



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

**ELECTRONIC MAIL**  
**CONFIRMATION OF EMAIL RECEIPT REQUESTED**

Leo Rogers  
Waynesboro Concrete Inc.  
855 Davis Road  
Waynesboro, Georgia 30830  
lrogers@evansconcrete.com

Re: Notice of Potential Violation and Opportunity to Show Cause Pursuant to Section 309(a) of the Clean Water Act (CWA), 33 U.S.C. § 1319, and Information Request Pursuant to Section 308 of the CWA, for 33 U.S.C. §1318; Waynesboro Concrete Inc., Waynesboro, Georgia, Docket No. CWA NOV 309-2023-03

Dear Leo Rogers:

On November 17, 2022, the U.S. Environmental Protection Agency, Region 4 and the Georgia Environmental Protection Division (GA EPD) conducted a Compliance Stormwater Evaluation Inspection (CSWEI) at Waynesboro Concrete's (Respondent) concrete mixing facility located at 855 Davis Road, Waynesboro, Georgia (Facility). The purpose of the CSWEI was to evaluate Respondent's compliance with Sections 301 and 402 of the Clean Water Act (CWA), 33 U.S.C. §§ 1311 and 1342; the regulations promulgated thereunder at 40 C.F.R. § 122.26; and the Georgia National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges Associated with Industrial Activity, Permit No. GAR050000 (Permit).

On January 20, 2023, the EPA sent the Facility the CSWEI Report and photo log. Information currently available to the EPA suggests that Respondent may be in violation of or have committed violations of the CWA. By this letter, the EPA is extending to you an opportunity to advise the Agency, in person, via a conference call, or in writing, of any further information the EPA should consider with respect to the potential violations.

The November 2022 CSWEI and subsequent investigative efforts have revealed that the Facility potentially failed to comply with the requirements of Sections 301 and 402(p) of the CWA, 33 U.S.C. §§ 1311 and 1342(p), its implementing regulations at 40 C.F.R. § 122.26, and its NPDES Permit. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants from a point source to waters of the United States except in compliance with, among other conditions, a NPDES permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. Specifically, the EPA hereby notifies Respondent, pursuant to Section 309(a) of the CWA, 33 U.S.C. § 1319(a), of the following findings of potential violations associated with the Permit:

1. Pursuant to Part 1.3.1.1.e of the Permit, the Permittee must “complete an accurate Notice of Intent (NOI)” containing the latitude and longitude of “each outfall that discharges stormwater from facility areas where industrial activity is present...” Pursuant to Part 5.1.3.3.h of the Permit, the site map within the SWPPP must identify the “location of all stormwater outfalls which discharge stormwater associated with industrial activity.”

During the EPA’s inspection, the permittee was discharging runoff through unpermitted outfalls, located near the northeastern corner and southern fence line of the Site. These stormwater discharge points were not identified as an outfall in the Facility’s SWPPP or NOI.

Therefore, Respondent is in potential violation of Part 1.3.1.1.e of the Permit, for failure to complete an accurate NOI containing the latitude and longitude of each outfall that discharges stormwater from facility areas where industrial activity is present, and Part 5.1.3.3.h of the Permit, for failure to identify the location of all stormwater outfalls which discharge stormwater associated with industrial activity on the site map within the SWPPP.

2. Pursuant to Part 5 of the Permit, “Existing dischargers must review and update the SWPPP within 90 days and implement all provisions of this permit within 180 days of the effective date of this permit.” Part 5.2.1 requires that the Permit be updated within 30 days “whenever there is a change in design, construction, operation, or maintenance which has a significant effect on the potential for the discharge of pollutants.” Part 5.3 requires that a copy of the current SWPPP be readily available.

The 2022 IGP became effective on June 1, 2022. The SWPPP provided during the EPA’s inspection in November 2022 had not been updated within this time frame and did not accurately reflect current site conditions. Additional discharges from the northeast corner and along the southern fence line of the Site were not accounted for in the SWPPP. Also, a copy of the current SWPPP was not readily available during the CSWEI.

Therefore, Respondent is in potential violation of Part 5 of the Permit, for failure to update the SWPPP within 90 days of the reissuance of the 2022 IGP, Part 5.2.1 of the Permit, for failure to update the SWPPP within 30 days whenever there is a significant design change, and Part 5.3 for failure to have a copy of the SWPPP readily available.

3. Pursuant to Part 5.4 of the Permit, “Permittees are required to maintain the following inspection, monitoring, and certification records in accordance with Part 7.5 and make them readily available to EPD... [A]ll documents must be available to any regulatory inspector during working hours, be viewable on a reasonably sized screen, and be easily navigated.” The “complete” and “up-to-date” records required by Part 5.4 of the Permit include: a copy of the NOI, documentation of the maintenance and repairs of control measures, all inspection reports (including the Routine Facility Inspection Reports, Quarterly Visual Assessment Reports, and the Comprehensive Site Inspection Reports), description of any corrective actions taken at the Site, and records of employee training.

During the EPA’s inspection, the following records were not made available for review: records of employee training, records of Routine Facility Inspection Reports, Quarterly Visual Assessment Reports, and Comprehensive Site Inspection Reports.

Therefore, Respondent is in potential violation of Part 5.4 of the Permit for failure to maintain records of employee training, records of Routine Facility Inspection Reports, Quarterly Visual Assessment Reports, and Comprehensive Site Inspection Reports and make them readily available during the CSWEI.

4. Pursuant to Part 7.6 of the Permit, “Permittees are required to retain copies of the SWPPP (including modifications made during the term of this permit), additional documentation requirements pursuant to Part 5.4, all reports and certifications required by this permit, monitoring data, and records of all data used to complete the NOI for a period of at least three years after permit coverage expires or is terminated”.

During the EPA’s inspection, the following records were not made available for review: current and previous versions of the SWPPP, control measure maintenance and repairs, periodic inspections, employee training, benchmark monitoring, and non-stormwater discharge certifications.

Therefore, Respondent is in potential violation of Part 7.6 of the Permit, for failure to retain the current and previous versions of the SWPPP, records required pursuant to Part 5.4 of the Permit, all reports and certifications required by the Permit, monitoring data, and records of all data used to complete the NOI for three years after Permit coverage expires or is terminated.

The EPA may take enforcement action in response to the above potential violations, which may include the issuance of an administrative order, assessment of administrative penalties, and/or initiation of a civil or criminal judicial action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319. The EPA is continuing to investigate Respondent’s compliance with the CWA. Therefore, pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, the EPA hereby requests that Respondent provide the information set forth in Enclosure A within 30 calendar days of your receipt of this letter. Respondent’s response should be submitted via email to Lonnie Dorn at [Dorn.Lonnie@epa.gov](mailto:Dorn.Lonnie@epa.gov).

Failure to provide a full and complete 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 constitutes confidential business information, you may assert a confidentiality claim with respect to such information, except for effluent data. Further details, including how to make a business confidentiality claim, are found in Enclosure B.

All information submitted in response to this information request must be accompanied by the following certification, signed by a duly authorized official in accordance with 40 C.F.R. § 122.22:

“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.”

If you would like to arrange a virtual meeting or telephone conference to show cause why the EPA should not take formal civil enforcement action against Waynesboro Concrete Inc. for the alleged violation(s), including the assessment of appropriate civil penalties, please contact the EPA within seven calendar days of your receipt of this letter.

Please be aware that EPA may use information provided during the meeting or telephone conference in any enforcement proceeding related to this matter. Notwithstanding the scheduling of a show cause meeting, the EPA retains the right to bring further enforcement action under Section 309 of the CWA, 33 U.S.C. § 1319, for noncompliance with the CWA.

If you have any questions or to arrange a show cause meeting, please contact Lonnie Dorn at (706) 355-8683 or via email at [Dorn.Lonnie@epa.gov](mailto:Dorn.Lonnie@epa.gov). Please contact Michele Wetherington, Regional Counsel, at (404)-562-9613 or via email at [Wetherington.Michele@epa.gov](mailto:Wetherington.Michele@epa.gov) with any legal inquiries.

Sincerely,

KIMBERLY  
BINGHAM

Digitally signed by  
KIMBERLY  
BINGHAM  
Date: 2023.11.03  
15:57:56 -04'00'

for Keriema S. Newman  
Acting Director  
Enforcement and Compliance Assurance Division

Enclosures (2)

cc: Veronica Craw, GA EPD  
[veronica.craw@dnr.ga.gov](mailto:veronica.craw@dnr.ga.gov)

## ENCLOSURE A

### INFORMATION REQUEST PURSUANT TO SECTION 308 OF THE CLEAN WATER ACT

#### **Instructions**

1. Identify the person(s) responding to this Information Request and certify each person's authority to respond to this Information Request on behalf of the company they represent.
2. Please provide a separate narrative response to each Question and subpart of a Question set forth in this Information Request.
3. Precede each answer with the text and the number of the Question and its subpart to which the answer corresponds.
4. All documents submitted must contain a notation indicating the Question and subpart of the Question to which they are responsive.
5. In answering each Information Request Question and subpart thereto, identify all documents and persons consulted, examined or referred to in the preparation of each response, and provide true and accurate copies of all such documents.
6. If information 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. 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 as soon as possible.
7. 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.
8. Where specific information has not been memorialized in a document, but is nonetheless responsive to a Question, you must respond to the Question with a written response.
9. If information responsive to this Information Request is not in your possession, custody or control, then identify the person from whom such information may be obtained.
10. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Question or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.
11. The EPA requests that all documents provided in an electronic format be compatible with pdf.
12. The EPA requests that all spreadsheet information be in an electronic format and compatible with MS Excel.

13. If any Question relates to activities undertaken by entities other than the recipient of this Information Request, and to the extent that you have information pertaining to such activities, provide such information for each entity.

### **Definitions**

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 “Facility” and/or “Facilities” means the businesses operating or located at 855 Davis Road, Waynesboro, Georgia.
8. The term “You” and “Your” shall mean the person identified in response to the Instructions Section, Question #1, who has the appropriate authority to respond to this Information Request.

### **Questions and Requests for Information**

1. Identify the names and addresses of the current owner(s) and/or operator(s) of the Site. Specify the legal name with the exact spelling of each owner and/or operator. Provide the mailing address and phone number for each owner and/or operator. For each corporate owner, specify the state of incorporation and principal place of business. If incorporated, provide the name and mailing address of the registered agent.
2. Provide a copy of the Notice of Intent (NOI) as submitted electronically to GA EPD for the Facility’s coverage under the 2022 Industrial General Permit (IGP).

3. Provide the specific date(s) for the commencement of operations at this Facility for each company within the last five years.
  
4. Provide copies of the following records as described and required by Georgia's Permit for Stormwater Discharges Associated with Industrial Activity, covering the past three years:
  - a. The facility's most recent Stormwater Pollution Prevention Plan (Permit Part 5.3)
  - b. Documentation of maintenance and repairs of control measures (Permit Part 5.4.4) and/or description of any corrective action taken (Permit Part 5.4.7).
  - c. Routine Quarterly Inspections (Permit Part 5.4.5)
  - d. Quarterly Visual Assessment of Stormwater Discharges (Permit Part 5.4.5)
  - e. Comprehensive Annual Inspections (Permit Part 5.4.5)
  - f. Employee Training (permit Part 5.4.11)
  - g. Documentation of Benchmark Sampling (Part 6.2) and monitoring data, and/or documentation of any deviations from the monitoring schedule (Permit Part 5.4.6)
  - h. Non-Stormwater Certification (Part 4.3.1.1(g) and 8.E.3.2 of the Permit)

## ENCLOSURE B

### RIGHT TO ASSERT BUSINESS CONFIDENTIALITY CLAIMS

(40 C.F.R. Part 2)

Except for effluent data, you may, if you desire, assert a business confidentiality claim as to any or all of the information that the EPA is requesting from you. The EPA regulation relating to business confidentiality claims is found at 40 C.F.R. Part 2.

If you assert such a claim for the requested information, the EPA will only disclose the information to the extent and under the procedures set out in the cited regulations. If no business confidentiality claim accompanies the information, the EPA may make the information available to the public without any further notice to you.

40 C.F.R. § 2.203(b). **Method and time of asserting business confidentiality claim.** A business which is submitting information to the EPA may assert a business confidentiality claim covering the information by placing on (or attaching to) the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential.” Allegedly confidential portions of otherwise non-confidential documents should be clearly identified by the business and may be submitted separately to facilitate identification and handling by the EPA. If the business desires confidential treatment only until a certain date or until the occurrence of a certain event, the notice should so state.