



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue  
Seattle, WA 98101

JUN 08 2007

Reply To  
Attn Of: ETPA-083



SENT VIA CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Chantell and Michael Sackett  
P.O. Box 425  
Nordman, ID 83848-0368

Re: Request for Information Pursuant to Section 308 of the Clean Water Act, 33 U.S.C. § 1318

Dear Mr. and Mrs. Sackett:

The U.S. Environmental Protection Agency ("EPA") is investigating the alleged placement of fill material into wetlands adjacent to Priest Lake in violation of Section 404 of the Clean Water Act, 33 U.S.C. § 1344. The wetlands, which constitute waters of the United States, are located on property at 1604 Kalispell Bay Road, Priest Lake, Idaho.

As part of EPA's investigation of this alleged violation, and pursuant to the agency's authority under Section 308 of the Clean Water Act, 33 U.S.C. §1318, you are requested to respond to the enclosed Information Request. This Information Request pertains to the 1604 Kalispell Bay Road property located in Section 12, Township 60 North, Range 5 West, Boise Meridian, near Lamb Creek, Idaho. The Information Request pertains to Chantell and Michael Sackett, and any employee, contractor or agent of Sackett Contracting & Excavating.

Please read the instructions and definitions in the enclosure carefully before preparing your response. Answer each question as clearly and completely as possible. The response to this request must be accompanied by a certificate, signed and dated by you or the person who is authorized by you to respond to the request. The certificate must state that the response is complete and contains all information and documentation available to you that is responsive to this Information Request. A Statement of Certification is included with this letter.

You are required to submit a response to this Information Request within 15 days of receipt of this letter. Please send your response to:

U.S. Environmental Protection Agency,  
Region 10, Idaho Operations Office  
Attention: Carla Fromm  
1435 N. Orchard St.  
Boise, ID 83706

In accordance with 40 CFR § 2.203(a), you are hereby notified that you may assert a business confidentiality claim covering part or all of the information requested in the manner described by 40 CFR § 2.203(b). Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2, Subpart B. If no confidentiality claims accompany the information when it is received by EPA, the information may, without further notice to you, be made available to the public. EPA's regulations addressing this subject appear in 40 CFR Part 2, Subpart B, and 41 Fed. Reg. 36902 through 36924 (September 1, 1976).

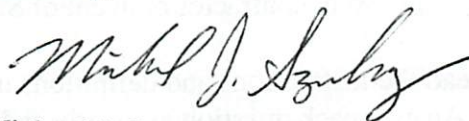
The Small Business Regulatory Enforcement and Fairness Act, Section 222, provides small businesses with the opportunity to submit comments on regulatory enforcement at the time of an Agency enforcement activity. The attached information sheet provides information on this right, as well as information on compliance assistance that may be available to you. The Small Business Ombudsman may be reached at 1-800-368-5888.

Failure to provide all the information requested in this letter or to explain adequately the basis for such failure, or the making of any false material statement or representation in response to this Information Request, may constitute a violation of Section 308 of the Clean Water Act, and may result in an enforcement action and the imposition of civil and/or criminal penalties or fines pursuant to Section 309 of the Clean Water Act, 33 U.S.C. § 1319, and Title 18 of the United States Code, 18 U.S.C. § 1001.

If you have any questions concerning this investigation or other matters related to this request, please contact Ankur Tohan with the EPA Office of Regional Counsel, at 206-553-1796.

Thank you for your cooperation in this matter.

Sincerely,



Michael J. Szerlog, Manager  
Aquatic Resources Unit

Enclosures:

- (1) Information Request
- (2) Statement of Certification
- (3) Information Sheet (U.S. EPA Small Business Resources)

cc: Barbara Benge, U.S. Army Corps of Engineers, Walla Walla District  
Ankur Tohan, EPA ORC-158  
Carla Fromm, EPA IOO

**INFORMATION REQUEST**

This information is requested pursuant to Section 308(a) of the Clean Water Act, 33 U.S.C. § 1318(a).

**Instructions**

1. Any documents relied upon or used by you to answer any of the questions in the request must be copied and submitted to EPA with your response. All documents must contain a notation indicating the question to which they are responsive.
2. If any question cannot be answered in full, answer to the extent possible. If your responses are qualified in any manner, please explain.
3. If information or documents not known or not available to you as of the date of submission of your response to this request should later become known or available to you, you must supplement your response to EPA. Should you find, at any time after the submission of your response, that any portion of the submitted information is false or misrepresents the truth, you must notify EPA of this fact as soon as possible and provide a corrected response.

**Definitions**

The following definitions shall apply to this request:

1. The term "you" shall mean the addressee of this request, the addressee's company or other business entity, its officers, directors, managers, employees, contractors, trustees, partners, successors, assigns, and agents.
2. The term "person" shall have the same definition as in Section 502(5) of the Clean Water Act, 33 U.S.C. § 1362: an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.
3. The term "identify" means, with respect to a natural person, the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position, or business.
4. The term "identify" means, with respect to a corporation, partnership, or other association or business entity (including a sole proprietorship), its full name, address, legal form (*e.g.*, corporation, partnership, *etc.*), organization, if any, and a brief description of its business.
5. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number, if any (*e.g.*, invoice or purchase order number), and the substance or subject matter.

6. The term "the Site" means the property on which the alleged violations occurred, and all adjacent property to which you have claim of title or operation. In this case "the Site" refers to the property adjacent to Priest Lake located at 1604 Kalispell Bay Road in Section 12, Township 60 North, Range 5 West, Boise Meridian, near Lamb Creek, Idaho.
7. The terms "document" and "documents" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including, but not limited to, any invoice, bill of lading, receipt, correspondence, memorandum, calendar, notebook, check, canceled check, bank statement, report, message, audio or video tape, photograph, graph, chart, photocopy, map or plan; and, (a) all copies of such document(s) which are different than the original, (b) drafts, (c) attachments to or enclosures with any document, and (d) every document referred to in any other document.
8. The term "waters of the United States" shall have the same definition as in 33 C.F.R. Part 328.
9. The term "wetlands" shall have the same definition as in 33 C.F.R. ' 328.3(b).
10. The terms "dredged material", "discharge of dredged material", "fill material" and "discharge of fill material" shall have the same definitions as in 33 C.F.R. ' 323.2.
11. The terms Aand@ and Aor@ shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this request any information which might otherwise be construed to be outside its scope.
12. Words in the masculine shall also be construed in the feminine, and vice versa, and words in the singular shall also be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions.
13. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in the Clean Water Act, 33 U.S.C. ' 1251 *et seq.*, or in the regulations found at 33 C.F.R. Parts 323 and 328, in which case the statutory or regulatory definitions shall apply.

Questions

1. Identify the property owner(s) of the Site.
2. Were you involved in the dredging and/or filling of wetlands at the Site, or other placement of fill on the Site for any purpose? This includes directing employees, contractors, or other persons or entities to dredge and/or fill the Site.
3. If your answer to Information Request question number 2 is yes, describe in detail all work performed at the Site and state the purpose(s) for the work. Your description should include, but not be limited to, a detailed description of excavation and any photographic documentation of the Site prior to filling. Include the square footage of area that was dredged and/or filled. Attach documentation of the costs associated with the dredging and/or filling activities; indicate to whom these costs have or will be paid.
4. Provide an estimate of the total volume (in cubic yards) of dredged and/or fill material discharged by you or any other person(s) at the Site into waters of the United States, including wetlands.
5. Were materials excavated and removed from the Site?
6. If your answer to Information Request question number 5 is yes, provide a detailed description of when and where the materials were deposited. What construction equipment, *i.e.*, bulldozer, track hoe, back hoe, tractor, *etc.*, if any was used to perform the work, and who is the owner(s) of each such piece of equipment? If the excavated materials were deposited on land (including wetlands), provide the name of the property owner and a legal description of the property. Was the excavated material deposited in wetlands and/or uplands? What is the estimated total volume (in cubic yards) of excavated materials deposited off-Site? What is the square footage of the area covered by excavated materials at the off-Site location? Who deposited the excavated material off-Site and under whose direction? What were the reasons or purposes for depositing excavated material at the off-Site location? Attach documentation of the costs associated with depositing the excavated materials at the off-Site location; indicate who has or will pay for the work.
7. What is the source of the dredged and/or fill material discharged at the Site into waters of the United States, including wetlands? Identify the material source site(s) and/or the name(s), address(es), and telephone number(s) of the material source supplier(s).
8. When were the dredging and/or filling activities commenced and completed at the Site? Provide specific dates.
9. What construction equipment, *i.e.*, bulldozer, track hoe, back hoe, tractor, *etc.*, if any was used to perform the work on Site, and who is the owner(s) of each such piece of equipment?

10. Provide a list of name(s), address(es), and telephone number(s) of any person(s) involved with the discharge of dredged and/or fill material at the Site into waters of the United States, including wetlands. For all individuals named, identify his/her employer and the manager, if any, who instructed him/her to perform the work.
11. Chantell Sackett told Carla Fromm (an EPA representative) that she spoke with the Army Corps of Engineers about whether or not a permit was needed to fill or build on the Site. Provide a detailed account of when this conversation occurred, the name of the Army Corps of Engineers' representative, and describe the substance of the conversation.
12. Prior to commencement of dredging and/or fill work at the Site, have you or your company ever applied for a Clean Water Act Section 404 permit at any locations beyond the Site? If so, please provide an account of the dates the permits were requested and whether the permits were issued.
13. Have you or your company ever sought a Section 404 permit for dredging and/or fill activities at the Site prior to the work described under questions 2 and 3 above? If so, please provide an account of the dates the permits were requested and whether the permits were issued.
14. Provide a detailed explanation of your reasons for not obtaining a Section 404 permit prior to beginning the dredging and/or filling activities at the Site.
15. Describe in detail all future development plans proposed by you and/or other person(s) at the Site.

**STATEMENT OF CERTIFICATION**

Chantell Sackett

I certify that the foregoing responses and information submitted were prepared under my direction or supervision and that I have personal knowledge of all matters set forth in the responses and the accompanying information. I certify that the responses are true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

By \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

**STATEMENT OF CERTIFICATION**

Michael Sackett

I certify that the foregoing responses and information submitted were prepared under my direction or supervision and that I have personal knowledge of all matters set forth in the responses and the accompanying information. I certify that the responses are true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

By \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)





Office of Enforcement and Compliance Assurance  
**INFORMATION SHEET**

## U. S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance and tools to assist you in complying with federal and state environmental laws. These resources can help you understand your environmental obligations, improve compliance and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

### Hotlines, Helplines and Clearinghouses

EPA sponsors approximately 89 free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements.

**The National Environmental Compliance Assistance Clearinghouse** provides quick access to compliance assistance tools, contacts, and planned activities from the U.S. EPA, states, and other compliance assistance providers:  
[www.epa.gov/clearinghouse](http://www.epa.gov/clearinghouse)

**Pollution Prevention Clearinghouse**  
[www.epa.gov/opptintr/library/ppicindex.htm](http://www.epa.gov/opptintr/library/ppicindex.htm)

**EPA's Small Business Ombudsman Hotline** provides regulatory and technical assistance information.  
(800) 368-5888

**Emergency Planning and Community Right-To-Know Act**  
(800) 424-9346

**National Response Center** (to report oil and hazardous substance spills)  
(800) 424-8802

**Toxics Substances and Asbestos Information**  
(202) 554-1404

**Safe Drinking Water**  
(800) 426-4791

**Stratospheric Ozone Refrigerants Information**  
(800) 296-1996

**Clean Air Technology Center**  
(919) 541-0800

**Wetlands Helpline**  
(800) 832-7828

### EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. If you don't have access to the Internet at your business, many public libraries provide access to the Internet at minimal or no cost.

**EPA's Home Page**  
[www.epa.gov](http://www.epa.gov)

**Small Business Assistance Program**  
[www.epa.gov/ttn/sbap](http://www.epa.gov/ttn/sbap)

**Compliance Assistance Home Page**  
[www.epa.gov/compliance/assistance](http://www.epa.gov/compliance/assistance)

**Office of Enforcement and Compliance Assurance**  
[www.epa.gov/compliance](http://www.epa.gov/compliance)

**Small Business Ombudsman**  
[www.epa.gov/sbo](http://www.epa.gov/sbo)

**Innovative Programs for Environmental Performance**  
[www.epa.gov/partners](http://www.epa.gov/partners)



## U.S. EPA SMALL BUSINESS RESOURCES

### Compliance Assistance Centers

In partnership with industry, universities, and other federal and state agencies, EPA has established Compliance Assistance Centers (Centers) that provide information targeted to industries with many small businesses. All Centers can be accessed at:  
<http://www.assistancecenters.net>

#### Metal Finishing

(1-800-AT-NMFRC or [www.nmfrc.org](http://www.nmfrc.org))

#### Printing

(1-888-USPNEAC or [www.pneac.org](http://www.pneac.org))

#### Automotive Service and Repair

(1-888-GRN-LINK or [www.ccar-greenlink.org](http://www.ccar-greenlink.org))

#### Agriculture

(1-888-663-2155 or [www.epa.gov/agriculture](http://www.epa.gov/agriculture))

#### Printed Wiring Board Manufacturing

(1-734-995-4911 or [www.pwbrc.org](http://www.pwbrc.org))

#### Chemical Industry

(1-800-672-6048 or [www.chemalliance.org](http://www.chemalliance.org))

#### Transportation Industry

(1-888-459-0656 or [www.transource.org](http://www.transource.org))

#### Paints and Coatings

(1-800-286-6372 or [www.paintcenter.org](http://www.paintcenter.org))

#### Construction Industry

([www.cicacenter.org](http://www.cicacenter.org))

#### Automotive Recycling Industry

([www.ecarcenter.org](http://www.ecarcenter.org))

#### US / Mexico Border Environmental Issues

([www.bordercenter.org](http://www.bordercenter.org))

### State Agencies

Many state agencies have established compliance assistance programs that provide on-site and other types of assistance. Contact your local state environmental agency for more information or call EPA's Small Business Ombudsman at (800)-368-5888 or visit the Small Business Environmental Homepage at <http://www.smallbiz-enviroweb.org>.

### Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two policies that potentially apply to small businesses: The Small Business Policy ([\[www.epa.gov/compliance/incentives/smallbusiness\]\(http://www.epa.gov/compliance/incentives/smallbusiness\)\) and Audit Policy \(<http://www.epa.gov/compliance/incentives/auditing>\).](http://</a></p></div><div data-bbox=)

### Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established an ombudsman ("SBREFA Ombudsman") and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The SBREFA Ombudsman will annually rate each agency's responsiveness to small businesses. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System (NAICS) designation, number of employees or annual receipts, defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community because the regulated community previously commented on its activities.

### Your Duty to Comply

If you receive compliance assistance or submit comments to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

*EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act (SBREFA) or related provisions.*