



REGION 8

DENVER, CO 80202

December 10, 2024

Ref: 8ECA-W-N

CERTIFIED MAIL AND ELECTRONIC EMAIL
DIGITAL READ RECEIPT REQUESTED

Mr. Curtis Knight

(b) (6)

Via counsel at dan@dygert-law.com

Re: Request for Information Pursuant to Section 308 of the Clean Water Act
U.S.C. § 1318

Dear Mr. Knight:

The U.S. Environmental Protection Agency Region 8 has obtained information about potential discharges of dredged and/or fill material into waters of the United States that may have occurred without authorization from the U.S. Army Corps of Engineers (Corps) pursuant to Section 404 of the Clean Water Act (CWA), 33 U.S.C. § 1344. We understand the discharges may have occurred on two parcels of land you own in Cache County, Utah, at or near latitude 41.63947°N, longitude -111.84525°W (referenced as Site A) and (2) at or near latitude 41.639508°N, longitude -111.843786°W (referenced as Site B). For more details on Sites A and B and the approximate location of the potential dredge and fill activities, please see the enclosed Exhibits A and B.

By letter dated June 26, 2024, the Corps alleged that you are responsible for the unauthorized discharge of fill material into a single large wetland and a seasonally flowing roadside ditch, referenced above as Site A, and advised you to cease and desist activities in waters of the United States. The Corps subsequently requested that the EPA serve as the lead agency regarding this alleged discharge. The EPA has learned that there may be additional discharges at another property you own, referenced above as Site B. In order for the EPA to fulfill its responsibilities for protecting the nation's waters, we need certain information to aid us in our investigation. The EPA is authorized to gather information pertaining to this matter by Section 308 of the CWA, 33 U.S.C. § 1318.

The EPA hereby instructs you to provide the information set forth in the enclosed Information Request within **30 days** of receipt of this letter. You must send this

information via email to Zach Schlachter, Life Scientist, at schlachter.zachary@epa.gov, with a copy to Abigail Dean, Senior Assistant Regional Counsel, at dean.abigail@epa.gov. You also must complete the enclosed certification and provide it with your response.

It is very important that you respond to this request for information. Please note that under the CWA any failure to provide information may result in substantial civil penalties and that even harsher criminal consequences are possible in the case of deliberate false statements. (33 U.S.C. § 1319; see also 18 U.S.C. § 1001.)

Although you are required to provide the requested information to the EPA, you may claim all or any part of it is entitled to confidential treatment. Please see 40 C.F.R. § 2.203(b) for information on how to assert a confidentiality claim. If you make such a claim, the EPA will disclose the information covered by that claim only to the extent, and by means of the procedures, set forth in 40 C.F.R. part 2, subpart B (as promulgated at 41 Fed. Reg. 36902 on Sept. 1, 1976, 43 Fed. Reg. 39997 on Sept. 8, 1978, and 50 Fed. Reg. 51654 on Dec. 18, 1985). If you do not make a confidentiality claim when submitting information to the EPA, the EPA may make that information available to the public without notifying you. If you do make a confidentiality claim but the EPA determines that the information is not entitled to confidential treatment, the EPA may also make that information publicly available.

Please note that although this letter requests that you respond via email, we would recommend that any information you may claim as confidential be separated and physically mailed or, preferably, hand delivered to the EPA. We also recommend that if any information is hand delivered you contact one of the EPA representatives named in the last paragraph of this letter so we can arrange to have someone be present when it is delivered.

In case this is relevant, a Small Business Regulatory Enforcement and Fairness Act (SBREFA) information sheet is enclosed. It contains information on compliance assistance resources and tools available to small businesses. By including this information sheet, the EPA has not necessarily determined that you own or operate a small business. SBREFA does not eliminate the obligation to respond to this information request.

If you have any questions concerning this matter, please contact Mr. Schlachter at schlachter.zachary@epa.gov or (720) 751-3305, or, if represented by counsel, have your attorney contact Ms. Dean, at dean.abigail@epa.gov or (303) 312-6106. Thank you for your attention.

Sincerely,

EMILIO LLAMOZAS

Digitally signed by EMILIO
LLAMOZAS

Date: 2024.12.10 16:30:22 -07'00'

Emilio Llamozas, Supervisor
NPDES and Wetlands Enforcement Section
Enforcement and Compliance Assurance Division

ENCLOSURES

1. Information Request
2. Certification
3. Exhibit A
4. Exhibit B
5. SBREFA information sheet

electronic cc:

Jason Gipson, US Army Corps of Engineers (Jason.A.Gipson@usace.army.mil)

Cynthia Ovdenk, US Army Corps of Engineers (cynthia.d.ovdenk@usace.army.mil)

CLEAN WATER ACT SECTION 308 INFORMATION REQUEST

Instructions

Please follow these instructions:

1. Provide a separate narrative response to each and every item labeled under “Questions” and each subpart of a Question set forth in this information request.
2. Separately answer each Question for each Site (defined below).
3. Precede each answer with the number of the Question to which it corresponds.
4. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the Question to which it responds.
5. Identify each individual who prepared the responses to this Information Request.
6. Sign the Certification statement and include with the response submittal.

Definitions

The following definitions shall apply to the following words as they appear in the Questions below:

1. All terms not defined in this information request shall have their ordinary meanings, unless such terms are defined in the Clean Water Act (CWA) or its implementing regulations, in which case the statutory or regulatory definitions shall control.
2. Words in the masculine may be construed in the feminine if appropriate, and vice versa, and words in the singular may be construed in the plural if appropriate, and vice versa, in the context of a particular question or questions.
3. The terms “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed outside its scope.

4. The term “Discharge Area A” means the wetlands, streams, creeks, and other waterbodies that have been impacted either through filling, excavating or mechanical land clearing with side cast of dredged and/or fill material at Site A, defined below.
5. The term “Discharge Area B” means the wetlands, streams, creeks, and other waterbodies that have been impacted either through filling, excavating or mechanical land clearing with side cast of dredged and/or fill material at Site B, defined below.
6. The term “identify” means, with respect to a natural person, to set forth the person’s name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.
7. The term “Site A” means the approximately 9-acre tract of land at or near latitude 41.63947°N, longitude -111.84525°W located in Cache County, Utah. Site A is shown in Exhibit A
8. The term “Site B” means the approximately 5.5-acre tract of land at or near latitude 41.639508°N, longitude -111.843786°W located in Cache County, Utah. Site B is shown in Exhibit B.
9. The term “Work” means any land clearing activities, ditching, dredging, side casting, road construction, stream crossing construction, mechanical land clearing, piping of streams, timber harvesting, excavating, or filling activities that have occurred in wetlands, streams, creeks, or other waterbodies at either Site from May 1, 2023, to the date of your response to this request for information.
10. The term “aquatic resources” includes, but is not limited to, all wetlands, streams, creeks, or other waterbodies, biota, soil, and hydrology.
11. The terms “you” and “your” shall mean Mr. Curtis Knight.

Questions

Please provide the EPA with the following information or documents pertaining to Sites A and B.

1. A copy of each deed, lease, easement, or other document revealing any and all ownership interests in each Site A and B from May 1, 2023, to the date of your response to this request for information.
2. The name and address of each individual (including you), company, contractor, subcontractor, consultant, or other entity, and each agent or employee of any of the preceding, who directed or participated in the Work at each Site A and B.
3. A description of the equipment used to carry out the Work, and the names and addresses of each individual, company, or other entity that owned or operated such equipment at the time the Work was performed.
4. For each Site A and B, the dates when the Work commenced and was completed or will be completed and a description of all the Work at each Site A and B. The description should include the purpose for the work, the area (in acres) of the aquatic resources affected, and the type and amount (in cubic yards) of material that was discharged into or used to fill aquatic resources.
5. A statement of whether the Work was performed on your behalf and, if not, on whose behalf the Work was performed.
6. A description, including, but not limited to, all maps, drawings, and engineering plans, of all planned activities of which the Work was a part. This includes any survey maps, engineering plans drafted in response to the Work already conducted, and any report or data about the aquatic resources on Sites A and B.
7. A description and photographs of the physical condition of each Site A and B and each Discharge Area A and B before Work commenced and after, including, but not limited to, all wetlands, streams, creeks, or other waterbodies, biota, soil, and hydrology.
8. A copy of any on-site environmental assessments prepared for Sites A and B. This includes environmental assessments of soils, vegetation, or hydrology, that were done at each Site A and B.

9. A copy of each federal, state, or local permit that has been received for the Work at either Site A and B and each application for any such permits, regardless if the permit was obtained.
10. A statement of your reason(s) for not applying for a federal permit under Section 404 of the CWA prior to commencing the Work.
11. A statement of your plans for any additional filling, excavating, or land disturbing activities at each Site A and B.
12. A copy of any written communication or a copy of any note taken to document verbal communications you have had with any federal, state, or local agency regarding the Work.
13. A copy of each contract pertaining to the Work at each Site A and B, including the names and activities of all contractor(s) or consultant(s) or other entities that assisted with securing any local, state, or federal permits or easements associated with each Site A and B.
14. A description of each other property, if any, you have owned during which you or any entity on your behalf has performed filling, dredging, or land disturbing activities. For each such property, provide a copy of each federal, state, or local permit, if any, that has been received for those activities. This includes but is not limited to any applications and/or federal permits under Section 404 of the CWA.
15. A statement indicating if you are a registered producer with the U.S. Department of Agriculture (USDA) Natural Resources Conservation Service and are receiving any program benefits from the Farm Service Agency under the Food Security Act.

CERTIFICATION

I certify that I have personally reviewed the information contained in this response to the information request and the response is truthful, accurate and complete. I further certify that the response to the information request contains all documents responsive to the request. I am aware that there are significant penalties for submitting false information including the possibility of further enforcement under the CWA.

Curtis Knight

Date

EXHIBIT A
SITE A - DISCHARGE AREA A
KNIGHT - CACHE COUNTY, UTAH



EXHIBIT B
SITE B - DISCHARGE AREA B
KNIGHT – CACHE COUNTY, UTAH



U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Office of Small and Disadvantaged Business Utilization (OSDBU)

<https://www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu>

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman (ASBO)

<https://www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman> or 1-800-368-5888

The ASBO helps make technical resources on environmental regulations, asbestos, and compliance assistance information more accessible, while encouraging communication and partnerships with small business on regulatory compliance, and to address asbestos-related questions from the public.

Small Business Environmental Assistance Program

<https://nationalsbeap.org>

This program provides a "one-stop shop" for small businesses and assistance providers seeking information on a wide range of environmental topics and state-specific environmental compliance assistance resources.

EPA's Compliance Assistance Homepage

<https://www.epa.gov/compliance>

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

Compliance Assistance Centers

<https://www.complianceassistance.net/>

EPA-sponsored Compliance Assistance Centers provide the information you need, in a way that helps make sense of environmental regulations. Each Center addresses real world issues faced by a specific industry or government sector. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

<https://www.epa.gov/agriculture>

Automotive Recycling

<http://www.ecarcenter.org>

Automotive Service and Repair

<https://ccar-greenlink.org/> or 1-888- 476-5465

Beneficial Use

<https://www.beneficialuse.org/>

Construction

<https://www.cicacenter.org/>

Education

<https://www.nacubo.org/>

Hazardous Waste Portal

<https://www.hazwasteportal.org/>

Healthcare

<http://www.hercenter.org>

Local Government

<https://www.lgean.net/>

Oil/Natural Gas Energy Extraction

<https://www.eciee.org/>

Paints and Coatings

<https://www.paintcenter.org/>

Ports

<https://www.portcompliance.org/>

Surface Technology Environmental Resource Center (STERC)

<https://sterc.org/>

Transportation

<https://www.tercenter.org/>

U.S. Border Compliance and Import/Export Issues

<https://www.bordercenter.org/>

Veterinary Care

<https://vetca.org/>

EPA Hotlines and Clearinghouses

www.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

Clean Air Technology Center (CATC) Info-line

www.epa.gov/catc or 919-541-0800

Superfund, TRI, EPCRA, RMP and Oil Information Center

1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or 734-214-4100

National Pesticide Information Center

www.npic.orst.edu or 1-800-858-7378

National Response Center Hotline

to report oil or hazardous substance spills
<https://nrc.uscg.mil/>; NRC@uscg.mil or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC)

ppic@epa.gov or 202-566-0799

Safe Drinking Water Hotline

safewater@epa.gov or 1-800-426-4791

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 202-554-1404

Small Entity Compliance Guides

<https://www.epa.gov/reg-flex/small-entity-compliance-guides>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/srl/

The Locators provide state-specific information on regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

<https://nationalsbeap.org/states>

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

EPA's Tribal Portal

<https://www.epa.gov/tribal>

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has several such policies that may apply to small businesses. More information is available at:

- **EPA's Small Business Compliance Policy**
<https://www.epa.gov/compliance/small-business-compliance>
- **EPA's Audit Policy**
www.epa.gov/compliance/epas-audit-policy

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a Small Business Administration (SBA) National Ombudsman and 10 Regional Fairness Boards to receive comments from small business about federal agency enforcement actions.

If you believe that you fall within the SBA's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, you can call the SBA National Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247), or submit a comment online at: <https://www.sba.gov/about-sba/oversight-advocacy/office-national-ombudsman>.

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions, or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes, including the right to take emergency remedial actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.