, Livingston Parish, LA

CHARACTER OF WORK: Unauthorized mechanized landclearing, redistribution of fill and deposition of fill in wetlands

APPARENT VIOLATION OF: [ ] Section 10 of the Rivers and Harbors Act (RHA); [ ] Section 13 of the RHA; [X] Section 301 of the Clean Water Act (CWA); and/or [ ] Section 404 of the CWA.

This work was performed in waters of the United States and is therefore subject to Department of the Army regulatory authority. You are directed not to perform or allow any further unauthorized work at this site until proper authorization has been granted. Failure to abide by this Cease and Desist Order will result in appropriate legal action.

You are advised that violations of the RHA and/or the CWA may subject you to appropriate administrative and/or judicial action. Legal action could result in a fine and/or a court order to restore the site to pre-project conditions. A DA permit application cannot be accepted until all legal issues are resolved. To assist us in our evaluation of these matters, you are requested to submit a letter of comments. Specifically, your comments should address why you failed to obtain a DA permit prior to conducting the above work in light of the fact that wetlands shown on the plan submitted to DEQ do not match the current valid jurisdictional determination.

Your comments should be submitted to the Chief, Surveillance and Enforcement Section, at the above address.

If we do not receive a written response from you within 20 days from the date shown below, we will proceed with appropriate action for resolution of the legal issues based on the information in our files.

Should you wish to discuss this matter further, or if you have any questions concerning wetlands and the permitting process, please contact the undersigned issuer at (504) 862-1267, or -2270.

Sincerely,

Richard L. Hansen
Colonel, US Army
District Commander

ISSUED BY: William Nethery JOB TITLE: Investigator / Botanist

RECEIPT ACKNOWLEDGED: [signature] DATE: 8/19/15

A+D PRESIDENT

Jun 13

C&D-spec.com

19 August 2015

Mr. William Nethery
U.S. Army Corps of Engineers
New Orleans District
Surveillance and Enforcement
P.O. Box 60267
New Orleans, LA 70160-0267

RE: Comments on Cease and Desist Order
A&D Investments, Inc. Project
+/- 51 Acres, Livingston Parish, Louisiana
MVN 2009-03087-SQ

Mr. Nethery,

We acknowledge receipt of the Cease and Desist Order issued to A&D Investments, Inc. (A&D), in regard to unauthorized activities in violation of Section 301 of the Clean Water Act (CWA) on an approximately 51-acre property located on US Hwy 190, approximately 1.5 miles east of Denham Springs, in Livingston Parish, Louisiana. Pursuant to the conditions set forth in the Order, we respectfully submit this response.

In 2010, we contracted an environmental consultant to perform a wetland delineation on the Subject property. The delineation was subsequently submitted to the U.S. Army Corps of Engineers (USACE), New Orleans District, with the request for a Preliminary Jurisdictional Determination (JD). Upon review by the USACE, it was determined the wetland figures provided in the request were not comprehensively representative of the wetlands on the property. The wetland areas were revised by the consultant, re-submitted to the USACE, and subsequently accepted as accurate in the Preliminary JD MVN 2009-03087-SQ issued 19 January 2011.

June - July 2015

In the past two months, A&D began harvesting timber on the property in anticipation of future development of the site. Additionally, A&D began to mine dirt within an upland area of the property. A&D was advised by a contractor that construction of a temporary road through wetlands areas on the property would not violate the CWA, since it was for silviculture activities and the wetland areas would be restored once the timber harvesting was complete. Furthermore, when designing the road and dirt pit locations, the wetland areas depicted in the plans did not include revisions made to the original maps and included in the 2011 JD, therefore unintentionally greater impacts to wetlands occurred. A&D has notified their draftsmen of this oversight, and all future plans will include the correct wetland areas from the JD.

A&D is committed to resolving this matter promptly. Upon receipt of the Order, we retained Spencer Varnado at Geosyntec Consultants, Inc. to assist with resolution, compliance, and permitting of the project. We are currently developing plans using the correct wetland areas for the entirety of the project design, including residential lots. Once these plans are finalized, it is our intent to file an After-the-Fact

permit application for the impacts of the road construction, and the to-be determined impacts of the entire project. These impacts are anticipated to include a minimal amount of filling of wetlands, to accommodate the development.

In the interim, we are respectfully requesting authorization to begin restoration of impacted wetland areas. These areas include a small area (approximately 0.1 acre in size) of stockpiled soil near the entrance to the property at US Hwy 190. Additionally, we are requesting authorization to utilize the existing (and partially unauthorized) road to remove felled trees from wetland areas directly adjacent to said road, as these trees could potentially be considered unauthorized fill. This process will take place completely from the road, and will not result in any equipment entering the undisturbed wetlands.

As an added precaution to prevent any further activity in wetlands, we will contract a surveyor to clearly mark wetland areas, in accordance with the JD issued 19 January 2011, with stakes, flagging, and signs as needed. This will assure that all parties working on the property during restoration efforts and subsequent development activities (once authorized) are aware of the location of wetland areas.

A&D is committed to a prompt resolution to this issue. Should you have any questions or comments, please feel free to contact Harold Davidson at 225.413.6416, or haroldsdavidson@gmail.com. We look forward to your response.

Sincerely,

Harold Davidson
A&D Investments, Inc.

George Allen
A&D Investments, Inc.

Attachment: Signed C&D Acknowledgement

Nethery, William R MVN

From: Eddie Aydell [eaydell@alvinfairburn.com]
Sent: Wednesday, August 26, 2015 3:18 PM
To: Nethery, William R MVN
Subject: [EXTERNAL] FW: RE 2009-03087

Thanks

Eddie Aydell P.E.
Chief Engineer
Alvin Fairburn & Associates

Cell 225-202-7299
Office 225-665-1515
eaydell@alvinfairburn.com

From: Eddie Aydell
Sent: Wednesday, August 19, 2015 12:11 PM
To: 'william.r.nethery@USACE.army.mil'
Subject: RE 2009-03087

Bill:

I received your cease and desist order today. I have informed the property owner and forwarded him a copy. Please understand that we have no authority over any work performed on the site. We did not perform any work on the site.

The wetlands shown on our site plan are as per the drawing provided to us by the Owner. We did not perform any wetlands determination and are not working on a 404 permit.

If you don't mind please provide us a copy of the official JD and we update out plan accordingly. Keep in mind that we typically get a wetlands map that has been copied and re-copied many times. We do our best to scan that map in and scale it to fit the property boundaries to the best of out abilities. There are inaccuracies in this process. We always advise our client to enlist the services of their wetlands consultant to actually mark the wetlands boundaries on the ground so that they can be avoided until the proper permits are secured.

Thanks

Eddie Aydell P.E.
Chief Engineer
Alvin Fairburn & Associates

Cell 225-202-7299
Office 225-665-1515
eaydell@alvinfairburn.com

Nethery, William R MVN

From: Spencer Varnado [SVarnado@Geosyntec.com]
Sent: Thursday, August 20, 2015 9:51 AM
To: Nethery, William R MVN
Cc: Heffner, Robert A MVN
Subject: [EXTERNAL] RE: MVN-2009-03087-SQ

Bill and Rob,

I spoke with Mr. Harold Davidson (the "D" in A&D) regarding your inquiry. He stated is was the logger which Mr. George Allen (the "A") hired that told them the road was ok. Mr. Davidson said he did not have the logger's contact information. I tried to contact Mr. Allen, but was unsuccessful. I spoke again with Mr. Davidson, who informed me Mr. Allen was out of town. I will try to track down the logger's information when Mr. Allen gets back in town next week, and pass it along to you. Please let me know if you need anything else in the meantime.

Spencer

Spencer D. Varnado
Scientist/Project Manager

5420 Corporate Boulevard
Suite 202
Baton Rouge, LA 70808
Direct: 225.325.3218
Phone: 225.929.7333 Ext. 3218
Fax: 225.929.7334
Mobile: 225.603.0018
BLOCKEDGeosyntec[.]comBLOCKED

-----Original Message-----
From: Nethery, William R MVN [mailto:William.R.Nethery@usace.army.mil]
Sent: Thursday, August 20, 2015 9:01 AM
To: Spencer Varnado
Cc: Heffner, Robert A MVN
Subject: RE: MVN-2009-03087-SQ

Thanks Spencer, can I get the name of the contractor that told them it was OK under the silvicultural exemption even though they knew it was to be used for a borrow pit and future development? I need to correct them and possibly issue them a C&D as well.

Thanks, Bill

William R. Nethery
US Army Corps of Engineers, New Orleans District Regulatory Branch, Surveillance and Enforcement Section
(504) 862-1267

-----Original Message-----
From: Spencer Varnado [mailto:SVarnado@Geosyntec.com]
Sent: Thursday, August 20, 2015 8:31 AM
To: Nethery, William R MVN
Subject: [EXTERNAL] RE: MVN-2009-03087-SQ

Bill,

Please find the attached signed C&D, along with A&D's response. Let me know if you have any questions or need any additional information.

Thank you very much,

Spencer

Spencer D. Varnado
Scientist/Project Manager

5420 Corporate Boulevard
Suite 202
Baton Rouge, LA 70808
Direct: 225.325.3218
Phone: 225.929.7333 Ext. 3218
Fax: 225.929.7334
Mobile: 225.603.0018
BLOCKEDGeosyntec[.]comBLOCKED

Initial email Bill said they were receiving from svarnado@Geosyntec.com

-----Original Message-----
From: Nethery, William R MVN [mailto:William.R.Nethery@usace.army.mil]
Sent: Tuesday, August 18, 2015 8:44 AM
To: Spencer Varnado
Subject:

Hey Spencer, attached is the C&D, requesting comments, for Mr. Davidson. I'll be on the lookout for the signed, C&D, comments and restoration plan. Thanks for helping, Bill

William R. Nethery

MVN 2009-03087-SQ Davidson and Allen –Contents

APPENDIX A

LEAD ENFORCEMENT AGENCY IDENTIFICATION

The purpose of this form is to document the lead enforcement agency designation in accordance with the "Memorandum of Agreement (MOA) Between the Department of the Army and the Environmental Protection Agency (EPA) Concerning Federal Enforcement of the Section 404 Program of the Clean Water Act" dated January 19, 1989.

LDEQ Water Enf. Angela Morse, mgr - degenforcement@LA.GOV

I. INFORMATION

1. Corps File Number: MVN 2009-03087-SQ, issued 1-19-2011 JD?
2. Location (Lat/Long, Section, Township, Range): 30.482457, -90.928902 (Sec 32, T6S, R3E)
3. Landowners: Mr. Harold Davidson and Mr. George Allen
4. Contractors: Mr. Brent O'Neal (O'Neal Enterprises)
5. Violators: Mr. Harold Davidson and Mr. George Allen (A+D Investments)
6. Date Violation Occurred: Between the fall of 2014 and August 6, 2015
7. Date of Investigation & Corps Investigators: No detailed onsite inspection. Drive by inspection verified unauthorized activity. 8-20-2015
8. Description of Unauthorized Activities: unauthorized deposition of fill in wetland
9. Classification from Part III. D(1):
   - ( ) a. Repeat Violator(s)
   - (X) b. Flagrant Violator
   - (X) c. Particular Case EPA May Request
   - ( ) d. Corps Recommends Administrative Penalty

10. Completed Inspection Report (w/photos, maps, and an estimate of impacts in acres, linear feet, and/or cubic yards), and Preliminary Jurisdictional Determination Attached: See JD and Aerial photo indicating Impacts

11. ORMS Database Query Results for Landowners, Contractors, and/or Violators Attached:

12. Corps Recommendations for Resolution: Penalty and ATF application

II. EPA DETERMINATION

( ) EPA will act as lead enforcement agency.

( ) EPA declines the lead enforcement agency role and refers the matter back to the Corps pursuant to Part III. D(2) of the MOA. EPA's recommendations are:

If applicable:

EPA requested additional time (*date, time, Corps contact*):_____

_____

EPA requested additional information (*date, time, Corps contact, type of info*):

_____

_____

III. JOINT ENFORCEMENT STRATEGY (if applicable)

Corps Lead:

EPA Lead:

IV. CERTIFICATION (must be completed)

	Corps Representative	**EPA Representative**
Name/Title		
Signature/Date		

MVN 2009-03087-SQ Davidson and Allen – Chronological Summary

08-06-2015 Received report of potential violation from LA DEQ. Verbal Cease and Desist Order issued to Mr. Davidson via telephone. Potential unauthorized activities had been noted previously by Corps personnel driving by site.

08-18-2015 Written C&D sent to Mr. Davidson's via his consultant, Spencer Varnado, for signatures and requesting comments as to why unauthorized activities were conducted without a permit in light of existing JD. C&D also sent to Mr. Eddie Aydell, Fairburn & Associates, to request comments as to why inaccurate wetland map was submitted to LA DEQ. Brent O'Neal was contractor/logger, but complete information was never provided by Mr. Davidson and Mr. Allen, so no C&D was issued to the contractor.

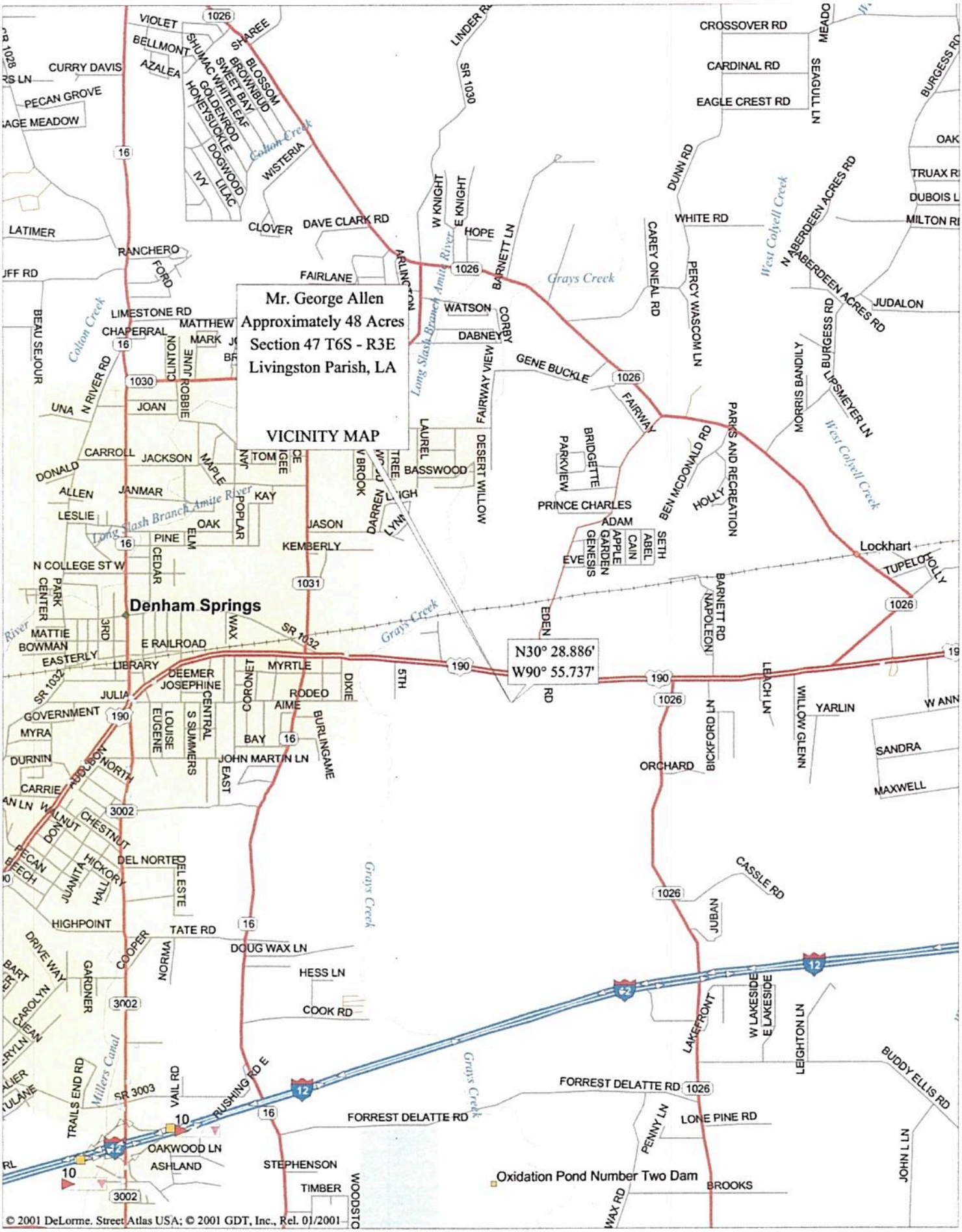
08-19-2015 Received email from Eddie Aydell indicating that map provided to DEQ had been provided to Fairburn & Associates by A&D Investments.

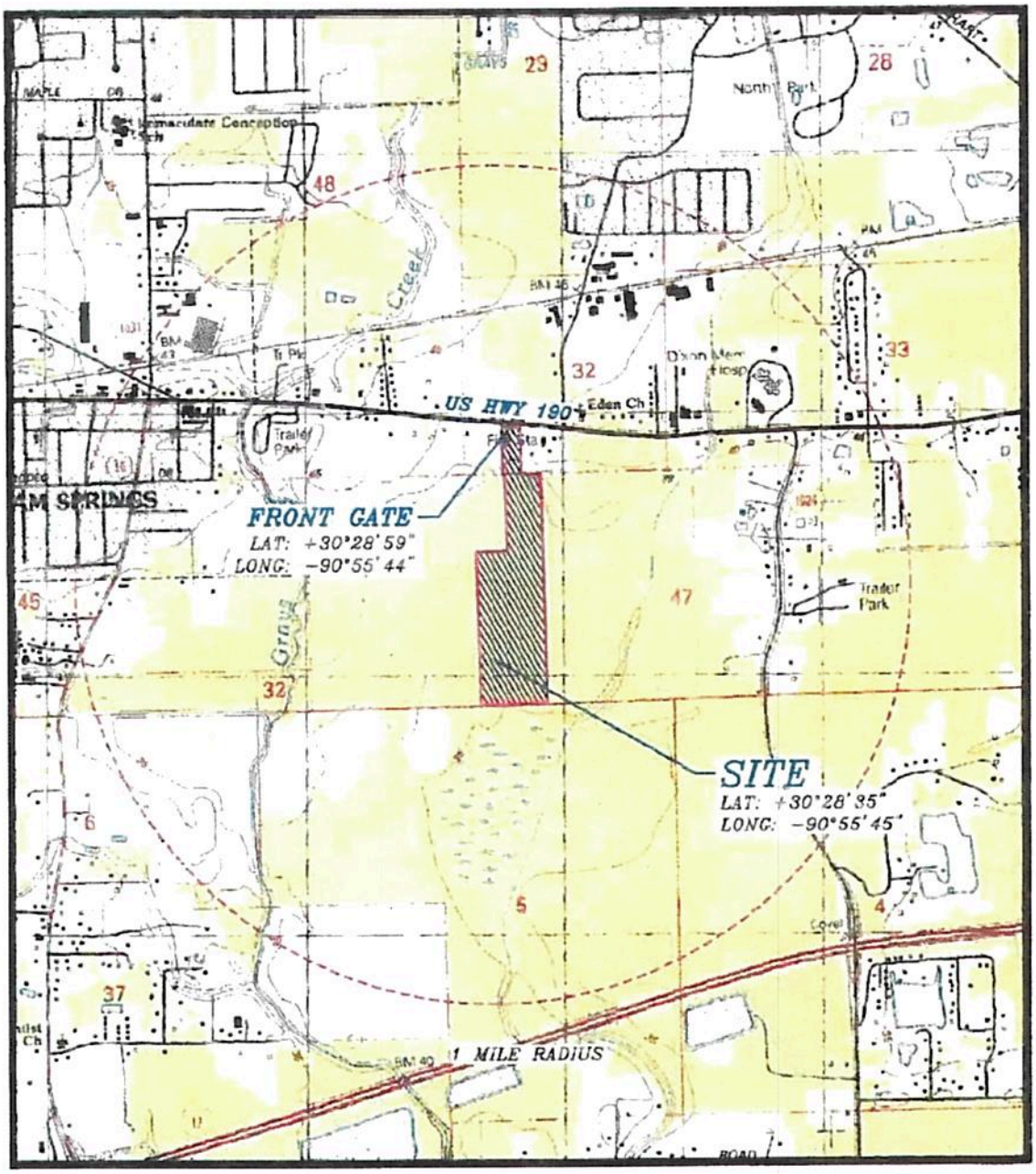
08-20-2015 Additional brief site visit to verify unauthorized activities nearest the road. Consultant intends to quantify impacts in effort to assist with preparation of ATF permit application and/or restoration.

08-25-2015 Received comments from Mr. Davidson and Mr. Allen. Logging activity was not exempt under the silvicultural exemption because road was to be used for borrow pit and a development cut was utilized.

Contact information:

Mr. Harold Davidson – (225) 413-6416 haroldsdavidson@gmail.com
Mr. Spencer Varnado (consultant)-225.929.7333 Ext. 3218 – Svarnado@Geosyntec.com


Mr. George Allen
Approximately 48 Acres
Section 47 T6S - R3E
Livingston Parish, LA
VICINITY MAP
N30° 28.886'
W90° 55.737'
Denham Springs
Lockhart
Oxidation Pond Number Two Dam
Grays Creek
Cotton Creek
Long Slash Branch Amite River
West Colyell Creek
Millers Canal
© 2001 DeLorme. Street Atlas USA; © 2001 GDT, Inc., Rel. 01/2001



TOPOGRAPHIC MAP

SCALE: 1" = 2000'

A & D INVESTMENT

A PRIVATE BORROW PIT DEVELOPMENT
LOCATED IN SECTIONS 32 & 47 T-6-S, R-2-E,
G.L.D, LIVINGSTON PARISH, LOUISIANA

Date: _____ Please check: [ ] Initial Permit
Agency Interest No. (if known) AI _____ [ ] Proposed/New Facility
LWDPS Permit No. (if known) W _____ [ ] Existing Facility
NPDES/LPDES Permit No. (if LA _____

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY

Office of Environmental Services, Permits Division
Post Office Box 4313
Baton Rouge, LA 70821-4313
PHONE#: (225) 219-9371

LPDES PERMIT NOTICE OF INTENT (SCC3-G) TO DISCHARGE WASTEWATER AND STORMWATER RELATED TO EXTRACTION, MINING OR DREDGING OF DIRT, SAND, GRAVEL , SHELL AND SIMILAR MATERIALS

(Attach additional pages if needed.)

SECTION I - FACILITY INFORMATION

A. Permit is to be issued to the following: (must have operational control over the facility operations - see LAC 33:IX.2501.B and LAC 33:IX.2503.A and B).

1. Legal Name of Applicant (Company, Partnership, Corporation, etc.) A & D Investment, Inc

Facility Name A & D Investment, Inc

Physical Address: Please provide a specific street address, road, highway, or interstate location of the facility for which the application is being submitted.

8008 Florida Blvd

Denham Springs, LA 70726

Parish Livingston Parish

Mailing Address P.O. Box 605

Denham Springs, LA Zip Code: 70727

If applicant named above is not also the owner, state owner name, phone # and address.

N/A

Provide the name, address and telephone number of the owner of the property where the mining will occur.

A & D Investment, Inc

P.O. Box 605, Denham Springs, LA 70727 (225) 413 - 6416

Please check status: [ ] Federal [ ] State [ ] Parish [ ] Public [X] Municipal [X] Private [ ] Other: _____

Front Gate Coordinates:

Latitude- 30 deg. 28 min. 59 sec. Longitude- 90 deg. 55 min. 44 sec.

Method of Coordinate Determination: Quad Map

(Quad Map, Previous Permit, website, GPS)

SIGNATORY AND AUTHORIZATION

Pursuant to the Water Quality Regulations (specifically LAC 33:IX.2503) promulgated September 1995, the state NOI must be signed by a responsible individual as described in LAC 33:IX.2503 and that person shall make the following certifications:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

Signature	[signature]
Printed Name	Harold S Davidson
Title	President
Company	AHD Investment Inc
Date	7/15/15
Telephone	225-413-6416
Email Address	haroldsDavidson@gmail.com
Federal Tax ID	

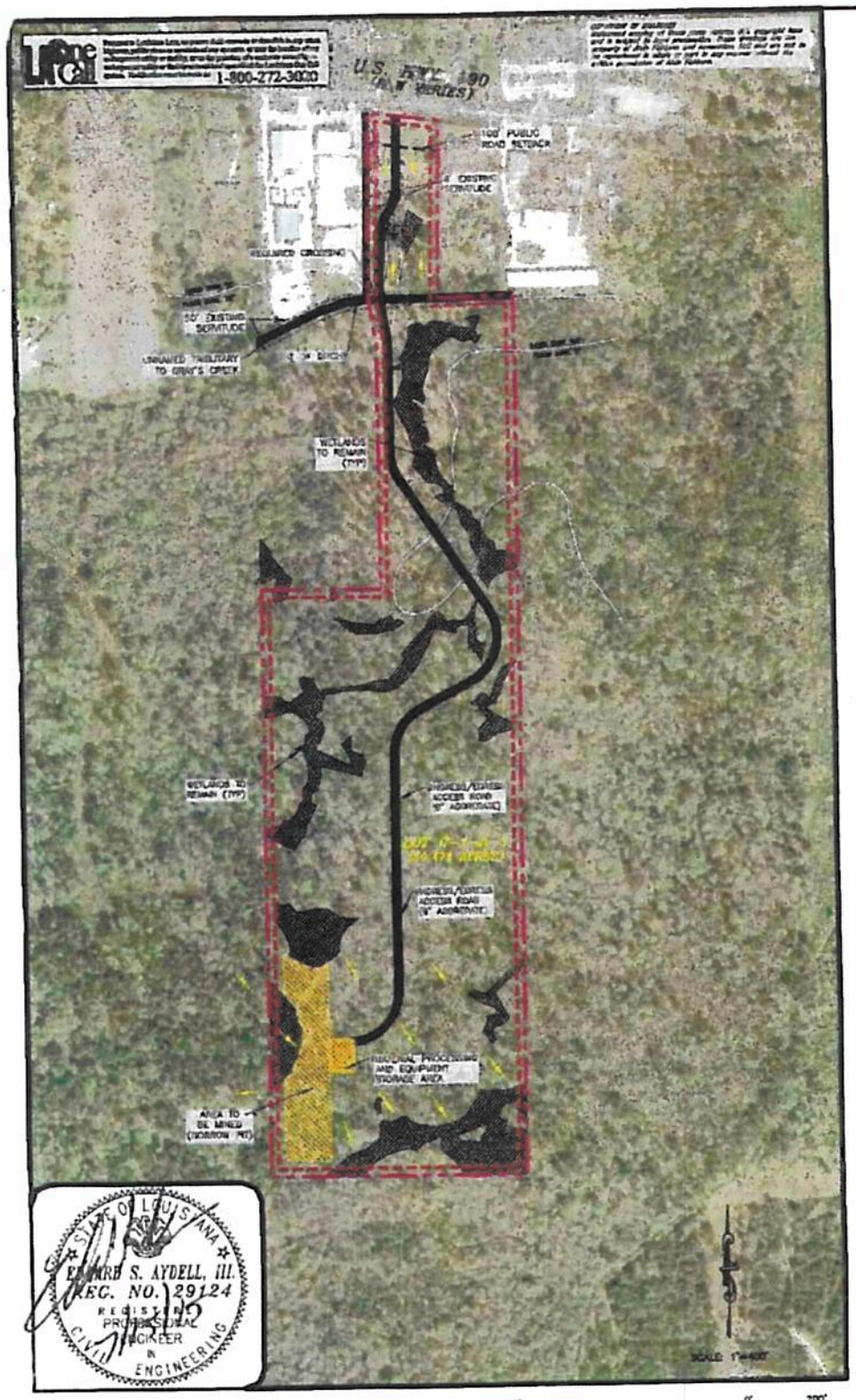
CHECKLIST

Automatic permit coverage is granted only upon the submission of a correctly completed NOI form. Please take a moment and check to be certain that the following items have been addressed and enclosed:

1. ALL questions and requested information have been answered (N/A if the question or information was not applicable).
2. ALL required maps and drawings are enclosed.
3. The appropriate person has signed the signatory page.
4. Please forward the original and one copy of this NOI and all attachments.

ANY NOI THAT DOES NOT CONTAIN ALL OF THE REQUESTED INFORMATION WILL BE CONSIDERED INCOMPLETE. NOI PROCESSING WILL NOT PROCEED UNTIL ALL REQUESTED INFORMATION HAS BEEN SUBMITTED.

NOTE: UPON RECEIPT AND SUBSEQUENT REVIEW OF THE NOI BY THE WATER PERMITS DIVISION, YOU MAY BE REQUESTED TO FURNISH ADDITIONAL INFORMATION IN ORDER TO COMPLETE THE PROCESSING OF THE PERMIT.



drawing from plan submitted to DEQ

SITE DIAGRAM

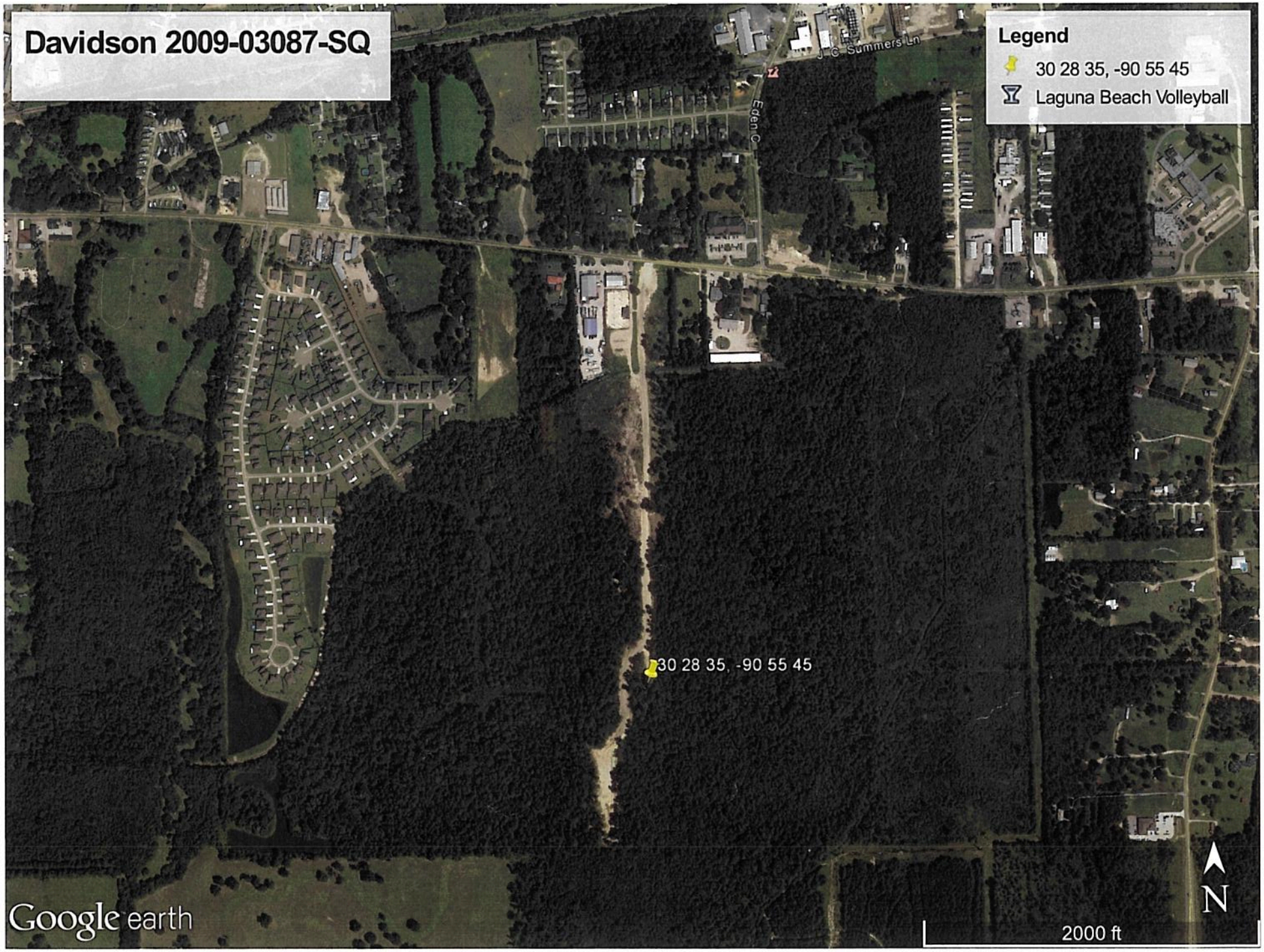
TRF	TEA
JULY, 2014	

A & D INVESTMENT
A PRIVATE BORROW PIT DEVELOPMENT
LOCATED IN SECTIONS 32 & 47 T-6-S, R-2-E,
G.L.D, LIVINGSTON PARISH, LOUISIANA

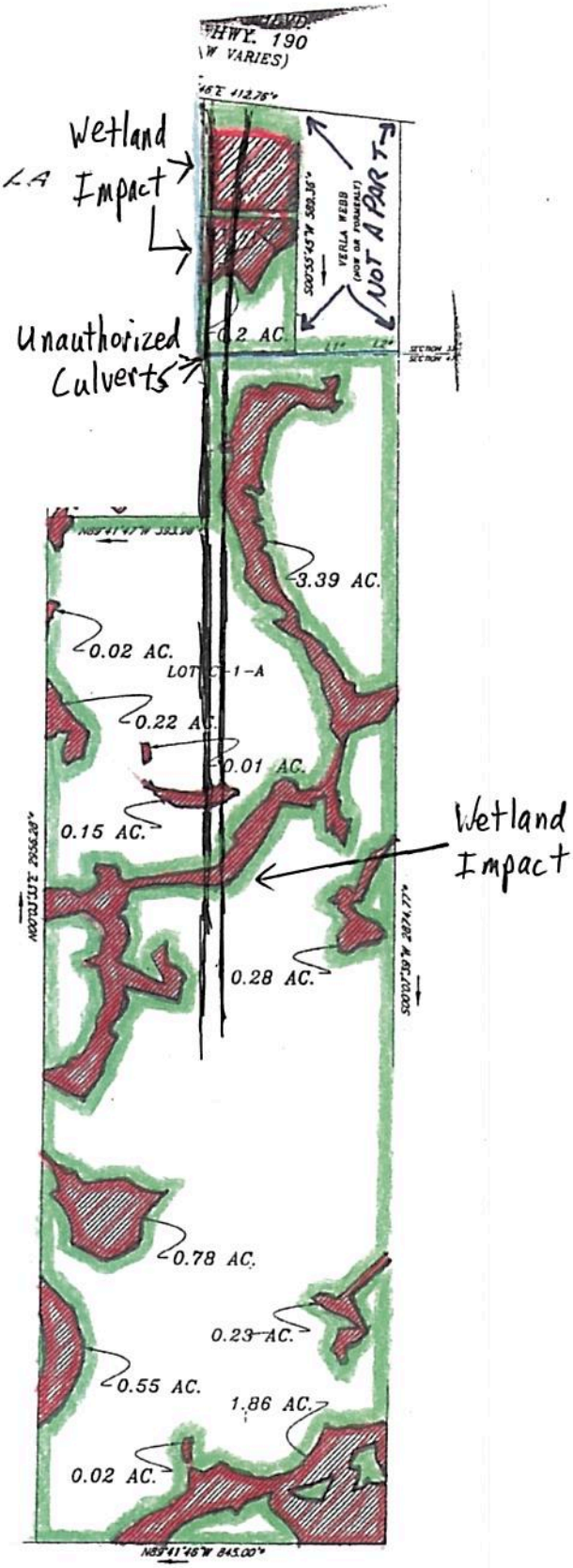
ALVIN FAIRBURN & ASSOCIATES, LLC
CONSULTING ENGINEERS – ARCHITECTS
LAND SURVEYORS – DESIGNERS
LAND DEVELOPMENT CONSULTANTS
1309 DEL SOL AVENUE
DENHAM SPRINGS, LOUISIANA 70727-1179 (225) 665-1515

Thanks again for your assistance, Bill

William R. Nethery
US Army Corps of Engineers, New Orleans District Regulatory Branch, Surveillance and Enforcement Section
(504) 862-1267


Davidson 2009-03087-SQ
Legend
30 28 35, -90 55 45
Laguna Beach Volleyball
J C Summers Ln
Eden C
30 28 35, -90 55 45
Google earth
N
2000 ft

Mr. George Allen
Sections 32 & 47
T6S - R3E
Livingston Parish, LA

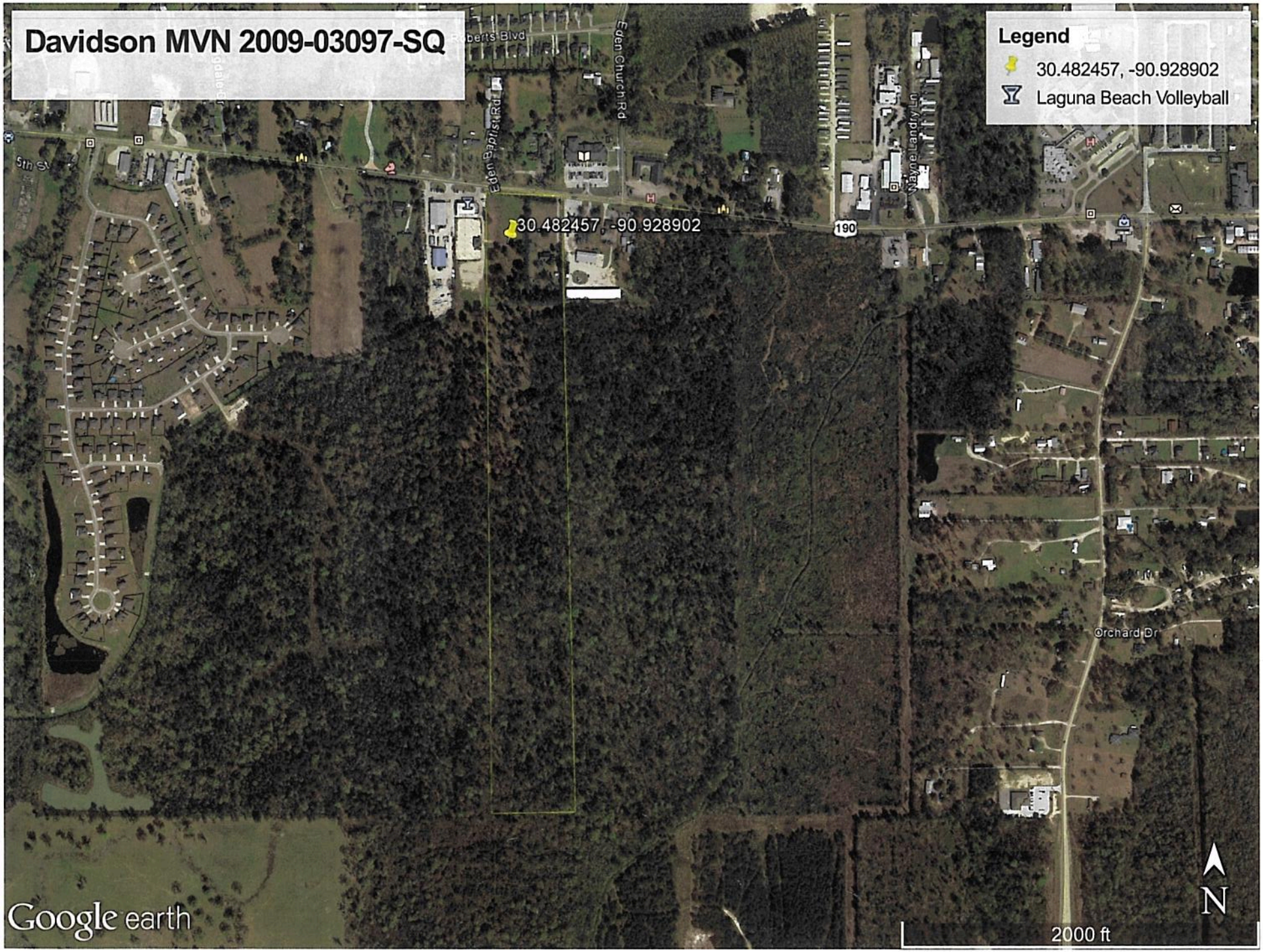


USACE
FSV / IH
Date: 12-29-10
Botanist: William Nethery
Requestor: Raymond Plauche
MVN- 2009-3087-SQ
- WETLAND
- Non-wetland
= Waters of the US

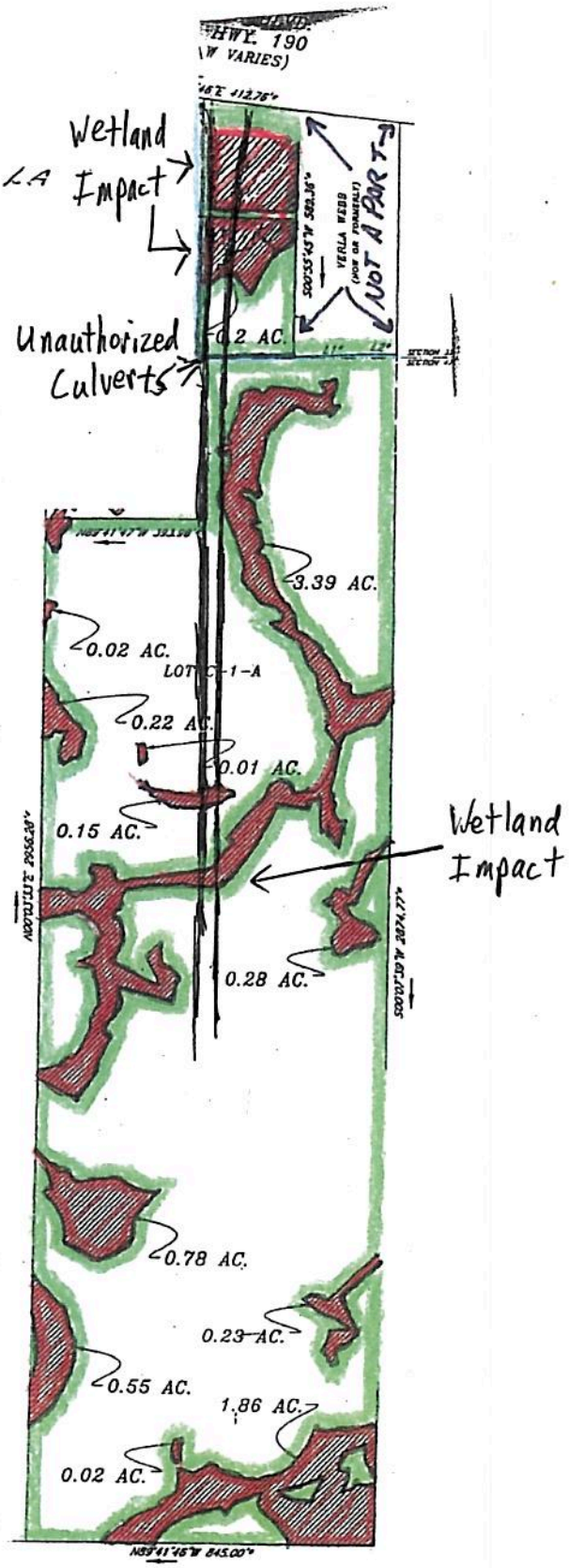
PRELIMINARY
JURISDICTIONAL DETERMINATION

Map of Wetland Impacts - WRN


Davidson 2009-03087-SQ
Legend
30 28 35, -90 55 45
Laguna Beach Volleyball
J C Summers Ln
Eden C
30 28 35, -90 55 45
Google earth
N
2000 ft


Davidson MVN 2009-03097-SQ
Legend
30.482457, -90.928902
Laguna Beach Volleyball
Roberts Blvd
Eden Church Rd
Eden Baptist Rd
5th St
Navarre Landing Ln
190
30.482457, -90.928902
Orchard Dr
Google earth
N
2000 ft

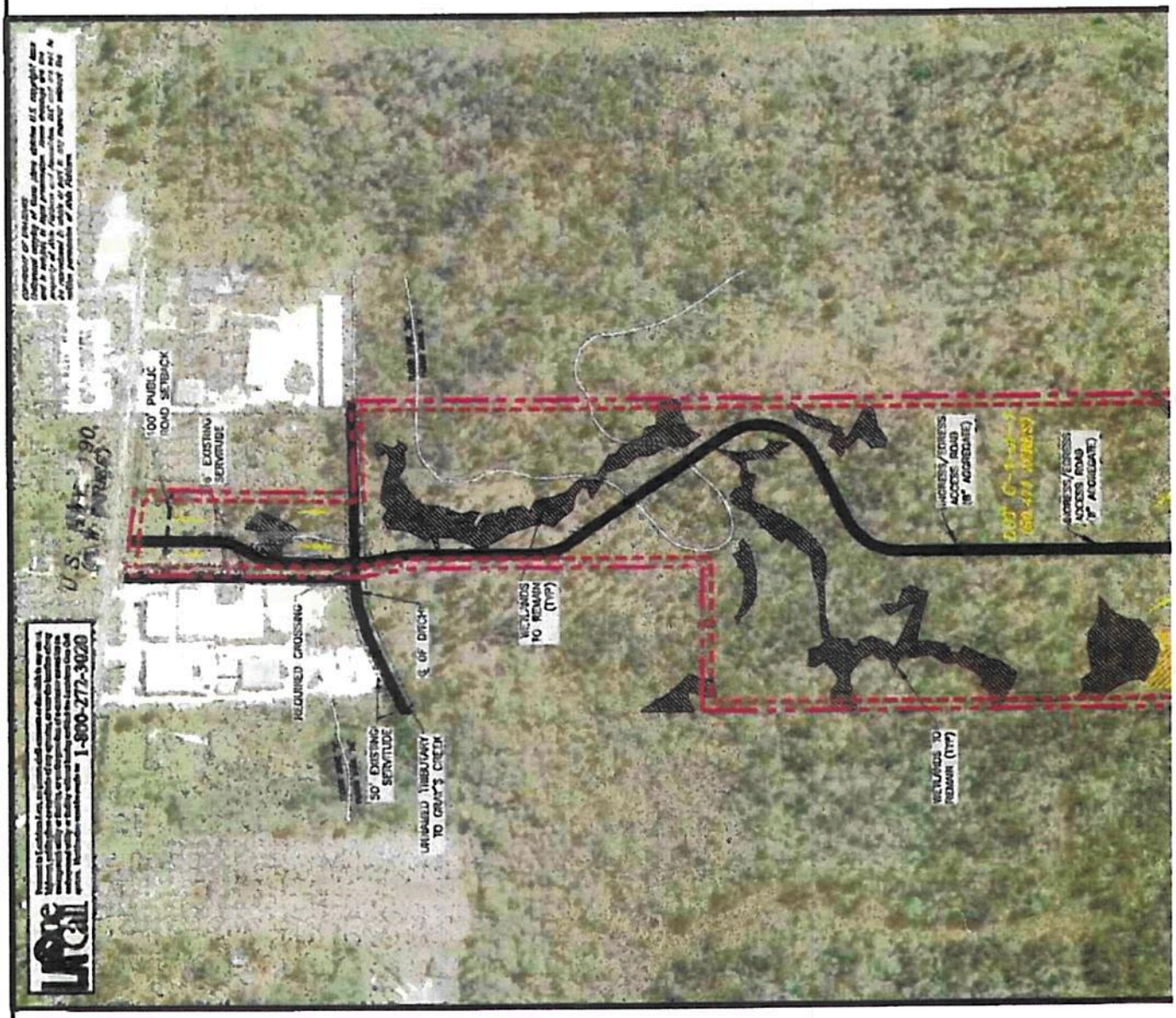
Mr. George Allen
Sections 32 & 47
T6S - R3E
Livingston Parish, LA



USACE
FSV / IH Date: 12-29-'10
Botanist: William Nethery
Requestor: Raymond Plauche
MVN- 2009- 3087 - SQ
- WETLAND
- Non-wetland
= Waters of the US

PRELIMINARY
JURISDICTIONAL DETERMINATION

Map of Wetland Impacts - WRN



Drawing from plans submitted to DEQ

stormwater permit?

Peckham, Jeanene

From: Spencer Varnado <SVarnado@Geosyntec.com>
Sent: Wednesday, May 11, 2016 1:40 PM
To: Peckham, Jeanene
Cc: Harold Davidson (haroldsdavidson@gmail.com)
Subject: RE: AD DRAFT CAFO. Docket No. CWA-06-2016-2715
Attachments: removed.txt

Ms. Jeanene,

I have spoken to Mr. Harold Davidson and Mr. George Allen of A&D Investment, Inc. (A&D). We have one question.

Under the Revised CWA Section 404 Settlement Penalty Policy dated 21 December 2001, the possibility for a quick settlement adjustment factor exists. It is stated that "In order to provide an extra incentive for violators who make efforts to achieve an efficient and timely resolution of violations, and in recognition of a violator's cooperativeness, EPA may reduce the preliminary gravity amount by 10 percent in administrative enforcement actions. " It goes on to state that in Class I administrative enforcement actions, a "quick settlement" is one "in which the violator signs an administrative penalty order on consent within four months of the date the complaint was issued or within four months of when the government first sent the violator a written offer of settlement, whichever is earlier." Our question is, because a cease and desist was issued by the New Orleans USACE, prohibiting A&D from correcting the violation until resolution with the EPA was obtained, will A&D be eligible for a 10 percent reduction in the gravity amount if they sign the Consent Order and pay the fine within 30 days?

Thank you very much,

Spencer

Spencer D. Varnado
Scientist/Project Manager

5420 Corporate Boulevard
Suite 202
Baton Rouge, LA 70808
Direct: 225.325.3218
Phone: 225.929.7333 Ext. 3218
Fax: 225.929.7334
Mobile: 225.603.0018
www.Geosyntec.com

From: Peckham, Jeanene [mailto:Peckham.Jeanene@epa.gov]
Sent: Wednesday, May 11, 2016 9:27 AM

To: Spencer Varnado <SVarnado@Geosyntec.com>
Subject: FW: AD DRAFT CAFO.doc

Mr. Varnado, the attorney reviewer wants to know if A&D Investments, Inc., has reviewed the draft CAFO, and whether they agree with the terms.
Jeanene Peckham
214-665-6411

From: Peckham, Jeanene
Sent: Friday, May 06, 2016 12:25 PM
To: 'Spencer Varnado' <SVarnado@Geosyntec.com>
Subject: AD DRAFT CAFO.doc

The CAFO would be executed by EPA at the end of the public review period.
Jeanene Peckham
214-665-6411

Peckham, Jeanene

From: Talbot, Kristine
Sent: Friday, May 06, 2016 8:02 AM
To: Peckham, Jeanene; Nystrom, Thomas
Subject: Penalty Calculation - A&D Investments

Is a penalty of $37,500 for 1 acre of wetlands consistent with our other cases? A&D Investments has a compliance history/knowledge (previous ATF permit, requested preliminary JD for this site and Corps advised A&D Investments to apply for a permit).

Thanks,

Kristine

Kristine Talbot
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 6
(214) 665-8356

Peckham, Jeanene

From: Spencer Varnado <SVarnado@Geosyntec.com>
Sent: Wednesday, June 08, 2016 10:30 AM
To: Peckham, Jeanene
Subject: RE: DAOC 05 12 2016 A&D.docx
Attachments: removed.txt

Yes, you can send directly to me and I will deliver.

Thank you

Spencer D. Varnado
Scientist/Project Manager

5420 Corporate Boulevard
Suite 202
Baton Rouge, LA 70808
Direct: 225.325.3218
Phone: 225.929.7333 Ext. 3218
Fax: 225.929.7334
Mobile: 225.603.0018
www.Geosyntec.com

From: Peckham, Jeanene [mailto:Peckham.Jeanene@epa.gov]
Sent: Wednesday, June 8, 2016 9:56 AM
To: Spencer Varnado <SVarnado@Geosyntec.com>
Subject: RE: DAOC 05 12 2016 A&D.docx

I hope it will be signed by Friday. I regret the delays. It is still in e-routing to managers. I was about to email you to double check that you still want the documents sent to you, for your delivery to Mr. Davidson and Mr. Alken?

From: Spencer Varnado [mailto:SVarnado@Geosyntec.com]
Sent: Wednesday, June 08, 2016 9:40 AM
To: Peckham, Jeanene <Peckham.Jeanene@epa.gov>
Cc: Harold Davidson (haroldsdavidson@gmail.com) <haroldsdavidson@gmail.com>
Subject: RE: DAOC 05 12 2016 A&D.docx

Ms. Jeanene,

We have not received the final letter? Has it been mailed yet?

Thank you,

Spencer

Spencer D. Varnado
Scientist/Project Manager

5420 Corporate Boulevard
Suite 202
Baton Rouge, LA 70808
Direct: 225.325.3218
Phone: 225.929.7333 Ext. 3218
Fax: 225.929.7334
Mobile: 225.603.0018
www.Geosyntec.com

From: Peckham, Jeanene [mailto:Peckham.Jeanene@epa.gov]
Sent: Thursday, May 26, 2016 9:41 AM
To: Spencer Varnado <SVarnado@Geosyntec.com>
Cc: Harold Davidson (haroldsdavidson@gmail.com) <haroldsdavidson@gmail.com>
Subject: RE: DAOC 05 12 2016 A&D.docx

Yes. Do have any comments on the draft you received?Please let me know.

From: Spencer Varnado [mailto:SVarnado@Geosyntec.com]
Sent: Thursday, May 26, 2016 9:37 AM
To: Peckham, Jeanene <Peckham.Jeanene@epa.gov>
Cc: Harold Davidson (haroldsdavidson@gmail.com) <haroldsdavidson@gmail.com>
Subject: Re: DAOC 05 12 2016 A&D.docx

Are you sending a final for us to sign and return?

Sent from my new iPhone with tiny buttons, therefore please disregard typographical mistakes.

On May 26, 2016, at 8:45 AM, Peckham, Jeanene <Peckham.Jeanene@epa.gov> wrote:

> Yes, it was a draft copy for your preliminary review. You have been sent draft CAFO and draft Administrative order on consent.
>
> ---
>
> **From:** Spencer Varnado <SVarnado@Geosyntec.com>
> **Sent:** Wednesday, May 25, 2016 3:56:44 PM
> **To:** Peckham, Jeanene
> **Cc:** Harold Davidson (haroldsdavidson@gmail.com)
> **Subject:** RE: DAOC 05 12 2016 A&D.docx
>
> Ms. Peckham,

Peckham, Jeanene

From: Nethery, William R MVN <William.R.Nethery@usace.army.mil>
Sent: Monday, March 07, 2016 10:58 AM
To: Peckham, Jeanene
Subject: Contact information for Harold Davidson and Spencer Varnado

Grays Creek
Livingston P.

Hi Jeanene, below is the contact information for Mr. Harold Davidson and his consultant, Mr. Spencer Varnado

Mr. Harold Davidson (225) 413-6416 haroldsdavidson@gmail.com

Mr. Spencer Varnado (consultant) (225) 929-7333 ext. 3218 SVarnado@Geosyntec.com

I'll put that packet in the mail today and we can talk again after you receive it.

Thanks, have a good week, Bill

William R. Nethery
US Army Corps of Engineers, New Orleans District Regulatory Branch, Surveillance and Enforcement Section
(504) 862-1267

Peckham, Jeanene

From: Spencer Varnado <SVarnado@Geosyntec.com>
Sent: Wednesday, May 11, 2016 9:28 AM
To: Peckham, Jeanene
Subject: RE: AD DRAFT CAFO.doc
Attachments: removed.txt

Ms. Peckham,

They are reviewing it today. I will let you know as soon as I hear back from them.

Thank you,

Spencer

Spencer D. Varnado
Scientist/Project Manager

5420 Corporate Boulevard
Suite 202
Baton Rouge, LA 70808
Direct: 225.325.3218
Phone: 225.929.7333 Ext. 3218
Fax: 225.929.7334
Mobile: 225.603.0018
www.Geosyntec.com

From: Peckham, Jeanene [mailto:Peckham.Jeanene@epa.gov]
Sent: Wednesday, May 11, 2016 9:27 AM
To: Spencer Varnado <SVarnado@Geosyntec.com>
Subject: FW: AD DRAFT CAFO.doc

Mr. Varnado, the attorney reviewer wants to know if A&D Investments, Inc., has reviewed the draft CAFO, and whether they agree with the terms.
Jeanene Peckham
214-665-6411

From: Peckham, Jeanene
Sent: Friday, May 06, 2016 12:25 PM
To: 'Spencer Varnado' <SVarnado@Geosyntec.com>
Subject: AD DRAFT CAFO.doc

The CAFO would be executed by EPA at the end of the public review period.
Jeanene Peckham

214-665-6411

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

JUN 16 2016

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: 7014 0150 0000 2453 5638

Mr. Harold Davidson
Mr. George Allen
A & D Investment, Inc.
P.O. Box 605
Denham Springs, LA 70727-0605

Re: Consent Agreement and Final Order; Docket Number: CWA-06-2016-2715

Dear Mr. Davidson and Mr. Allen:

Enclosed is a proposed Consent Agreement and Final Order (CAFO) containing the terms of agreement in principle. If you do not have any concerns with the CAFO, please sign the CAFO and return it, with original signature, to the attention of Kristine Talbot (6RC-EW) at the address above within ten (10) days of receipt of the CAFO.

If you have any questions regarding this matter, please contact Jeanene Peckham, of my staff, at (214) 665-6411.

Sincerely,

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

Enclosure

cc: William Nethery, New Orleans District COE
Elizabeth Hill, LDEQ
Angela Marse, LDEQ

Copy - Signed

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

In the Matter of	§	Docket No. CWA 06-2016-2719
	§	
A & D Investment, Inc.	§	
	§	Proceeding Under § 309(a) of
	§	the Clean Water Act
Respondent	§	

ADMINISTRATIVE ORDER ON CONSENT

I. AUTHORITY

1. The following findings of violations are made and Order issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 309(a) of the Clean Water Act ("the Act"), 33 U.S.C. § 1319(a). The Administrator has delegated this authority to the Regional Administrator of EPA Region 6 who further delegated such authority to the Director of the Water Quality Protection Division, EPA Region 6.

II. FINDINGS OF VIOLATIONS

2. EPA makes the following findings of violations in support of its authority to issue this Order on Consent.

3. A & D Investment, Inc. ("Respondent"), is a corporation which was incorporated under the laws of the State of Louisiana, and as such, Respondent is a "person" as defined by Section 502(5) of the Act, 33 U.S.C. § 1362(5).

4. At all times relevant to the violations alleged herein ("relevant time period"), Respondent owned real property, a tract of approximately 51 acres, located at the approximate coordinates 30.482457 and -90.928902, along US Hwy 190, in Section 32, Township 6 South, Range 3 East, Denham Springs, Livingston Parish, Louisiana ("subject property").

5. On multiple dates between approximately June 29, 2015, and August 6, 2015, 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 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 waters of the United States, namely, approximately one acre of jurisdictional wetlands within the subject property, without a permit issued under the Act in violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

6. Each piece of heavy equipment used during excavation or construction activities which resulted in a discharge acted as a "point source" as defined by Section 502(14) of the Act, 33 U.S.C. § 1362(14).

7. The dredged and fill material referred to in paragraph 5 was a "pollutant" as defined by Section 502(6) of the Act, 33 U.S.C. § 1362(6).

8. During the relevant time period, the approximate one acre of wetlands referred to in paragraph 5 were adjacent to, hydrologically connected to, or had a significant nexus to "navigable waters" as defined by Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 232.2, and as such, the one acre of jurisdictional wetlands are "waters of the United States" as defined by 40 C.F.R. § 232.2.

9. 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.

10. Section 404 of the Act, 33 U.S.C. § 1344, authorizes the U.S. Army Corps of Engineers ("COE"), to issue permits for the discharge of dredged or fill material to waters of the

United States.

11. At no time during the relevant time period did Respondent have a permit issued by the COE that authorized the discharges alleged in paragraph 5.

12. Each day of unauthorized discharge was a violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

III. CONSENT AGREEMENT

13. EPA and Respondent agree that settlement of this matter will save time and resources and is in the public interest and that issuance of this Order on Consent is the most appropriate means of resolving this matter with respect to Respondent's restoration of certain wetlands as described below. Respondent concurs in the issuance of this Order on Consent and agrees to comply with the Order. Respondent neither admits nor denies the findings of violations set forth above.

IV. COMPLIANCE ORDER

14. Based on the foregoing Findings of Violations and pursuant to the authority of Section 309(a) of the Act, 33 U.S.C. § 1319(a), EPA ORDERS and Respondent agrees to immediately cease any discharge of dredged and/or fill material to waters of the United States on the subject property and to take the following actions:

a. Within sixty (60) days of Respondent's receipt of this Order, Respondent shall remove the dredged and/or fill material described in paragraph 5, *supra*, and restore the impacted wetlands to pre-construction conditions. Respondent shall contact Jeanene Peckham, EPA Region 6, at (214) 665-6411 upon commencement of the removal of the material and completion of restoration activities; <u>or</u>

b. Within thirty (30) days of the effective date of the Consent Agreement and Final Order, Docket Number CWA-06-2016-2715, Respondent shall, pursuant to Section 404 of the Act, 33 U.S.C. § 1344, apply to the COE for an after-the-fact ("ATF") permit. If Respondent fails to obtain an ATF permit for any reason, Respondent shall restore the impacted wetlands within sixty (60) days following the COE's notice to EPA that Respondent failed to submit a permit application within the time provided above, or that Respondent's permit application has been denied or returned to Respondent by the COE without final action. Respondent shall contact Jeanene Peckham, EPA Region 6, at (214) 665-6411 upon commencement of the removal of the material and completion of restoration activities.

V. GENERAL PROVISIONS

15. Respondent waives any and all claims for relief and otherwise available rights or remedies to judicial or administrative review which the Respondent may have with respect to any issue or fact or law set forth in this Order on Consent, including, but not limited to, any right of judicial review of this Order on Consent under Sections 701 through 706 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

16. Respondent acknowledges the jurisdiction of EPA to issue the Section 309(a)(3) Order on Consent.

17. Issuance of this Order on Consent shall not be deemed an election by EPA to forego any administrative or judicial, civil or criminal action to seek penalties, fines or any other relief appropriate under the Act for the violations cited herein or other violations that become known to

EPA.

18. If EPA issues an administrative complaint or a civil judicial action is initiated by the U.S. Department of Justice, Respondent may be subject to a monetary penalty. The failure to comply with this Order or the Act can result in civil penalties of up to $37,500 per day of violation. If a criminal action is initiated by the U.S. Department of Justice, Respondent may be subject to a fine and/or imprisonment and may also become ineligible for certain government contracts, grants or loans under Section 508 of the Act, 33 U.S.C. § 1368.

19. Compliance with the terms and conditions of this Order on Consent does not relieve Respondent of the obligation to comply with any applicable federal, state or local law or regulation.

20. The effective date of this Order is the date it is signed and returned by Respondent.

21. 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:

Harold Davidson
A & D Investment, Inc.

6/22/16
Date

George Allen
A & D Investment, Inc.

6/22/16
Date

William K. Honker, P.E.
Director, Water Division
U.S. EPA Region 6

7/6/16
Date

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of July, 2016, the original of the foregoing Administrative Order on Consent was hand delivered to the Regional Hearing Clerk, U.S. EPA, Region 6 (6RC-D), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and that a true and correct copy was placed in the United States Mail, by certified mail, return receipt requested, addressed to the following:

Mr. Harold Davidson
Mr. George Allen
A & D Investment, Inc.
P.O. Box 605
Denham Springs, LA 70727-0605

Copy hand-delivered:

Ms. Kristine Talbot
Office of Regional Counsel (6RC-EW)
U.S. EPA Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Jeanene Peckham
Certified by

Peckham, Jeanene

From: Gutierrez, Raul
Sent: Tuesday, April 11, 2017 11:06 AM
To: Peckham, Jeanene
Cc: Nystrom, Thomas; Martinez, Maria
Subject: FW: MVN-2015-2191; APB Land Resources, LLC
Attachments: APB Investments LLC_Rsponses to Comments- Agencies.docx

-----Original Message-----
From: Fortuna, Sara B CIV (US) [mailto:Sara.B.Fortuna@usace.army.mil]
Sent: Friday, April 07, 2017 4:24 PM
To: Gutierrez, Raul <Gutierrez.Raul@epa.gov>
Subject: RE: MVN-2015-2191; APB Land Resources, LLC

Raul,

Please review APB Land Resources response to EPA's comments.

Thanks,

Sara

-----Original Message-----
From: Gutierrez, Raul [mailto:Gutierrez.Raul@epa.gov]
Sent: Monday, March 13, 2017 2:52 PM
To: Fortuna, Sara B CIV (US) <Sara.B.Fortuna@usace.army.mil>
Cc: Zachary Chain <zchain@wlf.la.gov>; Soileau, David <david_soileau@fws.gov>; Elizabeth Hill <Elizabeth.Hill@la.gov>; Peckham, Jeanene <Peckham.Jeanene@epa.gov>
Subject: [EXTERNAL] MVN-2015-2191; APB Land Resources, LLC

Ms. Fortuna,

The Environmental Protection Agency (EPA) has reviewed the Public Notice dated February 20, 2017, concerning Department of the Army Permit Application Number MVN-2015-2191, submitted by APB Land Resources, LLC. The applicant is requesting an after-the-fact authorization to conduct clearing and grading operations, excavate approximately 94,100 cubic yards of earthen material for detention ponds and drainage ditches, and place approximately 35,000 tons of crushed aggregate for roadway, parking, and driving surfaces and 94,100 cubic yards of excavated earthen material and 5,000 cubic yards of hauled-in fill material for grading and shaping operations, all to prepare a 120 acre site for a labor housing development in Sulphur, Louisiana. After-the-fact work includes clearing and grading operations of 37.0 acres of forested wetlands. A total of approximately 61.3 acres of jurisdictional forested wetlands would be permanently impacted via project implementation. The comments that follow are being provided for use in reaching a decision relative to compliance with the EPA's Section 404(b)(1) Guidelines for Specification of Disposal Sites for Dredged or Fill Material (40 CFR Part 230).

The applicant is requesting an after-the-fact permit and should be advised that 1987 Amendments to the Clean Water Act provide EPA with the authority to pursue administrative penalties for discharges in violation of Section 301 of the Clean Water Act, in addition to our authority to seek civil sanctions. The EPA is particularly interested in addressing violations involving repeat or uncooperative offenders and individuals with prior knowledge of permit program requirements. The unauthorized clearing and construction activity circumvented the Clean Water Act Section 404 permitting process and resulted in avoidable impacts. Specifically, the applicant has precluded the environmental protection process afforded by the Section 404 (b)(1) Guidelines which require that a less damaging practicable alternative be permitted when it is in the public's interest, and all practicable measures to avoid, minimize, and mitigate impacts have been identified.

At this time, the EPA recommends that a Department of the Army Permit not be issued for this activity and that the applicant restore the site to pre-project conditions, unless it can be demonstrated that the project represents the least environmentally damaging practicable alternative. We are available to review any alternatives analyses that might be provided by the applicant. If there are no less damaging sites for the project, the applicant should be required to examine opportunities to minimize impacts on site by reducing and/or reconfiguring the proposed project. Finally, should the Corps find it in the public's interest to issue a permit for the proposed project, compensatory mitigation within the project watershed should be provided for all unavoidable impacts that should fully offset all lost wetland functions and values. In this situation, pine savannah and/or coastal prairie mitigation banks may be suitable based on the type of soils and vegetative composition of the forest at the impact site. Thank you for the opportunity to review and comment on the public notice. If you have any questions or additional information, please feel free to contact me.

Raul Gutierrez, Ph.D.

Wetlands Section (6WQ-EM)

US EPA Region 6

(504) 862-2371

Office:

US Army Corps of Engineers

New Orleans District

CEMVN-OD-SS

7400 Leake Ave

New Orleans, Louisiana 70118

Peckham, Jeanene

APB Res.

From: Gutierrez, Raul
Sent: Monday, March 13, 2017 2:52 PM
To: sara.b.fortuna@usace.army.mil
Cc: Zachary Chain; Soileau, David; Elizabeth Hill; Peckham, Jeanene
Subject: MVN-2015-2191; APB Land Resources, LLC

Ms. Fortuna,

The Environmental Protection Agency (EPA) has reviewed the Public Notice dated February 20, 2017, concerning Department of the Army Permit Application Number MVN-2015-2191, submitted by APB Land Resources, LLC. The applicant is requesting an after-the-fact authorization to conduct clearing and grading operations, excavate approximately 94,100 cubic yards of earthen material for detention ponds and drainage ditches, and place approximately 35,000 tons of crushed aggregate for roadway, parking, and driving surfaces and 94,100 cubic yards of excavated earthen material and 5,000 cubic yards of hauled-in fill material for grading and shaping operations, all to prepare a 120 acre site for a labor housing development in Sulphur, Louisiana. After-the-fact work includes clearing and grading operations of 37.0 acres of forested wetlands. A total of approximately 61.3 acres of jurisdictional forested wetlands would be permanently impacted via project implementation. The comments that follow are being provided for use in reaching a decision relative to compliance with the EPA's *Section 404(b)(1) Guidelines for Specification of Disposal Sites for Dredged or Fill Material (40 CFR Part 230).*

The applicant is requesting an after-the-fact permit and should be advised that 1987 Amendments to the Clean Water Act provide EPA with the authority to pursue administrative penalties for discharges in violation of Section 301 of the Clean Water Act, in addition to our authority to seek civil sanctions. The EPA is particularly interested in addressing violations involving repeat or uncooperative offenders and individuals with prior knowledge of permit program requirements. The unauthorized clearing and construction activity circumvented the Clean Water Act Section 404 permitting process and resulted in avoidable impacts. Specifically, the applicant has precluded the environmental protection process afforded by the *Section 404 (b)(1) Guidelines* which require that a less damaging practicable alternative be permitted when it is in the public's interest, and all practicable measures to avoid, minimize, and mitigate impacts have been identified.

At this time, the EPA recommends that a Department of the Army Permit not be issued for this activity and that the applicant restore the site to pre-project conditions, unless it can be demonstrated that the project represents the least environmentally damaging practicable alternative. We are available to review any alternatives analyses that might be provided by the applicant. If there are no less damaging sites for the project, the applicant should be required to examine opportunities to minimize impacts on site by reducing and/or reconfiguring the proposed project. Finally, should the Corps find it in the public's interest to issue a permit for the proposed project, compensatory mitigation within the project watershed should be provided for all unavoidable impacts that should fully offset all lost wetland functions and values. In this situation, pine savannah and/or coastal prairie mitigation banks may be suitable based on the type of soils and vegetative composition of the forest at the impact site. Thank you for the opportunity to review and comment on the public notice. If you have any questions or additional information, please feel free to contact me.

Raul Gutierrez, Ph.D.
Wetlands Section (6WQ-EM)
US EPA Region 6
(504) 862-2371

Office:
US Army Corps of Engineers
New Orleans District
CEMVN-OD-SS
7400 Leake Ave
New Orleans, Louisiana 70118

Peckham, Jeanene

From: Peckham, Jeanene
Sent: Friday, February 24, 2017 8:47 AM
To: Gutierrez, Raul
Subject: RE: Burdine PN

Good morning. In addition to my earlier email about some MVN referrals, what was intended for Mr. Matheny? I sent him copy of Burdine's AOC, because in the furor over responding to Burdine per his call to Congressman, I had not realized the letter to Matheny. So what was the COE intent on this Case in the beginning discussions. I realize a hold has been placed on penalty for Burdine, for what time extent I was provided no information. It seems in this case that the contractor may be more culpable than the owner. Since that AOC dealt with applying for an ATF, which obviously was done and had to be done for Mr. Burdine, but how was the contractor fill work intended to be addressed?
I am trying to figure out which way is up? Jeanene

From: Gutierrez, Raul
Sent: Thursday, February 23, 2017 9:23 AM
To: Peckham, Jeanene <Peckham.Jeanene@epa.gov>
Cc: Nystrom, Thomas <Nystrom.Thomas@epa.gov>; Martinez, Maria <Martinez.Maria@epa.gov>
Subject: Burdine PN

FYI

Raul Gutierrez, Ph.D.
Wetlands Section (6WQ-EM)
US EPA Region 6
(504) 862-2371

Office:
US Army Corps of Engineers
New Orleans District
CEMVN-OD-SS
7400 Leake Ave
New Orleans, Louisiana 70118

Peckham, Jeanene

From: Gutierrez, Raul
Sent: Monday, March 13, 2017 2:52 PM
To: sara.b.fortuna@usace.army.mil
Cc: Zachary Chain; Soileau, David; Elizabeth Hill; Peckham, Jeanene
Subject: MVN-2015-2191; APB Land Resources, LLC

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Raul Gutierrez, Ph.D.
Wetlands Section (6WQ-EM)
US EPA Region 6
(504) 862-2371

Office:
US Army Corps of Engineers
New Orleans District
CEMVN-OD-SS
7400 Leake Ave
New Orleans, Louisiana 70118

Burdine

Section 404 Enforcement Case Referral

Case No. MVN-2015-02191-SR

Prepared by Rosie Schwamenfeld

US Army Corps of Engineers, New Orleans District

Table Of Contents

Initial Investigation Report

I. INFORMATION

1. Corps File Number: MVN-2015-02191-SR
2. Location (Lat/Long, Section, Township, Range):

   Lat: 30.2438, Long: -93.3102, Section 29, T9S, R9W

3. Landowners: Dr. John Michael Burdine (APB Resources, LLC)

   2267 Cedardale Ave, Baton Rouge, Louisiana 70808; jburdine@spinediagnositic.com

4. Contractors: Mr. Chuck Matheny, Cotton Logisitics (www.cottonlogistics.com 877-427-2947)

   3010 Country Club Road, Lake Charles, Louisiana 70605, 832-683-3900

5. Violators: landowners and contractors
6. Date Violation Occurred: This repeat violation occurred approximately late June – early July 2016, and was reported to us on or about July 8th. The original violation at this site was reported in October 2015, and the violator's agents were preparing an after the fact application for the site when this occurred.
7. Date of Investigation & Corps Investigators: July 28, 2016 at site by Rosie Schwamenfeld, after initial contact by phone on or about July 8th.
8. Description of Unauthorized Activities: deposition and redistribution of fill in wetlands
9. Classification from Part III. D(I):

   a. (x) Repeat Violator(s) (This is the first violation site for this violator, but the second C&D related to the same project. This C&D was issued while preparation of an after the fact permit application was underway for the first, and now this additional work has been incorporated into that application.)

   b. ( ) Flagrant Violator

   c. (x) Particular Case EPA May Request (This site was already the subject of a cease and desist order. Work continued while the violator was aware the delineation was under review, in an area previously (and incorrectly) labeled nonwet by the consultant. When notified of the repeat violation, the consultant helped mark the correct wetland lines on the original tract, however work continued on an adjacent tract.)

   d. ( ) Corps Recommends Administrative Penalty

10. Completed Inspection Report (w/photos, maps, and an estimate of impacts in acres, linear feet, and/or cubic yards), and Preliminary Jurisdictional Determination Attached: photos and determination attached.

    a. Impact estimate for entire existing and proposed project: 59.73 wetland acres (of ~120 acre project site) – this total includes impacts in b and c below

    b. Impact estimate for initial violation in October: 35.43 wetland acres (of ~70 acre project site) – this total includes impacts in c below

    c. Impact estimate for the repeat violation referred to in this C&D: 1 wetland acre (of ~4.5 acre project site)

11. ORMS Database Query Results for Landowners, Contractors, and/or Violators Attached: There are no certain matches to other projects, matches to similar names are attached.

12. Corps Recommendations for Resolution: We have received an after the fact application that is ready to forward to our Western Evaluation Section for further processing when the EPA is satisfied.

II. EPA DETERMINATION

1. ( ) EPA will act as lead enforcement agency.

2. ( ) EPA declines the lead enforcement agency role and refers the matter back to the Corps pursuant to Part III. 0(2) of the MOA. EPA's recommendations are:

If applicable:

a. EPA requested additional time *(date, time, Corps contact):* _____ _

b. EPA requested additional information *(date, time, Corps contact, type of info):*

III. JOINT ENFORCEMENT STRATEGY (if applicable)

1. Corps Lead:

2. EPA Lead:

IV. CERTIFICATION (must be completed)

	Corps Representative	EPA Representative
Name/Title	Rosie Schwamenfeld / Botanist	
Signature/Date	SCHWAMENFELD.ROSE ELLEN PALUMBO.1388591702 Digitally signed by SCHWAMENFELD.ROSE.ELLEN PALUMBO.1388591702 DN: c=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USA, cn=SCHWAMENFELD.ROSE.ELLEN PALUMBO.1388591702 Date: 2016.08.31 17:09:12 -05'00'	

Exhibit A

VIOLATION REPORT FORM

ORM #: 2015-02191- SR. DATE REPORTED: 10/27/15

REPORT TAKEN BY: WATSON

DATE ASSIGNED: 10/30/15 INVESTIGATOR: Schwarmenfeld

V-NAME: ~~PRATER, LAWRENCE~~ TELEPHONE NUMBERS & TYPE

d/b/a: Dr. John Michael Burdine (225) 802-2329 cell

ADDRESS: ~~602 PRATER ROAD~~ APB Resources, LLC -

~~WESTLAKE, LA 70669~~ 2267 Cedardale Ave jburdine@spinedrag nostic.com

AGENT: Mohan Menon Baton Rouge LA 70808 - Business

CONSULTANT: David Minton Cypress Group 337 1764 - 8884

PERSON MAKING VIOLATION ALLEGATION: TELEPHONE NUMBER & TYPE

ANON ( ) -

DESCRIPTION OF VIOLATION: MECHANIZED LAND CLEARING on ~30 acres of 165 acre tract

==========VIOLATION LOCATION INFORMATION==========

PARISH: CALCASIEU SITE SIZE: WW:

SECTION: 29 Quad: ☐ 10

TOWNSHIP: 9S Lat: 30.2442 Soil Map: AUTH: ☑ 404

RANGE: 9W Long: -93.3076 Soil Types: ☐ BOTH

OTHER SITE INFORMATION: 603 PRATER ROAD IS CLOSET ADDRESS TO VIOLATION

INITIAL CONTACT DATE: BY:

EARLY RESOLUTION: DATE RESOLVED: DATE CLOSED:

☐ Existing JD#: (along road: 2014-1189-SQ)

☐ Permit Exists - P#:

☐ Not a Regulated Activity - [NPR]

☐ No Violation Exists - [NPR]

Date Violation Confirmed: 1-29-16 Cease & Desist Info Complete Date: 2-17-16

☒ Cease & Desist Order: Type: Gen Com Rcvd: 2-18-16 Comments: 2nd C&D Spec Com. 8-18-16 (8-9-16)

☒ Tolling Agreement - Rcvd: 2-18-16

☒ ATF – Application - Rcvd: ~~orig 2-21-16~~ final 8-5-16 Forwarded:

☒ JD#: Same Finish Date: 7-31-16 Forwarded: 8-1-16

☐ Restoration -

☐ Admin. Close -

☒ OTHER RESOLUTION: EPA

☒ DATE RESOLVED: 8-22-16 DATE CLOSED: 8-25-16

NOTES: Site is behind 414 Prater Rd → left sticker Spooner → wasn't clear with them about where the wetland was (bulldozer operators didn't know to avoid it.) Claude Penn was doing the clearing advised having the site re-evaluated. owner of company.

Revised 10 Oct 2011

Recieved LAO 11-5-15

ENFORCEMENT CHECKLIST:

(1) **Regulatory Authority:** ☐ 10 ☐ 404 ☐ Both

(2) **Is the property 100% wetland?** ☐ YES ☐ NO ☐ Unknown

(3) **What is the size of the wetland impact?** _____

(4) **Are the wetlands tidally influenced?** ☐ YES ☐ NO

(5) **Are other waters impacted?** ☐ YES ☐ NO

(6) **If yes, these waters are...** ☐ 404 Only ☐ Tidal ☐ Navigable

(7) **Was hauled fill deposited on site?** ☐ YES ☐ NO

(8) **Mechanized landclearing?** ☐ YES ☐ NO

(9) **Ditching?** ☐ YES ☐ NO

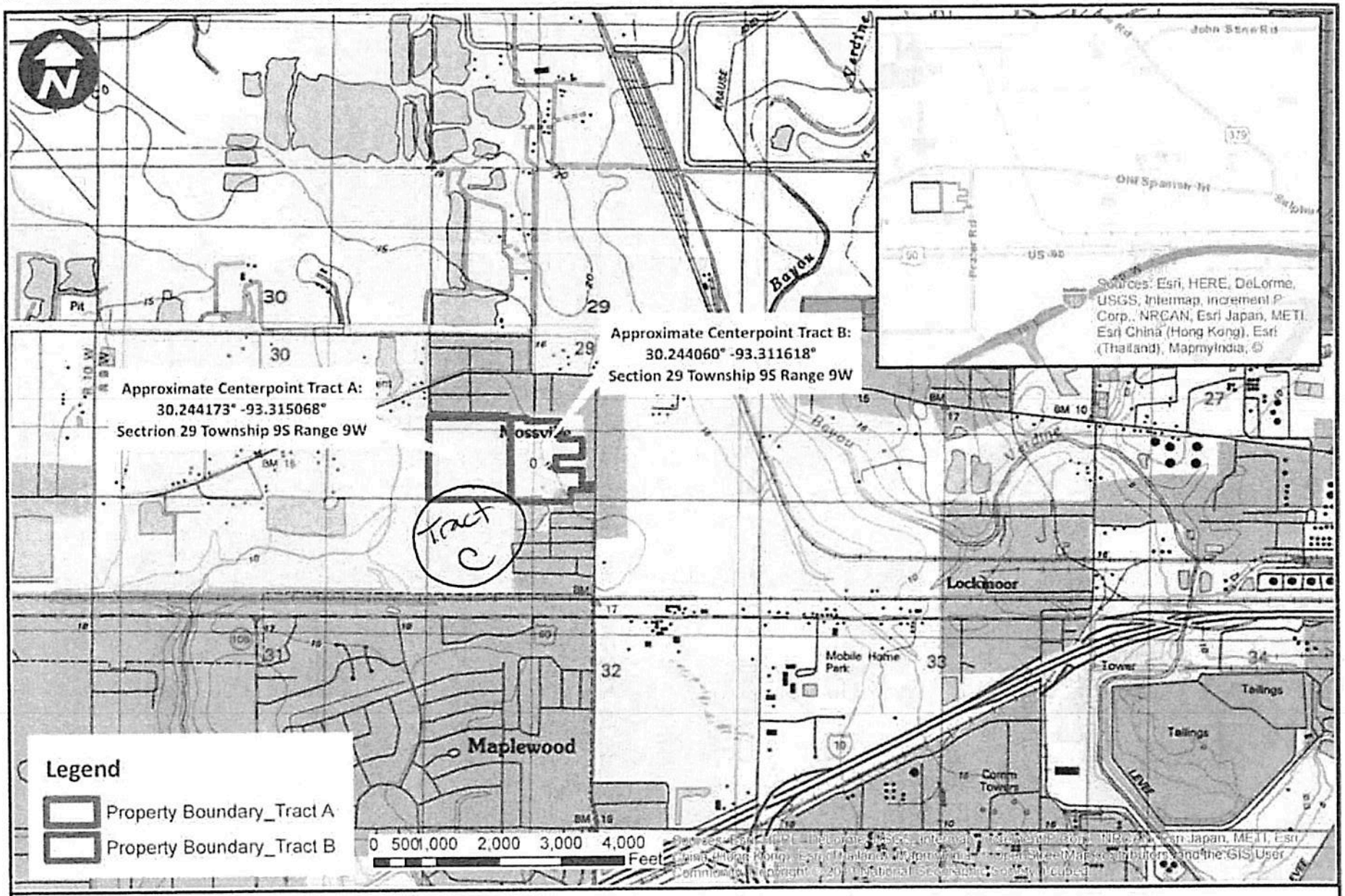
(10) **Other unauthorized activity?** _____

ADDITIONAL COMMENTS/NOTES:

Report of additional ongoing activity - could be in non wetlands → Applicant says only working in non wet but consultant says applicant has not recieved revised delineation. → told consultant to provide current map and advised applicant to make sure no further work happened until he knows where the wetland line is. recommended waiting until JD is issued (again) and reminded him that any work in jurisdictional wetlands was a violation even if no JD had been issued — and that entire project needs to be in ATF

→ Applicant had agent work with consultant to mark new lines and begin revisions to ATF immediately

7-28-16 new site visit; work is well beyond non-wet boundary - posted sticker and took pictures



Environmental Management Solutions, LLC
10725 Hillshire Avenue
Baton Rouge, Louisiana 70810
(225) 281-1149

Figure 1: Site Location
Mary-Prather Tract A and Tract B

Exhibit B1


Mossville
Approximate boundary
Google earth
© 2016 Google
N
1 mi

Exhibit B2

Exhibit C

Discussion of Impacts

The original impacts on this site included mechanized landclearing of approximately 70 acres of land, of which 35.43 acres was wetland. Resolution of that violation by an after the fact permit was in progress, along with a jurisdictional determination for which the revised wetland boundaries were identified by June 23, 2016. Before that determination was issued, a report of additional activity was received in Lafayette in the first week of July. It is this second activity after our initial cease and desist order that is referred to in this second cease and desist order.

Initial phone calls with the landowner and consultant resulted in conflicting statements that a) there was work occurring in only nonwetlands, or b) there was no work at all just parked equipment. I established that the landowner had sent his surveyor to mark the wetland boundaries on the site using the maps initially submitted with his jurisdictional determination request, rather than involving his consultant to learn about the revisions that he knew where in progress.

I advised the landowner that if his project had crossed into wetlands it was a violation, that the consultant had confirmed the landowner did not yet have a copy of the revisions, that therefore the project could easily have crossed the wetland boundary, and that I would reserve judgement until I had seen the site. Immediately after our phone calls, the surveyor was sent back out with the consultant to mark the revised lines in the field, and work appears to have stopped in the indicated part of the original tract. However, the lines were not extended on to an adjacent tract that had recently been purchased by the applicant, and work continued on this tract until my site visit on July 28, 2016. All parties were again reminded that all parts of the project need to be on the application, and that not having a delineation on any particular tract does not relieve their responsibility for getting a permit before doing work in wetlands.

The landowner's agent also began updating the permit application immediately after our phone calls, but did not accurately map the full extent of the activity until I had been out to witness it and indicated the errors. The project throughout this area involved additional deposition and redistribution of fill material in a project area of about 4.5 acres of which 1 acre was wetland, as shown on the attached map.

Much of the work on the new tract was in nonwetlands, however along the boundaries of the site there were impacts to the same wetlands as on the adjacent property. (Please see the "Mayo" tract on the attached map.) On this 1 acre tract there were 0.04 acres of wetland impacts, before and after the phone call advising the landowner he was working with the wrong map. The project on this tract included construction of a road out of the same hard surface material used to support the paved surface of a road, and additional distribution of fill material. Ditches were also excavated on either side of the new road. Currently those ditches are impoundments that do not connect to anything.

Additional review during the investigation of this activity, showed the June 23rd wetland map submitted by the consultant still excluded part of the initial violation area, and part of that area is also part of this second violation. Revisions were submitted July 18th to include both the new tract and the missing part of the original tract. The jurisdictional determination was prepared with a staffed C&D July 31st and revised to a standalone JD August 1st when field C&Ds became available. The JD was issued from our New Orleans office on August 9th. Dr. Burdine returned a phone call August 5th, following which a field C&D was issued. After several phone calls and emails Dr. Burdine signed and returned the C&D August 9th. This C&D addressed all the recent activity which began in late June to early July including the impacts before and after the phone call that had the effect of reducing the project area to a one acre tract; the mechanized landclearing that removed the trees from this area and more was addressed by the first C&D.

Chronology of Case

Exhibit D

Additional Contacts:

Consultant: Mohan Menon, Environmental Mgmt. Solutions, LLC; mohanmenon6@gmail.com

10725 Hillshire Ave, Baton Rouge, Louisiana 70810; 225-281-1149

Agent: David Minton, Cypress Group; David.minton@cypressgroupla.com; 337-764-8884

Attorney: Tom Gayle, Gayle Law Firm, TGayle@gaylelaw.com ; 337-494-1145 (fax)

713 Kirby Street, Lake Charles, Louisiana 70602; 337-494-1220 *13

COMPLETE SITE TIMELINE: (* indicates dates relevant to current C&D for repeat violation)

Violation report in New Orleans: 10-27-15

VRF received in Lafayette: 11-5-15

Additional information received 12-3-15

Violation confirmed: 1-29-16, also identified as the subject of a jurisdictional determination request

- consultant data shows original consultant (Scott Spooner) identified wetlands at the site for David Minton, but a map of those wetlands is not provided in the file, instead maps and additional data are provided by a new consultant (Mohan Menon).
- JD request references a previous meeting in New Orleans on Dec 7th (not associated with this account at the time) at which they self-reported that they had failed in their reported efforts to avoid impacts to wetlands

Jurisdictional Determination (JD) request received in Lafayette: 2-2-16 (update expected)

C&D info complete: 2-17-16 – initial statements over the phone from landowner and consultant are that Scott Spooner wasn't clear with them about where the wetlands was and the bulldozer operator didn't know how to avoid it. The owner of the company doing the clearing was Claude Penn (no contact information), and when he saw the state of the site he advised having it re-evaluated. This resulted in the new consultant, Mohan Menon, and the self-reporting already described.

Original C&D signed: 2-18-16

*(see Calcasieu Parish Police Jury 2016 imagery, attached, of the site for state of project at the time of the original C&D)

Draft ATF received: 2-21-16 (needs revisions) with permit drawings by the Cypress Group dated 2-10-16

Update to jurisdictional determination request received: 2-25-16, increases project area

Site visit for JD: 5-12-16

Revisions to JD received 6-23-16: wetland lines are OK, but project boundary needs correction to include all work

*Report of additional work at the site 1st week of July, and phone calls to landowner and consultant, who began marking the revised wetland boundaries at the site, with David Minton who previously staked the

Chronology (continued)

incorrect lines from the original submittal instead of seeking from the consultant the corrected lines he knew were underway for the JD.

Revised application received that still does not illustrate ATF work: 7-12-16

Received revised ATF (still needing updates) with incorporated JD map showing the additional tract: 7-18-16

*Site visit to confirm current state of site: 7-28-16 – additional violation confirmed. Observed that revised boundaries were not marked on an additional tract not yet shown in application, and that work area impacted by construction activities was larger than indicated in latest permit drawings

*Sign at site has contractor contact information that was previously unavailable. Called 7-29-16, everyone working on this project has left the office, but they will call me back.

JD map in revised ATF has errors, so I incorporated delineation of additional project area into JD map from 6-23-16, and prepared letter combining JD and C&D 7-31-16.

Field C&Ds available, so letter revised letter to stand-alone JD: 8-1-16, which was issued by New Orleans 8-9-16.

*Received return phone call from Dr. Burdine; issued 2nd C&D requesting specific comments 8-5-16

*ATF application updated to show recent work. 8-5-16

*No return phone call, so I called the contractor again in the second week of August. Everyone working on this project was unavailable due to a meeting in progress, but they will call me back. Left a message that the site was subject to a cease and desist order, and that I needed to talk to them about the site, and that no additional work should be done without confirmation that either the project area is nonwet or a permit has been issued.

*Received signed C&D from Dr. Burdine 8-9-16

*Received comments 8-18-16 through Dr. Burdine's attorney

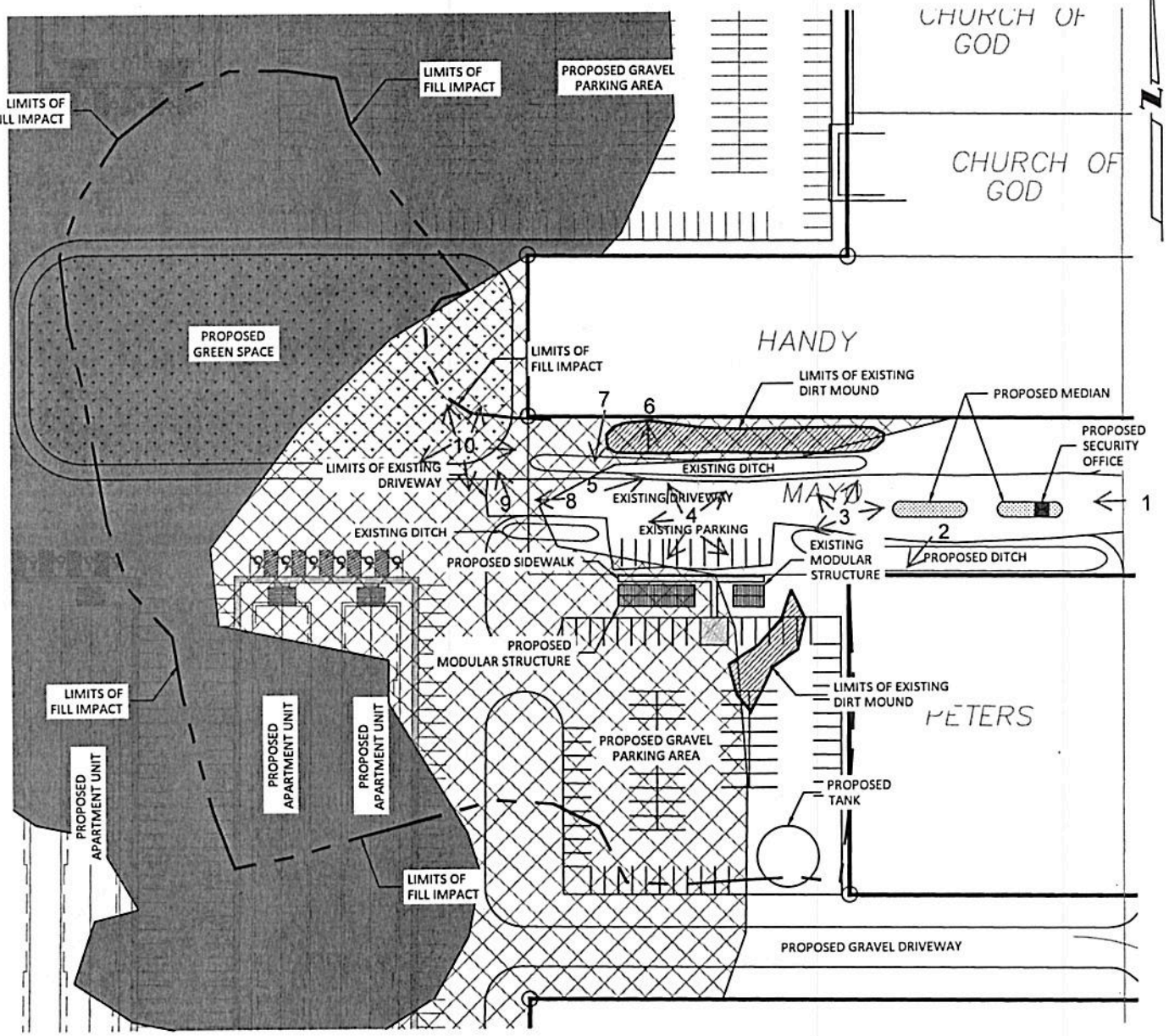
*Telephone conference with Raul 8-22-16, file to be sent to EPA.

*Final call to contractor 8-25-16. Allen Livingston has no record of previous calls, and no one is available, but they will call me back. I advised him that they won't avoid me indefinitely by refusing my calls, and that it was important for me to talk to the contractor working at this site. I received a return call from the contractor, Mr. Matheny, the same day and issued a C&D to notify him of the work at the site. Any comments received will be forwarded to accompany this file.

2016 aerial from Calcasieu Parish Police Jury

Exhibit E

Photo Index (1, 3, 4, & 10 are panaramas)



DETAIL "A"
SCALE: 1" = 100'

THE CYPRESS GROUP
4310 RYAN ST. STE 122
LAKE CHARLES, LA
OFFICE - 337.504.7755
FAX - 337.504.7744

MIKE BURDINE
PRATER RD. WEST TRACT

DETAIL "A"

C.G.M.	6.0
08/01/2016	
1" = 100'	

Photo 1

PPhoto 2

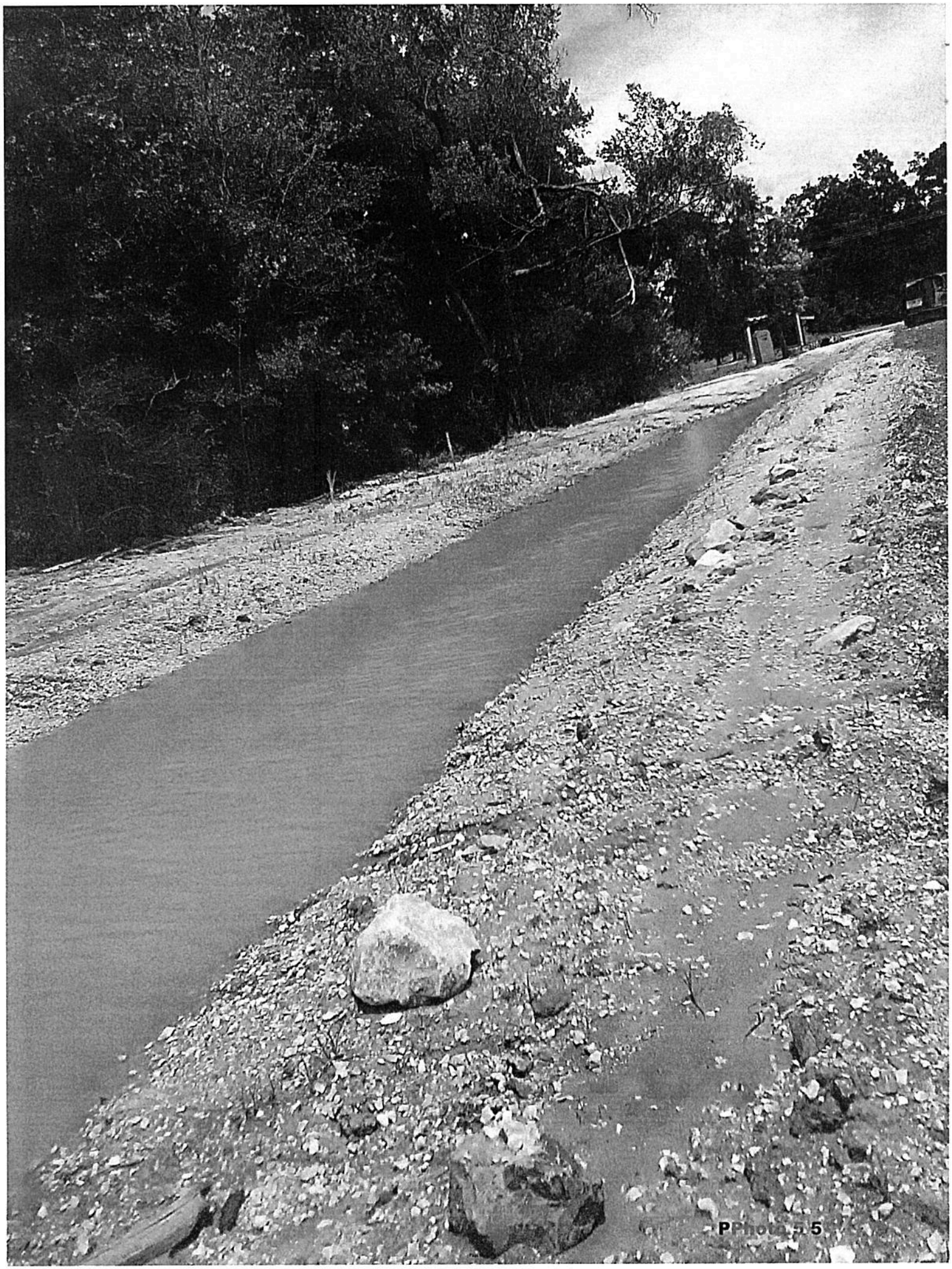


Photo 5


PPhoto 66


Photo 8

Photo 6

Exhibit G

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, NEW ORLEANS DISTRICT
7400 LEAKE AVENUE
NEW ORLEANS, LOUISIANA 70118

REPLY TO
ATTENTION OF

August 9, 2016

Operations Division
Surveillance and Enforcement Section

Mr. Mohan Menon
Environmental Management Solutions, LLC
10725 Hillshire Ave.
Baton Rouge, LA 7081O

Dear Mr. Mohan:

Reference is made to your request for a U.S. Army Corps of Engineers' (Corps) jurisdictional determination on property located in Section 29 and 32, Township 9 South, Range 9 West, Calcasieu Parish, Louisiana (enclosed map). Specifically, this property is identified as three tracts on and west of Prater Road and on and south of Perkins Ave, in Mossville.

A field inspection of the property was conducted on May 12, 2016. Based on the results of this investigation, we have determined that part of the property is wetland and may be subject to Corps' jurisdiction. The approximate limits of the wetland are designated in red and orange on the map. A Department of the Army (DA) permit under Section 404 of the Clean Water Act will be required prior to the deposition or redistribution of dredged or fill material into wetlands that are waters of the United States. Additionally, a DA permit will be required if you propose to deposit dredged or fill material into other waters subject to Corps' jurisdiction. Other waters that may be subject to Corps' jurisdiction are indicated in blue on the map.

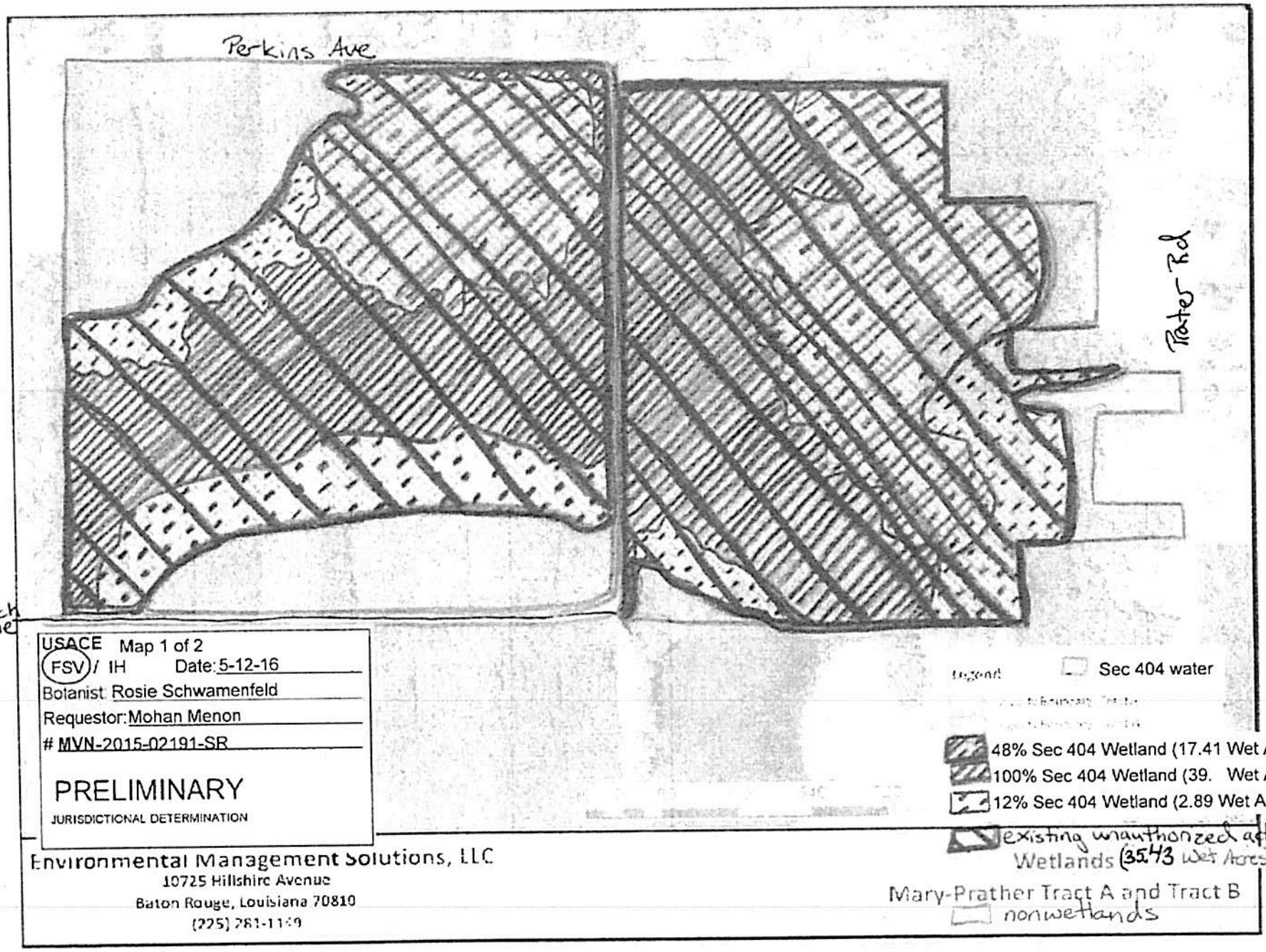
You and your client are advised that this preliminary jurisdictional determination is valid for a period of 5 years from the date of this letter unless new information warrants revision prior to the expiration date or the District Commander has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.

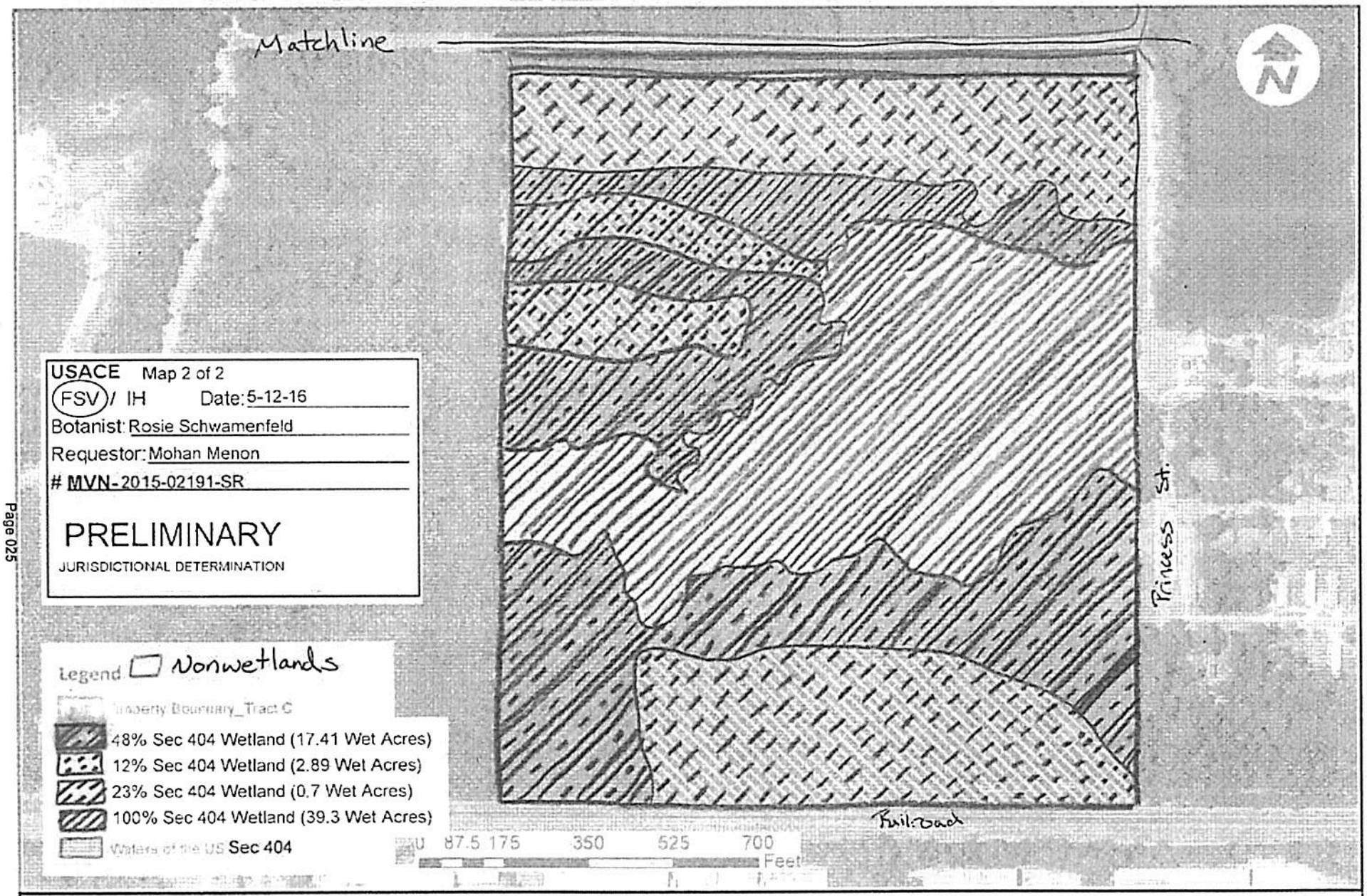
Should there be any questions concerning these matters, please contact Dr. Rosie Schwamenfeld at (337) 291-3045 and reference our Account No. MVN-2015-02191-SR. If you have specific questions regarding the permit process or permit applications, please contact our Western Evaluation Section at (504) 862-2411.

Sincerely,

for Martin S. Mayer
Chief, Regulatory Branch

Enclosure


Perkins Ave
Prater Rd
Match line
USACE Map 1 of 2
FSV / IH Date: 5-12-16
Botanist: Rosie Schwamenfeld
Requestor: Mohan Menon
MVN-2015-02191-SR
PRELIMINARY
JURISDICTIONAL DETERMINATION
Legend
Sec 404 water
48% Sec 404 Wetland (17.41 Wet Acres)
100% Sec 404 Wetland (39. Wet Acres)
12% Sec 404 Wetland (2.89 Wet Acres)
existing unauthorized activity
Wetlands (35.43 Wet Acres)
Mary-Prather Tract A and Tract B
nonwetlands
Environmental Management Solutions, LLC
10725 Hillshire Avenue
Baton Rouge, Louisiana 70810
(225) 281-1169



Environmental Management Solutions, LLC
10725 Hillshire Avenue
Baton Rouge, Louisiana 70810
(225) 281-1149

Wetlands
Mary-Prather Tract C

Exhibit H

New Orleans District MVN - CENWN

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Search Results

DA Number	Project Name	Action	Start Date	End Date	First Name A	Last Name	Company	City	State	Zip	Regulator	Description
MVR-1989-01154	SPRINGFIELD CITY WATER, LIGHT AND POWER	CD	01-AUG-89	08-NOV-89	Charles	Matheny	-	Springfield	IL	62704	Wayne Hannel (BGODPWSH)	Basena: 187020 SPRINGFIELD CITY WATER, LIGHT AND POWER
MVR-1989-01154	SPRINGFIELD CITY WATER, LIGHT AND POWER	CD	07-JAN-95	30-NOV-99	Charles	Matheny	-	Springfield	IL	62704	Wayne Hannel (BGODPWSH)	Basena: 187020 SPRINGFIELD CITY WATER, LIGHT AND POWER
MVR-1989-01154	SPRINGFIELD CITY WATER, LIGHT AND POWER	CD	07-DEC-87	31-JAN-94	Charles	Matheny	-	Springfield	IL	62704	Wayne Hannel (BGODPWSH)	Basena: 187020 SPRINGFIELD CITY WATER, LIGHT AND POWER
MVR-1989-01154	SPRINGFIELD CITY WATER, LIGHT AND POWER	CD	27-NOV-00	26-NOV-05	Charles	Matheny	-	Springfield	IL	62704	Wayne Hannel (BGODPWSH)	Basena: 187020 SPRINGFIELD CITY WATER, LIGHT AND POWER
MVR-1989-01154	SPRINGFIELD CITY WATER, LIGHT AND POWER	HISTORIOP	26-SEP-89	20-DEC-94	Charles	Matheny	-	Springfield	IL	62704	Wayne Hannel (BGODPWSH)	Basena: 187020 SPRINGFIELD CITY WATER, LIGHT AND POWER
MVR-1989-01154	SPRINGFIELD CITY WATER, LIGHT AND POWER	PERMITMOD	07-DEC-87	26-APR-99	Charles	Matheny	-	Springfield	IL	62704	Wayne Hannel (BGODPWSH)	Basena: 187020 SPRINGFIELD CITY WATER, LIGHT AND POWER
MVR-1989-01154	SPRINGFIELD CITY WATER, LIGHT AND POWER	PUBNOTICE	06-NOV-89	05-DEC-89	Charles	Matheny	-	Springfield	IL	62704	Wayne Hannel (BGODPWSH)	Basena: 187020 SPRINGFIELD CITY WATER, LIGHT AND POWER
MVR-1989-01154	SPRINGFIELD CITY WATER, LIGHT AND POWER	PUBNOTICE	07-MAY-03	07-JUN-03	Charles	Matheny	-	Springfield	IL	62704	Wayne Hannel (BGODPWSH)	Basena: 187020 SPRINGFIELD CITY WATER, LIGHT AND POWER
MVR-1989-01154	SPRINGFIELD CITY WATER, LIGHT AND POWER	SP	01-AUG-89	20-DEC-94	Charles	Matheny	-	Springfield	IL	62704	Wayne Hannel (BGODPWSH)	Basena: 187020 SPRINGFIELD CITY WATER, LIGHT AND POWER
MVR-1989-01154	SPRINGFIELD CITY WATER, LIGHT AND POWER	SP	07-JAN-95	30-NOV-99	Charles	Matheny	-	Springfield	IL	62704	Wayne Hannel (BGODPWSH)	Basena: 187020 SPRINGFIELD CITY WATER, LIGHT AND POWER
MVR-1989-01154	SPRINGFIELD CITY WATER, LIGHT AND POWER	SP	27-NOV-00	26-APR-06	Charles	Matheny	-	Springfield	IL	62704	Wayne Hannel (BGODPWSH)	Basena: 187020 SPRINGFIELD CITY WATER, LIGHT AND POWER

Exports: Excel

1 - 11

New Orleans District MVN - CENWN

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Search Results

DA Number	Project Name	Action	Start Date	End Date	First Name A	Last Name	Company	City	State	Zip	Regulator	Description
SPK-1977-00084	MATHENY, C.E.	SP	26-APR-77	13-JUL-77	C.	Matheny	-	-	-	-	(SWL_UNASSIGNED)	LC 79-247

Export to Excel

1 - 1

Search Results

DA Number	Project Name	Action	Start Date	End Date	First Name A	Last Name	Company	City	State	Zip	Regulator	Description
LRN-9-7725602	WEEMS, JAMES M	RGP	01-DEC-84	10-JAN-95	John	Burdine, Jr.	-	Sale Creek	TN	37373-9740	Catherine Elliott (HOOPKCEE)	-
LRN-9-7725602	WEEMS, JAMES M.	RGP	01-DEC-84	10-JAN-95	John	Burdine, Jr.	-	Sale Creek	TN	37373-9740	Catherine Elliott (HOOPKCEE)	-
LRN-9-7725600	WEEMS, JAMES M	LOP	09-MAR-88	10-APR-99	John	Burdine, Jr.	-	Sale Creek	TN	37373-9740	Catherine Elliott (HOOPKCEE)	-
LRN-9-7725600	WEEMS, JAMES M.	NWP	03-MAR-86	10-MAR-86	John	Burdine, Jr.	-	Sale Creek	TN	37373-9740	Catherine Elliott (HOOPKCEE)	-
SPK-1994-72140	BURDINE	NWP	18-MAY-94	06-JUN-94	John	Burdine	-	Almont	CO	81210-9702	kenneth Jacobson (LZRCWALJ)	-
SPK-1994-72140	BURDINE	SITEVISIT	23-MAY-94	23-MAY-94	John	Burdine	-	Almont	CO	81210-9702	kenneth Jacobson (LZRCWALJ)	-
MVN-2010-02552-WMK	JD: APB Land Resources, LLC - Mary Phillips Tracts A, B, and C- Labor Housing Construction And Access Rd - Cattlemen This is a duplicate file to 2015-02191-SR	-	-	-	John	Burdine	APB Land Resources, LLC	Baton Rouge	LA	70806	Rose Schwamenfeld (BGODSREP)	JD to A 65.5 ac site on, along & E of Perkins Ave. & W of Prather Rd. 2/19/15 - APB Investments, LLC proposes to construct a labor housing complex and associated features. To accomplish this, three tracts (A, B, & C) are proposed to be used.
MVN-2005-03295	Preston B. Gajan Home, Pier, DBF	401CERT	09-DEC-05	04-APR-06	Mike	Burdine	-	Baton Rouge	LA	70808	Miranda Martin (BZODSMAM)	-
MVN-2005-03295	Preston B. Gajan, Home, Pier, DBF	CD	15-AUG-05	06-DEC-05	Meg	Burdine	-	Baton Rouge	LA	70808	Miranda Martin (BZODSMAM)	-
MVN-2005-03295	Preston B. Gajan, Home, Pier, DBF	CZM	16-FEB-06	16-FEB-06	Mike	Burdine	-	Baton Rouge	LA	70808	Miranda Martin (BZODSMAM)	-
MVN-2005-03295	Preston B. Gajan, Home, Pier, DBF	PUBNOTICE	07-DEC-05	09-DEC-05	Mike	Burdine	-	Baton Rouge	LA	70808	Miranda Martin (BZODSMAM)	-
MVN-2005-03295	Preston B. Gajan, Home, Pier, DBF	SP	15-AUG-05	19-APR-06	Mike	Burdine	-	Baton Rouge	LA	70808	Miranda Martin (BZODSMAM)	-

Search Results

DA Number	Project Name	Action	Start Date	End Date	First Name A	Last Name	Company	City	State	Zip	Regulator	Description
LRL-1994-02461	KROGER COMPANY	SP	21-APR-94	22-APR-94	J.	Burdine	-	Indianapolis	IN	46250-1977	(LRL_UNASSIGNED)	install a storm sewer pipe with protective headwall, riprap creek bank armoring at pipe outfall; and, a 12-inch sanitary sewer to an existing sanitary manhole. The proposal would be constructed within the overbank area of the East Fork of White Lick Creek in Marion County, Indiana
LRL-1992-01258	THE KROGER COMPANY	CD	26-OCT-92	26-OCT-92	J.	Burdine	-	Indianapolis	IN	46250-1977	(LRL_UNASSIGNED)	on behalf of The Kroger Company, concerning the excavation/filling of an isolated wetland area for the construction of a retention pond at a proposed Kroger Store site. The project is located on the Beech Grove Quadrangle, T 17N, R 4E, Sec. 3, NW 1/4, on East Thompson Road, in Indianapolis, Marion County, Indiana.
LRL-1992-01258	THE KROGER COMPANY	NWP	26-OCT-92	16-NOV-92	J.	Burdine	-	Indianapolis	IN	46250-1977	(LRL_UNASSIGNED)	on behalf of The Kroger Company, concerning the excavation/filling of an isolated wetland area for the construction of a retention pond at a proposed Kroger Store site. The project is located on the Beech Grove Quadrangle, T 17N, R 4E, Sec. 3, NW 1/4, on East Thompson Road, in Indianapolis, Marion County, Indiana.
LRL-1992-01258	THE KROGER COMPANY	SP	26-OCT-92	26-OCT-92	J.	Burdine	-	Indianapolis	IN	46250-1977	(LRL_UNASSIGNED)	on behalf of The Kroger Company, concerning the excavation/filling of an isolated wetland area for the construction of a retention pond at a proposed Kroger Store site. The project is located on the Beech Grove Quadrangle, T 17N, R 4E, Sec. 3, NW 1/4, on East Thompson Road, in Indianapolis, Marion County, Indiana.
MVK-1995-01460	BURDINE, J. H.	RGP	31-JUL-95	23-AUG-95	J.	BURDINE	-	Greenville	MS	38702-1106	(MVK_UNASSIGNED)	ACTID: 950012290
MVK-1995-01460	BURDINE, J. H.	SITEVISIT	08-AUG-95	08-AUG-95	J.	BURDINE	-	Greenville	MS	38702-1106	(MVK_UNASSIGNED)	ACTID: 950012290
MVN-2004-01969	HOME ON LTMA PIERRE PART	401CERT	25-MAR-04	17-JUN-04	J.	Burdine	-	Baton Rouge	LA	70806	Roger Swindler (BZODSRDS)	Basena: 200401969 HOME ON LTMA PIERRE PART
MVN-2004-01969	HOME ON LTMA PIERRE PART	401CERT	01-MAR-05	23-MAR-05	J.	Burdine	-	Baton Rouge	LA	70808	Roger Swindler (BZODSRDS)	Basena: 200401969 HOME ON LTMA PIERRE PART
MVN-2004-01969	HOME ON LTMA PIERRE PART	APNFORECD	27-MAR-04	12-JUL-04	J.	Burdine	-	Baton Rouge	LA	70808	Roger Swindler (BZODSRDS)	Basena: 200401969 HOME ON LTMA PIERRE PART
MVN-2004-01969	HOME ON LTMA PIERRE PART	CD	25-MAR-04	29-JUL-04	J.	Burdine	-	Baton Rouge	LA	70808	Roger Swindler (BZODSRDS)	Basena: 200401969 HOME ON LTMA PIERRE PART
MVN-2004-01969	HOME ON LTMA PIERRE PART	CD	01-MAR-05	23-JUN-15	J.	Burdine	-	Baton Rouge	LA	70808	Roger Swindler (BZODSRDS)	Basena: 200401969 HOME ON LTMA PIERRE PART
MVN-2004-01969	HOME ON LTMA PIERRE PART	LOP	01-MAR-05	12-APR-05	J.	Burdine	-	Baton Rouge	LA	70808	Roger Swindler (BZODSRDS)	Basena: 200401969 HOME ON LTMA PIERRE PART
MVN-2004-01969	HOME ON LTMA PIERRE PART	PUBNOTICE	25-MAR-04	12-JUL-04	J.	Burdine	-	Baton Rouge	LA	70808	Roger Swindler (BZODSRDS)	Basena: 200401969 HOME ON LTMA PIERRE PART
MVN-2004-01969	HOME ON LTMA PIERRE PART	SP	25-MAR-04	29-JUL-04	J.	Burdine	-	Baton Rouge	LA	70808	Roger Swindler (BZODSRDS)	Basena: 200401969 HOME ON LTMA PIERRE PART
LRN-9-7725603	WEEMS, JAMES M	NWP	01-DEC-84	10-JAN-95	John	Burdine, Jr.	-	Sale Creek	TN	37373-9740	Catherine Elliott (HOOPKCEE)	-

Export to Excel

Previous 31 - 45 Next

SAM-1990-01159	MOBILE Historical	RGP	17-OCT-88	17-OCT-88	J.N.	BURDINE	-	Amory	MS	38821	(SAM_UNASSIGNED)	ACTID: 199001799
LRL-1994-00461	KROGER COMPANY	NWP	22-APR-94	29-APR-94	J.	Burdine	-	Indianapolis	IN	46250-1977	(LRL_UNASSIGNED)	install a storm sewer pipe with protective headwall, riprap creek bank armoring at pipe outfall; and, a 12-inch sanitary sewer to an existing sanitary manhole. The proposal would be constructed within the overbank area of the East Fork of White Lick Creek in Marion County, Indiana

ORM Contacts Search Results

Exhibit I
Initial C&D

DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P.O. BOX 60267
NEW ORLEANS, LOUISIANA 70160-0267

CEASE AND DESIST ORDER

REPLY TO
ATTENTION OF
Operations Division
Surveillance and Enforcement Section

CASE NUMBER: MVN-2015-02191-A-SR

ISSUED TO: Dr. John Burdine, APB Resources, LLC

ADDRESS: 2267 Cedardale Ave, Baton Rouge, Louisiana 70808 PHONE: 225-802-2329

LOCATION OF WORK: A tract on and east of Prater Road and north of King Street in Mossville

Section 29, T9S, R9W, Calcasieu Parish (Approx Lat: 30.243947, -93.310822)

CHARACTER OF WORK: Mechanized landclearing in wetlands

APPARENT VIOLATION OF: [ ] **Section 10 of the Rivers and Harbors Act (RHA);** [ ] **Section 13 of the RHA;** [X] **Section 301 of the Clean Water Act (CWA); and/or** [ ] **Section 404 of the CWA.**

This work was performed in waters of the United States and is therefore subject to Department of the Army regulatory authority. You are directed not to perform or allow any further unauthorized work at this site until proper authorization has been granted. Failure to abide by this Cease and Desist Order will result in appropriate legal action.

You are advised that violations of the RHA and/or the CWA may subject you to appropriate administrative and/or judicial action. Legal action could result in a fine and/or a court order to restore the site to pre-project conditions. A DA permit application cannot be accepted until all legal issues are resolved. Any comments or defense you wish to submit on your behalf to explain why you failed to obtain a DA permit prior to conducting the above work should be submitted to the Chief, Surveillance and Enforcement Section, at the above address.

If we do not receive a written response from you within 20 days from the date shown below, we will proceed with appropriate action for resolution of the legal issues based on the information in our files.

Should you wish to discuss this matter further, or if you have any questions concerning wetlands and the permitting process, please contact the undersigned issuer at (504) 862-2270, or ~~2270~~: 337-291-3045

Sincerely,

Richard L. Hansen
Colonel, US Army
District Commander

SCHWAMENFELD.ROSE.ELLEN.PALUMBO.1388591702
Digitally signed by SCHWAMENFELD.ROSE.ELLEN.PALUMBO.1388591702
DN: c=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USA, cn=SCHWAMENFELD.ROSE.ELLEN.PALUMBO.1388591702
Date: 2016.02.17 18:06:43 -06'00'

ISSUED BY: _____ JOB TITLE: Botanist

RECEIPT ACKNOWLEDGED: _____ DATE: 2/18/16

Jun 13

C&D-gen com

TOLLING AGREEMENT

WHEREAS, the United States of America, on behalf of the United States Army Corps of Engineers (Corps) may file a complaint against

Dr. John Burdine, APB Resources, LLC

("potential defendant(s)") for, inter alia, alleged violations of Sections 301(a), 309, & 404 of the Clean Water Act ("CWA"), 33 U.S.C. Sections 1311(a), 1319, & 1344 and/or Section 9, 10, or 13 of the Rivers and Harbors Act of 1899, 33 U.S.C. Sections 401, 403, or 407, and/or Ocean Dumping Act Sections 101 and/or 103 (33 U.S.C. 1411, 1413), at a site commonly known as

A tract on and east of Prater Road and north of King Street in Mossville

Section 29, T9S, R9W, Calcasieu Parish (Approx Lat: 30.243947, -93.310822)

WHEREAS, the purpose of any such complaint would be to obtain appropriate injunctive relief and to impose appropriate civil or criminal penalties for potential defendant'(s) alleged violations of the statute(s) cited above;

WHEREAS, the Corps accepted an after-the-fact (ATF) permit application from the potential defendant(s) in an attempt to settle the above claims;

WHEREAS, both parties believe that their interests will best be served by continuing the ATF permit process without the disruption that might be occasioned should the United States file a complaint in the immediate future;

AND WHEREAS, both parties acknowledge the requirement found at 33 C.F.R. 331.11(c) for an applicant for an ATF permit to provide a signed tolling agreement;

THEREFORE, the United States and potential defendant(s) stipulate and agree as follows:

1. The United States and potential defendant(s) agree that the time between the acceptance by the Corps of the ATF permit application and the final Corps decision (as defined at 33 CFR 331.10), plus one year thereafter, will not be included in calculating any statute of limitations that might be applicable to the alleged statutory violation(s) described above. Potential defendants agree not to assert, plead, or raise in any fashion on behalf of any party, whether by answer, motion, or otherwise, any defense or avoidance based on the running of any statute of limitations that may apply during that period or any defense or avoidance based on laches or other principle concerning the timeliness of commencing a civil action, based on the failure of the United States to file its complaint during that period.

2. Potential defendants further agree not to transfer the property in question during the pendency of this tolling agreement nor during the pendency of any civil action brought as described above, without first notifying the United States and giving the United States a reasonable opportunity to oppose such transfer.

3. Nothing in this tolling agreement shall restrict or otherwise prevent the United States from filing a complaint regarding any alleged statutory violation(s) not described above, at any time.

4. This tolling agreement does not constitute any admission of liability on the part of potential defendants; nor does it constitute any admission or acknowledgement on the part of the United States that any statute of limitations has run or that any statute of limitations is applicable to the statutory claims described above.

5. This tolling agreement contains the entire agreement between the parties, and no statement, promise or inducement made by any party to this agreement, or any agent of such parties, that is not set forth in this agreement shall be valid or binding. This tolling agreement may not be enlarged, modified or altered except in writing signed by the parties. This tolling agreement may be executed in counterparts.

FOR: United States of America

STEPHAN C. ROTH, District Counsel
New Orleans District, U.S. Army Corps of Engineers

2-17-16
DATE

FOR: ("potential defendant(s)")

2/18/16
DATE

Exhibit J
Second C&D

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, NEW ORLEANS DISTRICT
P.O. BOX 60267
NEW ORLEANS, LOUISIANA 70160-0267

REPLY TO
ATTENTION OF
Operations Division
Surveillance and Enforcement Section

CEASE AND DESIST ORDER

ISSUED TO: Dr. John Michael Burdine

ADDRESS: 2267 Cedardale Ave, Baton Rouge, LA 70808 PHONE: 225-802-2329

LOCATION OF WORK: on and west of Prater Road

CHARACTER OF WORK: deposition and redistribution of fill in wetlands in Mossville Section 29, T9S, R9W, Calcasieu Parish

APPARENT VIOLATION OF: ☐ Section 10 of the Rivers and Harbors Act (RHA); ☐ Section 13 of RHA; ☑ Section 301 of the Clean Water Act (CWA); and/or ☐ Section 404 of the CWA.

The work described above was performed in waters of the United States and is therefore subject to Department of the Army (DA) regulatory authority. You are directed not to perform or allow any further unauthorized work at this site until proper authorization has been granted. Failure to abide by this Cease and Desist Order will result in appropriate legal action.

You are advised that violations of the RHA and/or CWA may subject you to administrative and/or judicial action. Legal action could result in a fine and/or a court order to restore the site to preproject conditions. A DA permit application cannot be accepted until all legal issues are resolved. To assist us in our evaluation, you are requested to submit a letter of comments. Specifically, your comments should address why you failed to obtain a DA permit prior to conducting this unauthorized work in light of the fact that you signed a cease and desist order related to this project on February 18, 2016, and had a consultant working with us to finalize a jurisdictional determination for the property

Your comments should be submitted to the Chief, Surveillance and Enforcement Section, at the above address.

If we do not receive a written response from you within 20 days from the date shown below, we will proceed with appropriate action for resolution of the legal issues based on the information in our files.

Should you wish to discuss this matter further, or if you have any questions concerning wetlands and the permitting process, please contact the undersigned issuer at (504) 862-2270 or ~~-2270.~~ 337-291-3045

Sincerely,

Michael N. Clancy
Colonel, U.S. Army
District Commander

ISSUED BY: SCHWAMENFELD.ROSE.ELLEN PALUMBO.1388591702 Digitally signed by SCHWAMENFELD.ROSE.ELLEN PALUMBO.1388591702 DN: c=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USA, cn=SCHWAMENFELD.ROSE.ELLEN PALUMBO.1388591702 Date: 2016.08.05 12:28:24 -05'00' JOB TITLE: Botanist

RECEIPT ACKNOWLEDGED: DATE: 8/9/16

Exhibit K
Comments letter

Supplement to Cease and Desist Order of August 2016
521 Prater Road, Sulphur, LA
S29-T9-R8 Calcasieu Parish, LA

This is a response to the wetland violation and why we do not feel a violation of the cease and desist occurred . Our Prater Road project was started last year. We hired a clearing crew and a wetland consultant to begin the project. While the clearing manager was aware of the wetlands, his crew did not understand. Between visits to the project an area with wetlands was cleared. We stopped the project immediately and moved the equipment off site. We self reported and I discussed the incident with the Laf. office around Feb 16th. I understood we were able to continue the project on non-wetland areas but we did not. This project is critical to the community to reduce housing pressure, reduce traffic congestion, reduce pollution, reduce crime and to reduce costs and expedite the massive construction projects that are in Lake Charles. I realize wetlands is under Federal purview.The Governor has spoken about the criticality of this project both publically and to us privately. We feel a great deal of responsibility and urgency.We did not short cut or intend to violate existing federal jurisdictions. In an effort to be completely above board we hired a new and we were told a more through, cautious wetlands consultant.

While our new wetland consultant was working with the Laf. office, a small piece of access property became available to us.This was unexpected and we had not planned this. It had been a house and mobile home with grass only on the property. It was completely cleared when we purchased it on June 14th. This is Clerk file 3232299. On or about July 9th a new wet/non-wet boundary was established and staked in the field. We took great care to stake the wetlands and even overestimated the boundaries to avoid disturbing the previously cleared areas of wetlands.The contractor working within the non wet and staked area placed a gravel road on the newly acquired property and spread the dirt in what he believed and was staked non-wet. Finally on Aug 1st 2016 another drawing was submitted reflecting the contractor had spread the dirt from the road into the newly determined wetland area prior to the boundry being established wet.Now that a final determination has been made all equipment has been moved off the property and the project has been stopped.

Based on the timeline of events that have occurred, efforts were taken to avoid any impact on areas that were initially believed to be subject to the jurisdiction of the Corp. in Feb 2016; however, that area was subsequently expanded into an area that when we purchased was cleared and was a house lot. Any activity that did occur on the project site subsequent to the Feb 16th 2016 C&D was to newly added areas and did not alter the condition of the property which already had the timber harvested and de-stumped and we had self reported. Between the time that the jurisdictional area was initially established and then expanded some activity does appear to have inadvertently occurred on the site, of the newly added areas. Myself and the project developer deeply regret that any activity may have occurred on property that is now determined to be subject to the jurisdiction of the Corp but measures have been taken to avoid any further impact.

This is my first project that involved wetlands and I can humbly assure you, the Corp., I never had any intention to violate wetland regulations and when I found I had, I self reported. From the beginning I had plans to mitigate all the wetlands on the project. I have not attempted to circumvent

the Feb C&D and only because of addition of property that was a home lot and subsequent modifications of the site plan, prompted by the purchase (which is now included in the permit) and then the Corp expanding the wetlands limit subsequent to the activity on that site.The drawings of Aug 1st 2016 now indicate that certain areas were impacted by spreading dirt relating to the newly acquired property. We have stopped all activity on the project and all equipment has been removed pending our approval to mitigated the entire project as determined by the Corp, which was always my intent. I have the funds immediately available and I have identified the appropriate property in a wetlands bank that can be purchased immediately.

I deeply regret the initial violation and imposition on the Corp. I know everyone already has a great deal of work and I never intended to add more. My wetland consultant, engineer, attorney and developer contractor are available to answer any questions or provide any assistant in resolving this matter.

Respectfully

/s/ J. Michael Burdine
August 18, 2016

Exhibit L
C&D to Contractor

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, NEW ORLEANS DISTRICT
P.O. BOX 60267
NEW ORLEANS, LOUISIANA 70160-0267

CEASE AND DESIST ORDER

REPLY TO
ATTENTION OF
Operations Division
Surveillance and Enforcement Section

ISSUED TO: Mr. Chuck Matheny, Cotton Logistics , Inc

ADDRESS: 3010 Country Club Rd, Lake Charles, LA 70605 PHONE: 832-683-3900

LOCATION OF WORK: a tract on and west of Prater Road
Section 29, T9S, R9W, Calcasieu Parish

CHARACTER OF WORK: deposition and redistribution of fill material in wetlands

APPARENT VIOLATION OF: ☐ **Section 10 of the Rivers and Harbors Act (RHA);** ☐ **Section 13 of RHA;** ☑ **Section 301 of the Clean Water Act (CWA); and/or** ☐ **Section 404 of the CWA.**

The work described above was performed in waters of the United States and is therefore subject to Department of the Army (DA) regulatory authority. You are directed not to perform or allow any further unauthorized work at this site until proper authorization has been granted. Failure to abide by this Cease and Desist Order will result in appropriate legal action.

You are advised that violations of the RHA and/or CWA may subject you to administrative and/or judicial action. Legal action could result in a fine and/or a court order to restore the site to preproject conditions. A DA permit application cannot be accepted until all legal issues are resolved. To assist us in our evaluation, you are requested to submit a letter of comments explaining why you failed to obtain a DA permit prior to conducting this unauthorized work. Your comments should be submitted to the Chief, Surveillance and Enforcement Section, at the above address.

If we do not receive a written response from you within 20 days from the date shown below, we will proceed with appropriate action for resolution of the legal issues based on the information in our files.

Should you wish to discuss this matter further, or if you have any questions concerning wetlands and the permitting process, please contact the undersigned issuer at (504) 862-2270 or ~~-2270~~: 337-291-3045

Sincerely,

Michael N. Clancy
Colonel, U.S. Army
District Commander

SCHWAMENFELD.ROSE.ELLEN.PALUMBO.1388591702 Digitally signed by SCHWAMENFELD.ROSE.ELLEN.PALUMBO.1388591702 DN: c=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USA, cn=SCHWAMENFELD.ROSE.ELLEN.PALUMBO.1388591702 Date: 2016.08.26 16:58:42 -05'00'

ISSUED BY: JOB TITLE: Botanist

RECEIPT ACKNOWLEDGED: DATE: 8/29/16

U.S. ARMY CORPS OF ENGINEERS
APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT
33 CFR 325. The proponent agency is CECW-CO-R.

Form Approved - OMB No. 0710-0003 Expires: 30-SEPTEMBER-2015

Public reporting for this collection of information is estimated to average 11 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters, Executive Services and Communications Directorate, Information Management Division and to the Office of Management and Budget, Paperwork Reduction Project (0710-0003). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. Please DO NOT RETURN your form to either of those addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the proposed activity.

PRIVACY ACT STATEMENT

Authorities: Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research, and Sanctuaries Act, Section 103, 33 USC 1413; Regulatory Programs of the Corps of Engineers; Final Rule 33 CFR 320-332. Principal Purpose: Information provided on this form will be used in evaluating the application for a permit. Routine Uses: This information may be shared with the Department of Justice and other federal, state, and local government agencies, and the public and may be made available as part of a public notice as required by Federal law. Submission of requested information is voluntary, however, if information is not provided the permit application cannot be evaluated nor can a permit be issued. One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and/or instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.

(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)

1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMPLETE

(ITEMS BELOW TO BE FILLED BY APPLICANT)

5. APPLICANT'S NAME
First - John Middle - Michael Last - Burdine
Company - APB Land Resources, LLC
E-mail Address - jburdine@me.com

8. AUTHORIZED AGENT'S NAME AND TITLE (agent is not required)
First - Mohan Middle - Last - Menon
Company - Environmental Management Solutions, LLC
E-mail Address - mohanmenon6@gmail.com

6. APPLICANT'S ADDRESS:
Address- 2267 Cederdale Avenue
City - Baton Rouge State - LA Zip - 70808 Country - USA

9. AGENT'S ADDRESS:
Address- 10725 Hillshire Avenue
City - Baton Rouge State - LA Zip - 70810 Country - USA

7. APPLICANT'S PHONE NOs. w/AREA CODE
a. Residence 225-343-2492 b. Business 225-802-2329 c. Fax

10. AGENTS PHONE NOs. w/AREA CODE
a. Residence 225-763-6773 b. Business 225-281-1149 c. Fax

STATEMENT OF AUTHORIZATION

11. I hereby authorize, Mohan Menon to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

SIGNATURE OF APPLICANT DATE

NAME, LOCATION, AND DESCRIPTION OF PROJECT OR ACTIVITY

12. PROJECT NAME OR TITLE (see instructions)
Mary Prater Tracts A,B, and C- Labor Housing Construction and Access Road

13. NAME OF WATERBODY, IF KNOWN (if applicable)
L-A1-D Lateral, then to Choupique Bayou

14. PROJECT STREET ADDRESS (if applicable)
Address NOT APPLICABLE
City - State- Zip-

15. LOCATION OF PROJECT
Latitude: •N 30.244173 Longitude: •W 93.315068

16. OTHER LOCATION DESCRIPTIONS, IF KNOWN (see instructions)
State Tax Parcel ID Municipality
Section - 29 Township - 9S Range - 9W

17. DIRECTIONS TO THE SITE

Access to this property is from I-10 west bound. When nearing Sulfur, Lake Charles, take exist 26 for US-90 W towards Trousdale Rd. Turn right onto Prater Road. Turn left onto E Burton St/Old Spanish Trail. Turn Left onto Mary Street and end at the T junction.

18. Nature of Activity (Description of project, include all features)

APB Investments, LLC proposes to construct a labor housing complex and associated features. In order to accomplish this, three tracts (A, B, and C) are proposed to be used. Already Tract A, and B are cleared, filled, and graded. Tract C is wooded. Construction of the housing complex consists of the following features: Labor houses, Access road from Prater Street, and driveways between housing units, retention pond, green areas, pad spaces for generators, dumpsters, laundry, storage, warehouse, etc. In addition, it is planned to construct kitchen, recreation areas, fire pits, games areas, and bus stops. Approximately 120 acres will be used (the entire site will require grading of some type). Elevation will vary from 0 to +/- 2 feet in placement of in-situ material.

19. Project Purpose (Describe the reason or purpose of the project, see instructions)

The goal and objective of the project is to provide a temporary workforce housing facility for the residential needs of migrant workers. The facility is proposed to be located on a parcel (Tract A, B, and C) that is centralized to the proposed construction work and will eliminate the need for expansive residential subdivision development for temporary workers. The facility will house, feed, and provide full service laundry and recreation.

USE BLOCKS 20-23 IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED

20. Reason(s) for Discharge

The labor housing complex and related components will require approximately 120 acres. The entire site will require grading of some type. The low elevation portions of the subject property and identified wetlands are needed to be filled with in-situ material for the purpose of the proposed project, the much needed labor housing complex.

21. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards:

Type Amount in Cubic Yards	Type Amount in Cubic Yards	Type Amount in Cubic Yards
In-situ material; 10,000 CY		

22. Surface Area in Acres of Wetlands or Other Waters Filled (see instructions)

Acres 59.7 acres

or

Linear Feet

23. Description of Avoidance, Minimization, and Compensation (see instructions)

The low elevation portions are designed to be retention pond. When avoidance is not an option, APB will minimize the work space required in wetland areas. Based on the soils present at the site, APB proposes to offset all unavoidable impacts to pine savannah habitat by purchasing pine savannah credits from USACE approved Calcasieu Mitigation Bank (see Attachment A for soil information) .

24. Is Any Portion of the Work Already Complete? ☒ Yes ☐ No IF YES, DESCRIBE THE COMPLETED WORK

Tract A and Tract B are cleared and graded. Road work is being done on a recently purchased property that adjoins Tract A&B as shown on the drawings. The impacted wetlands due to the road work is approximately 0.22 acres. Due to clearing and grading, approximately 35.40 acres of wetlands were affected. Tract is not impacted and it contains approximately 24.3 acres of wetlands. Total wetlands in the project area is 57.7 acres.

The cleared portion, Tracts A & B consists of 35.62 acres of wetlands. Tract C, which is not cleared, consists of 24.3 acres of wetlands.

25. Addresses of Adjoining Property Owners, Lessees, Etc., Whose Property Adjoins the Waterbody (if more than can be entered here, please attach a supplemental list).

a. Address- See Attachment A

City - State - Zip -

b. Address-

City - State - Zip -

c. Address-

City - State - Zip -

d. Address-

City - State - Zip -

e. Address-

City - State - Zip -

26. List of Other Certificates or Approvals/Denials received from other Federal, State, or Local Agencies for Work Described in This Application.

AGENCY	TYPE APPROVAL*	IDENTIFICATION NUMBER	DATE APPLIED	DATE APPROVED	DATE DENIED
Not Applicable					

* Would include but is not restricted to zoning, building, and flood plain permits

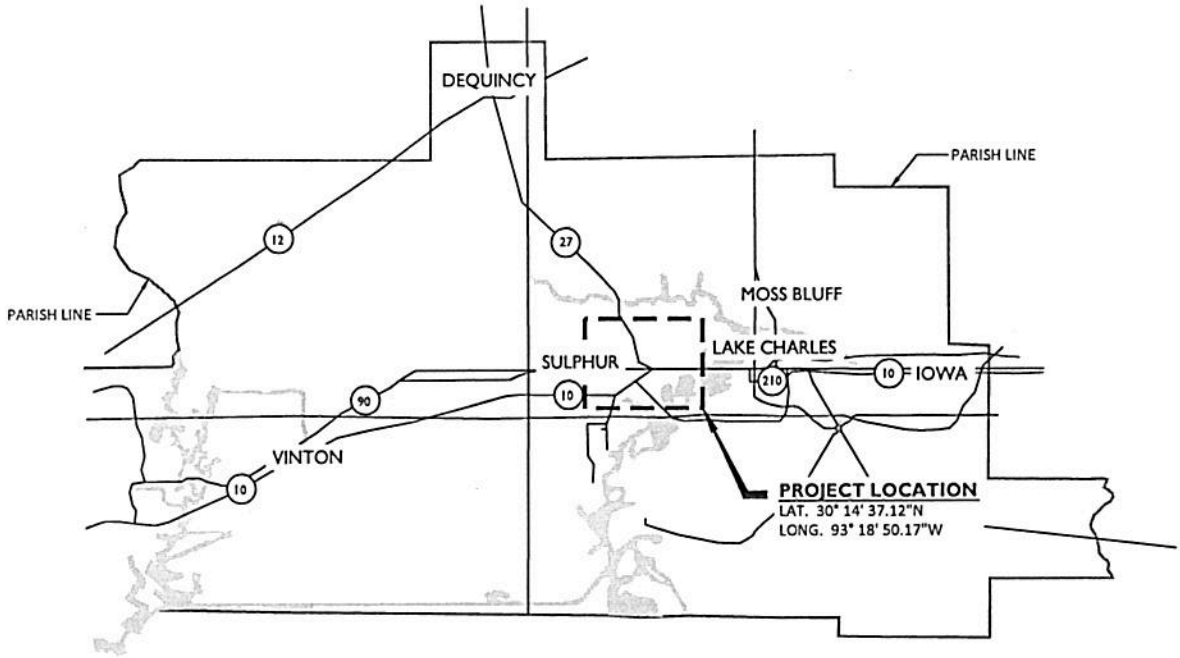
27. Application is hereby made for permit or permits to authorize the work described in this application. I certify that this information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

SIGNATURE OF APPLICANT	DATE	SIGNATURE OF AGENT	DATE
	2016-02-02		2016-02-02

The Application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than $10,000 or imprisoned not more than five years or both.

CALCASIEU PARISH, LOUISIANA



THE CYPRESS GROUP
4310 RYAN ST. STE 122
LAKE CHARLES, LA
OFFICE - 337.504.7755
FAX - 337.504.7744

MIKE BURDINE

PRATER RD. WEST TRACT

VICINITY MAP

C.G.M.	1.0
08/01/2016	
1" = 5,000'	

PROJECT LOCATION
SCALE: 1" = 600'

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4310 RYAN ST. STE 122
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MIKE BURDINE

PRATER RD. WEST TRACT

PROJECT LOCATION

C.G.M.	2.0
08/01/2016	
1" = 600'	

PCL XL error

Subsystem: GEDI

Error: InsufficientMemory

Operator: ReadImage

Position: 549736

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

March --, 2017

Ms. Cindy Bladey
Office of Administration (OWFN-12 H08)
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Detailed Scoping Comments on the Environmental Impact Statement for the Consolidated Interim Storage Facility in Andrews County, Texas. Docket No. NRC-2016-0231

Dear Ms. Bladey,

The Region 6 office of the U.S. Environmental Protection Agency (EPA) has reviewed the Federal Register notification dated November 14, 2016 for the proposal to prepare an Environmental Impact Statement (EIS) for the proposed Consolidated Interim Storage Facility Project.

The purpose of the proposed project is to authorize the storage of spent nuclear fuel in a consolidated interim storage facility located in Andrews County, Texas. To assist in the scoping process, EPA has identified the following issues for your attention in the preparation of the EIS: water supply and water quality; air quality; biological resources; coordination with Tribal Governments; historic preservation; and environmental justice. Our recommendations are provided pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508) and Section 309 of the Clean Air Act.

EPA appreciates the opportunity to participate in the scoping process and are available to discuss our comments. If you have any questions, please contact Kimeka Price of my staff at (214) 665-7438 or by e-mail at price.kimeka@epa.gov.

Sincerely,

Robert Houston, Chief
Special Projects Section

Enclosure

DRAFT

DETAILED SCOPING COMMENTS
ON THE
U.S. NUCLEAR REGULATORY COMMISSION (NRC)
ENVIRONMENTAL IMPACT STATEMENT (EIS)
FOR THE PROPOSED
CONSOLIDATED INTERIM STORAGE FACILITY PROJECT
IN
ANDREWS COUNTY, TEXAS

EPA offers the following recommendations for consideration by NRC in preparation of the EIS:

Water Supply and Water Quality

Public drinking water supplies and/or their source areas exist in many watersheds. Source water is water from streams, rivers, lakes, springs, and aquifers used as a supply of drinking water. Source water areas are delineated and mapped by the state for each federally-regulated public water system. The 1996 amendments to the Safe Drinking Water Act require federal agencies to protect sources of drinking water for communities.

Recommendations:

EPA recommends the EIS address the potential effects of discharges from reasonably foreseeable leasing and associated activities on surface water quality. Specific discharges should be identified, where appropriate, and potential effects of discharges on designated beneficial uses of affected waters should be analyzed.

EPA recommends the EIS describe current groundwater conditions in the relevant planning area and fully assess potential impacts to groundwater quality and quantity from reasonably foreseeable leasing and associated activities.

EPA also recommends the EIS identify mitigation measures to prevent or reduce adverse impacts to groundwater quality and discuss their effectiveness. EPA recommends NRC work closely with state and local agencies which regulate the protection of groundwater resources (i.e., state health departments and water pollution control agencies.)

EPA recommends the EIS describe the original (natural) drainage patterns in the planning area, as well as the potential impacts to drainage patterns of the area due to mineral leasing and associated activities. Also, we recommend the EIS identify whether any areas of the potential future mineral leasing activities are within a 50 or 100-year floodplain.

EPA notes that, under the Federal Clean Water Act, any construction project disturbing a land area of one or more acres requires a construction stormwater discharge permit. We recommend the associated requirement to develop a stormwater pollution prevention plan be

described as appropriate in the EIS.

EPA also recommends the EIS discuss any other practicable, specific mitigation measures that may be necessary or beneficial in reducing adverse impacts from stormwater to water quality and aquatic resources.

Air Quality

EPA recommends the EIS provide a detailed discussion of ambient air conditions (baseline or existing conditions), National Ambient Air Quality Standards (NAAQS) and non-NAAQS pollutants, criteria pollutant nonattainment areas, and potential air quality impacts of the proposed project (including cumulative and indirect impacts). Such an evaluation is necessary to understand the potential impacts from temporary, long-term, or cumulative degradation of air quality.

We further recommend the EIS describe and estimate air emissions from potential construction and maintenance activities, as well as proposed mitigation measures to minimize those emissions. EPA recommends an evaluation of the following measures to reduce emissions of criteria air pollutants and hazardous air pollutants (air toxics).

Recommendations:

Existing Conditions – We recommend the EIS provide a detailed discussion of ambient air conditions, National Ambient Air Quality Standards, and criteria pollutant nonattainment areas in the vicinity of the project.

Quantify Emissions – We recommend the EIS estimate emissions of criteria and hazardous air pollutants (air toxics) from the proposed project and discuss the timeframe for release of these emissions over the lifespan of the project. We recommend the EIS describe and estimate emissions from potential construction activities, as well as proposed mitigation measures to minimize these emissions.

Specify Emission Sources – We recommend the EIS specify all emission sources by pollutant from mobile sources, stationary sources (including portable and temporary emission units), fugitive emission sources, area sources, and ground disturbance. This source specific information should be used to identify appropriate mitigation measures and areas in need of the greatest attention. The EIS should include an analysis relating to community exposure to traffic emissions, including dust and potential hazardous substances, from the transport of mineralized ore, and identify additional mitigation measures needed to protect the environment and communities affected, as appropriate.

Construction Emissions Mitigation Plan – We recommend the EIS include a draft Construction Emissions Mitigation Plan. In addition to all applicable local, state, or federal requirements, we recommend the following control measures (Fugitive Dust, Mobile and Stationary Source and Administrative) be included in the Construction Emissions Mitigation Plan in order to reduce impacts associated with emissions of

particulate matter and other toxics from construction-related activities. (See Attachment 1)

Dredge and Fill Impacts to Waters of the United States

Clean Water Act (CWA) Section 404 regulates the discharge of dredged or fill material into waters of the United States (WOUS), including streams, wetlands, some arroyos, and other special aquatic sites. Due to the nature of the proposed managed mineral leasing and associated activities in northwest New Mexico, there is potential for the need for placement of fill material into regulated WOUS, specifically construction of aboveground facilities, access roads, drilling pads, pipelines, and related facilities. These actions may require a Section 404 permit under the CWA, and coordination with the U.S. Army Corps of Engineers (Corps) may be needed.

If an individual permit is required, the Corps will issue a public notice for the CWA Section 404 permit application, and EPA will review the project for compliance with Federal Guidelines for Specification of Disposal Sites for Dredged or Fill Materials (40 C.F.R. 230), promulgated pursuant to Section 404(b)(1) of the CWA.

Recommendations:

EPA recommends the EIS discuss the CWA 404 permit requirements, specifically the requirement to seek the least damaging practicable alternative and to avoid and minimize any required aquatic impacts.

The EIS should identify reasonably foreseeable potential impacts to aquatic habitats, including direct, secondary, and cumulative impacts to arroyos, ephemeral, intermittent and perennial streams, and wetlands. Both permanent and temporary impacts should be identified.

EPA recommends that NRC include a wetland compensatory mitigation discussion that would disclose options for mitigation to compensate for unavoidable impacts to aquatic resources.

Clean Water Act (CWA) Section 303(d)

The CWA requires States to develop a list of impaired waters that do not meet water quality standards, establish priority rankings, and develop action plans, called Total Maximum Daily Loads (TMDLs), to meet water quality standards.

Recommendations:

EPA recommends the EIS provide information on CWA Section 303(d) impaired waters in the project area, if any, and efforts to develop and revise TMDLs. EPA recommends the EIS describe existing restoration and other enhancement efforts for those waters, how leasing and associated activities may affect on-going protection efforts, and any mitigation measures that will be implemented to avoid further degradation of impaired waters.

Existing impaired waters under Section 303(d) of the Clean Water Act do not represent the entire universe of potential water and sediment quality concerns that may need to be addressed. NRC should ensure the EIS considers if there are water or sediment quality concerns that are documented by sources of information other than the 303(d) list.

Biological Resources, Habitat and Wildlife

Recommendations:

EPA recommends the EIS identify all candidate and listed threatened and endangered species and designated critical habitat within the project area. We further recommend the EIS identify, as appropriate, species or critical habitat potentially affected by each alternative and possible practicable mitigation.

EPA recommends the analysis of potential impacts and mitigation for at-risk species include:

- Baseline conditions of habitats and populations of the covered species, where available.
- Potential monitoring and adaptive management efforts to promote species and habitat conservation effectiveness.

EPA recommends incorporating information on the potential for compensatory mitigation, as appropriate, for unavoidable impacts to WOUS and biological resources in the EIS.

EPA recommends identifying potential compensatory mitigation lands or available lands for compensatory habitat mitigation (i.e., other than mitigation for impacts to aquatic habitats under Clean Water Act Section 404) for leasing and associated activities, as well as the reasonably foreseeable need for compensation in the area.

EPA recommends incorporating mitigation, monitoring, and reporting measures that result from consultation with the U.S. Fish and Wildlife Service (FWS), if and when available. We recommend the EIS also discuss, as appropriate, recently released guidance to avoid and minimize adverse effects to sensitive biological resources.

EPA further recommends that the EIS describe the potential for habitat fragmentation and obstructions for wildlife movement from mineral leasing development. We recommend the EIS discuss the need for monitoring, mitigation, and if applicable, translocation management plans for sensitive, high value biological resources.

Finally, EPA recommends the EIS specifically address the potential impact of construction, installation, and maintenance activities (deep trenching, grading, filling, and fencing) on habitat. EPA recommends the EIS describe the reasonably foreseeable extent of these activities and the associated impacts on important habitats.

The EIS should incorporate a discussion regarding any impacts to agricultural activities associated with implementing the proposed project.

Coordination with Tribal Governments

Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments* (November 6, 2000), was issued in order to establish regular and meaningful consultation and collaboration with tribal officials in the development of federal policies that have tribal implications, and to strengthen the United States government-to-government relationships with Indian tribes. If applicable, we recommend the EIS describe the process and outcome of government-to-government consultation between the NRC and with any and each of the tribal governments within the project area, issues that were raised (if any), and how those issues were addressed in the selection of the proposed alternative.

Recommendation:

We recommend the EIS describe the process and outcome of government-to-government consultation between NRC and each of the tribal governments within the project area, issues that were raised (if any), and how those issues were addressed in the selection of the proposed alternative.

National Historic Preservation Act (NHPA) and Executive Order 13007

Consultation regarding cultural resources, including those of concern to tribes, is required under Section 106 of the National Historic Preservation Act. Historic properties under the NHPA are properties that are listed in the National Register of Historic Places or that meet the criteria for listing in the National Register. Section 106 of the NHPA requires a Federal agency, upon determining that activities under its control could affect historic properties, consult with the appropriate State Historic Preservation Officer (SHPO)/Tribal Historic Preservation Officer (THPO), Indian tribes, or any other interested party. Under both NHPA and NEPA, any impacts to tribal, cultural, or other treaty resources must be discussed and mitigated. Section 106 of the NHPA requires that Federal agencies consider the effects of their actions on cultural resources, following the Advisory Council on Historic Preservation's implementing regulations at 36 CFR 800.

Recommendation:

We recommend the EIS address the existence of cultural and historic resources, including Indian sacred sites and traditional cultural properties, in the project areas, and address compliance with Section 106 of the NHPA. It should also address Executive Order 13007, distinguish it from Section 106 of the NHPA, and discuss how the applicant will avoid adversely affecting the physical integrity, accessibility, or use of sacred sites, if they exist. We recommend the EIS provide a summary of all coordination and consultations with Tribes, the SHPO/THPO, or any other party; and identify all NHPA listed or eligible sites, and the development of a Cultural Resource Management Plan for the area, as

appropriate.

Environmental Justice

Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (February 11, 1994) and the Interagency Memorandum of Understanding on Environmental Justice (August 4, 2011) direct federal agencies to identify and address disproportionately high and adverse human health or environmental effects on minority and low-income populations, and allow those populations a meaningful opportunity to participate in the decision-making process. Guidance[1] by CEQ clarifies the terms low-income and minority population (which includes Native Americans) and describes the factors to consider when evaluating disproportionately high and adverse human health effects.

Recommendations:

EPA recommends the EIS include an evaluation of environmental justice populations within the geographic scope of the proposal. EPA recommends the EIS address, as appropriate, the potential for disproportionate adverse impacts to minority and low-income populations, and the approaches used to foster public participation by these populations. Assessment of the proposal's anticipated impact on minority and low-income populations should reflect coordination with those affected populations.

EPA recommends the EIS also describe more general outreach activities to potentially affected communities, including rural communities (which may be among the most vulnerable to health risks). We recommend a comprehensive communication strategy.

We recommend NRC identify the population demographic near the proposed project. EPA recommends that all appropriate tools and methods (i.e., EJ Screen, U.S. Census Bureau and area knowledge) be used in identifying and screening low income and minority populations within or near the proposed planning area.

We recommend that NRC utilize the Promising Practices Report (https://www.epa.gov/sites/production/files/2016-/documents/iwg_promising_practices_final_5-16-2016.pdf) to supplement the applicable requirements, as appropriate for considering and analyzing environmental justice populations for the proposed planning area.

[1] Environmental Justice Guidance under the National Environmental Policy Act, Appendix A (Guidance for Federal Agencies on Key Terms in Executive Order 12898), CEQ, December 10, 1997.

ATTACHMENT 1

Control Measures
(Fugitive Dust, Mobile and Stationary Source and Administrative)

- Fugitive Dust Source Controls: We recommend the EIS identify the need for a Fugitive Dust Control Plan to reduce Particulate Matter <10 micrometer and Fine Particulate Matter < 2.5 micrometer emissions during construction and operations. We recommend that the plan include these general commitments:
  - Stabilize heavily used unpaved construction roads with a non-toxic soil stabilizer or soil weighting agent that will not result in loss of vegetation, or increase other environmental impacts.
  - During grading, use water, as necessary, on disturbed areas in construction sites to control visible plumes.
  - Vehicle Speed
    - Limit speeds to 25 miles per hour on stabilized unpaved roads as long as such speeds do not create visible dust emissions.
    - Limit speeds to 10 miles per hour or less on unpaved areas within construction sites on un-stabilized (and unpaved) roads.
    - Post visible speed limit signs at construction site entrances.
  - Inspect and wash construction equipment vehicle tires, as necessary, so they are free of dirt before entering paved roadways, if applicable.
  - Provide gravel ramps of at least 20 feet in length at tire washing/cleaning stations, and ensure construction vehicles exit construction sites through treated entrance roadways, unless an alternative route has been approved by appropriate lead agencies, if applicable.
  - Use sandbags or equivalent effective measures to prevent run-off to roadways in construction areas adjacent to paved roadways. Ensure consistency with the project's Storm Water Pollution Prevention Plan, if such a plan is required for the project
  - Sweep the first 500 feet of paved roads exiting construction sites, other unpaved roads or routes from the construction site, or construction staging areas whenever dirt or runoff from construction activity is visible on paved roads, or at least twice daily (less during periods of precipitation).
  - Stabilize disturbed soils (after active construction activities are completed) with a non-toxic soil stabilizer, soil weighting agent, or other approved soil stabilizing method.
  - Cover or treat soil storage piles with appropriate dust suppressant compounds and disturbed areas that remain inactive for longer than 10 days. Provide vehicles (used to transport solid bulk material on public roadways and that have potential to cause visible emissions) with covers. Alternatively, sufficiently wet and load materials onto the trucks in a manner to provide at least one foot of freeboard.

- Use wind erosion control techniques (such as windbreaks, water, chemical dust suppressants, and/or vegetation) where soils are disturbed in construction, access and maintenance routes, and materials stock pile areas. Keep related windbreaks in place until the soil is stabilized or permanently covered with vegetation.

- Mobile and Stationary Source Controls:
  - If practicable, lease new, clean equipment meeting the most stringent of applicable Federal[2] or State Standards[3]. In general, commit to the best available emissions control technology. Tier 4 engines should be used for project construction equipment to the maximum extent feasible[4].
  - Where Tier 4 engines are not available, use construction diesel engines with a rating of 50 hp or higher that meet, at a minimum, the Tier 3 California Emission Standards for Off-Road Compression-Ignition Engines, unless such engines are not available.
  - Where Tier 3 engine is not available for off-road equipment larger than 100 hp, use a Tier 2 engine, or an engine equipped with retrofit controls to reduce exhaust emissions of nitrogen oxides and diesel particulate matter to no more than Tier 2 levels.
  - Consider using electric vehicles, natural gas, biodiesel, or other alternative fuels during construction and operation phases to reduce the project's criteria and greenhouse gas emissions.
  - Plan construction scheduling to minimize vehicle trips.
  - Limit idling of heavy equipment to less than 5 minutes and verify through unscheduled inspections.
  - Maintain and tune engines per manufacturer's specifications to perform at CARB and/or EPA certification levels, prevent tampering, and conduct unscheduled inspections to ensure these measures are followed.

- Administrative controls:
  - Develop a construction traffic and parking management plan that maintains traffic flow and plan construction to minimize vehicle trips.
  - Identify any sensitive receptors in the project area, such as children, elderly, and the infirm, and specify the means by which impacts to these populations will be minimized (e.g. locate construction equipment and staging zones away from sensitive receptors and building air intakes).

---

[2] EPA's website for non-road mobile sources is http://www.epa.gov/nonroad/.

[3] For California, see ARB emissions standards, see: http://www.arb.ca.gov/msprog/offroad/offroad.htm.

[4] Diesel engines < 25 hp rated power started phasing in Tier 4 Model Years in 2008. Larger Tier 4 diesel engines will be phased in depending on the rated power (e.g., 25 hp - <75 hp: 2013; 75 hp - < 175 hp: 2012-2013; 175 hp - < 750 hp: 2011 - 2013; and ≥ 750 hp 2011- 2015).

- Include provisions for monitoring fugitive dust in the fugitive dust control plan and initiate increased mitigation measures to abate any visible dust plumes.

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

FILED
2017 JAN 10 PM 1:33
REGIONAL HEARING CLERK
EPA REGION 6

RECEIVED
EPA REGION VI
17 JAN -5 PM 1:58
ENVIRONMENTAL PROTECTION AGENCY

DEC 2 0 2016

Certified Mail - Return Receipt Requested: 7010 2780 0002 4356 8816

Dr. John Michael Burdine
APB Resources, LLC
2267 Cedardale Avenue
Baton Rouge, Louisiana 70808

Re: Administrative Order, Docket Number CWA-06-2017-2702

Dear Dr. Burdine:

Enclosed is an Administrative Order on Consent ("Order") issued by the Environmental Protection Agency, Region 6 ("EPA") to John Michael Burdine ("Respondent") citing violations of the Clean Water Act ("Act"), 33 U.S.C. § 1251 et seq., resulting from dredged and fill activities involving wetlands located in Section 29, Township 9 South, Range 9 West, Calcasieu Parish, Louisiana ("site"). Your compliance with the provisions of this Order is required.

If you have any questions, contact Dr. Raul Gutierrez at (504) 862-2371 or Ms. Jeanene Peckham at (214) 665-6641, both of my staff, to discuss the case, provide us with any information you feel we should have, arrange for a time to visit the site, or discuss our enforcement procedures.

Sincerely yours,

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

Enclosure

cc: w/CAFO
Regional Hearing Clerk
Martin Mayer, New Orleans District Office, U.S. Army Corps of Engineers

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

In the Matter of:	§	Docket No. CWA 06-2017-2702
	§	
Dr. John Michael Burdine	§	
	§	Proceeding Under Section 309(a) of
Respondent	§	the Clean Water Act

ADMINISTRATIVE ORDER ON CONSENT

I. AUTHORITY

1. The following findings of violations are made and Order issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 309(a) of the Clean Water Act ("Act"), 33 U. S. C. § 1319(a). The Administrator delegated the authority to issue this Order to the Regional Administrator, EPA Region 6, who further delegated such authority to the Director of the Water Division, EPA Region 6.

2. EPA makes the following findings of violations in support of its authority to issue this delegated such authority to the Director of the Water Division, EPA Region 6.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

3. John Michael Burdine ("Respondent") is a "person" as defined by Section 502(5) of the Act, 33 U.S.C. § 1362(5).

4. At all times relevant to the violations alleged herein, Respondent owned real property located east of Prater Road and north of King Street (30.243947, -93.310822) in Mossville, Section 29, Township 9 South, Range 9 West, Calcasieu Parish, Louisiana ("subject property").

5. On or about October 2015, Respondent and Mr. Chuck Matheny of Cotton Logistics entered into a contractual agreement whereby Respondent and Mr. Matheny agreed to clear and

fill approximately 70 acres at the subject property for purposes of developing a labor housing complex.

6. On multiple dates between October 2015 and July 28, 2016, Respondent discharged, caused the discharge, directed the discharge, and/or agreed with other persons or business entities, including Mr. Matheny, to "discharge dredged material" and/or "discharge fill material," as 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 35.43 acres of wetlands within the subject property in connection with the development of a residential subdivision. The impacted wetlands were adjacent to, hydrologically connected to, or had a significant nexus to, a navigable-in-fact body of water.

7. Each piece of heavy equipment used during excavation or construction activities which resulted in a discharge acted as a "point source" as defined by Section 502(14) of the Act, 33 U.S.C. § 1362(14).

8. The dredged and fill material discharged was a "pollutant" as defined by Section 502(6) of the Act, 33 U.S.C. § 1362(6).

9. At all times relevant to the violations alleged herein, the acres of wetlands referred to in paragraph 6 were "navigable waters" as defined by Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 232.2.

10. 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 authorization of and in compliance with a permit issued under the Act.

11. 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 navigable waters of the U.S.

12. Respondent did not have a permit issued by the Corps of Engineers that authorized the

discharges alleged in paragraph 6.

13. Each unauthorized discharge was a violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

14. Based on these Findings of Fact and Conclusions of Law, EPA finds that Respondent committed the violations alleged herein.

III. CONSENT AGREEMENT

15. The parties agree that settlement of this matter will save time and resources and is in the public interest and that issuance of this Order on Consent is the most appropriate means of resolving this matter with respect to Respondent's application for an after-the-fact permit as described below. Respondent concurs in the issuance of this Order on Consent and agrees to comply with the Order. Respondent neither admits nor denies the findings of violations set forth above.

IV. COMPLIANCE ORDER

16. Based on the foregoing findings of violations and pursuant to the authority of Section 309(a) of the Act, 33 U. S. C. § 1319(a), EPA ORDERS Respondent to immediately cease any discharge of dredged and/or fill material to waters of the United States and to submit an application to the U.S. Army Corps of Engineers ("COE") within fifteen (15) days of Respondent's receipt of this Order for an after-the-fact (ATF) permit issued under Section 404 of the Act for the unauthorized discharges alleged herein. If Respondent fails to obtain an ATF permit for any reason, Respondent shall restore the impacted wetlands within thirty (30) days following the COE's notice to EPA that Respondent failed to submit a permit application within days of Respondent's receipt of this Order, or that Respondent's permit application has been denied or returned to Respondent by the COE without final action.

IV. GENERAL PROVISIONS

17. Issuance of this Order shall not be deemed an election by EPA to forego any administrative action or judicial civil or criminal action to seek penalties, fines, or other relief under the Act for the violations alleged herein, or other violations that become known to EPA. EPA reserves the right to seek any remedy available under the law that it deems appropriate.

18. If EPA issues an administrative complaint, or a civil judicial action is initiated by the United States Department of Justice, Respondent may be ordered to pay a monetary penalty. If a criminal judicial action is initiated by the United States Department of Justice, Respondent may be subject to a monetary fine and/or imprisonment.

19. Failure to comply with this Order can result in civil penalties of up to $37,500 per day of violation.

20. Compliance with the terms and conditions of this Order does not relieve Respondent of its obligation to comply with all applicable local, state, and federal laws.

21. The effective date of this Order is the date the final Order is received by Respondent.

Issued:

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

So Agreed:

Dr. John Michael Burdine
APB Investments

STEP 8d

Lawrence Boquet Jr.

6645 Hwy 56
Chauvin, LA 70344
985-594-5574
Boquetoysters@charter.net

Case number MVN 2009-01291-SQ

In answer to you Cease and Desist Order as to why I failed to obtain a DA permit prior to doing the work mentioned in the above case number, due to Hurricane Rita leaving lots of debris and lots of black mud on my property, I had to remove the debris and in the process of getting it removed left lots of ruts in my property and was having trouble getting rid of the black sticky mud the hurricane left behind, every time we had some rain it would smell really bad, smelled like sewerage, and we had a very bad problem with mosquitoes, then one day we read an article in the local newspaper that said it was ok for people to fill their property that was damaged due to the hurricane without needing a permit as long as it was not more that 5 acres. I also saw lots of other people around the area hauling dirt and fixing their properties and they didn't have permits, so that's why I thought it was ok to fix my property. I had to get the ruts out and level the land so I wouldn't have the same problem removing debris after future hurricanes and cover the black stinking mud cause it was posing health problems and I am in the process of relocating my seafood business and planning to rebuild my shrimp drying facilities on this property and need to bring trucks loaded with shrimp and will be having my shrimpers' personal vehicles parked on it.

I don't feel as I was doing anything wrong as I started this 4 years ago, and it's not like I was hiding to do it, why stop me now?

I also don't agree with the violations as I didn't do any obstructing or alteration to any navigable water, this was done on my private property.

I didn't discharge any dredged material, there was no dredging, or fill material into the waters of the U.S., as again this was my personal property and the only time there was any water on it was for an above normal high tide, in which most of the parish is also covered with water.