

CERTIFIED MAIL

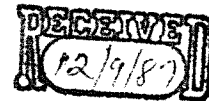


DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, CORPS OF ENGINEERS
211 MAIN STREET
SAN FRANCISCO, CALIFORNIA 94105 - 1905

221
221
M.F.O.

Regulatory Branch

08 DEC 1987



87-11

SUBJECT: File No. 17244N96

Mr. Melvin K. Davis
City Manager
City of Sebastopol
7120 Bodega Ave.
Sebastopol, California 95472

Dear Mr. Davis:

We have discovered an unauthorized activity involving the placement of fill into abandoned sewage pond #5, at the former Sewage Treatment Plant, near the end of Morris Street, city of Sebastopol, Sonoma County, California.

You are hereby directed to CEASE AND DESIST immediately from further activity in our jurisdiction.

All discharges of dredged or fill material into "waters of the United States" below the "high tide line" in tidal waters, and below the "ordinary high water mark" in non-tidal waters require Corps of Engineers authorization under Section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344). "Waters of United States" include, but are not limited to, coastal and inland waters, lakes, rivers and streams that are navigable waters of the United States, including adjacent wetlands; tributaries to "navigable waters of the United States," including adjacent wetlands; interstate waters and their tributaries, including adjacent wetlands; and all other waters of the United States.

Our regulations (33 CFR 326.3) state that when the District Engineer becomes aware of any unauthorized work, he shall commence an immediate investigation to determine the appropriate administrative and/or legal action to be taken. Legal action could include either civil or criminal proceedings and might result in a court directing the removal of existing material or structures.

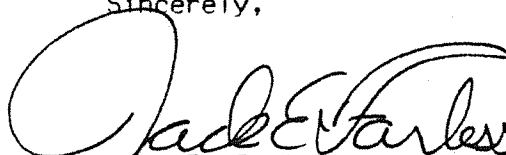
Section 309 of the Clean Water Act (CWA) (33 U.S.C. 1319) provides that upon conviction for violation of Section 301 of the Clean Water Act (CWA), which makes illegal the discharge of any dredged or fill material without a permit issued pursuant to Section 404, a person is subject to a fine from \$2,500 to \$25,000 for each day of violation, or imprisonment of up to one year, or both.

You are requested to provide this office, within 15 calendar days from the date of receipt of this letter, with information showing the history of your activity. A questionnaire is enclosed to guide you in your submittal of the information. You are also advised that the information provided on this questionnaire may be used against you in any subsequent legal action.

-2-

It is further requested that you allow Corps of Engineers inspectors free access to the property referenced above. If you have any questions, please call Mr. Eric Behn of our Regulatory Branch (telephone 415-974-0426). Please address all correspondence to the District Engineer, Attention: Regulatory Branch, and refer to the file number at the head of this letter.

Sincerely,



Jack E. Farless
Chief, Construction-Operations
Division

Enclosure

Copy Furnished w/o encl:

US F&WS, Sacramento, CA
US EPA, S.F., CA
US NOAA, Santa Rosa, CA
CA F&G, Yountville, CA
CA RWOCB, Santa Rosa, CA
CA SLC, Sacramento, CA
US Attorney, S.F., CA

INVESTIGATION QUESTIONNAIRE ON UNAUTHORIZED ACTIVITY
(33 C.F.R. 326.3)

Date of Request November 25 1987

A. GENERAL INFORMATION*

1. Name and Address of Investigating Office:

Commander, U.S. Army Corps of Engineers, San Francisco District, 211 Main Street, San Francisco, California 94105

2. Waterway: Sonoma County File No. 17244N96

3. Date of Last Observed Unauthorized Activity: Day Month
Year

4. Location of Unauthorized Activity: State CA County Sonoma
City/Town Sebastopol
Street & Number Morris St. ZIP

Other Details to Identify Location: Abandoned sewage pond #5, at the former Sewage Treatment Plant.

5. Name(s) and Address(es) of Person(s) Responsible for Unauthorized Activity:

a. Name Melvin Davis
Street & Number 7120 Bodega Ave.
County Sonoma City/Town Sebastopol ZIP 95472
State CA Phone

b. Name
Street & Number
County City/Town ZIP
State Phone

6. Type of Business (If Applicable)

*To be Furnished by Investigating Office.

7. Business Name and Address of Main Office of Person(s) Responsible for Unauthorized Activity:

Name _____
Street & Number _____
County _____ City/Town _____ ZIP _____
State _____ Phone _____

8. Type of Unauthorized Activity Observed:

Fill _____ Construction _____ Dredging _____
Other (Specify) _____

9. Notification of Corps' Jurisdiction over Unauthorized Activity sent to Person(s) Responsible for Unauthorized Activity:

a. Date of Letter: Day _____ Month _____ Year _____
b. Certified Letter Received: Day _____ Month _____ Year _____
c. Verbal Notification by Corps of Engineers' Personnel: Day _____
Month _____ Year _____

10. Instruction Booklet Mailed or Given: Yes _____ No _____

11. Cease and Desist Order Mailed to Person(s) Responsible for Unauthorized Activity: Yes _____ No _____

a. Date of Order: Day _____ Month _____ Year _____
b. Certified Letter Received: Day _____ Month _____ Year _____

B. DETAILED INFORMATION ON THE UNAUTHORIZED ACTIVITY

- 1. Are you aware of this Unauthorized Activity? Yes _____ No _____
 - a. If No, go to question 22.
 - b. If Yes, continue with next question.

- 2. Indicate the present status of the Unauthorized Activity:
 - a. The work was completed on Day _____ Month _____ Year _____
 - b. The work was discontinued as of Day _____ Month _____ Year _____
 - c. The work is 25% _____ 50% _____ 75% _____ 90% _____ completed.
 - d. Is the work still in progress as of today? Yes _____ No _____.
 - e. It is anticipated that the work will be completed on Day _____
 Month _____ Year _____.

- 3. Is the area of the Unauthorized Activity behind a dike? Yes _____ No _____

- 4. Is the area of Unauthorized Activity below Mean Higher High Water?
 Yes _____ No _____ Don't Know _____.

- 5. Is the Area of the Unauthorized Activity behind established U. S. Harbor Lines? Yes _____ No _____ Don't Know _____.

- 6. Is the Area of Unauthorized Activity under tidal action?
 Yes _____ No _____

- 7. Was the Unauthorized Activity completed prior to 18 December 1968?
 Yes _____ No _____

- 8. State and describe in detail the type of activity/work/operation that has been or is presently being conducted at the site of the Unauthorized Activity. (Please be specific: use additional sheets if necessary, attach plans and blue prints, etc.) _____

9. When did the activity/work/operation start at the site of the Unauthorized Activity? Day _____ Month _____ Year _____

10. State all Federal/State/City licenses which were issued for the activity/work/operation.

a. Issuing Agency _____
 Issued to (Name) _____
 Date Issued: Day _____ Month _____ Year _____
 Expiration Date: Day _____ Month _____ Year _____

b. Issuing Agency _____
 Issued to (Name) _____
 Date Issued: Day _____ Month _____ Year _____
 Expiration Date: Day _____ Month _____ Year _____

c. Issuing Agency _____
 Issued to (Name) _____
 Date Issued: Day _____ Month _____ Year _____
 Expiration Date: Day _____ Month _____ Year _____

d. Issuing Agency _____
 Issued to (Name) _____
 Date Issued: Day _____ Month _____ Year _____
 Expiration Date: Day _____ Month _____ Year _____

11. Did you ever inquire of the Army Corps of Engineers if a permit for the Unauthorized Activity was required? Yes _____ No _____

12. If Yes, state the date of contact, the Corps of Engineers' District, and the person(s) you contacted.

a. Date: Day _____ Month _____ Year _____

b. District _____

c. Person(s) contacted _____

13. What information did you receive?

Permit is required for your work _____.

No permit is required _____.

14. Do you have any correspondence, memos, or other material from this contact? Yes _____ No _____

15. Did you ever receive a Corps of Engineers' permit for subject activity/work/operation? Yes _____ No _____

If Yes, state:

a. Issuing Office _____
Date Issued: Day _____ Month _____ Year _____
Permit Number _____
Expiration Date: Day _____ Month _____ Year _____

16. Have you ever been denied a Corps of Engineers' permit for the subject activity/work/operation? Yes _____ No _____.

17. Are you on the Army Corps of Engineers' mailing list for public notices? Yes _____ No _____

18. Were you ever informed by any other permit issuing agency, orally or in writing, that a Corps of Engineers permit might be required for your work? Yes _____ No _____

If Yes, state name and address of agency: _____

19. If the Unauthorized Activity consists of fill or disposal of dredged material, state:

a. Type of material (soil, rock, wet garbage, construction debris, etc.)

b. State amount of cubic yardage placed or discharged:

20. If the Unauthorized Activity consists of dredging, state type of dredge used (clamshell, suction, bucket, etc.):

21. Please submit to this office any information and documentation available to you which tends to substantiate your answers to B-3 through B-7.

22. a. Do you intend to investigate the Unauthorized Activity described in Part A (page A-1) and the circumstances surrounding it? Yes _____
No _____.

b. Do you intend to take steps, to prevent any further activity/work/ operation at the subject property such as posting signs, erecting fences, or other barriers to access, etc.? Yes _____ No _____

23. Please submit to this office any additional information or statements which, in your opinion, are pertinent to the Corps of Engineers' evaluation of the Unauthorized Activity.

C. DETAILED INFORMATION ON THE PERSON(S) INVOLVED IN THE UNAUTHORIZED ACTIVITY

1. Are you the (one of the) Person(s) Responsible for Unauthorized Activity listed in item A(5)? Yes _____ No _____.

a. If "Yes", is the information in item A(5) (Name and Address of Person Responsible for Unauthorized Activity) correct? Yes _____. If not, state your full name, address and phone number.

2. Name and Address:

Name _____
Street & Number _____
County _____ City/Town _____ ZIP _____
State _____ Phone _____

3. Are you operating a business which is associated with the Unauthorized Activity? Yes _____ No _____.

4. If the answer to the above question (C.3.) is "Yes", state the type, the exact name, and address of that business:

Type of Business _____
Name _____
Street & Number _____
County _____ City/Town _____ ZIP _____
State _____ Phone _____

5. State the legal form of the business (Corporation, Partnership, Limited Partnership, etc.): _____

6. State any Federal/State/County/City/Licenses issued for your business.

a. Issuing Agency _____
Issued to (Name) _____
Date Issued: Day _____ Month _____ Year _____
Expiration Date: Day _____ Month _____ Year _____

- b. Issuing Agency _____
 Issued to (Name) _____
 Date Issued: Day _____ Month _____ Year _____
 Expiration Date: Day _____ Month _____ Year _____
- c. Issuing Agency _____
 Issued to (Name) _____
 Date Issued: Day _____ Month _____ Year _____
 Expiration Date: Day _____ Month _____ Year _____

7. Are you the sole owner of that business? Yes _____ No _____.

If No, state the names, addresses and phone numbers of all business associates, partners, or principals (use separate sheet, if necessary).

a. Name _____
 Street & Number _____
 County _____ City/Town _____ ZIP _____
 State _____ Phone _____

b. Name _____
 Street & Number _____
 County _____ City/Town _____ ZIP _____
 State _____ Phone _____

c. Name _____
 Street & Number _____
 County _____ City/Town _____ ZIP _____
 State _____ Phone _____

d. Name _____
 Street & Number _____
 County _____ City/Town _____ ZIP _____
 State _____ Phone _____

8. Is the above-described operation/work/activity conducted for you by persons you supervise? Yes _____ No _____.

If "Yes", state name, addresses and phone numbers of all persons involved (use additional sheet if necessary).

a. Name _____
Street & Number _____
County _____ City/Town _____ ZIP _____
State _____ Phone _____

b. Name _____
Street & Number _____
County _____ City/Town _____ ZIP _____
State _____ Phone _____

9. Is the above-described operation/work/activity conducted for you by persons you employ or have hired? (architect, engineer, contractors, surveyors, etc.)
Yes _____ No _____.

If "Yes", state name, addresses and phone numbers of all persons involved (use additional sheet if necessary).

a. Name _____
Street & Number _____
County _____ City/Town _____ ZIP _____
State _____ Phone _____

b. Name _____
Street & Number _____
County _____ City/Town _____ ZIP _____
State _____ Phone _____

D. DETAILED INFORMATION ON THE PROPERTY INVOLVED IN THE UNAUTHORIZED ACTIVITY

1. Is the description of the location in question A-4 (location of unauthorized activity) correct? Yes _____. If not, give the correct location.

State _____ County _____

City/Town _____

Street & Number _____ ZIP _____

Other Details to Identify Location: _____

2. Give the legal description of the property involved in the Unauthorized Activity.

3. State the names, addresses, and phone numbers of all the property owners:

a. Name _____

Street & Number _____

County _____ City/Town _____ ZIP _____

State _____ Phone _____

b. Name _____

Street & Number _____

County _____ City/Town _____ ZIP _____

State _____ Phone _____

4. Has the property been surveyed? Yes _____ No _____.

5. If "Yes", give name, address and phone number of surveyor.

Name _____

Street & Number _____

County _____ City/Town _____ ZIP _____

State _____ Phone _____

6. What was the date of the survey?

Day _____ Month _____ Year _____

7. Do you have any information that would prove that the property was and is above the plane of Mean Higher High Water or otherwise out of the jurisdiction of the Army Corps of Engineers? Yes _____ No _____.

If "Yes", list information giving source, qualifications of source, and date that the information was acquired.

Information: _____

Source: _____

Qualification of Source: _____

Date: Day _____ Month _____ Year _____

8. List names, addresses, and phone numbers of all adjacent property owners.

a. Name _____

Street & Number _____

County _____ City/Town _____ ZIP _____

State _____ Phone _____

b. Name _____
 Street & Number _____
 County _____ City/Town _____ ZIP _____
 State _____ Phone _____

c. Name _____
 Street & Number _____
 County _____ City/Town _____ ZIP _____
 State _____ Phone _____

d. Name _____
 Street & Number _____
 County _____ City/Town _____ ZIP _____
 State _____ Phone _____

9. Do you object to Army Corps of Engineers' personnel entering the property for the purpose of surveying or inspection?

Yes _____ No _____.