



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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

Ref: 8ENF-W

MAR 10 2011

**CERTIFIED MAIL:**  
**RETURN RECEIPT REQUESTED**  
**#7009-3410-0000-2591-9749**

Maggie Rogers  
47122 273<sup>rd</sup> Street  
Harrisburg, SD 57032

Re: Findings of Violation and Administrative  
Order for Compliance,  
Docket No. **CWA-08-2011-0006**

Dear Ms. Rogers:

Based on our review of all available information, the United States Environmental Protection Agency (EPA) has determined that you (Respondent) are in violation of section 301 of the Clean Water Act, as amended (CWA), 33 U.S.C. § 1311. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants into waters of the United States except as in compliance with, among other things, section 404 of the CWA, 33 U.S.C. § 1344. Section 404 of the CWA requires that an authorizing permit be obtained from the United States Army Corps of Engineers (Corps) prior to the discharge of dredged or fill material into waters of the United States. Waters of the United States include both surface waters and wetlands as defined by 40 C.F.R. § 122.2 and 33 C.F.R. § 328.3.

Specifically, you and/or persons acting on your behalf discharged dredged or fill material into waters of the United States without authorization under the CWA. These discharges of pollutants into Ninemile Creek and its adjacent wetlands occurred on property owned, leased, and/or otherwise controlled by you, located in Section 32, Township 100 North, Range 50 West, Harrisburg, Lincoln County, South Dakota (the Site).

Enclosed please find a document entitled "Findings of Violation and Administrative Order for Compliance" (Order) which specifies the nature of the violations and describes actions necessary in order for you to achieve compliance with sections 301 and 404 of the CWA. Pursuant to this Order, within ten (10) calendar days after your receipt of this Order, you must inform EPA in writing of your intent to fully comply with the Order. EPA's authority for such action is provided under section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3).

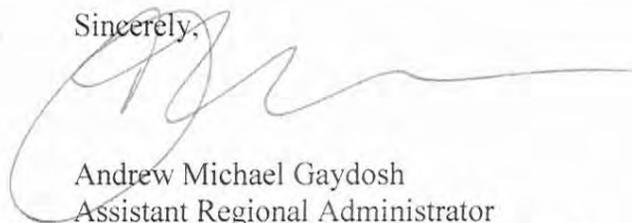


The CWA requires the Administrator of EPA to take all appropriate enforcement action necessary to secure prompt compliance with the CWA and any order issued thereunder. Section 309 of the CWA, 33 U.S.C. § 1319, authorizes a variety of possible enforcement actions, including filing of a civil or criminal action, administrative penalty action, and/or debarment from Federal contracts and/or loans for any noncompliance with the CWA or an order issued pursuant to the CWA. Please be advised that failure to comply with the requirements of the Order is a violation of that Order and may be enforced through the mechanisms referenced above. Please also be advised that the issuance of this Order does not preclude civil or criminal actions in U.S. District Court pursuant to sections 309(b) or (c) of the CWA, 33 U.S.C. §§ 1319(b) or (c), or assessment of civil penalties pursuant to sections 309(d) or (g) of the CWA, 33 U.S.C. §§ 1319(d) or (g), for the violations cited in the Order or for any other violations that you may have committed prior to or may commit after the issuance of the enclosed Order.

EPA has agreed to notify small businesses of their right to comment on regulatory enforcement activities at the time of an Agency enforcement activity pursuant to the Small Business Regulatory Enforcement and Fairness Act (SBREFA). SBREFA does not eliminate your responsibility to comply with the Act or the Order, nor does it create any new rights or defenses under law. We have enclosed a SBREFA information sheet containing further information on compliance assistance resources and tools available to small businesses.

Please review the Order carefully. If you have any questions, the most knowledgeable people on my staff are Charles Figur, Senior Enforcement Attorney, at 303-312-6915, and Kenneth Champagne, Section 404 Enforcement Officer, at 303-312-6608.

Sincerely,



Andrew Michael Gaydosh  
Assistant Regional Administrator  
Office of Enforcement, Compliance and  
Environmental Justice

Enclosures

1. Findings of Violation and Administrative Order for Compliance
2. SBREFA Information Sheet

cc: David L. LaGrone, U.S. Army Corps of Engineers, w/enclosures  
Steven E. Naylor, U.S. Army Corps of Engineers, w/enclosures  
Jeanne Goodman, P.E., SD DENR, w/enclosures  
Michael Nadolski, Lincoln County State's Attorney's Office, w/enclosures  
Tina Artemis, EPA, 8RC, w/enclosures



UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2011 MAR 10 AM 11:02

FILED  
EPA REGION VIII  
RECORDING CLERK

IN THE MATTER OF )  
 )  
Maggie Rogers )  
47122 273<sup>rd</sup> Street )  
Harrisburg, SD 57032 )  
 )  
Respondent. )  
\_\_\_\_\_ )

**FINDINGS OF VIOLATION AND  
ADMINISTRATIVE ORDER FOR  
COMPLIANCE**

Docket No. CWA-08-2011-0006

**I. STATUTORY AUTHORITY**

1. This Findings of Violation and Administrative Order for Compliance (Order) is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by sections 308 and 309(a) of the Clean Water Act (CWA), 33 U.S.C. §§ 1318 and 1319(a). This authority has been properly delegated to the Assistant Regional Administrator of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8. The Order is based on the following findings of violation of section 301(a) of the CWA, 33 U.S.C. § 1311(a), which, among other things, prohibits the discharge of pollutants into waters of the United States except as in compliance with section 404 of the CWA, 33 U.S.C. § 1344.

**II. FINDINGS OF VIOLATION**

2. Respondent Maggie Rogers is an individual with a mailing address of 47122 273<sup>rd</sup> Street, Harrisburg, South Dakota 57032.
3. At all relevant times, Respondent owned, controlled and/or operated property containing Ninemile Creek and its adjacent wetlands located in Section 32, Township 100 North, Range 50 West, Harrisburg, Lincoln County, South Dakota (the Site).

4. Ninemile Creek is tributary to Lake Alvin and the Big Sioux River. From the Site, Ninemile Creek flows approximately 12 river miles to Lake Alvin, and then flows approximately 2.5 river miles to the Big Sioux River. Lake Alvin is, and was at all relevant times, a navigable-in-fact water. The Big Sioux River is, and was at all relevant times, a navigable, interstate water.

5. Sometime between summer 2008 and fall 2009, Respondent and/or persons acting on Respondent's behalf constructed a berm/dike within an adjacent wetland directly abutting Ninemile Creek at the Site.

6. On September 25, 2009, the United States Army Corps of Engineers (Corps) received a report from the Lincoln County Floodplain Management Department regarding construction of a berm/dike the Site.

7. On May 6, 2010, the Corps conducted an inspection of the Site. The Corps found, and EPA through issuance of this Order finds, that Respondent and/or persons acting on Respondent's behalf discharged dredged or fill material into Ninemile Creek and its adjacent wetlands during construction of a berm/dike. The Corps estimated that the unauthorized berm/dike is approximately 25 feet across, 15 feet wide, and 3 feet deep, and has blocked the normal flow of surface water runoff from the north to Ninemile Creek causing flooding conditions at the Site and adjacent properties.

8. In a letter to Respondent dated June 3, 2010 (2010 Corps Letter), the Corps found, and EPA through issuance of this Order finds, that Respondent's activities, as described in paragraphs 5 and 7 of this Order, required prior authorization from the Corps and that the required authorization had not been sought or granted, in violation of section 404 of the CWA.

9. In the 2010 Corps Letter, the Corps directed Respondent to “cease and desist” any further unauthorized work at the Site. The Corps also directed Respondent, within sixty (60) days of receipt of the 2010 Corps Letter, to remove the unauthorized dredged or fill material that had been discharged at the Site to an elevation of 1442; such removal to be verified and documented by a licensed professional land surveyor.

10. In a telephone call with Respondent on August 5, 2010, the Corps granted Respondent a thirty (30) day extension to remove the unauthorized dredged or fill material due to flooding conditions at the Site.

11. After numerous, unsuccessful attempts to obtain restoration from Respondent, the Corps referred the case to EPA on September 29, 2010, for enforcement.

12. The activities described in paragraphs 5 and 7 of this Order were performed using common earthmoving vehicles and equipment, all of which were operated by Respondent and/or by persons acting on Respondent’s behalf.

13. Respondent is a “person” within the meaning of section 502(5) of the CWA, 33 U.S.C. § 1362(5).

14. The discharged dredged or fill material referenced above is and was at all relevant times “dredged material” or “fill material” within the meaning of 33 C.F.R. § 323.2(c) or 33 C.F.R. § 323.2(e), respectively, and “pollutants” within the meaning of section 502(6) of the CWA, 33 U.S.C. § 1362(6).

15. The vehicles and equipment described in paragraph 12 of this Order are and were at all relevant times each a “point source” within the meaning of section 502(14) of the CWA, 33 U.S.C. § 1362(14).

16. Ninemile Creek and its adjacent wetlands, Lake Alvin, and the Big Sioux River referenced above are and were at all relevant times “waters of the United States” within the meaning of 33 C.F.R. § 328.3(a) and therefore “navigable waters” within the meaning of section 502(7) of the CWA, 33 U.S.C. § 1362(7).

17. The placement of dredged or fill material into Ninemile Creek and its adjacent wetlands constitutes the “discharge of pollutants” within the meaning of section 502(12) of the CWA, 33 U.S.C. § 1362(12).

18. Ninemile Creek and its adjacent wetlands that were filled and disturbed by Respondent’s unauthorized activities provided various functions and values, including, but not limited to: habitat for fish, insects, and wildlife; water quality enhancement; flood attenuation; and aesthetics.

19. Section 301(a) of the CWA, 33 U.S.C. § 1311, prohibits, among other things, the discharge of pollutants by any person into waters of the United States except as in compliance with section 404 of the CWA, 33 U.S.C. § 1344.

20. Section 404 of the CWA, 33 U.S.C. § 1344, sets forth a permitting system authorizing the Secretary of the Army, acting through the Chief of Engineers of the Corps, to issue permits for the discharge of dredged or fill material into navigable waters which are defined as waters of the United States.

21. 33 C.F.R. § 323.3(a) specifies that, unless exempted pursuant to 33 C.F.R. § 323.4, a permit issued by the Corps is required for the discharge of dredged or fill material into waters of the United States.

22. Respondent is not and never has been authorized by a permit issued pursuant to section 404 of the CWA, 33 U.S.C. § 1344, to conduct any of the activities described in paragraphs 5 and 7 of this Order.

23. Each discharge of pollutants from a point source by Respondent into waters of the United States without the required permits issued pursuant to section 404 of the CWA, 33 U.S.C. § 1344, constitutes a violation of section 301(a) of the CWA, 33 U.S.C. § 1311(a). Each day the discharges remain in place without the required permits constitutes an additional day of violation of section 301(a).

### **III. ORDER FOR COMPLIANCE**

24. The removal of the dredged or fill material illegally discharged into waters of the United States at the Site and restoration of Ninemile Creek and its adjacent wetlands to a condition that closely approximates their condition and function prior to the discharge of the dredged or fill material can be achieved as a practical matter through commonly used methods of construction, digging, revegetation, and best management practices.

25. Activities to be carried out under this Order are remedial, not punitive, and are necessary to achieve the CWA's objective "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters," as specified in section 101(a) of the CWA, 33 U.S.C. § 1251(a). The removal and restoration described in paragraph 24 of this Order are appropriate to alleviate actual and potential harm to water quality, aquatic habitat, and wildlife habitat caused by Respondent's unpermitted activities.

26. This Order was issued after consultation and coordination with the Corps' Omaha District, South Dakota Regulatory Office.

Based upon the foregoing FINDINGS OF VIOLATION, and after consideration of the information described in paragraphs 24 through 26 above, it is hereby ORDERED:

27. Respondent shall immediately terminate all 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.

28. Within ten (10) calendar days of receipt of this Order, Respondent shall inform EPA in writing of Respondent's intent to fully comply with the Order. If Respondent has concerns or questions about the requirements of the Order, EPA requests that Respondent schedule a meeting and/or conference call with EPA within seven (7) calendar days of receipt of this Order to discuss these concerns or questions. The scheduling of such a meeting and/or conference call shall not alter Respondent's responsibility to meet any of the deadlines specified in this Order unless otherwise clearly stated in a written communication to Respondent by EPA.

29. Upon EPA approval of the Restoration Plan required by paragraph 31 of this Order, Respondent shall remove all dredged or fill material that was discharged as a result of the violations identified in this Order and restore Ninemile Creek and its adjacent wetlands at the Site to their pre-impact condition and grade, unless otherwise approved by EPA in the Restoration Plan.

30. All dredged or fill material removal and restoration activities shall be conducted in accordance with an EPA-approved Restoration Plan prepared by a consultant experienced in wetland restoration. The consultant also shall directly supervise all work performed pursuant to

the EPA-approved Restoration Plan. A statement of the consultant's qualifications, including professional resume and business references, shall be submitted to EPA within fourteen (14) calendar days of receipt of this Order.

31. Within thirty (30) calendar days of receipt of this Order, Respondent shall submit to EPA for review, comment, and approval a Restoration Plan, prepared by the consultant referenced in paragraph 30 of this Order, providing for the: removal of all dredged or fill material that was discharged into Ninemile Creek and its adjacent wetlands at the Site; and (2) restoration, to their pre-impact configuration and/or grade, of Ninemile Creek and its adjacent wetlands that were impacted as a result of Respondent's unauthorized discharges of dredged or fill material on the Site.

32. The Restoration Plan shall be prepared in accordance with "U.S. Environmental Protection Agency, Region 8 - Clean Water Act Section 404 Enforcement: General Guidelines for Removal and Restoration Plans," attached hereto as Exhibit A. In addition, the Restoration Plan shall include:

- a. A work plan and schedule for completion of all of the work and activities identified by the Restoration Plan, including the application for any required permits, providing for completion of all aspects of the restoration work no later than thirty (30) days after EPA approves the Restoration Plan;
- b. A description of removal of all dredged or fill material to a final elevation of 1442, North American Vertical Datum of 88 (NAVD 88) and provisions for proper disposal of any excess soils or other materials generated during the restoration;

- c. A description of re-vegetation of the impacted wetlands; and
- d. A description of all costs to prepare and implement the Restoration Plan, including the costs of all consultations, permits, construction, monitoring, etc.

33. EPA will review the Restoration Plan and approve it, approve it with modifications, or reject it with comments. If EPA rejects the Restoration Plan, Respondent shall, within thirty (30) calendar days of receipt of EPA's rejection letter, submit a revised plan that corrects the deficiencies identified by EPA.

34. Upon receiving EPA's written approval of the Restoration Plan, Respondent must make a timely and complete application for each permit necessary to implement the EPA-approved plan and for conducting restoration in accordance with the approved plan, including the schedule specified therein, with all granted permits, and with all applicable laws. Respondent must demonstrate that all necessary permits have been granted by providing complete copies of all such permits, and any amendments thereto, to EPA within seven (7) calendar days of issuance of each permit.

35. This Order is not a permit or an authorization to place or discharge dredged or fill material in waters of the United States. Respondent shall consult with the Corps at the address and telephone number below to determine if any work to be performed pursuant to this Order requires a permit from the Corps under section 404 of the CWA. If any such permit is required, Respondent shall obtain such permit(s) and provide a copy or copies to EPA pursuant to paragraph 34 of this Order prior to initiating any work that is to be performed pursuant to this Order.

Steven Naylor  
U.S. Army Corps of Engineers  
South Dakota Regulatory Office  
28563 Powerhouse Road, Room 118  
Pierre, SD 57501  
Telephone: 605-224-8531  
Facsimile: 605-224-5945

36. Respondent shall submit two (2) hard copies of the Restoration Plan, all notifications, and related correspondence to:

Kenneth M. Champagne, 8ENF-W  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129  
Telephone: 303-312-6608  
Facsimile: 303-312-7518

A hard copy of the Restoration Plan also shall be provided to the Corps at the address noted in paragraph 35 of this Order.

37. In addition to the notification requirements set forth in paragraph 36 of this Order, after issuance of any Corps authorization for the restoration work, Respondent shall submit all notifications and correspondence to the Corps in accordance with the terms and conditions in the Corps permit.

38. All plans (including, but not limited to, the Restoration Plan), deliverables, reports, specifications, schedules, or attachments required by this Order are, upon approval by EPA, incorporated into this Order. Any non-compliance with such EPA-approved plans, deliverables, reports, specifications, schedules, or attachments is a failure to comply with this Order and subject to EPA enforcement.

39. If Respondent leases, subleases, or transfers control and/or ownership of any property, in whole or in part, where work is to be performed pursuant to the Restoration Plan before Respondent has fulfilled its obligations under this Order, Respondent shall provide a copy of this Order and the EPA-approved Restoration Plan to the lessee, sublessee, or transferee not less than thirty (30) calendar days prior to the lease, sublease, or transfer. A lease, sublease, or transfer of such property interest shall not relieve Respondent of any responsibility in the Order unless EPA, Respondent, and the lessee, sublessee, or transferee agree in writing to allow the lessee, sublessee, or transferee to assume such responsibility. Additionally, at least thirty (30) calendar days prior to such lease, sublease, or transfer, Respondent shall notify EPA regarding the details of the lease, sublease, or transfer at the addresses specified in paragraph 36 of this Order.

40. Respondent shall allow, or use Respondent's best efforts to allow, access by any authorized representatives of EPA, the Corps, the Natural Resources Conservation Service, the U.S. Fish and Wildlife Service, the South Dakota Department of Environment and Natural Resources, and the South Dakota Department of Game, Fish, and Parks, or any of the agencies' contractors, upon proper presentation of credentials, to sites and records relevant to this Order for any of the following purposes:

- a. To inspect and monitor progress of the activities required by this Order;
- b. To inspect and monitor compliance with this Order; and
- c. To verify and evaluate data and other information submitted to EPA.

41. This Order shall in no way limit or otherwise affect EPA's authority, or the authority of any other governmental agency, to enter the Site, conduct inspections, have access to

records, issue notices and orders for enforcement, compliance, or abatement purposes, or monitor compliance pursuant to any statute, regulation, permit, or court order.

42. No later than fourteen (14) days after completion of all of the work and activities identified in the EPA-approved plan, Respondent shall provide written certification from a licensed professional land surveyor that all unauthorized dredged or fill material was removed to an elevation of 1442 (NAVD 88). This written certification shall be provided to the Corps and EPA at the addresses noted in paragraphs 35 and 36 of this Order.

43. This Order shall be effective upon receipt by Respondent.

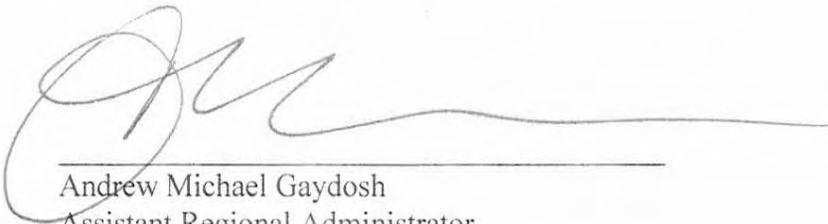
44. Please be advised that section 309(d) of the CWA, 33 U.S.C. § 1319(d), authorizes civil penalties of up to \$32,500 per day for each violation which occurred before January 12, 2009, and \$37,500 per day for each violation thereafter, of section 301 of the CWA, 33 U.S.C. § 1311, and for each violation of an order issued by the Administrator of EPA under section 309(a) of the CWA, 33 U.S.C. § 1319(a), including this Order. Additionally, section 309(g) of the CWA, 33 U.S.C. § 1319(g), authorizes EPA to impose administrative penalties for violations of the CWA.

45. Issuance of this Order shall not be deemed to be an election by the United States to forego any civil or criminal action to seek penalties, fines, or other appropriate relief under the CWA for violations giving rise to the Order;

46. Compliance with the terms and conditions of the Order shall not be construed to relieve Respondent of its obligation to comply with any applicable Federal, state, or local law or regulation.

47. Failure by Respondent to complete the tasks described herein in the manner and time frame specified pursuant to this Order may subject Respondent to a civil action under section 309 of the CWA, 33 U.S.C. § 1319, for violation of this Order.

DATED this 10<sup>th</sup> day of March, 2011.

A handwritten signature in black ink, consisting of a large, stylized initial 'A' followed by a series of loops and a long horizontal stroke extending to the right.

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Andrew Michael Gaydosh  
Assistant Regional Administrator  
Office of Enforcement, Compliance and  
Environmental Justice

# EXHIBIT A

U. S. ENVIRONMENTAL PROTECTION AGENCY - REGION VIII

SECTION 404 ENFORCEMENT:

GENERAL GUIDELINES FOR REMOVAL AND RESTORATION PLANS

The following guidelines serve as general specifications for preparing removal and restoration plans to remediate the unpermitted filling of wetlands. As environmental conditions vary at every site, precise specifications will depend upon the environmental conditions peculiar to the site in question. The size of the wetland area to be restored, its biological and physical characteristics, and the level of disturbance the wetland has experienced will further define the scope and complexity of the restoration plan. In most cases, the types of information listed below represent the minimum required to formulate an acceptable removal and restoration plan. **When these guidelines are incorporated into an EPA Administrative Order, the recipient of the Order should obtain the approval of EPA's technical representative on the case before departing from the general specifications outlined below.**

I. Existing Physical Conditions

- A. A surveyed site plan depicting property boundaries, streets, buildings, waterbodies (with ordinary high water line indicated), wetlands, FEMA 100-year floodplain (if applicable), areas of unpermitted fill, elevation contours, and other ground surface features at a scale no greater than 1 inch = 40 feet. This plan shall include a cross-section view of the site which shows soil depths, fill depths, and average depth to groundwater across the site.
- B. A narrative description of existing physical conditions, including the area of the site; area of unpermitted fill; existing wetlands (including the types of vegetation); the soil types present (including the types of unpermitted fill present); the hydrologic regime of the site; and other relevant information.

## II. Proposed Physical Conditions

- A. Using the site plan described in I.A. as a base, show the exact areas where remedial activities will occur (e.g., removal of fill, replacing dredged material into ditches, etc.). Indicate proposed finished grades, expected ordinary high water elevations, the location of proposed plantings/seedings, and the location of all sediment and erosion control structures (e.g., hay bales, silt screens, etc.). This plan shall include a cross-section view of the site which shows proposed soil depths and average depth to groundwater across the site.
- B. Provide a narrative description of the remedial work to occur, including the methods and equipment to be employed; how the equipment will gain access to the site to perform the work; the location of the ultimate disposal site for any removed fill; how the work will progress across the site; a listing of the plant species to be seeded/planted at the site; the sources of the plant material (note: as a rule, transplanting of plant stock will not be permitted); the planting method(s) and scheme (i.e., physical layout of how plant material will be installed); any methods to be used to minimize adverse impacts while remedial work is underway; the expected hydrologic regime of the site in its restored condition; and other relevant information.
- C. Delineate the area(s) on the site to be restored by installation of flagging, sedimentation and erosion control structures, or other appropriate method; this delineation shall represent the limit of construction activities such that no work shall occur beyond these boundaries.

## III. Actual Restored Physical Conditions

- A. Using the site plan described in I.A. as a base, show the actual physical conditions at the site at the completion of grading activities (i.e., an "as-built" plan), including actual finished grades and all pertinent ground surface features. This plan shall include a cross-section view of the site which shows actual soil depths and average depth to groundwater across the site. This as-built plan shall be prepared and submitted prior to planting/seeding activities.

#### IV. Monitoring/Measures of Success

- A. Normally, monitoring shall be performed midway through and near the end of the first and second growing seasons, then annually near the end of each successive growing season for the duration of the required monitoring period. Monitoring shall be performed for a period of three to five years, depending upon the scope and complexity of the remedial efforts required.
- B. A monitoring plan shall incorporate a simple statistical approach to assessing relative success or failure of restoration efforts (e.g., transects with sampling stations for measuring parameters such as percent areal cover in each vegetative stratum). A permanent photographic record shall be included as part of the monitoring plan.
- C. Depending upon the scope and complexity of the remedial efforts, general criteria to measure success shall be determined by EPA. These criteria shall be directly related to reestablishing the structural components of the aquatic ecosystem being restored. A general provision shall be included to allow for corrective action to be taken, at the direction of EPA, should monitoring show that criteria for success are not being met.
- D. A report shall be prepared and submitted after each monitoring event which describes the environmental conditions at the site and assesses relative success or failure of restoration efforts. This report shall include photographic evidence as well. This report shall identify any problems discovered and recommend appropriate corrective action to ensure the success of restoration.

#### V. Inspections

- A. The plan shall provide for inspections by EPA personnel after installation of all sedimentation and erosion control structures, after completion of grading activities, after completion of initial planting/seeding activities, and after monitoring indicates that the criteria for success have been attained.

VI. Schedule

- A. A comprehensive schedule integrating all removal, restoration, inspection, and monitoring activities as well as report/product submissions shall be included.



Office of Enforcement and Compliance Assurance  
**INFORMATION SHEET**

## U. S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance resources such as workshops, training sessions, hotlines, websites, and guides to assist you in complying with federal and state environmental laws. These resources can help you understand your environmental obligations, improve compliance, and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

### Compliance Assistance Centers

([www.assistancecenters.net](http://www.assistancecenters.net))

In partnership with industry, universities, and other federal and state agencies, EPA has established Compliance Assistance Centers that provide information targeted to industries with many small businesses.

#### Agriculture

([www.epa.gov/agriculture](http://www.epa.gov/agriculture) or 1-888-663-2155)

#### Automotive Recycling Industry

([www.ecarcenter.org](http://www.ecarcenter.org))

#### Automotive Service and Repair

([www.ccar-greenlink.org](http://www.ccar-greenlink.org) or 1-888-GRN-LINK)

#### Chemical Industry

([www.chemalliance.org](http://www.chemalliance.org))

#### Construction Industry

([www.cicacenter.org](http://www.cicacenter.org) or 1-734-995-4911)

#### Education

([www.campuserc.org](http://www.campuserc.org))

#### Healthcare Industry

([www.hercenter.org](http://www.hercenter.org) or 1-734-995-4911)

#### Metal Finishing

([www.nmfc.org](http://www.nmfc.org) or 1-734-995-4911)

#### Paints and Coatings

([www.paintcenter.org](http://www.paintcenter.org) or 1-734-995-4911)

#### Printed Wiring Board Manufacturing

([www.pwbr.org](http://www.pwbr.org) or 1-734-995-4911)

#### Printing

([www.pneac.org](http://www.pneac.org) or 1-888-USPNEAC)

#### Transportation Industry

([www.transource.org](http://www.transource.org))

#### Tribal Governments and Indian Country

([www.epa.gov/tribal/compliance](http://www.epa.gov/tribal/compliance) or 202-564-2516)

#### US Border Environmental Issues

([www.bordercenter.org](http://www.bordercenter.org) or 1-734-995-4911)

The Centers also provide State Resource Locators ([www.envcap.org/statetools/index.cfm](http://www.envcap.org/statetools/index.cfm)) for a wide range of topics to help you find important environmental compliance information specific to your state.

### EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. If you don't have access to the Internet at your business, many public libraries provide access to the Internet at minimal or no cost.

#### EPA's Home Page

[www.epa.gov](http://www.epa.gov)

#### Small Business Gateway

[www.epa.gov/smallbusiness](http://www.epa.gov/smallbusiness)

#### Compliance Assistance Home Page

[www.epa.gov/compliance/assistance](http://www.epa.gov/compliance/assistance)

#### Office of Enforcement and Compliance Assurance

[www.epa.gov/compliance](http://www.epa.gov/compliance)

#### Voluntary Partnership Programs

[www.epa.gov/partners](http://www.epa.gov/partners)



## U.S. EPA SMALL BUSINESS RESOURCES

### Hotlines, Helplines & Clearinghouses

([www.epa.gov/epahome/hotline.htm](http://www.epa.gov/epahome/hotline.htm))

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. A few examples are listed below:

#### Clean Air Technology Center

([www.epa.gov/ttn/catc](http://www.epa.gov/ttn/catc) or 1-919-541-0800)

#### Emergency Planning and Community Right-To-Know Act

([www.epa.gov/superfund/resources/infocenter/epcra.htm](http://www.epa.gov/superfund/resources/infocenter/epcra.htm) or 1-800-424-9346)

EPA's Small Business Ombudsman Hotline provides regulatory and technical assistance information.

([www.epa.gov/sbo](http://www.epa.gov/sbo) or 1-800-368-5888)

The National Environmental Compliance Assistance Clearinghouse provides quick access to compliance assistance tools, contacts, and planned activities from the U.S. EPA, states, and other compliance assistance providers ([www.epa.gov/clearinghouse](http://www.epa.gov/clearinghouse))

National Response Center to report oil and hazardous substance spills.

([www.nrc.uscg.mil](http://www.nrc.uscg.mil) or 1-800-424-8802)

#### Pollution Prevention Information Clearinghouse

([www.epa.gov/opptintr/ppic](http://www.epa.gov/opptintr/ppic) or 1-202-566-0799)

#### Safe Drinking Water Hotline

([www.epa.gov/safewater/hotline/index.html](http://www.epa.gov/safewater/hotline/index.html) or 1-800-426-4791)

#### Stratospheric Ozone Refrigerants Information

([www.epa.gov/ozone](http://www.epa.gov/ozone) or 1-800-296-1996)

Toxics Assistance Information Service also includes asbestos inquiries.

(1-202-554-1404)

#### Wetlands Helpline

([www.epa.gov/owow/wetlands/wetline.html](http://www.epa.gov/owow/wetlands/wetline.html) or 1-800-832-7828)

### State Agencies

Many state agencies have established compliance assistance programs that provide on-site and other types of assistance. Contact your local state environmental agency for more information or the following two resources:

#### EPA's Small Business Ombudsman

([www.epa.gov/sbo](http://www.epa.gov/sbo) or 1-800-368-5888)

#### Small Business Environmental Homepage

([www.smallbiz-enviroweb.org](http://www.smallbiz-enviroweb.org) or 1-724-452-4722)

### Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated,

businesses may be eligible for penalty waivers or reductions. EPA has two policies that potentially apply to small businesses:

#### The Small Business Compliance Policy

([www.epa.gov/compliance/incentives/smallbusiness](http://www.epa.gov/compliance/incentives/smallbusiness))

#### Audit Policy

([www.epa.gov/compliance/incentives/auditing](http://www.epa.gov/compliance/incentives/auditing))

### Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established an SBA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System (NAICS) designation, number of employees, or annual receipts, defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

### Your Duty to Comply

If you receive compliance assistance or submit comments to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

*EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.*