

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219
BEFORE THE ADMINISTRATOR

| | | |
|---|---|-----------------------------|
| IN THE MATTER OF |) | |
| |) | |
| ADAMAS CONSTRUCTION AND |) | AFFIDAVIT IN SUPPORT OF |
| DEVELOPMENT SERVICES, PLLC |) | COMPLAINANT'S MOTION FOR |
| |) | LEAVE TO SUPPLEMENT |
| |) | COMPLAINANT'S PREHEARING |
| |) | EXCHANGE |
| |) | |
| AND |) | |
| |) | |
| NATHAN PIERCE, |) | |
| |) | |
| Respondents |) | Docket No. CWA-07-2019-0262 |
| |) | |
| Proceedings under Section 309(g) of the |) | |
| Clean Water Act, 33 U.S.C. § 1319(g) |) | |

AFFIDAVIT OF ERIN KLEFFNER

1. My name is Erin Kleffner and I am a Life Scientist at the United States Environmental Protection Agency, Region 7. I have been employed at Region 7 for 5 years. My job duties include reviewing inspection reports and facility submittals for compliance, reviewing biosolids annual report submittals, preparing enforcement action when appropriate, and working with tribal facilities to ensure compliance. I have worked in the biosolids program for 5 years.

2. On March 16, 2020, Region 7's offices were closed and the continuity of operations plan (COOP) was activated due to the global pandemic. In the five years I have worked at EPA, the COOP has never been activated.

3. Since the COOP was activated all Region 7 employees have been working from their alternative work locations and have not been allowed in the building, unless there are special circumstances.

4. Region 7's offices are still in Phase 1 in the Region's phased return to the office and access to the building continues to be very limited due to the unprecedented circumstances related to the global pandemic.

5. The CWA Section 308 information request letter was sent to Mr. Tom Robinson on January 29, 2020.

6. EPA was unaware that a response had been received until October 15, 2020.

7. The envelope containing Mr. Robinson's response was addressed to "Biosolids Center Attn: Erin Kleffner." Typically, Clean Water Act 308 responses are put directly into a staff member's mailbox; however, the letter was opened by an EPA office manager and mistakenly placed into the Biosolids Center of Excellence mail bin on February 25, 2020. This bin contained mailed copies of biosolids facility reports due annually on February 19. Since 2016, EPA has required electronic submittals of biosolids annual reports from the 42 states where EPA implements Part 503 regulations. Mailed, paper biosolids reports are often found to be duplicates of reports electronically submitted or from facilities that are not required to report. Because of this, mailed reports are typically reviewed later in the year as a lower priority. Due to the pandemic and subsequent closure of the Region 7 office, mailed reports were not screened until the end of September 2020.

8. On September 25, 2020, a colleague, Cynthia Sans, was approved to enter the office to pick up the Biosolids Center of Excellence mail bin for review. I received an email from Ms. Sans with a copy of the 308 response on October 15, 2020.

9. I notified Sara Hertz Wu and Elizabeth Huston of receipt of the document on October 15, 2020.

10. EPA filed its motion to supplement on October 26, 2020, after notifying Respondents on October 19, 2020.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

11/9/2020

Date

Signature