



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO  
CORPS OF ENGINEERS  
1325 J STREET  
SACRAMENTO CA 95814-2922

**RECEIVED**  
DEC 07 2012  
GRAND JUNCTION FIELD OFFICE  
DIVISION OF  
RECLAMATION MINING & SAFETY

**CERTIFIED MAIL RETURN RECEIPT REQUESTED**

December 6, 2012

Regulatory Division SPK-2012-01268

Mr. Ted Albers  
Wand, Incorporated  
P.O. Box 812  
Craig, CO 81626

Mr. P.J. Nichols  
Northwest Aggregates, Incorporated  
P.O. Box 1536  
Craig, CO 81626

Dear Messrs. Albers and Nichols:

We are writing to inform you of our investigation findings regarding the unauthorized work within waters of the United States (WOUS) resulting from the creation of an approximately 10-acre gravel pit on property owned by Wand, Incorporated and Northwest Aggregates, Incorporated (Moffat County land parcel number 085304200268). The property is located adjacent to and abutting the Yampa River, 40°30'16.99" north latitude, -107°30'14.32" west longitude, in Section 4, Township 6 North, Range 90 West, approximately 2 miles east of the town of Craig, Moffat County, Colorado.

As discussed with you during the summary of the August 23, 2012 site visit with Steve Moore and Nathan Green of this office, it has been determined that you have filled WOUS without a valid Department of the Army permit. The unauthorized work occurred at two locations on the property. The first involves the placement of rip-rap below the Ordinary High Water Mark (OHWM) of various portions of a 1,300 linear-foot section of the north bank of the Yampa River, including wetlands. The second location is within and around the gravel pit perimeter. This work was performed, with Mr. Albers consent, by Northwest Aggregates.

We are also in receipt of a wetland delineation and after-the-fact (ATF) permit application for Nationwide Permit number 44 (mining activities), submitted on October 15, 2012 on your behalf by Mr. Kent Crofts of IME. While we appreciate this pro-active step and believe the wetland delineation will be useful, we are still evaluating the impacts of this unauthorized activity and soliciting feedback from other agencies. We have not, at this time, determined that ATF authorization will be utilized to resolve this violation. Accordingly, the submission of an ATF permit application is premature and cannot be accepted at this time.

The next step in the process, as discussed during the August 23, 2012 site visit, will be to perform a site visit in the spring of 2013, during the growing season and as soon as site conditions are favorable. The purpose of that visit will be to verify the wetland delineation and quantify WOUS impact maps submitted by IME, and to discuss potential restoration and/or mitigation options. To that end we will contact you in the spring of 2013 to schedule a site visit.

By copy of this letter, we are also soliciting the views of appropriate Federal, State, and local agencies, which may also have jurisdiction regarding this unauthorized activity. We request that any agency that wishes to comment notifies us of their intent to do so by **January 15, 2013**.

To ensure that all pertinent information is available for our evaluation and included in the public record, you both are invited to provide any additional information which you feel should be considered. Since the information provided will become a part of the public record, it may be presented in any court action that could result from this investigation and will be retained in our files. Any information you wish to provide should reach this office no later than **January 15, 2013**.

Please refer to identification number SPK-2012-01268 in any correspondence concerning this project. If you have any questions, please contact Mr. Steve Moore at the Colorado West Regulatory Branch, 400 Rood Avenue, Room 224, Grand Junction, Colorado 81501, by email at [stephen.a.moore@usace.army.mil](mailto:stephen.a.moore@usace.army.mil), or by telephone at 970-243-1199, extension 13. We appreciate your verbal commitment, made during the August 23, 2012 site investigation, to cooperate with us to resolve this Clean Water Act violation.

Sincerely,

**Original Signed**

Susan Bachini Nall  
Chief, Colorado West Regulatory Branch

Copies furnished:

Ms. Monica Heimdal, 8ENF-W, Water Technical Enforcement Program, Office of Enforcement, Compliance and Environmental Justice, U.S. Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129

✓ Mr. Dustin Czapla, Colorado Department of Natural Resources, Division of Reclamation, Mining and Safety, 101 South 3rd, Suite 301, Grand Junction, Colorado 81501

Ms. Patty Schrader Gelatt, Western Colorado Supervisor, U.S. Fish and Wildlife Service, Ecological Services, 764 Horizon Drive, Building B, Grand Junction, Colorado 81506

Mr. Jerry Hoberg, Moffat County Planning Department, 221 West Victory Way, Suite 110, Craig, Colorado 81625

Mr. Kent Crofts, IME, P.O. Box 270, Yampa, Colorado 80483