UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

MAY 03 2018

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Joseph Consorti
Consorti Brothers
208 South Plank Road
Newburgh, New York 12550

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

Dear Mr. Consorti:

The U.S. Environmental Protection Agency ("EPA"), Region 2 has received information regarding activities on a certain property in the Town of Newburgh, NY that have resulted in alleged discharges of fill material into wetlands potentially under federal jurisdiction. This property is located at 505 Gardnertown Road, tax parcel 60-2-62 (the "Site") and is owned and/or operated by Orange Lake Construction Corp. Activities at the Site appear to have included extensive earthmoving, grading, and filling. According to information provided to us by the Town of Newburgh, your company is or was a tenant at the Site. Therefore, we are issuing to you this Request for Information to aid in our investigation.

EPA is seeking information, pursuant to the authority granted to it under Section 308 of the Clean Water Act, 33 U.S.C.§ 1318 ("Act"), and the regulations promulgated thereunder, from Consorti Brothers (hereinafter "Respondent"). The Site drains to perennial tributaries of the Hudson River, a traditional navigable water of the United States.

For each and every request, if you have reason to believe that there may be a person(s) who may be able to provide a more detailed or complete response to such request or may be able to provide additional responsive documents, then as a part of your response to such request, identify each such person and the additional information or documents which such person may be able to provide. Furthermore, for each and every response, if information or documents responsive to such request are not in your possession, custody, or control, then as part of your response to such request, identify each person from whom such information or documents may be obtained.

EPA is authorized under Section 308(a) of the Act, 33 U.S.C. § 1318(a), to require owners and/or operators of any point source to, among other things, provide certain information, establish records and make such reports as necessary to carry out the objectives of the Act. Pursuant to Section 308 of the Act, 33 U.S.C. § 1318, Respondent is directed to provide to EPA the information requested in the enclosure. Respondent should be aware that failure to provide the requested information or providing misleading or false information may result in the issuance of orders requiring compliance, the imposition of civil or administrative penalties, or the imposition of criminal fines or penalties. The information you provide may be used by EPA in administrative, civil, or criminal proceedings (*see* 33 U.S.C § 1319).

You are entitled to assert a claim of business confidentiality covering any part or all of the information,

in a manner described in 40 C.F.R. § 2.203(b). Information subject to a claim of business confidentiality will be made available to the public only in accordance with 40 C.F.R. Part 2, Subpart B. Unless a claim of business confidentiality is asserted at the time the requested information is submitted, EPA may make this information available to the public without further notice to you. This inquiry is not subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35 (*see* 5 C.F.R. § 1320.3(c)).

Because this is a formal Request for Information issued to you pursuant to Section 308(a) of the Act, 33 U.S.C. § 1318(a), you are legally required to respond within a reasonable time frame. We request that you fully respond to the requested information within **thirty (30) days** of receipt of this letter. Please forward a copy of the requested information as set forth in the Instructions.

This request is of an ongoing nature. Should any additional information or documentation become available after provision of the responsive documents by Respondent, then Respondent is under an obligation to provide such additional information or documentation to EPA.

Should you have any questions regarding this information request, please contact Ms. Stephanie Andreescu of my staff at (212) 637-3818. Thank you for your attention to this matter.

Sincerely,

Richard P. Balla, Chief
Watershed Management Branch

Enclosure

cc: Mr. Brian Orzel
U.S. Army Corps of Engineers, New York District

Mr. James Campbell
Town of Newburgh Code Compliance

REQUEST FOR INFORMATION

This information is requested pursuant to Section 308 of the Clean Water Act, 33 U.S.C. § 1318. The Instructions and Definitions for responding to this Request for Information are as follows:

A. Instructions & Definitions

1. A separate narrative response must be made for each question set forth below, and for each subpart of each question.

2. Precede each answer with the corresponding number of the question and subpart to which it responds.

3. Provide all information and documents in your possession which relate to the responses given. With respect to each document, identify the date, author, addressee, current location, and custodian and identify the question or subpart to which it relates.

4. The term "document" refers to "writings," "recordings" and "photographs" as those terms are defined in Rule 1001 of the Federal Rules of Evidence. The term "document" also refers to electronically stored "writings," "recordings," "emails," and "reports," among other things, created in the ordinary course of business and that are relevant to the operation or business undertakings of Consorti Brothers. Documents should be produced as they are kept in the usual course of business and, if in electronic form, in a format that can be accessed and read by EPA.

5. The terms "you" and "your" refers to Consorti Brothers (hereinafter, "Respondent").

6. The term "Site" refers to the property in the possession, custody, or control of Joseph Ruggiero and/or Orange Lake Construction Corp., with a location at 505 Gardnertown Road, tax parcel 60-2-62, Town of Newburgh, Orange County, New York.

7. The term "work" includes, but is not limited to the grading, mechanized land clearing, filling, dumping, and construction activities conducted at the Site.

8. If any question cannot be answered in full, answer to the fullest extent possible along with an explanation of why the question cannot be answered in full. If your responses are qualified in any manner, please explain.

9. 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. Moreover, 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.

10. The following certification must accompany each submission pursuant to this request and must be signed by a representative authorized to respond on behalf of Consorti Brothers (*see* 40 C.F.R. § 122.22):

"I certify that the information contained in or accompanying this submission is true, accurate, and complete. As to the identified portion(s) of this submission for which I cannot personally verify its truth and accuracy, I certify as the company official having supervisory responsibility for the person(s) who, acting under my direct instructions, made the verification, that this information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

11. All information required to be submitted pursuant to this Request for Information shall be sent certified mail or its equivalent within thirty (30) days of receipt of this Request for Information to:

Ms. Stephanie Andreescu
Watershed Management Branch
United States Environmental Protection Agency, Region 2
290 Broadway
New York, NY 10007

B. Request for Information

Respondent is hereby required, pursuant to Section 308 of the Clean Water Act, 33 U.S.C. § 1318, to submit the following information pursuant to the Instructions set forth above:

1. State the name, address, telephone number, and occupation of each person providing responses, or contributing information to the responses, to this Request for Information. Identify Respondent's business form. If a corporation, please give the corporation's date and state of incorporation, the name and address of its agent for service of process, its address, and the nature of its business.

2. State the nature and the purpose of the work at the Site. State each instance when work was performed at the Site. State the start date and duration of such work. State who ordered, directed, supervised, funded, and/or accomplished the work, or any part thereof.

3. Provide copies of all documents related to work performed at the Site. Such documents should include, but not be limited to, plans, drawings, specifications, permits, agreements, contracts, receipts, invoices, checks, and other documents which relate to work at the Site.

4. Provide copies of any applications or construction/engineering plans submitted to the Town of Newburgh; or any other local, state, or federal agency, for permits or other authorizations related to the work at the Site.

5. Identify the entities who are party to any contract or agreement to perform work at the Site; provide the name(s), address(es) and telephone numbers of the individual(s) or contractor(s) responsible for conducting the work. Provide details of any and all agreements, or parts thereof reduced to writing; and describe any oral agreements.

6. Identify any and all efforts by Respondent or anyone acting on Respondent's behalf demonstrating compliance with the Clean Water Act with respect to any work performed at the Site.

7. Provide copies of any and all authorizations to discharge dredged and/or fill material pursuant to Section 404 of the Clean Water Act, 33 U.S.C. § 1344, issued by the U.S. Army Corps of Engineers (Corps) for the Site.

8. Provide copies of all documents, or parts thereof that assess or identify, or purport to assess or identify the extent of any waters of the United States as that term is defined at 33 U.S.C. Part 328, at the Site, including aerial photographs and plans. Identify any entities who are party to any contract or agreement that identified wetlands or streams at the Site. Provide details of any and all agreements, or parts thereof reduced to writing; and describe any oral agreements.

9. Provide a description of fill material imported to the Site, including its source, volume, and type.

10. Provide a description of the manner in which the work was conducted, including the type of equipment used in conducting the work at the Site.

11. Did you or anyone acting on your behalf have any communications, either verbally or in writing, with any representatives of the Corps or the New York State Department of Environmental Conservation (NYSDEC) with regard to work at the Site or compliance with the Clean Water Act at the Site? If so, state the name and telephone number of the person(s) with whom you communicated with or with whom communications were made on your behalf. Provide copies of any and all written communications between you and anyone acting on your behalf and any representatives of the Corps or NYSDEC, including all notes, memoranda, transcriptions, or other documents memorializing any conversations by and between you and anyone acting on your behalf and any representatives of the Corps or NYSDEC.

12. Were erosion and sediment controls implemented in connection with any work performed at the Site? Identify all persons responsible for construction and maintenance of erosion and sediment controls implemented at the Site. Describe the construction and maintenance of all erosion, sediment and stormwater controls implemented at the Site. Provide copies of all documents related to implementation of erosion and sediment controls, including, but not limited to, copies of all erosion, sediment, and stormwater control inspections and maintenance records and copies of all inspections.

13. Provide copies of all Notices of Violations issued by NYSDEC for the Site.

14. Provide any additional documents or information that you deem to be pertinent to this investigation.