

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

IN THE MATTER OF)	
)	
ADAMAS CONSTRUCTION AND)	COMPLAINANT’S MOTION FOR
DEVELOPMENT SERVICES, PLLC)	WITNESS SUBPOENA
)	
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))	

COMPLAINANT’S MOTION FOR WITNESS SUBPOENA

Complainant U.S. Environmental Protection Agency ("EPA") hereby respectfully requests that the Presiding Officer, pursuant to her authority under 40 C.F.R. § 22.21(b), issue a witness subpoena requiring the attendance of:

Tom Robinson
34819 Highway 212
Lame Deer, Montana 59043

at the hearing in this matter, which is scheduled for August 22 through 25, 2023, beginning at 9:00 a.m. at the James F. Battin Federal Courthouse, 4th Floor Courtroom (also known as the Ella Knowles Courtroom), 2601 2nd Avenue North, Billings, Montana 59101. This individual was identified and listed as a witness in Complainant’s Initial Prehearing Exchange. In support of this request for the issuance of a witness subpoena, Complainant states as follows:

1. The hearing in this case is expected to focus on whether Respondents Nathan Pierce and Adamas Construction and Development Services, PLLC (“Respondents”) violated Section 405 of the Clean Water Act, 33 U.S.C. § 1345,

and the requirements of the Standards for the Use or Disposal of Sewage Sludge, codified at 40 C.F.R. Part 503.

2. At all times relevant to the violations alleged in this matter, Tom Robinson was the lessee of the property where sludge was applied by Respondents. Tom Robinson interacted with the Respondents prior to and during the sludge application. Specifically, Tom Robinson entered into a contract with Respondents for sludge application to his property. Tom Robinsons' testimony is expected to focus on the role Respondents played in the sludge application project, specifically that Respondents were the appliers of the sludge to Tom Robinson's agricultural land. Further, Tom Robinson authored records in evidence, to which he can testify directly. Tom Robinson possesses information that is relevant and material to the issue of Respondents' liability for the violations alleged in the Complaint.
3. 40 C.F.R. § 22.21(b) provides that the Presiding Officer may require the attendance of witnesses or the production of documentary evidence by subpoena, if authorized by the Act.
4. Section 309(g)(10) of the Clean Water Act, 33 U.S.C. § 1319(g)(10), authorizes the issuance of subpoenas for the attendance and testimony of witnesses in administrative hearings.

Therefore, Complainant respectfully requests that the Presiding Officer issue a subpoena for the attendance and testimony at the hearing scheduled in this matter, of Tom Robinson, for which EPA will pay appropriate fees and mileage.

RESPECTFULLY SUBMITTED this 23rd day of June, 2023.

Katherine Kacsur
Assistant Regional Counsel
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Lenexa, KS 66209
(913) 551-7734
kacsur.katherine@epa.gov

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SUBPOENA AD TESTIFICANDUM

To: Tom Robinson
34819 Highway 212
Lame Deer, Montana 59043

Pursuant to the authority of Section 22.21(b) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R., Part 22, the United States Environmental Protection Agency (“EPA”) is issuing this subpoena for the purpose of obtaining your testimony at the hearing scheduled in this matter.

YOU ARE HEREBY COMMANDED TO APPEAR IN PERSON at the following place and time:

TIME AND DATE: August 23, 2023 at 9:00 a.m.

PLACE: James F. Battin Federal Courthouse
4th Floor Courtroom (also known as the Ella Knowles Courtroom)
2601 2nd Avenue North
Billings, Montana 59101

At the above place and time, EPA may take testimony of Tom Robinson concerning his observations regarding the sludge application project and Respondents’ involvement, and as to

related relevant facts and circumstances. The testimony of Tom Robinson will be taken under oath, upon oral examination before a court reporter or other officer authorized by law to take sworn statements.

YOU ARE COMMANDED FURTHER TO TESTIFY THEN AND THERE UNDER OATH, GIVE ORAL AND TRUTHFUL RESPONSES to all lawful inquiries and questions put to you on behalf of the EPA, and TO REMAIN IN ATTENDANCE until expressly excused by the Administrative Law Judge conducting the proceeding.

FAILURE TO COMPLY WITH THIS SUBPOENA MAY SUBJECT YOU TO A CIVIL ENFORCEMENT ACTION.

Issued this ____ day of _____, 2023.

CERTIFICATE OF SERVICE

I certify that the foregoing Complainant's Motion for Witness Subpoena, with attached and proposed SUBPOENA AD TESTIFICANDUM, Docket No. CWA-07-2019-0262, has been submitted electronically using the OALJ E-Filing System.

A copy was sent by email to:

Nathan Pierce, Owner, Adamas Construction and Development Services PLLC:

Nathan Pierce
Email: *adamas.mt.406@gmail.com*

Date: June 23rd, 2023

Katherine Kacsur
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11201 Renner Boulevard
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