

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
Dallas, Texas 75270**

In the Matter of

Dequasie Development, LLC

Respondent

§
§
§
§
§
§

Docket No. CWA-06-2024-2701

ADMINISTRATIVE ORDER

STATUTORY AUTHORITY

The following Findings of Fact and Conclusions of Law are made, and Administrative Order (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 this authority to the Regional Administrator of EPA Region 6, who further delegated such authority to the Director of the Enforcement and Compliance Assurance Division, EPA Region 6.

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. EPA makes the following Findings of Fact and Conclusions of Law in support of its authority to issue this Order on Consent.
2. DeQuasie Development, LLC (Respondent) is a corporation created under the laws of the State of Oklahoma, and as such, Respondent is a “person” as defined by Section 502(5) of the Act, 33 U.S.C. § 1362(5).
3. At all times relevant to the violation alleged herein (relevant time period), Respondent owned, controlled and/or operated a project on real property, an approximately 133 acre tract known as River Mist Development at the Northeast intersection of SE 44th Street and S Harrah Road in Harrah, Oklahoma, with a mailing address of 1298 Scenic Trail, Choctaw, Oklahoma, 73020 (Subject Property).

4. On multiple dates beginning approximately January 12, 2018, to the present, Respondent and Respondent's contractor discharged, directed the discharge, and/or agreed with other persons or business entities to discharge "dredged material" and/or "fill material," as those terms are defined by Section 502 of the Act, 33 U.S.C. § 1362, and 40 C.F.R. § 232.2, from point sources, including heavy equipment, in, on and into approximately 1,197 linear feet of stream including abutting wetlands within the Subject Property. The impacted unnamed stream is a tributary to North Deer Creek, which flows into the North Canadian River, a traditional navigable water.
5. Each piece of heavy equipment used during the excavation or construction activities that resulted in a discharge acted as a "point source" as that term is defined in Section 502(14) of the Act, 33 U.S.C. § 1362(14).
6. The dredged and fill material referred to in paragraph 4 was a "pollutant" as defined by Section 502(6) of the Act, 33 U.S.C. § 1362(6).
7. During the relevant time period, the impacted stream and wetlands referred to in paragraph 4 were "waters of the United States" within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 232.2.
8. Under Section 301(a) of the Act, 33 U.S.C. § 1311(a), it is unlawful for any person to discharge a pollutant from a point source to navigable waters, except with the authorization of, and in compliance with, a permit issued under the Act. Section 404 of the Act, 33 U.S.C. § 1344, provides that the Secretary of the Army, acting through the Chief of Engineers for the U.S. Army Corps of Engineers (COE), may issue permits for the discharge of dredged or fill material into navigable waters.
9. At no time during the relevant time period did Respondent have a permit issued by the COE that authorized the discharges alleged in paragraph 4 above.
10. The Tulsa District of the COE issued a Cease and Desist order for the discharge of unauthorized fill material into WOTUS on July 18, 2019, based on their findings from a December 10, 2018, inspection.

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

II. CONSENT AGREEMENT

12. 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 Administrative Order on Consent is the most appropriate means of resolving this matter with respect to Respondent's restoration of certain impacted waters and mitigation of other impacted waters referenced herein and described in Section III below. For the purpose of settlement of this matter by means of this Administrative Order on Consent, EPA and Respondent agree to use the jurisdictional determination prepared by Apex Companies for DeQuasie Development LLC, dated January 2019, amended to only include relatively permanent tributaries to traditional navigable waters and their abutting wetlands. These waters are identified on Attachment 1 (Apex WOTUS and Wetland Delineation), excluding GUL1, MMD1, PEM4, SWO1, SWO2, SWO3, SWO4, SWO5, SWO6, and PFO2. Respondent concurs in the issuance of this Administrative Order on Consent and agrees to comply with the Order. Respondent neither admits nor denies the Findings of Fact and Conclusions of Law set forth above.

III. SECTION 309(a)(3) COMPLIANCE ORDER

13. Based on the foregoing Findings of Fact and Conclusions of Law and pursuant to the authority of Section 309(a) of the Act, 33 U.S.C. § 1319(a), EPA ORDERS, and Respondent agrees to, the following:

- a. Within 90 days of receipt of this Order on Consent, Respondent shall prepare and submit for EPA review and approval a "Preservation Corridor Plan" ("Plan") for the stream corridor crossing the property. This plan shall address preservation, restoration, and/or mitigation areas designed to offset impacts to the stream and wetlands areas described in paragraph 4 above. If necessary, the plan can include a schedule for future restoration of areas that cannot be restored immediately. Areas to be restored shall be returned to a surface elevation that will support aquatic vegetation. Restored areas shall be planted with native aquatic species suitable to the site or be allowed to revegetate naturally.
- b. Upon final implementation of the plan, Respondent shall provide photographs to EPA, at the address in Paragraph 20, of the preservation corridor.

IV. GENERAL PROVISIONS

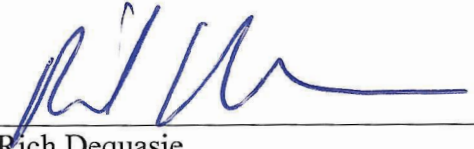
14. Respondent waives any and all claims for relief and otherwise available rights or remedies to judicial or administrative review that Respondent may have with respect to any issue or fact or law set forth in this Order on Consent, including, but not limited to, any right of judicial review of this Order on Consent under Sections 701 through 706 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
15. For the purposes of entering into this agreement on consent, Respondent does not contest that EPA has jurisdiction to issue this AOC. Notwithstanding the waiver set forth in paragraph 14 above, Respondent reserves all rights, defenses and remedies it may have in any subsequent action related to the allegations covered by the AOC.
16. 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.

17. 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 \$64,618 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.
18. 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.
19. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of Paragraph 17 is restitution, remediation, or required to come into compliance with the law.
20. EPA and Respondent agree to the use of electronic signatures for this matter. EPA and Respondent further agree to electronic service of this Order on Consent by email to the following addresses:

EPA: nystrom.thomas@epa.gov
Respondent: dequasieconstruction@gmail.com
21. The parties shall bear their own costs and fees in this action, including attorneys' fees.
22. The effective date of this Order is the date it is signed by all parties.
23. Each undersigned representative of the parties to this agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this agreement and to execute and legally bind that party to it.

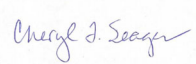
In recognition and acceptance of the foregoing:

Date 2-12-2024



Rich Dequasie
Dequasie Development, LLC

Date February :



Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Digitally signed by Cheryl T
Seager
Date 2 24 2 14 13 5 13
- 6' '