



Reply to  
Attention of:

DEPARTMENT OF THE ARMY  
ALBUQUERQUE DISTRICT, CORPS OF ENGINEERS  
4101 Jefferson Plaza, NE  
Albuquerque, New Mexico 87109-3435  
Phone (505) 342-3300, Fax (505) 342-3287

October 26, 2011

Office of Counsel

Ms. Cyndi Tuell  
Southwest Conservation Advocate  
Center for Biological Diversity  
P.O. Box 710  
Tucson, AZ 85702

Via e-mail to: [ctuell@biologicaldiversity.org](mailto:ctuell@biologicaldiversity.org)

Dear Ms. Tuell:

This letter is to acknowledge and respond to your Freedom of Information Act request for a copy of "correspondence between the Army Corps of Engineers and Catron County Commission (New Mexico), specifically, notices of violation or cease and desist orders in regards to the San Francisco River."

Your FOIA request was received by our office on Wednesday, October 12, 2011 via e-mail. Our office has located the requested information. No information has been withheld due to any exemptions.

The FOIA provides for three categories of requesters: 1) commercial use requesters; 2) educational institutions, noncommercial scientific institutions, and representatives of the news; and 3) all requesters who do not fall within either of the preceding two categories. You fall under category 3 and because the search time did not exceed two hours, you will not be charged search fees for this request. In addition, there are no duplication fees because the documentation is less than 100 pages.

If you have any questions about this response please contact me by phone at (505) 342-3252 or by email at [Regina.L.Schowalter@usace.army.mil](mailto:Regina.L.Schowalter@usace.army.mil) and I will be happy to clarify any issues or answer any questions you have. If you think we have not been responsive to your request, you have the right to appeal this determination to the Secretary of the Army (to the attention of the General Counsel). You must send your appeal through this office. The Army General Counsel must receive your appeal no later than 60 calendar days after the date of this letter for the appeal to be timely. Your appeal should state the basis for your disagreement with this response and include a copy of this response. Address your appeal to: U.S. Army Corps of Engineers, Albuquerque District, CESPA-OC, Freedom of Information Act Appeal 4101 Jefferson Plaza NE, Albuquerque, New Mexico 87109.

Sincerely,

A handwritten signature in black ink, appearing to read "Regina L. Schowalter", written over a horizontal line.

REGINA SCHOWALTER  
FOIA Officer

Enclosure



DEPARTMENT OF THE ARMY  
ALBUQUERQUE DISTRICT, CORPS OF ENGINEERS  
Las Cruces Regulatory Field Office  
505 S. Main St. Suite 142  
Las Cruces, New Mexico 88001  
(575)-556-9939

October 11, 2011

**CERTIFIED MAIL — RETURN RECEIPT REQUESTED**

REPLY TO  
ATTENTION OF:

Regulatory Division  
New Mexico/Texas Branch

SUBJECT: CEASE AND DESIST ORDER Action Number SPA-2011-00442-LCO,  
Unauthorized Discharge of Dredged Material into the San Francisco River, Catron County, New  
Mexico

Catron County Commissioners  
Richard McGuire  
Glyn Griffin  
Hugh B. McKeen  
P.O. Box 507  
Reserve, New Mexico 87830

Dear Catron County Commissioners:

On August 18, 2011, a member of my staff observed that an unauthorized discharge of dredged material into waters of the United States had occurred as described below. On or about August 10, 2011 Catron County Commissioners directed the bulldozing of multiple road crossings through the San Francisco River on NFSR 32 (Catron County Historic Road 12). This activity is approximately located at Latitude 33.608114°, Longitude -108.808006°, Catron County, New Mexico. The activity is a violation of Section 301(a) of the Clean Water Act since a Department of the Army permit was not obtained pursuant to Section 404 of the Clean Water Act. This activity has been assigned Action No. SPA-2011-00442-LCO.

You are hereby directed to cease and desist all unauthorized work in waters of the United States, specifically the San Francisco River. At this time, I have determined that remedial action is not necessary to resolve this violation. If you plan any future work in waters of the United States you must consult the Corps of Engineers (Corps) to determine if a Section 404 permit is required.

Legislation provides for administrative fines as well as civil or criminal penalties for violations of the Clean Water Act. Violations of the Clean Water Act are punishable by civil

finest of up to \$25,000 per day of violation, criminal fines of up to \$50,000 per day of violation and/or imprisonment for up to one year.

By copy of this letter, we are soliciting the views of appropriate Federal, State, and local agencies, which may also have jurisdiction, regarding this unauthorized activity. Based upon your responses to this notice, comments received from the agencies and any available information, we will determine if any additional measures are necessary to resolve this violation of the Clean Water Act.

We look forward to your cooperation in this matter and hope to reach a resolution of your case in the near future. If you have any questions concerning this matter, please feel free to contact Richard Gatewood at (575)-556-9939 or by e-mail at [richard.h.gatewood@usace.army.mil](mailto:richard.h.gatewood@usace.army.mil), or by mail at the above address.

Sincerely,



Allan Steinle  
Chief, Regulatory Division

Copies furnished:

U.S. Attorney's Office  
New Mexico District  
P.O. Box 607  
Albuquerque, New Mexico 87103

U.S. Environmental Protection Agency, Region 6  
Attn: Wetlands Section (6 WQ-EM)  
Mr. Thomas Nystrom  
1445 Ross Avenue, Suite 1200  
Dallas, Texas 75202-2750

U.S. Fish and Wildlife Service  
Attn: Field Supervisor  
Mr. Wally Murphy  
2105 Osuna Road N.E.  
Albuquerque, New Mexico 87113

Gila National Forest  
Attn: Forest Supervisor  
Ms. Kelly Russell  
3005 E. Camino del Bosque  
Silver City, New Mexico 88061

New Mexico Environment Department  
Attn: Surface Water Quality Bureau  
Mr. David Menzie  
3082 32<sup>nd</sup> Street, Suite D  
Silver City, New Mexico 88061