



REGION 4

ATLANTA, GA 30303

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dixie Garden Nursery, Inc.
c/o Milexys Fernandez
4581 Weston Rd. 202
Weston, Florida 33331

RE: Clean Water Act Information Request Letter 308-2024-14 for Dixie Garden Nursery, Inc.,
Hialeah, Florida.

Dear Milexys Fernandez:

The U.S. Environmental Protection Agency has learned that a discharge of dredged and/or fill material has occurred in approximately 49 acres of wetlands with a continuous surface connection to the Miami Canal, a traditional navigable water, at the Dixie Garden Nursery property, located at 14949 NW 117 Avenue, latitude 25.908642° N and longitude -80.388762° W. This property is near the City of Hialeah, Miami-Dade County, Florida (See Exhibits A and B of the enclosed Information Request). According to the EPA's preliminary investigation, the discharge of dredged and or fill material at this property was associated with the construction of a commercial truck parking facility.

The purpose of this letter is to evaluate your compliance with the requirements of Sections 301(a) and 404 of the Clean Water Act (CWA), 33 U.S.C. §§ 1311(a) and 1344. To facilitate our investigation, pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, the EPA hereby requests that you provide the EPA with the information set forth in the enclosed Information Request within 30 days of receipt of this letter. The EPA requests that the information be sent electronically to Blaine Preston at preston.blaine@epa.gov. If you are unable to send the response by email, please contact Mr. Preston to make other arrangements.

Compliance with this request is mandatory. Failure to provide a full and truthful response to this Information Request or to adequately justify a failure to respond within the time frame specified above may result in an EPA enforcement action pursuant to federal law, including, but not limited to Section 309 of the CWA, 33 U.S.C. § 1319, and 18 U.S.C. § 1001.

If you believe that any of the requested information is confidential business information, you may assert a business confidentiality claim covering part or all of the information, in the manner described by 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B, and 41 Fed. Reg. 36902 (Sept. 1, 1976), as amended at 43 Fed. Reg. 40000 (Sept. 8, 1978); 50 Fed. Reg. 51661 (Dec. 18, 1985). If no such claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. Also, sending documents covered by a business confidentiality claim electronically to the EPA is done at the risk of the claimant, as the EPA does not have the capability to encrypt electronic information. The EPA requests that any such information be physically mailed to the address provided above.

If you have any questions concerning this matter, please contact Blaine Preston at 404-562-9473, or preston.blaine@epa.gov, or have your attorney contact Paula Feldmeier, Associate Regional Counsel, at (404) 562-8276, or feldmeier.paula@epa.gov.

Sincerely,

**MARY JO
BRAGAN**

Digitally signed by MARY JO
BRAGAN
Date: 2024.10.21 09:57:16 -04'00'

Mary Jo Bragan

Chief

Water Enforcement Branch

cc: Robert Halbert

U.S. Army Corps of Engineers Jacksonville District

robert.j.halbert@usace.army.mil

CLEAN WATER ACT SECTION 308 INFORMATION REQUEST

Instructions

1. Please provide a separate narrative response to each and every Question and subpart of Question set forth in this information request.
2. Precede each answer with the number of the Question to which it corresponds.
3. 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.
4. At the end of the response, please identify the individual or individuals who prepared the responses to this Information Request and their relationship to Respondent.
5. If information or documents not known or not available to you as of the date of submission of a response to this Information Request should later become known or available to you, you must supplement your response to the EPA. Moreover, should you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify the EPA of this fact as soon as possible and provide the EPA with a corrected response.

Definitions

The following definitions shall apply to the following words as they appear in this Information Request:

1. All terms not defined herein shall have their ordinary meanings, unless such terms are defined in the Clean Water Act 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 “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.

5. The term “identify” means, with respect to a document, to provide its customary business description; its date; its number, if any (invoice or purchase order number); the identity of the author, addressee and/or recipient; and substance of the subject matter.
6. The term “identify” means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.
7. The term “Potential Discharge Area” means the location of the wetlands that have been impacted by dredged and/or fill material during the construction of a commercial truck parking facility. More specifically, the Potential Discharge Area includes the approximately 49-acre area identified on the attached Exhibit B, at the Dixie Garden Nursery property, located at 14949 NW 117 Avenue, Latitude 25.908642° N and Longitude -80.388762° W, near the City of Hialeah, Miami-Dade County, Florida.
8. The term “Site” means the parcel or parcels of land on which the Potential Discharge Area is located. The Site is indicated on the attached Exhibit A.
9. The term “Work” means any land clearing activities, ditching, dredging, side casting, road construction, stream crossing construction, dam construction, berm construction, mechanical land clearing, piping of streams or filling activities that have occurred in wetlands or other waters (to include streams) at the Site since you owned, controlled, or did any Work on the Site.
10. The term “you” and/or Respondent” shall mean Dixie Garden Nursery, Inc., Milexys Fernandez, or any other company officer involved in the project or anyone acting on their behalf.
11. The terms “document” and “documents” shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, cancelled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, interoffice or intra office communications, photostatic or other copy of any documents, microfilm or other film record, any photograph (in color), sound recording on any type of device, any punch card, disc or disc pack; any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with printouts of such punch card, disc, or disc pack, tape or other type of memory); and (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document, and (e) every document referred to in any

other document. You may be asked to produce some documents in hard copy and electronically.

12. The term “CWA” refers to the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251-1387, also known as the Clean Water Act.
13. The term “person” shall have the same definition as that contained in Section 502 of the CWA: an individual, firm, corporation, association, partnership, State, municipality, commission, or political subdivision of a State, or any interstate body.
14. Where applicable, diagrams of the discharge location and copies of maps of the area may be used to explain the answers to the questions.
15. Words in the masculine shall be construed in the feminine, and vice versa, and words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions.
16. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in the CWA or regulations, in which case the statutory or regulatory definitions shall apply.

Questions

Please provide the EPA with the following information or documents pertaining to the Potential Discharge Area identified in Exhibit B and the Site identified in Exhibit A:

1. Copies of any deeds, leases, easements, or other documents revealing the ownership interest or interests in the Site.
2. The name and address of any company, contractor, subcontractor, consultant, agent, or individual who directed or participated in the Work at the Site. Please provide any invoices for work conducted on the Potential Discharge Area.
3. Copies of any engineering plans or assessments for Work at the Site.
4. The types of equipment used to carry out the Work and the names and addresses of the person(s) and/or companies that own(ed) and/or operate(d) the equipment. If the equipment is owned by you, then indicate the date the equipment was purchased.
5. The date upon which dredge and/or fill activities in the wetlands identified on Exhibit B began and the date upon which the dredge and/or fill activities were completed.
6. The date upon which Work was commenced and the date upon which the Work was completed or will be completed in the identified areas.
7. A description of all Work at the Potential Discharge Area performed by the Respondent, or on behalf of the Respondent by its contractors(s), subcontractor(s), consultant(s), or agent(s).

8. A description of any Work performed at the Potential Discharge Area by any entity other than the Respondent, its contractor(s), subcontractor(s), consultant(s), or agent(s).
9. A description of the condition of the Potential Discharge Area before Work commenced, including any maps, surveys, aerials, diagrams, narratives, or photographs.
10. Copies of any on-site environmental assessments that were done on soils, vegetation, or hydrology at the Potential Discharge Area.
11. Copies of any Federal, State, or local permits that may have been received for the Work on the Site.
12. Your reasons for not obtaining a Federal permit under Section 404 of the CWA, 33 U.S.C. § 1344, prior to commencing the Work at the Site.
13. Copies of any written or verbal communication with Federal, State, or local agencies regarding the Work (to include handwritten notes).
14. Copies of any contracts covering Work at the Potential Discharge Area.
15. Please identify the individual or individuals who prepared the responses to this Information Request and their respective title(s).

At the end of your response to this information request, include the following certification and sign and date the response:

"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."

Name
Title

Date