



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO CA 95814-2922

CC: Boco
Mark
Masters
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REPLY TO
ATTENTION OF

CERTIFIED MAIL RETURN RECEIPT REQUESTED

November 15, 2011

Regulatory Division SPK-2011-01016

Mr. Laurence (Butch) Gunn
17158 Chipeta Drive
Montrose, Colorado 81401

Dear Mr. Gunn:

We are in receipt of a letter, sent on your behalf by Ms. Amy K. Ondos of Weaver and Fitzhugh, P.C. This letter is the only response we have received from you regarding the October 12, 2011 Notice of Violation letter we sent concerning the unauthorized discharge into waters of the U.S. on your property in Ouray County, Colorado.

We have documented that the subject unnamed drainage has both significant nexus to a traditional navigable waterway and has an ordinary high water mark in an Approved Jurisdictional Determination Form (AJDF). Once this AJDF form has been finalized by the Environmental Protection Agency (EPA), it can be made available to you under Freedom of Information Act (FOIA) procedures. I have included instructions on how to prepare and submit a FOIA request with this letter. Please note however that the AJDF form is not releasable under FOIA until it has been formally approved and finalized by the EPA. We will notify you as soon as the AJDF form has been finalized so that you may make a FOIA request, should you choose to do so.

Please be aware that the contesting of jurisdiction does not influence our enforcement process, and we are continuing the enforcement process to resolve this Clean Water Act violation. Ms. Ondos' October 12, 2011 letter does not provide any information regarding the history, intent, or other details of how the unauthorized fill occurred, or any indication as to whether you intend to cooperate to resolve the violation.

We again extend to you the opportunity to provide us with any information you wish to be considered and entered into the administrative record. Please refer back to our October 12, 2011 letter and respond as requested. If you elect not to provide this information please let us know. Please also indicate whether you still intend to cooperate in resolving the violation, as you had indicated during our August 9, 2011 site visit. **Your response should be submitted to us no later than December 14, 2011.**

Please refer to identification number SPK-2011-01016 in any correspondence concerning this project. If you have any questions, please contact Mr. Steve Moore at Colorado West Regulatory Branch, 400 Rood Avenue, Room 134, Grand Junction, Colorado 81501, by email at *stephen.a.moore@usace.army.mil*, or by telephone at 970-243-1199, extension 13.

Sincerely,

Original Signed

Susan Bachini Nall
Chief, Colorado West Regulatory Branch

Enclosure:

1. Instructions for submitting a FOIA request

Copies furnished:

Ms. Amy K. Ondos, Weaver & Fitzhugh Attorneys at Law, P.O. Box 848, Montrose, CO 81402

Ms. Monica Heimdal, 8ENF-W, Water Technical Enforcement Program, Office of Enforcement, Compliance and Environmental Justice, U.S. Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129

Mr. Jeff Emmons, Colorado Department of Public Health and Environment, Solid Waste Compliance Assurance Unit, Grand Junction Regional Office, 222 South 6th Street, Room 232, Grand Junction, Colorado 81501

✓ Ms. Connie Hunt, Ouray County Administrator, P.O. Box C, 541 4th St, Ouray, CO 81427

Mr. Richard Thompson, Environmental Health Manager, 1845 S. Townsend Avenue, Montrose, CO 81402