



**DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, OMAHA DISTRICT  
NEBRASKA REGULATORY OFFICE  
8901 SOUTH 154TH STREET, SUITE 2  
OMAHA, NEBRASKA 68138-3635**

June 17, 2021

Regulatory Branch  
Nebraska Regulatory Program  
Corps No. NWO-2020-00951-WEH

Mr. Tom Villegas  
25599 WCR 4  
Hudson, Colorado 80642

Certified Mail  
Return Receipt Requested

**NOTICE OF VIOLATION  
CEASE AND DESIST**

Dear Mr. Villegas:

This letter serves as a Notice of Violation for the unauthorized discharge of dredged or fill material in waters of the United States. The activity occurred within the Platte River, unnamed tributaries to the Platte River, and adjacent wetlands approximately centered at Latitude 41.008047°, Longitude -100.453985°, within Section 13, Township 12 N, Range 28 W, in Lincoln County, Nebraska.

After contacting Mr. Tom Villegas, the US Army Corps of Engineers (Corps) Nebraska Regulatory Office (NRO) conducted a site visit on May 18, 2021, with Mr. Villegas. During the site visit the Corps observed various locations where fill material was discharged and associated excavation has occurred within the Platte River, unnamed tributaries to the Platte River, and adjacent wetlands.

The unauthorized discharge of fill material and associated excavation activities consists of; construction of a berm and the installation of culvert pipe within the Platte River, excavation of adjacent wetlands in numerous locations, excavation to widen existing unnamed tributaries in numerous locations, and construction of numerous roadways and culverted crossings. Total permanent impacts of the project are estimated to be 7.024 acres, to include 7 acres of wetlands and 0.024 acre (149-linear feet) of channel below the ordinary high water mark (OWHM) of the Platte River and unnamed tributaries to the Platte River.

The activity described above is regulated by the Corps under Section 404 of the Clean Water Act (33 U.S.C. 1344). The discharge of dredged or fill material into the waters of the United States required authorization from the Corps.

The Corps has no record of an authorization or exemption for the discharges, work, and/or structure described above. The implementing regulation for the Corps Regulatory Program is found in 33 CFR Parts 320-332.

Under authorities provided in 33 CFR 326.3, you and any other responsible party are hereby ordered to **cease and desist all activities related to the unauthorized work.**

Potential enforcement consequences, in addition to or in lieu of fines, penalties and imprisonment, include initial corrective measures, removal of the unauthorized discharges and/or structures and restoration of the site to pre-project conditions. The District Engineer, at their discretion, may recommend criminal or civil actions to enforce penalties for violations. In certain circumstances, an after-the-fact authorization may be appropriate to resolve unpermitted discharges, work and/or structures.

To ensure that all pertinent information is included in the public record, please provide any additional information that you feel is pertinent to this issue. At this time, the Corps is requesting that you provide the following additional information:

1. The date that construction in wetlands or channels at the site commenced.
2. Total amounts of unauthorized impacts (in acres) that have occurred in waters of the United States to date.
3. Documentation of sediment and erosion control measures in place, to include photos, locations, plans, and types of material. If a Stormwater Pollution Prevention Plan (SWPPP) is in place, please provide.

We request that you contact this office to discuss resolution of this violation within 15 days. Prompt coordination with this office and voluntary restoration of the site in accordance with a Corps-approved plan may avoid some or all additional enforcement consequences. However, restoration of the site or other work should not be initiated without specific written approval from the Corps.

Please refer to file number NWO-2020-00951-WEH in correspondence concerning this matter. If you have any questions or would like to schedule a meeting, please contact Drew Vlazny at Andrew.J.Vlazny@usace.army.mil or 402-896-0896.

Sincerely,



John Moesch  
Nebraska State Program Manager

cc:  
Enforcement Coordinator (Hattleberg)  
EPA Region 7 (Bruno)  
Nebraska Department of Environment and Energy (Pauley)