



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

REPLY TO  
ATTENTION OF

**CERTIFIED MAIL RETURN RECEIPT REQUESTED**

January 11, 2012

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 dated December 21, 2011, sent on your behalf by Ms. Amy K. Ondos of Weaver and Fitzhugh, P.C. We also appreciate your participation in the December 15, 2011 inter-agency meeting.

As discussed in that meeting, the Corps of Engineers, the Colorado Department of Public Health and Environment (CDPHE), and Ouray County have various legal responsibilities regarding the clean-up and restoration of lands and waterways affected by the unauthorized placement of tires in the unnamed tributary on your property. **In an effort to streamline the resolution process, all parties have agreed that the CDPHE (Mr. Jeff Emmons) will be the primary regulatory lead** and your point of contact regarding all aspects of the restoration plan, including submission deadlines. Mr. Emmons will coordinate with us to ensure that the restoration plan you submit to CDPHE meets Corps requirements. Please note that while we **believe this approach provides the most efficient process for addressing the violation**, we retain the option of pursuing all available enforcement alternatives should it appear that the restoration plan will not result in removal of the subject waste tires from the unnamed tributary.

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). This AJDF has been coordinated with and approved by the Environmental Protection Agency (EPA). This document is now available to you under Freedom of Information Act (FOIA) procedures. I have included instructions on how to make a FOIA request as an attachment to this letter.

We have requested information regarding the history and intent of the unauthorized work in our letters of October 12, 2011 and November 15, 2011. To date, you have not provided any of the requested information, nor have you indicated if you intend to so. Therefore we are presuming that you will not be exercising this opportunity to provide information for the administrative record.

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 6<sup>th</sup> 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