



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
Denver, CO 80202-1129  
Phone 800-227-8917  
www.epa.gov/region08

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EPA REGION VIII  
HEARING CLERK

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MAR 03 2016  
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**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**  
**7009 3410 0000 2596 5326**  
**7009 3410 0000 2596 5333**

Robert Gregg Sease  
10957 East Bethany Drive  
Aurora, Colorado 80014

Robert Gregg Sease  
4413 Orofino Place  
Castle Rock, Colorado 80108

Re: Notice of Violation of Administrative Order on Consent (Docket # CWA-08-2014-0024)

Dear Mr. Sease:

On June 23, 2014, the United States Environmental Protection Agency and you, Robert Gregg Sease, entered into an Administrative Order on Consent (Consent Order), which describes actions necessary for you to achieve compliance with the Clean Water Act (CWA). The Consent Order was issued to address the unauthorized discharges of dredged or fill material into Sheep Creek and its adjacent wetlands on property owned, leased, and/or otherwise controlled by you in Sections 5, 7, and 8, Township 45 North, Range 5 East of the N.M.P.M., Saguache County, Colorado (the Site). The CWA requires that a permit be obtained from the United States Army Corps of Engineers prior to the discharge of pollutants (i.e., dredged or fill material) into waters of the United States, including wetlands.

On June 23, 2014, the EPA approved your 2<sup>nd</sup> Restoration Plan (2<sup>nd</sup> Plan). The 2<sup>nd</sup> Plan was also included as an attachment to the final Consent Order. According to paragraph 34(b) of the Consent Order and section 4.1 of the 2<sup>nd</sup> Plan you were required to annually monitor the success of the restoration project and prepare and submit an annual monitoring report to the EPA and the Corps no later than December 31 annually. The EPA has determined that you have not submitted the required work summary report by December 31, 2014, and the 2015 annual monitoring report by December 31, 2015.

In addition, the 2<sup>nd</sup> Plan required the removal of old concrete abutments at Site No. 13 as described in Table 3a and Figure B-13. The EPA has determined that you have not completed the work at Site No. 13 as required by the 2<sup>nd</sup> Plan.<sup>1</sup>

In accordance with paragraph 39 of the Consent Order, the 2<sup>nd</sup> Plan and any other deliverables, reports, specifications, schedules, and attachments required by the Consent Order are, upon approval by the

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<sup>1</sup> See Attachment 1.

EPA, incorporated into the Consent Order. Any non-compliance with the 2<sup>nd</sup> Plan, deliverables, reports, specifications, schedules, permits, or attachments shall be deemed a failure to comply with the Consent Order and shall be subject to EPA enforcement. **As a result of your failure to complete the described requirements of the Consent Order and the 2<sup>nd</sup> Plan, the EPA has determined that you are in violation of the Consent Order. You must take immediate action to comply with the Consent Order and complete all work required in the 2<sup>nd</sup> Plan.**

Furthermore, the EPA has received recent information regarding activities that you conducted in 2015, after completion of your restoration work in 2014. Specifically, on September 21, 2015, and December 31, 2015, representatives from the Colorado Division of Water Resources inspected the Site and witnessed several areas in and adjacent to Sheep Creek, which may have involved the discharge of dredged or fill material as a result of your activities. These activities were performed without authorization by a permit issued by the Corps of Engineers and impacted what is believed to be waters of the United States. The EPA has reviewed the State's evidence and aerial photography of these areas of concern. Our observations of apparent violations of the CWA are described below:

1. the construction of new bank stabilization consisting of rock riprap along the eastern bank of Sheep Creek between Site No's. 22 and 23, as identified in the 2<sup>nd</sup> Plan. According to Figure 4 of the 2<sup>nd</sup> Plan, no bank stabilization was present at this area, nor was any new riprap to be constructed. Activities at this area were conducted sometime between April 9, 2015 and October 13, 2015;<sup>2</sup>
2. new ground disturbance and removal of vegetation of approximately 10-15 feet in width and 200 feet in length in the wetland area just south of your house at the Site. This area was previously determined by your consultant, Bikis Water Consultants, to be a fen wetland. Activities at this area were conducted sometime between April 9, 2015 and October 13, 2015; and<sup>3</sup>
3. new stream channel realignment and bank grading within Sheep Creek at Site No. 62 as identified in the 2<sup>nd</sup> Plan. Activities at this area were conducted sometime between April 9, 2015 and October 13, 2015.<sup>4</sup>

The EPA is in the process of making a final determination as to whether your 2015 activities at the Site are in violation of the CWA. The EPA would like to consider any information that you believe demonstrates that the descriptions above are incorrect or that the activities described above do not constitute a violation of the CWA.

If you would like to submit any information to be considered by the EPA prior to the EPA making a final determination, please provide such information within **21 calendar days of receipt of this letter** to the following:

U.S. Environmental Protection Agency, Region 8  
Clean Water Act § 404 Enforcement Program  
1595 Wynkoop Street  
Denver, CO 80202  
Attn: Kenneth Champagne, 8ENF-W

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<sup>2</sup> See Attachment 2.

<sup>3</sup> See Attachment 3.

<sup>4</sup> See Attachment 4.

Please note that the voluntary submission of this information does not preclude the EPA's use of its authority to issue a request for information pursuant to section 308 of the CWA, 33 U.S.C. § 1318.

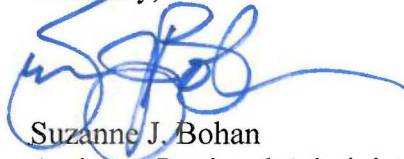
As stated in paragraph 33 of the Consent Order, **you shall immediately terminate all unauthorized discharges of dredged or fill material**, now and in the future, into waters of the United States, unless specifically authorized by the Corps under a valid permit issued pursuant to section 404 of the CWA, 33 U.S.C. § 1344. This prohibition includes all mechanical land clearing, dredging, filling, grading, leveling, installation of utilities, construction, and any other activities that result in a discharge of dredged or fill material into waters of the United States. If the EPA determines that your 2015 activities described above are in violation of the CWA, then you are also in violation of the Consent Order.

The CWA authorizes, among other things, civil judicial penalties for violation of an administrative order, and civil or criminal actions and administrative penalties for violations of the CWA. Specifically, section 309 of the CWA, 33 U.S.C. § 1319, authorizes civil penalties of up to \$37,500 per day for each violation of section 301 of the CWA, 33 U.S.C. § 1311, and for each violation of an order issued by the Administrator of the EPA under section 309(a) of the CWA, 33 U.S.C. § 1319(a). Your refusal to comply with the Consent Order and the CWA will require the EPA to consider additional enforcement, which may include referring this matter to the Department of Justice for injunctive relief and penalties.

If you have any technical questions regarding this matter, the most knowledgeable person on my staff is Kenneth Champagne, Section 404 Enforcement Officer, who can be reached at 303-312-6608. Questions from your attorney, if any, should be directed to Lauren Hammond, EPA Attorney, at 303-312-7081.

We appreciate your prompt attention to this matter.

Sincerely,



Suzanne J. Bohan  
Assistant Regional Administrator  
Office of Enforcement, Compliance and  
Environmental Justice

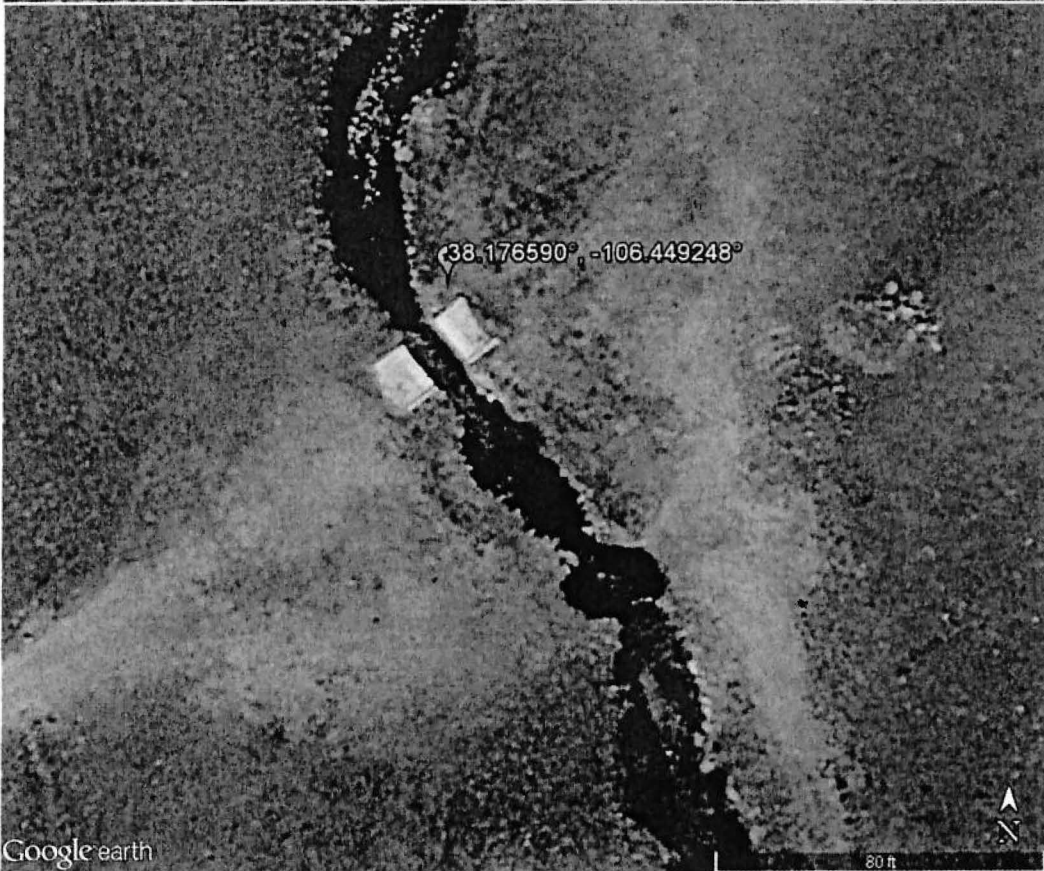
Enclosures

1. Attachment 1
2. Attachment 2
3. Attachment 3
4. Attachment 4

cc: Roger C. Cohen, Esq., Snell & Wilmer L.L.P.  
Hildreth Cooper, U.S. Army Corps of Engineers  
Tina Artemis, EPA, 8RC



**Attachment 1** – Concrete Abutments at Site No. 13. (Imagery comparison October 13, 2015 to June 10, 2013)



**Attachment 2** – New Bank Stabilization Site No's. 22 and 23. (Imagery comparison October 13, 2015 to June 10, 2013)



**Attachment 3** – New ground disturbance and removal of vegetation. (Imagery comparison October 13, 2015 to June 10, 2013)





**Attachment 4** – New stream channel realignment and bank grading within Sheep Creek at Site No. 62.  
(Imagery comparison October 13, 2015 to June 10, 2013)

