

## HertzWu, Sara

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**From:** Courtney, James (IHS/BIL) <James.Courtney@ihs.gov>  
**Sent:** Wednesday, November 20, 2019 1:43 PM  
**To:** Huston, Liz; Kleffner, Erin  
**Cc:** HertzWu, Sara  
**Subject:** RE: Relevant Information for EPA Region 7 Enforcement with ADAMAS  
**Attachments:** Update Lame Deer sludge Removal

**From:** Courtney, James (IHS/BIL)  
**Sent:** Wednesday, November 20, 2019 12:40 PM  
**To:** 'Huston, Liz' <Huston.Liz@epa.gov>; 'kleffner.erin@epa.gov' <kleffner.erin@epa.gov>  
**Cc:** 'HertzWu.Sara@epa.gov' <HertzWu.Sara@epa.gov>  
**Subject:** RE: Relevant Information for EPA Region 7 Enforcement with ADAMAS

**From:** Courtney, James (IHS/BIL)  
**Sent:** Wednesday, November 20, 2019 12:33 PM  
**To:** 'Huston, Liz' <Huston.Liz@epa.gov>; 'kleffner.erin@epa.gov' <kleffner.erin@epa.gov>  
**Cc:** 'HertzWu.Sara@epa.gov' <HertzWu.Sara@epa.gov>  
**Subject:** FW: Relevant Information for EPA Region 7 Enforcement with ADAMAS

**From:** Courtney, James (IHS/BIL)  
**Sent:** Wednesday, November 20, 2019 12:29 PM  
**To:** 'Huston, Liz' <Huston.Liz@epa.gov>; 'Kleffner, Erin' <kleffner.erin@epa.gov>  
**Cc:** 'HertzWu, Sara' <HertzWu.Sara@epa.gov>; White, Jim (IHS/BIL) <Jim.White@ihs.gov>  
**Subject:** RE: Relevant Information for EPA Region 7 Enforcement with ADAMAS

Erin & Liz,

You are welcome. Attached is the information described in my email below. Additional information is attached that may be relevant to your filing.

The ADAMAS site safety plan also indicates responsibility for following 503 for the project (attached in "Site Safety Plan ADAMAS", pg. 6).

An email from Nathan Pierce on 4/30/18 indicates ADAMAS construction would perform the application and adhere to 503 requirements (attached in "Re: Map for Lagoon Project").

The schedule submitted by Nathan Pierce includes "Begin Bio-Solid/Sludge Application" and "Land Application Complete" as milestones (attached in "Updated Schedule").

An email from Nathan Pierce on 7/9/18 stating desire to submit a final payment request for application and hauling of the sludge (attached, "Update Lame Deer sludge Removal").

An email from Nathan Pierce on 7/16/18 stating that ADAMAS would be beginning land application of the sludge (attached, "Re: Sludge Application on Tom Robinson Property")

An email from Nathan Pierce on 8/16/18 requesting payment for application of the sludge (attached, "Lame Deer Lagoon Project").

**James Courtney, P.E.**

LT, USPHS  
Environmental Engineer  
Billings Area, Indian Health Service  
2900 4<sup>th</sup> Ave., Billings, MT 59101  
| P 406.247.7094 | C 406.696.7284 | [James.Courtney@IHS.gov](mailto:James.Courtney@IHS.gov)

**From:** Huston, Liz <[Huston.Liz@epa.gov](mailto:Huston.Liz@epa.gov)>  
**Sent:** Wednesday, November 20, 2019 6:17 AM  
**To:** Kleffner, Erin <[kleffner.erin@epa.gov](mailto:kleffner.erin@epa.gov)>; Courtney, James (IHS/BIL) <[James.Courtney@ihs.gov](mailto:James.Courtney@ihs.gov)>  
**Cc:** HertzWu, Sara <[HertzWu.Sara@epa.gov](mailto:HertzWu.Sara@epa.gov)>  
**Subject:** RE: Relevant Information for EPA Region 7 Enforcement with ADAMAS

James, We really appreciate your assistance on this. The information described below is really helpful to us. Is there any chance you could email the documents described below? We are especially interested in the invoices for sludge application/equipment and really all invoices related to the entire Lame Deer Sludge Removal project. We have a court filing due next week and we'd like to include the information described below if possible.

Thanks  
Liz

**From:** Kleffner, Erin <[kleffner.erin@epa.gov](mailto:kleffner.erin@epa.gov)>  
**Sent:** Wednesday, November 20, 2019 6:14 AM  
**To:** James Courtney <[james.courtney@ihs.gov](mailto:james.courtney@ihs.gov)>  
**Cc:** HertzWu, Sara <[HertzWu.Sara@epa.gov](mailto:HertzWu.Sara@epa.gov)>; Huston, Liz <[Huston.Liz@epa.gov](mailto:Huston.Liz@epa.gov)>  
**Subject:** RE: Relevant Information for EPA Region 7 Enforcement with ADAMAS

Yes, please send me the information as soon as possible. Thanks!

**From:** Courtney, James (IHS/BIL) <[James.Courtney@ihs.gov](mailto:James.Courtney@ihs.gov)>  
**Sent:** Tuesday, November 19, 2019 5:56 PM  
**To:** Kleffner, Erin <[kleffner.erin@epa.gov](mailto:kleffner.erin@epa.gov)>  
**Cc:** White, Jim (IHS/BIL) <[Jim.White@ihs.gov](mailto:Jim.White@ihs.gov)>  
**Subject:** FW: Relevant Information for EPA Region 7 Enforcement with ADAMAS

Erin,

I am able to share information that may be of interest to your office for the ongoing enforcement action with ADAMAS. The summary of the information is presented in the below email from November 15, 2019. Please let me know if you are interested in this being sent to you.

**James Courtney, P.E.**

LT, USPHS  
Environmental Engineer  
Billings Area, Indian Health Service

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**From:** Fahlstedt, Gary (HHS/OGC) <[GARY.FAHLSTEDT@HHS.GOV](mailto:GARY.FAHLSTEDT@HHS.GOV)>  
**Sent:** Tuesday, November 19, 2019 2:43 PM  
**To:** White, Jim (IHS/BIL) <[Jim.White@ihs.gov](mailto:Jim.White@ihs.gov)>  
**Subject:** RE: Relevant Information for EPA Region 7 Enforcement with ADAMAS

Hi Jim—

Sorry for the delay in responding. It does not appear that any of the information you describe would be subject to the Privacy Act. The Privacy act applies to systems of records where the records are retrievable by a personal identifier such as a name or SSN. Nor does the information need to be released through the Freedom of information Act (FOIA) process since that process does not apply to records released to other federal agencies. So you can share the information with the EPA freely.

*Gary Fahlstedt  
Assistant Regional Counsel  
Department of Health and Human Services, Region VIII  
Byron Rogers Federal Building  
1961 Stout Street, Room 08-148  
Denver, CO 80294  
Phone: 303-844-7803*

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**From:** White, Jim (IHS/BIL) <[Jim.White@ihs.gov](mailto:Jim.White@ihs.gov)>  
**Sent:** Friday, November 15, 2019 11:43 AM  
**To:** Fahlstedt, Gary (HHS/OGC) <[GARY.FAHLSTEDT@HHS.GOV](mailto:GARY.FAHLSTEDT@HHS.GOV)>; Helmer, Burke (IHS/BIL) <[Burke.Helmer@ihs.gov](mailto:Burke.Helmer@ihs.gov)>  
**Cc:** Courtney, James (IHS/BIL) <[James.Courtney@ihs.gov](mailto:James.Courtney@ihs.gov)>; White, Jim (IHS/BIL) <[Jim.White@ihs.gov](mailto:Jim.White@ihs.gov)>  
**Subject:** FW: Relevant Information for EPA Region 7 Enforcement with ADAMAS

Gary,

*This correspondence concerns the Billings Area Sanitation Facilities Program (SFC) and the Lame Deer lagoon sludge removal effort performed by ADAMAS LLC. Although ADAMAS has successfully reached a settlement with the Northern Cheyenne Tribe concerning the sludge removal, ADAMAS continues to be involved in an ongoing enforcement action with the EPA concerning the sludge application. On 11/13/19, the Northern Cheyenne Field Engineer, James Courtney, included me on a phone call he received from EPA Region 7. Erin Kleffner and an EPA attorney, from the Enforcement & Compliance Assurance Division, discussed that ADAMAS Construction is asserting no responsibility for the sludge application meeting 40 CFR 503 (b) regulations. The EPA is not in concurrence with ADAMAS' assertion of not needing to meet the regulations and believes litigation will be necessary for their enforcement action. The SFC program has information that would likely be useful for the EPA's ongoing enforcement action. The EPA would likely be interested in the following information:*

- *Email correspondence from ADAMAS' attorney asserting "no possible 503 violation" and that payment will be requested after "a decision in ADAMAS' favor by EPA".*
- *ADAMAS's invoice that includes sludge application.*
- *The agreement between ADAMAS and the Utility (NCUC) that includes payment for sludge application.*
- *Email correspondence from Nathan Pierce on 8/26/18:*
  - *"As you have already represented that there was an agreed settlement of 2/3 of the contract amount or 600,000 gallons of sludge removed, it would seem no further documentation would be required, as it is an agreed settlement between IHS and our company. 600,000 gallon has been removed, applied and hauled per the agreed settlement. "*
- *Email correspondence from Nathan Pierce on 7/29/18:*
  - *"Our company will always comply with the rules and regulations necessary to protect the environment and waterways of the United states. It appears from the EPA 503 regulations NCUC and their subcontractors are exempt from EPA permit/reporting requirements."*
  - *"Our company is dedicated to ensuring that this job is complete and that we will make sure that it is done within the rules and regulations that apply to the project. I figured our company's dedication to the Norther Cheyenne tribe and its communities, U.S. water ways and the environment would be evident in our company's actions to date."*
- *Email correspondence from Nathan Pierce on 6/21/18:*
  - *From the attached "Detailed invoice":*
    - *40 units billed at \$52.50/unit (\$2,100.00) for "Supervision (Sludge Application) pay + Benefits"*
    - *40 units billed at \$738.65/unit (\$29,546.00) for "Sludge Application Equipment"*
- *Email correspondence from Nathan Pierce on 4/21/18:*
  - *"The land application equipment will be a High Flow Liquid Fertilizer wheel injector or other method allowed by EPA and/or MTDEQ rules and regulations to include rain bird sprinklers or pivot lines."*
  - *From the attached SOW:*
    - *"It is understood that ADAMAS and Nathan Pierce have been subcontracted by NCUC to be the project manager and technical consultant for this project."*
    - *"Work will be completed according to the standards of the Northern Cheyenne Tribal Regulations, U.S. Environmental Protection Agency (EPA) including EPA Part 503 Complaint 40 U.S.C. 503 et. seq., Montana Department of Environmental Quality (DEQ) including DEQ Circular 2, Chapter 80-89, and will demonstrate compliance with applicable laws, rules and regulations to include but not limited to the Montana Water Quality Act non-degradation and Hazardous Waste Disposal requirements, Title 75, Chapter 5, MCA and the Federal Water Pollution Control act, 33 U.S.C. 1251 et. seq.,"*
    - *"Sludge will be removed from frack tanks and land applied allowed by the EPA 503 regulations and/or allowed by the MTDEQ."*

*Are you agreeable to this information being shared with EPA Region 7?*

*- Jim White*

Jim  
 James White, P.E., M.E., FAC-COR III  
 Director, Division of Sanitation Facilities Construction  
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**HertzWu, Sara**

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**From:** ADAMAS CONSTRUCTION And DEVELOPMENT SERVICES PLLC <adamas.mt.406@gmail.com>  
**Sent:** Monday, July 09, 2018 9:04 AM  
**To:** Sheri Bement; Dion Killsback; doris.ncuc@gmail.com  
**Subject:** Update Lame Deer sludge Removal  
**Attachments:** 20180706\_082143.jpg; 20180706\_135751.jpg; 20180706\_095034.jpg

Good morning,

This is an update on the sludge removal project.

We had issues with the electrical FLUMP dredge malfunctioning. After several attempts from the company to make field repairs to the unit, it was determined that it was beyond repair due to electrical issues.

The dredge company agree to swap the unit out with a manned self propulsion unit. This process happened on Friday July 6th 2018. (SEE PHOTOS)

We had a tela-handler delivered to the site, removed the electrical FLUMP and Deployed the self propelled unit.

The new unit is capable of pumping 1750 GPM, we estimate that we will average at or around 1000 GPM. Based on this estimate it should only take a couple of days to complete the sludge removal process.

We will need to get the land application permit secured or direction on where the sludge will need to be hauled if it will nat be applied to land.

As of today's date, Monday July 9th we still have not recieved the second mobilization payment. We would greatly appreciate it if we could get that payment.

Finally we understand IHS would like to keep pay requests to a minimum or once a month, however we are officially requesting that we be able to submit 2 pay requests, 1 after the sludge removal is complete and a final payment for application and hauling when those tasks are completed.

Best regards,

Nathan Pierce

ADAMAS Construction and Development Services PLLC





