UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

22 FEB 2017

CERTIFIED MAIL–RETURN RECEIPT REQUESTED

Mr. Paul Loyacono
Loyacono Law Office
727 Fort Hill Drive
Vicksburg, MS 39183

Re: Bobby Hobson - Information Request pursuant to Section 308 of the Clean Water Act

Dear Mr. Loyacono:

Enclosed is an Information Request (Request) issued to Mr. Bobby Hobson pursuant to Section 308(a) of the Clean Water Act (Act), 33 U.S.C. § 1318(a), which authorizes the U.S. Environmental Protection Agency (EPA) to request information required to carry out the objectives of the Act. The Request relates to the alleged unauthorized discharges of dredged and/or fill materials into wetlands located west of Longfield Road and east of Bayou DeLoutre, without a permit, in Union Parish, Louisiana.

Please respond to this Request within thirty (30) days of your receipt of this letter. Failure to respond fully and truthfully to this Request or to adequately justify such failure to respond can result in enforcement action by EPA pursuant to Section 309 of the Act, 33 U.S.C. § 1319. EPA urges you to give this matter your immediate attention and respond to this Request in a timely manner. Your response should be mailed to Ms. Jeanene Peckham (6WQ-EM) at the address above.

If you have any questions regarding this Request, you may contact Ms. Jeanene Peckham, of my staff, at (214) 665-6411 or Ms. Kristine Talbot, of the Office of Regional Counsel, at (214) 665-8356.

Sincerely,

William K. Honker, P.E.
Director
Water Division

Enclosures

cc: Mr. Bobby Hobson
Post Office Box 345
Sterlington, LA 71280

Colonel John W. Cross, Vicksburg COE

ENCLOSURE A

INFORMATION REQUEST

The United States Environmental Protection Agency ("EPA") Region 6 is investigating compliance with the Clean Water Act ("CWA"), 33 U.S.C. §§ 1251-1387. Pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, you are hereby required to follow the instructions and provide responses to the information required by the questions in this Information Request ("Request"). You are required to submit the requested information to EPA within thirty (30) calendar days of receipt of this Request. If you anticipate that you will be unable to fully respond to this Request within thirty (30) calendar days, you must submit a sworn affidavit or declaration within ten (10) calendar days of receipt of this Request specifying the following: what information will be provided within the specified thirty (30) calendar day time period; what efforts have been/are being made to obtain other responsive information; and a detailed schedule of when such other responsive information can be provided. Upon receipt and based on such affidavit or declaration, EPA Region 6 may extend the time in which you must provide the responsive information. Furthermore, EPA Region 6 retains its right to obtain additional information beyond what is sought in this Request.

All information submitted in response to this Request must be certified as true, accurate, and complete. An affidavit making such representations is provided in Enclosure B. A knowing submittal of false information in response to this Request may be actionable under 18 U.S.C. § 1001 and 33 U.S.C. § 1319(c). Furthermore, failure to fully comply with this Request may subject you to an enforcement action under Section 309 of the CWA, 33 U.S.C. § 1319.

In accordance with Section 308(b) of the CWA, 33 U.S.C. § 1318(b), the records, reports, and information requested in this Request must be submitted, whether or not you regard part or all of it as a trade secret or confidential. You may, if you desire, assert a business confidentiality claim for all or part of the information submitted in accordance with 33 U.S.C. § 1318(b) and 40 C.F.R. Part 2. Please note that "effluent data" – as defined in 40 C.F.R. § 2.302(a)(2) – provided to EPA pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, is not entitled to confidential treatment under 40 C.F.R. Part 2. The information qualifying as business confidential will be disclosed by EPA only to the extent and by the procedures set forth in Section 308(b) of the CWA, 33 U.S.C. § 1318(b), and 40 C.F.R. Part 2, Subpart B. Unless you make a claim at the time that you submit the information, it may be made available to the public by EPA without further notice to you. If you do assert a business confidentiality claim, you must follow the procedures set forth in Section I – Instructions.

All information responsive to this Request should be sent to the following:

Ms. Jeanene Peckham
Enforcement Officer (6WQ-EM)
Water Division
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

I. INSTRUCTIONS

1. The enclosed Affidavit (Enclosure B) must be filled out and submitted along with your responses to this Request.

2. Respond to Each Request Completely. Each request is numbered and may contain subparts identified by lowercase letters. A separate response must be made to each request and subpart. Provide a separate narrative response to each request and subpart and clearly identify your responses with the number, subpart, and text of the request to which it corresponds. You must also submit any documents you relied on in preparing your response. Incomplete, evasive, or ambiguous answers shall constitute failure to respond to this Request and may subject you to an enforcement action as discussed in the cover letter.

3. Source(s) of Response. Include with each narrative response, the name, position, and title of each person(s) who provided information responsive to the request.

4. Electronic Submittal. Except for the maps and diagrams, you may submit your responses as one or more electronic files on a CD or similar media storage device, provided your electronic files are accompanied by a letter that identifies the file software and version, file name(s), size(s), date(s), and time(s) of creation.

5. Submission of Documents. Label each document submitted with the request number and subpart (if applicable) to which it corresponds. Date stamp each document you submit.

6. Documents Responsive to More than One Request. If a document you submit is responsive to more than one request, provide one copy of the document and identify all the requests, by number and subpart, to which it corresponds.

7. Do Not Substitute Derivative or Summary Documents. Where a document is requested, please provide the responsive document. You may, if you wish, provide additional or explanatory documents to accompany the responsive document(s). However, your failure to provide the document requested will be considered a failure to completely respond to this Request.

8. Provide the Best Information Available. Unless otherwise specified, responses do not require you to create new data or information. However, you should provide responses to the best of your ability, even if the information sought was never put down in writing or if the written

documents are no longer available. You should seek responsive information from current and former employees and/or agents. Submission of cursory responses when other responsive information is available to you will be considered a failure to completely respond to this Request. If you cannot provide a precise answer to any questions, please approximate and state the reason for your inability to be specific.

9. Unavailability of Records. If you are unable to respond to a request in a detailed and complete manner, or if you are unable to provide any of the information requested, indicate the reason for your inability to do so. If a record(s) responsive to a request is not in your possession, custody, or control and you have reason to believe that another person may be able to provide it, state the reasons for your belief and provide the person's name, address, telephone number, and any information available (i.e., author, date, or subject matter) about the record(s).

10. Documents That Have Been Transferred. If any records responsive to a request have been transferred or otherwise disposed of, identify the document, identify the person to whom it was transferred, describe the circumstances surrounding such transfer or other disposition, and state the date or approximate date of such transfer or other disposition.

11. Duty to Provide and/or Correct Information on a Continuing Basis. If information or documents responsive to a request were not known or were not available to you at the time you submitted your response, but later become known or available to you, you must submit the new information as a supplement to your response. If at any time after submission of your response you learn that any portion is or becomes false, incomplete, or misrepresents the facts, you must notify EPA of this fact as soon as possible and provide a corrected response. Failure to supplement your response within thirty (30) days of discovering such responsive information may subject you to an enforcement action. If any part of the response to this Request is found to be false, the signatory to the response may be subject to criminal prosecution.

12. Identify Personal Privacy Information. Personnel and medical files, and similar files, the disclosure of which to the general public may constitute an invasion of privacy, should be segregated from your responses, included on separate sheet(s), and marked as "Personal Privacy Information." You should note however, that unless prohibited by law, EPA may disclose this information to the general public without further notice to you.

13. Indicate Objections to Requests. While you may indicate that you object to certain requests contained in this Request, you must provide responsive information notwithstanding those objections. To object without providing responsive information may subject you to an enforcement action as discussed in the cover letter.

14. Claims of Privilege. If you claim that an entire document responsive to this Request is a communication for which you assert that a privilege exists, identify the document and provide the basis for asserting the privilege. For any document for which you assert that a privilege exists for a portion of it, provide the portion of the document for which you are not asserting a privilege; identify the portion of the document for which you are asserting the privilege; and

provide the basis for such an assertion. Please note that regardless of the assertion of any privilege, any facts contained in the document which are responsive to the Request must be disclosed in your response.

15. Confidential Information. If you wish to assert a claim of business confidentiality, you must clearly mark each page of each document included in your claim with a legend such as "trade secret," "proprietary," or "company confidential." If you claim information submitted in response to this Request as confidential, you must also provide a redacted version of the information with all confidential business information deleted. For any document in which you assert a claim of business confidentiality, please answer the following questions:

    a. What specific portions of the information are alleged to be entitled to confidential treatment? Specify by page, paragraph, and sentence when identifying the information subject to your claim.

    b. For what period of time do you request that the information be maintained as confidential (i.e. until a certain date, until the occurrence of a specified event, or permanently)? If the occurrence of a specific event will eliminate the need for confidentiality, specify that event. Additionally, explain why the information should be protected for the time period specified.

    c. What measures have you taken to protect the information claimed as confidential from undesired disclosure? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If yes, why is the information still considered confidential?

    d. Is the information contained in any publicly accessible forums or materials such as the internet, databases, promotional publications, annual reports, or articles? Are there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?

    e. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.

    f. For each category of information claimed as confidential, explain with specificity whether disclosure of the information is likely to result in substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?

    g. Is there any other explanation you deem relevant to EPA's determination of your business confidentiality claim that is not covered in the preceding questions? If so, you may provide such additional explanation.

You must furnish answers to the above questions concurrent with your response to this Request if you have claimed any information as business confidential. *See* 40 C.F.R. § 2.204(e)(2). Pursuant to 40 C.F.R. § 2.205(b)(2), you may request an extension of this deadline. EPA will construe your failure to furnish timely answers as a waiver of your confidentiality claim, consistent with 40 C.F.R. § 2.204(e)(1).

Finally, EPA may disclose information which you submit in response to this Request to authorized representatives of the United States pursuant to 40 C.F.R. § 2.302(h) even if you assert that all or part of the information is confidential business information. Please be advised that EPA may disclose all responses to this Request to one or more private contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Request. If you are submitting information which you assert is entitled to confidential treatment, you may comment on this potential disclosure to authorized representatives when you submit your response to this Request.

II. DEFINITIONS

Unless stated otherwise, terms in this Request have the same definition used in the CWA, 33 U.S.C. §§ 1251 through 1387, and the regulations promulgated thereunder.

1. "Alleged unauthorized activities" means the alleged discharge of dredged and/or fill material from point sources, including heavy equipment, in, on, and to wetlands associated with the construction of a trail or road on the property.

2. The terms "and" and "or" 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.

3. The term "any," as in "any documents," for example, shall mean "any and all."

4. The term "correspondence" or "communications" includes, but is not limited to, all oral, written, telephonic, facsimile, and electronic correspondence and/or communications.

5. The term "day" means a calendar day unless expressly stated to be a working day. In computing any period of time under this Request, where the last day would fall on a Saturday, Sunday, or federal or state holiday, the period runs until the close of business of the next working day.

6. The term "describe" means to detail, depict, or give an account of the requested information, or to report the content of any oral and/or written correspondence, communication, or conversation, or to report the contents of any document, including the title, the author, the position or title of the author, the addressee, the position or title of the addressee, indicated or blind copies, date, subject matter, number of pages, attachment or appendices, and all persons to whom the document was distributed, shown, or explained.

7. The term "document" means any object that records, stores or presents information including, but not limited to, tangible writings of any kind, photographs, sound recordings and magnetic disks, hard drives, floppy disks, compact disks or any other computer-related device which serves as a medium for electronically recording or storing information (or, in lieu thereof, hard copies of such information electronically recorded or stored).

8. The term "identify" means to provide:

    a. with respect to an individual, the person's name, job title, business address and business telephone number;

    b. with respect to a corporation, partnership, sole proprietorship or other business entity, its full name, address, legal status and form (e.g., corporation, partnership, etc.) and a brief description of its business; and

    c. with respect to a document, its customary business description, date, number if any (e.g., invoice or purchase order number), author's identity, address or addressee and/or recipient and the subject matter.

9. The term "person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or an interstate body.

10. The term "property" means the property located west of Longfield Road and east of Bayou DeLoutre at the approximate coordinates of latitude 32.7042° and longitude -92.1417°, in Section 22, Township 20 North, Range 3 East, near Sterlington, Union Parish, Louisiana.

III. INFORMATION REQUESTS

1. Provide the date(s) on which any work relating to the alleged unauthorized activities was performed on the property.

2. Describe the equipment used for the vegetation removal, leveling, and fill activities on the property. Provide copies of documentation identifying the equipment used (e.g., copies of invoices, purchase orders, receipts, or other documentation identifying the equipment).

3. Identify all persons and business entities which performed work related to the alleged unauthorized activities on the property.

4. Identify the persons and business entities which operated earth-moving equipment in connection with the alleged unauthorized activities.

5. Identify the current owner of the property.

6. Identify the owner of the property at the time the alleged unauthorized activities occurred.

7. Describe your involvement and participation in the alleged unauthorized activities.

8. Describe the trail or road located on the property. Provide any documents related to the design, material, and size of the trail or road. Provide photographs of the area, where the trail or road is located, before and after the alleged unauthorized activities occurred.

9. Describe how the trail or road fill is designed to prevent the restriction of expected flood flows.

10. Describe how the fill is stabilized and maintained to prevent erosion during and following construction of the trail or road.

11. Describe the best management practices that were carried out in the construction of the trail or road.

12. Describe the purpose of the alleged unauthorized activities.

    a. If the purpose of the construction of the trail or road on the property is for silviculture activities, please describe the silviculture activities on the property and provide any documents related to a forest plan, including harvest and replanting schedules, as well as any documents related to permits, licenses, or certifications to conduct silviculture activities on the property. If you have no documents recording this information, provide a written narrative that describes the forest plan, harvest schedule, replanting schedule, and any permits, licenses, or certifications related to silviculture activities on the property.

13. Provide copies of documentation and information that characterize or describe the volumes, locations, and square footage of rock, pollutants, organic debris, soil, or dredged or fill material added to, excavated from, or rearranged (whether permanently or temporarily) in the wetlands located on the property. This documentation and information must include the following:

    a. Description of the type of equipment (regardless of whether the equipment was mechanical or hand equipment) used in the activities described;

    b. Timeline of activities that occurred;

    c. Description of the impacts from the alleged unauthorized activities; and

    d. Descriptions of or maps indicating where those activities occurred.

    If you have no documents recording this information, provide a written narrative that estimates these volumes and square footage, and describes the activities and locations in sufficient detail to enable readers to identify the locations on a map.

ENCLOSURE B

CERTIFICATION

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment.

_____ _____

Signature Date