

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

LITTLE TCHEFUNCTE RIVER	:	NO. 2:12-CV-01923-NJB-JCW
ASSOCIATION and GULF RESTORATION	:	
NETWORK,	:	
Plaintiff,	:	JUDGE NANNETTE JOLIVETTE
VERSUS	:	BROWN
	:	
ARTESIAN UTILITY, INC.,	:	MAGISTRATE JOSEPH C.
Defendant.	:	WILKINSON, JR.

CONSENT JUDGMENT

WHEREAS the Plaintiffs, Little Tchefuncte River Association and Gulf Restoration Network, filed the Complaint on July 24, 2012 and served the Defendant, Artesian Utility, Inc. (“Artesian Utility” or “Defendant”) on or about September 6, 2012; and

WHEREAS, Defendant has made upgrades to its facility so that that it can and will consistently meet applicable Clean Water Act § 402 permit effluent limitations; and

WHEREAS the Louisiana Department of Environmental Quality (“LDEQ”) has issued Artesian Utility a Clean Water Act § 402 permit for effluent discharges from its Lake Ramsey Subdivision wastewater treatment facility (“Facility”), Permit No LA0105520, effective March 1, 2013; and

WHEREAS on February 5, 2013, Defendant met with LDEQ and discussed the assessment of civil penalties for technical violations of the Louisiana Environmental Quality Act and the Clean Water Act;

WHEREAS, the Defendant warrants that it will work with LDEQ to arrive at a mutually agreeable solution for the allegations described herein and as set forth in Consolidated Compliance Order & Notice of Potential Penalty, Nos. WE-CN-08-0442, dated June 1, 2010, and No. WE-CN-12-00542, dated July 6, 2012;

WHEREAS Plaintiff Little Tchefuncte River Association is a not-for-profit association dedicated to the protection of the Tchefuncte River and its tributaries and Plaintiff Gulf Restoration Network is a non-profit organization composed of environmental, social justice, and citizen's groups and individuals committed to restoring the Gulf of Mexico to an ecologically and biologically sustainable condition; and

WHEREAS, without admission of liability by Artesian Utility, the Parties wish to resolve this lawsuit cooperatively, without further litigation, and request that the Court enter this Consent Judgment; and

WHEREAS the Clean Water Act § 505(c), 33 U.S.C. § 1365(c) provides: "No consent judgment shall be entered in an action in which the United States is not a party prior to 45 days following the receipt of a copy of the proposed consent judgment by the Attorney General and the Administrator [of EPA]," and the Parties represent that they will promptly send a copy of the proposed judgment via certified mail to the Attorney General and the Administrator and that they will notify the Court when the 45-day waiting period has elapsed;

WHEREAS the Parties have agreed to take all such further acts and execute all such further documents, as may reasonably be required, to give effect to the terms of this Consent Judgment.

NOW, THEREFORE, the Parties agree and the Court hereby orders:

Compliance, Upgrades, & Information

(1) Artesian Utility shall comply with all terms and limitations of its Clean Water Act § 402 permit, Permit No. LA0105520 (the "Permit").

(2) For a period of one year from the date of this agreement, Artesian Utility shall provide to Plaintiffs a copy of any and all the discharge monitoring reports that it sends to

LDEQ, together with any attachments, within three (3) days of sending to LDEQ such monitoring reports.

(3) Artesian Utility shall make the following improvements to the Facility within 30 days of entry of this Consent Judgment, if such improvements have not already been made, unless a different time is specified:

(a) For its treatment of algae and Total Suspended Solids:

(i) within 30 days of entry of this Consent Judgment, Artesian Utility shall investigate and complete a written report on whether the Facility can operate one or more of portions of the L-shaped ditch(es) that receive the effluent from the fourth cell of the two aerated treatment ponds and runs along the Facility's east and south borders (described as the "Constructed Ditch" in Artesian Utilities' court filings) so that water remains under a cover that is impermeable to light for 72 hours. If Artesian Utility can cost-effectively operate the Facility in such a manner, and the aquatics system currently in place is not achieving its intended purpose, then Artesian Utility shall, within 14 days of determining that the aquatics system currently in place is not achieving its intended purpose, apply to LDEQ to change its operating system to use such an impermeable cover in lieu of floating aquatics. Upon approval from LDEQ, Artesian shall implement the change in operations within 30 days. Artesian Utility shall provide to Plaintiffs promptly, and in no event later than 7 days from completion or receipt, **A)** a copy of the written report, and **B)** a copy of any application to and related correspondence with LDEQ;

(ii) for any use of aquatics as part of its water treatment process, Artesian Utility shall only use native and non-invasive species;

(b) add a “T Inverter” to the head of the intake pipes located at the end of the first and second ditches of the “Constructed Ditch” (*i.e.* those feeding into the second and third ditches, respectively) eighteen inches below the surface of the water to prevent intrusion of unwanted materials;

(c) remove any grate intake filter and add a “T Inverter” to the head of the intake pipe that exits the third ditch of the “Constructed Ditch” ;

(d) test the effluent as it exits the third ditch of the “Constructed Ditch” to determine whether the addition of chlorine is unnecessary to meet the Permit’s fecal coliform effluent limitation; and

(e) combine the two final effluent pipes to make a single discharge point.

(4) Artesian Utility shall allow Plaintiffs’ representatives to visit the Facility to observe its water collection, treatment, and discharge system during, or reasonably close to, each of the months of August and October in 2013, and May in 2014. Additionally, Defendant shall allow additional visits by Plaintiffs upon Plaintiffs’ reasonable request at a date and time mutually agreed upon by both parties, with agreement not to be unreasonably withheld, for a period of two years from the date of this agreement.

(5) Artesian Utility shall send all information required under this Consent Judgment to Plaintiffs at the following addresses:

Matthew Allen, President
Little Tchefuncte River Association
72630 Clark Allen Lane
Covington, LA 70433

Matthew Rota
Gulf Restoration Network
541 Julia St., Suite 300
New Orleans, LA 70130

Beneficial Environmental Project

(6) Artesian Utility shall pay a total of \$24,000, to be paid in three installments of \$8,000 with the first installment due within 14 days of entry of this Consent Judgment and the second and third installments due on the same month and day one and two years later, respectively, to the Lake Pontchartrain Basin Foundation (“LPBF”). LPBF shall use the funds solely for the purpose of testing the water quality of the areas of the Tchefuncte River and its tributaries in areas at least one mile from the Facility’s discharge point in the Tchefuncte River but in no instance shall it use the funds to test or sample in the ditch or stream between the Facility’s outfall and the Tchefuncte River and its tributaries. If LPBF is unable to perform such testing, within 14 days of notice of such inability, the Parties shall agree upon a substitute organization (in no event the Plaintiffs), such agreement not to be unreasonably withheld. Artesian Utility shall pay the same amounts for the same purpose to that substitute organization within 14 days and thereafter follow the schedule described above for LPBF. In the event that the substitute organization is unable to perform the testing, the Parties will repeat the same process to determine and fund a different organization for the same purpose.

(7) Both Parties shall agree to undertake any task that is reasonably required to give effect to this Consent Judgment.

Costs of Litigation

(8) Artesian Utility shall pay, pursuant to 33 U.S.C. § 1365(d), \$20,000 for Plaintiffs’ costs of litigation, to be paid in three installments, as follows: \$10,000 due within 14 days of the Court’s final entry of this Consent Judgment, \$5,000 due within six months and 14 days of entry

of the Court's final entry of this Consent Judgment, and \$5,000 due within one year and 14 days of the Court's final entry of this Consent Judgment.


Dismissal


(9) The Court shall maintain jurisdiction over this action for the purposes of implementing this Consent Judgment.

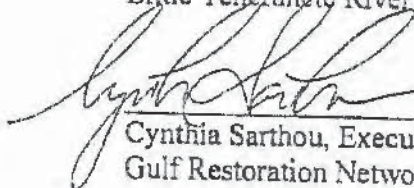
(10) In all other respects, except as specified in paragraph 9 above, this action is dismissed.

Agreed to:

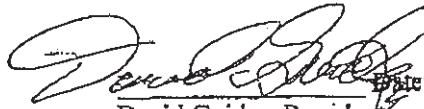
FOR PLAINTIFF:


 Date: 8/14/2013
Matthew Allen, President
Little Tchefuncte River Association


 Date: 8/15/13
Elizabeth Livingston de Calderon, LA Bar #31443
Counsel for Plaintiffs Little Tchefuncte River
Association and Gulf Restoration Network

 Date: 8/14/13
Cynthia Sarthou, Executive Director
Gulf Restoration Network

FOR DEFENDANT:


Date: 8-14-13
David Guidry, President
Artesian Utility, Inc.


Date: 8/15/13
Frank S. Craig, III, La Bar Roll No. 4543
Bernard E. Boudreaux, Jr., La Bar Roll No. 2219
John B. King, La Bar Roll No. 17004
Counsel for Defendant Artesian Utility Company,
Inc.



Date: 8/14/13
John M. Mamoulides, LA Bar Roll No. 02227
John M. Mamoulides, Attorney at Law
4917 Henican Place
Metairie, LA 70005
Counsel for Defendant Artesian Utility Company,
Inc.

ENTRY OF ORDER

This matter having come before this Court on the Parties' request for entry of this Consent Judgment, and the Court having reviewed the matter, the Court hereby finds that the terms and provisions of this Consent Judgment are a fair, reasonable and equitable settlement of this matter. The foregoing Consent Judgment is hereby adopted by and made an Order of this Court.

SO ORDERED AND ADJUDGED this 18th day of October, 2013.

BY THE COURT:


HONORABLE JUDGE NANNETTE JOLIVETTE BROWN.
UNITED STATES DISTRICT JUDGE