



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

August 30, 2012

Regulatory Division SPK-2011-00708

Mr. Dennis Graham
Essential Properties Group, Inc.
970 Reserve Drive, Building #180
Roseville, California 95678

Dear Mr. Graham:

This letter concerns your unauthorized work in waters of the United States. The work is located on Green Spring Creek, in Section 29, Township 10 North, Range 9 East, Mount Diablo Meridian, Latitude 38.6975333207587°, Longitude -121.029073367145°, Cameron Park, El Dorado County, California.

Based on available information and the enclosed 2007, 2009, and 2011 Google Earth aerial photos, we have determined that you have discharged dredged or fill material into waters of the U.S. (wetland and creek), which are waters of the United States, without a Department of the Army (DA) permit (enclosures 1-3). Section 404 of the Clean Water Act requires a DA permit be obtained prior to the discharge of dredged or fill material into waters of the United States, including wetlands. Since a DA permit has not been issued authorizing this discharge, the work is in violation of the Clean Water Act.

You are hereby directed to cease and desist all work in waters of the United States until this violation is resolved. We are conducting an investigation to determine the impact of this work as it relates to public interest and the appropriate course of action to remedy the situation. Potential enforcement actions, in addition to or in lieu of fines, penalties and imprisonment, include directing removal of the unauthorized work and restoration of the site to pre-project conditions. An extract of the law is enclosed. Prompt voluntary restoration of the site in accordance with a Corps-approved plan may preclude some or all of these actions.

By copy of this letter, we are soliciting the views of appropriate federal, state, and local agencies, which may also have jurisdiction, regarding this unauthorized activity. Based upon your responses to this notice, comments received from the agencies and any available information, we will determine the appropriate course of action to resolve this violation.

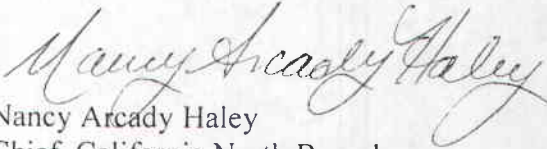
To ensure that all pertinent information is available for our evaluation and included in the public record, you are invited to provide any information which you feel should be considered.

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RECEIVED
PLANNING DEPARTMENT

Your plans for utilization of the completed work and your evaluation of the need to retain this fill may be of particular significance in determining what actions are to be taken. Since the information provided will become a part of the public record, it may be presented in any court action that could result from this investigation and will be retained in our files. Any information you wish to provide should reach this office no later than September 30, 2012. We appreciate your cooperation and timely action on this matter.

Please refer to identification number SPK-2011-00708 in any correspondence concerning this project. If you have any questions, please contact Mr. Peck Ha at California North Branch Office, Regulatory Division, Sacramento District, U.S. Army Corps of Engineers, 1325 J Street, Room 1350, Sacramento, California 95814-2922, email Peck.Ha@usace.army.mil, or telephone 916-557-6617. For more information regarding our program, please visit our website at www.spk.usace.army.mil/Missions/Regulatory.aspx.

Sincerely,


Nancy Arcady Haley
Chief, California North Branch

Enclosures

Copies Furnished with enclosures:

- Mr. Roger Trout, County of El Dorado Planning Commission, 2850 Fairlane Court, Placerville, California 95667-4100
- Ms Genevieve Sparks, Water Quality Certification Unit, California Regional Water Quality Control Board, Central Valley Region, 11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114
- Mr. Kent Smith, California Department of Fish and Game, Region 2, 1701 Nimbus Drive, Rancho Cordova, California 95670-4599
- Forest Foothill Branch, U.S. Fish and Wildlife Service, Endangered Species Division, 2800 Cottage Way, Suite W2605, Sacramento, California 95825-3901
- Mr. Jason Brush, Environmental Protection Agency, WRT-8, 75 Hawthorne Street, San Francisco, California 94105

Appendix A

THE CLEAN WATER ACT

Section 404 (33 USC § 1344) states in part:

“(a) The ...Chief of Engineers, may issue permits, ... for the discharge of dredged or fill material into the navigable waters...”

Section 301 (33 USC § 1311) states in part:

“(a) Except as in compliance with this section and sections ... 1344... the discharge of any pollutant by any person shall be unlawful.”

Note: Dredged or fill material is considered a pollutant under the Clean Water Act.

Section 309 (33 USC §1319) states in part:

(c) Criminal penalties –

- (1) ... (A) Any person who negligently violates Section ... 1311 ... shall be punished by a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or by both ...
- (2) (A) Any person who knowingly violates section ... 1311 ... shall be punished by a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or by both ...

(d) Civil penalties: ... any person who violates section ...1311...and any person who violates any order issued by the Administrator under subsection (a) of this section, shall be subject to a civil penalty not to exceed \$ 25,000 per day for each violation. In determining the amount of a civil penalty the court shall consider the seriousness of the violation or violations, 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 such other matters as justice may require. ...



Enclosure 1
June 29 2007
Prior Unauthorized Activities



Enclosure 2
October 2009
Unauthorized
Activities





Enclosure #3
2011 October 30
Approximate Unauthorized discharge of Fill Material.