

From: Gomez, Juliana
Sent: Sat, 21 Sep 2024 00:19:48 +0000
To: mark@rta-c.com
Subject: Wallace- Notice of Proposed Assessment of a Clean Water Act Administrative Civil Penalty
Attachments: Wallace - Show Cause Letter.pdf, 2023-08-30 Wallace - EPA Insp Report and Photolog FINAL_signed.pdf

Good afternoon,

Attached please find a Notice of Proposed Assessment of a Clean Water Act Administrative Civil Penalty in the matter of the Wallace Rock Slope Protection Project that occurred in January 2022 without a 404 permit from the Army Corps of Engineers.

As a heads up, I will be out of the office all next week but will return on Monday 9/30.

Thank you,



Juliana Gomez

Life Scientist | Stormwater & Wetlands
Enforcement & Compliance Assurance Division
US Environmental Protection Agency, Region 9
Southern California Field Office - Los Angeles
Gomez.Juliana@epa.gov
(213) 244 - 1826



REGION 9

SAN FRANCISCO, CA 94105

September 18, 2024

VIA MAIL AND ELECTRONIC MAIL

Steven Wallace and Deborah Wallace
3529 Riverside Drive
Anderson, CA 96007
braveheartmanor@yahoo.com

RTA Construction, Inc
Attn: Mark Trewick
9614 Tanqueray Ct
Redding, California 96003-6812
mark@rta-c.com

Butler Engineering Group, Inc.
Attn: Kevin Butler
9512 Crossroads Drive A,
Redding, CA 96003-6812
kevin@butlergroup.us

Re: Notice of Proposed Assessment of a Clean Water Act Administrative Civil Penalty
In the Matter of the Wallace Rock Slope Protection Project.

Dear Steven and Deborah Wallace, Mark Trewick, and Kevin Butler:

The United States Environmental Protection Agency, Region 9 ("EPA") has evidence indicating that you violated section 301(a) of the Clean Water Act ("CWA"), 33 U.S.C. § 1311(a), by the grading and placement of rock slope protection ("RSP") in the Sacramento River below the ordinary high-water mark ("OHWM") without authorization from the Army Corps of Engineers ("ACOE").

As part of an investigation conducted by the ACOE, Sacramento District ("SPK") in January 2023 (File No. SPK-2023-00061), the ACOE requested information about the work performed on the shoreline, and the responsible parties responded stating that Butler Engineering engineered the rock slope protection project ("Project") which was conducted and completed by RTA Construction. Responses also indicated that the Project involved the removal of a failing retaining wall and installation of fill

material, the RSP, in the Sacramento River using a small excavator and small loaders. According to the responses, the Project took place in January 2022, and took approximately two weeks to be completed.

In December 2023, the ACOE, consistent with an existing memorandum of agreement with EPA, referred this matter to EPA to proceed as the lead enforcement agency, since a CWA Section 404 permit for the discharge of dredged or fill material to waters of the United States was not obtained by the responsible parties, the property owner or the contractors.

EPA now writes to inform you that it is prepared to initiate an administrative civil enforcement action for violations of section 301(a) of the CWA and to offer you the opportunity to discuss this matter with EPA prior to the filing of an administrative complaint for civil administrative penalties pursuant to EPA's Consolidated Rules of Practice at 40 C.F.R. Part 22. Section 309(g) of the CWA, 33 U.S.C. § 1319(g), authorizes EPA to assess administrative penalties for violations of the CWA, and Section 309(d) authorizes EPA to bring a civil action in federal district court. Under the terms of Section 309, EPA must consider the following factors in determining the amount of penalty it will seek: the seriousness of the violation(s), the economic benefit (if any) resulting from the violation, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and other matters as justice may require.

EPA offers the opportunity to settle cases out of court to avoid the time and expense of litigation. If we are able to reach a settlement, we would enter into the Administrative Consent Agreement and Final Order to resolve the penalty aspect of this matter, which would make it unnecessary for EPA to file a complaint.

If the respective parties and EPA are unable to reach a settlement within a reasonable amount of time of initiating negotiations, EPA may initiate formal administrative penalty proceedings. The civil penalty proceedings will either be filed in a case before an administrative law judge or referred to the Department of Justice for filing in federal district court. EPA specifically reserves the right to use any and all enforcement tools at its disposal to address these violations by Continental regardless of any future discussions in response to this letter.

EPA has not determined whether Butler Engineering and/or RTA Construction, either acting alone or in concert with another entity, constitute a "small business" under the Small Business Regulatory Enforcement and Fairness Act (SBREFA). Information on compliance assistance or contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities may be found at <https://www.epa.gov/sies/production/files/2017-06/documents/smallbusinessinfo.pdf>. Any decision to communicate with the SBREFA Ombudsman or to otherwise seek compliance assistance through this program does not relieve you of your obligation to respond in a timely manner to this letter, any EPA information request or any enforcement action, and does not create any new rights or defenses under law.

Please consider the settlement negotiation opportunities being made available through this letter. To reach a settlement, we will need to begin pre-filing negotiations as soon as possible. If you wish to set up an initial meeting to discuss this matter, please contact Juliana Gomez at (213) 244-1826 or gomez.juliana@epa.gov, or have your attorney contact Marcela von Vacano in the Office of Regional

Counsel at (415) 972-3905 or vonvacano.marcela@epa.gov within **fourteen (14) days** of receipt of this letter. Thank you for your prompt attention to this important matter.

Sincerely,

**ROBERTO
RODRIGUEZ**

Digitally signed by ROBERTO
RODRIGUEZ

Date: 2024.09.18 15:48:18
-07'00'

Roberto Rodriguez

Assistant Director, Water Branch

Enforcement and Compliance Assurance Division



Clean Water Act Section 404: Site Visit/Case Development

For inspections authorized pursuant to Clean Water Act sections 308 and 404 (33 U.S.C. §§ 1318 and 1344)

This report includes only factual information gained by documentation, onsite observations, and/or onsite interviews.

Inspector Name(s)	Juliana Gomez, USEPA Scott McWhorter, USEPA	Time In	10:30 AM	Start Date	August 30, 2023
		Time Out	11:30 AM	End Date	August 30, 2023
Inspector's Organization	U.S. Environmental Protection Agency (USEPA)				
Organization Requesting Inspection (if different)	N/A				
Inspection Type	Evaluation		Inspection Status	Original	
Site Name	Steven Wallace Riverside Drive				
Site Address*	3529 Riverside Drive				
City*	Anderson	County*	Shasta County	State*	CA Zip Code* 96007
Mailing Address*	3529 Riverside Drive				
City*	Anderson	County*	Shasta County	State*	CA Zip Code* 96007
Latitude*	40.47021°		Longitude*	-122.29054°	
Estimated Size of Site (acres)	0.27	Is there a home on the site?		☒ Yes ☐ No	
Inspector Signature	JULIANA GOMEZ			Digitally signed by JULIANA GOMEZ Date: 2023.09.13 14:55:33 -07'00'	Date
Supervisor Signature	JAMES MARINCOLA			Digitally signed by JAMES MARINCOLA Date: 2023.09.13 22:19:08 -07'00'	Date

Clean Water Act Section 404: Site Visit/Case Development

For inspections authorized pursuant to Clean Water Act sections 308 and 404 (33 U.S.C. §§ 1318 and 1344)

Site Name	Steven Wallace Riverside Drive	Start Date	August 30, 2023
		End Date	August 30, 2023
Inspection Purpose	Initial site visit		
Opening Conference			
☒ Presentation of Inspector Credentials			
Name and Title (Use N/A if owner/operator not available to join the inspection)			
Steven C. Wallace (owner)			
☒ Opening Conference			
Name of person authorizing access if applicable			
Steven C. Wallace			
Notes from Opening Conference			
We met with the property owner outside of his residence, we presented EPA inspector credentials and explained that the purpose of our visit was to inspect the recent work that had occurred on the shoreline, which is potentially regulated by the US Army Corps ("Corps") under the Clean Water Act Section 404 permitting program.			
☐ Access Issues if Any			
Describe			
N/A			
Inspection Observations and Sample Collection			
Site Owner/Site Operator/Responsible Party (Name, title and contact information)			
Owner: Steven C. Wallace (braveheartmanor@yahoo.com) Contractors: RTA Construction, Inc (info@rta-c.com) Butler Engineering Group, Inc 9512 Crossroads Dr A Redding, CA 96003			
Additional Persons Present at Inspection			
Maya Bickner, U.S. Army Corps of Engineers ("Corps"), Maya.A.Bickner@usace.army.mil Jerred Ferguson, Waterboards, Jerred.Ferguson@waterboards.ca.gov			
General Site Characteristics (layout of property, etc.)			
The property is located on the corner of Riverside Dr and Crest Dr, on the south side of the Sacramento River, with homes on each side.			
Purpose and Need for Discharge of Dredged and/or Fill Material			
Installation of rip-rap on property's shoreline.			
Site Overview (Past inspections, site description, permits, etc.)			
The site is approximately 0.27 acres located at 3529 Riverside Drive, in Anderson, California, on a residential area with homes on each side. The back of the property faces northeast and slopes down towards the south side of the Sacramento River. The Corps observed that rip-rap rock had been placed on the shoreline of the property. No Corps permit had been issued prior to the rip-rap installation.			

Clean Water Act Section 404: Site Visit/Case Development

For inspections authorized pursuant to Clean Water Act sections 308 and 404 (33 U.S.C. §§ 1318 and 1344)

Site Name	Steven Wallace Riverside Drive	Start Date	August 30, 2023
		End Date	August 30, 2023
On December 27, 2021, the California Department of Fish and Wildlife (CDFW) issued a Streambed Alteration Agreement for the demolition of an existing, failing retaining wall and the installation of approximately 128 linear feet of ¼-ton rip-rap rock slope protection (RSP) to stabilize a steep riverine embankment on a residential parcel. Approximately 2.18 cubic yards of rock per lineal foot in total was placed, approximately 1,712 square feet of which was placed below the ordinary high-water mark (OHWM). Prior to the placement of rip-rap, the embankment was re-graded and material excavated to achieve a 1:1 slope. Approximately 1,250 square feet of vegetation, including grasses and blackberry, were removed over the course of project activities. No trees were removed.			
Scope of Inspection (Areas inspected or not inspected)			
We inspected and photographed the rip-rap that had been recently installed along the Sacramento River.			

Clean Water Act Section 404: Site Visit/Case Development

For inspections authorized pursuant to Clean Water Act sections 308 and 404 (33 U.S.C. §§ 1318 and 1344)

Site Name	Steven Wallace Riverside Drive	Start Date	August 30, 2023
		End Date	August 30, 2023
Environmental Conditions (e.g., wind, rain, smoke, dust, temperature, snow)			
Sunny, clear sky			
Field Work Conducted			
Inspected the shoreline where the rip-rap had been installed and documented with photographs (see attached photos 1 through 7)			
Closing Conference			
Documents Received and/or Requested During the Inspection			
N/A			
Compliance Assistance Provided (If any)			
N/A			
Observations Relayed to Site Owner/Operator			
N/A			
Actions Taken by Owner/Operator During the Inspection (If any)			
N/A			
Potential Issues of Concern Including Regulatory Citations			
Clean Water Act Section 301 prohibits the discharge of pollutants (including earthen fill, e.g., rip rap) into waters (e.g., Sacramento River) without authorization under Clean Water Act section 404.			
Attachments*			
☒ Maps and Sketches ☒ Photographs (including location) and Photo Log ☐ Other (SSIP, Wetlands Delineation Forms, etc.)			
Additional Notes			

LOCATION MAPS AND PHOTOGRAPHS OF AREAS OF CONCERN

Facility	3529 Riverside Drive Site
Facility Location	California
Photographer	Scott McWhorter
Camera Equipment	Panasonic DMC-TS5
Inspection and Photograph Date(s)	8/30/2023

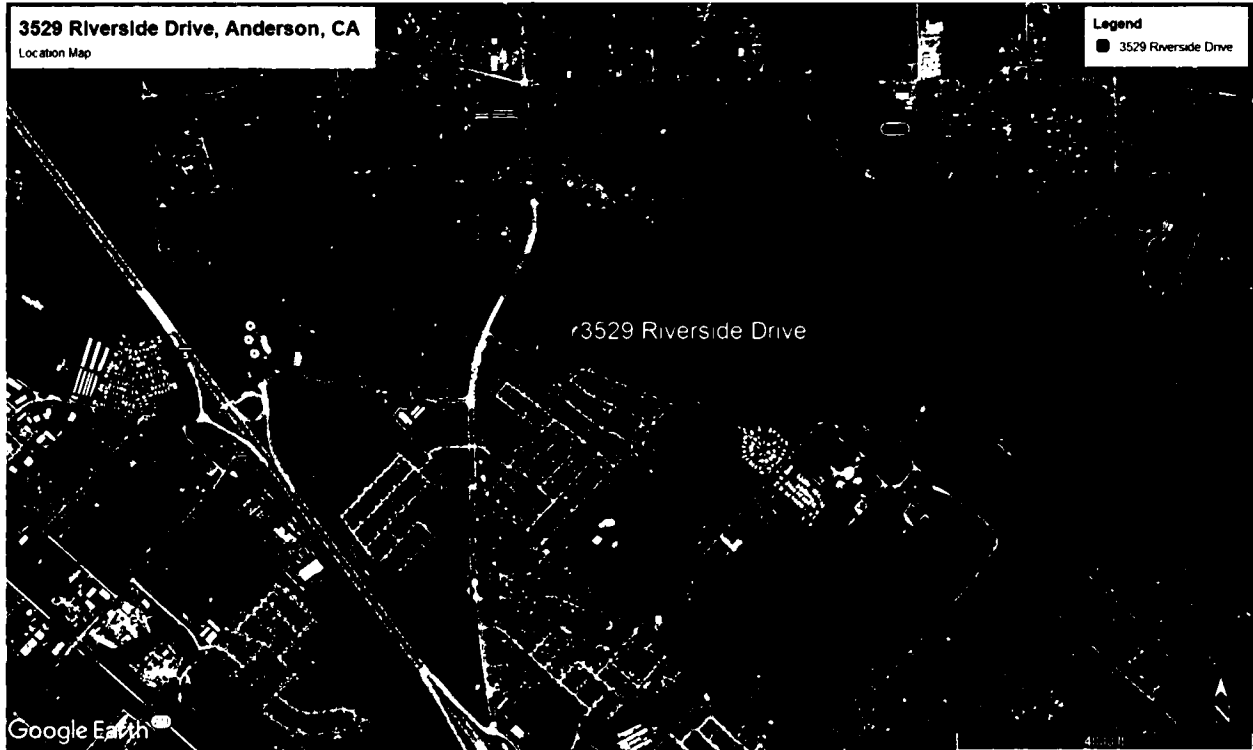


Figure 1. Aerial overview of site location in Shasta County, California (Google Earth imagery)

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Figure 2. Aerial overview closeup of site in Shasta County, California (Google Earth imagery)



Figure 3. Aerial overview of rip-rap installation (Google Earth imagery)

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Photo 1. Overview of northwest end of rip-rap, taken from top of rip-rap (facing northwest)



Photo 2. Overview of northwest end of rip-rap, taken from bottom of rip-rap (facing northwest)

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Photo 3. Overview of southeast end of rip-rap, taken from bottom of rip-rap (facing southeast)



Photo 4. Photo taken at the approximate ordinary high water mark (OHWM)

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Photo 5. Vegetation growing down to the approximate OHWM.

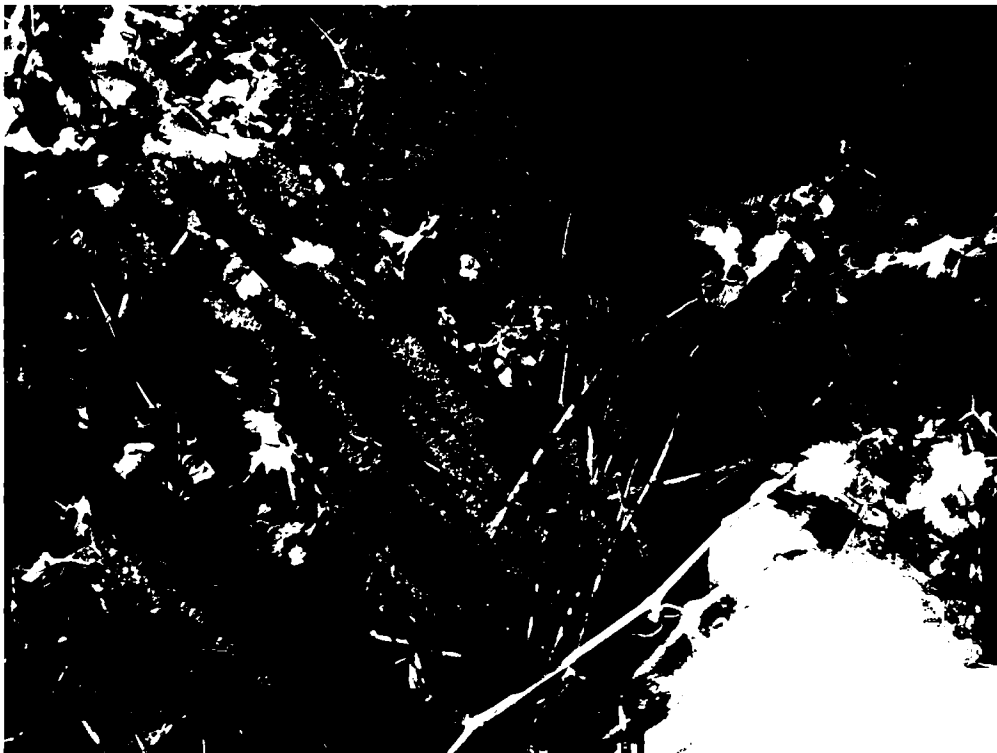


Photo 6. Staining at the approximate OHWM indicator.

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Photo 7. Overview of the Sacramento River (facing southeast)