Recd by e mail
11/18/2014

5/017/0031
Wayne

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

REPLY TO
ATTENTION OF

CERTIFIED MAIL RETURN RECEIPT REQUESTED

November 17, 2014

Regulatory Division (SPK-2014-00527-SG)

Bromide Mining LLC
Attn: Ms. Kristen Sheffer
2335 NW 107th Avenue, Suite 2M46
Miami, Florida 99172

Dear Ms. Sheffer:

The U.S. Army Corps of Engineers, Sacramento District has received a report concerning an activity including the construction and improvement of access roads that may have been conducted in waters of the United States without a Department of the Army permit (Enclosure 1). This letter is a request for information regarding the potential unauthorized activity located on Crescent Creek in and around Section 35, Township 31 South, Range 10 East, Salt Lake Meridian, Latitude 38.06826°, Longitude -110.779684°, Hanksville, Garfield County, Utah (Enclosure 2).

Section 404 of the Clean Water Act requires a Department of the Army permit prior to the discharge of dredged or fill material into waters of the United States, including wetlands, except where specifically exempted (Enclosure 3). We have the responsibility for reviewing and issuing permits and investigating potential unauthorized activities within this area.

We opened an investigation in order to determine whether the activity performed at the subject site is regulated under Section 404 of the Clean Water Act and occurred without a Department of the Army permit. We appreciate your cooperation in this investigation. To assist us, the following information is requested from you:

1. A description of all activities that have occurred in any type of aquatic resource on the site. Aquatic resources include, but are not limited to, rivers, streams, lakes, ponds, springs, and wetlands. The information you provide should include the purpose for the work, when the work was conducted (start and end dates), what equipment was used, the area (in acres) of the aquatic resource that was affected, and the amount (in cubic yards) and type of material that was discharged into the aquatic resource.

2. Any reports or data about the natural resources of the site, especially in regards to the specific location, type and quality of the aquatic resource affected.

3. A copy of any Federal, State, or local permits or other authorization obtained for the activity.

4. Names and addresses of the individuals or companies that conducted the activity; and

5. Photographs of the site before and after the activity.

We are open to receiving any other information you believe would be pertinent to our initial investigation of this matter. The information you provide will become part of the public record. It may be presented in any enforcement action that results from this investigation and will be retained in our administrative records. All information you wish to provide should be submitted to us at the address listed below within 30 days of the receipt of this letter.

Thank you in advance for your cooperation on this matter. Please refer to Corps identification number SPK-2014-00527-SG in any correspondence concerning this investigation. If you have questions, or would like to schedule a meeting, please contact me by telephone at 801-295-8380 extension 17, by email at *Timothy.R.Witman@usace.army.mil,* or by mail to the Utah Regulatory Office, 533 West 2600 South, Suite 150, Bountiful, Utah 84010. For more information regarding our program, please visit our website at *www.spk.usace.army.mil/Missions/Regulatory.aspx*.

Sincerely,

Timothy Witman
Enforcement, Project Manager
Utah Regulatory Office

Enclosures

cc:

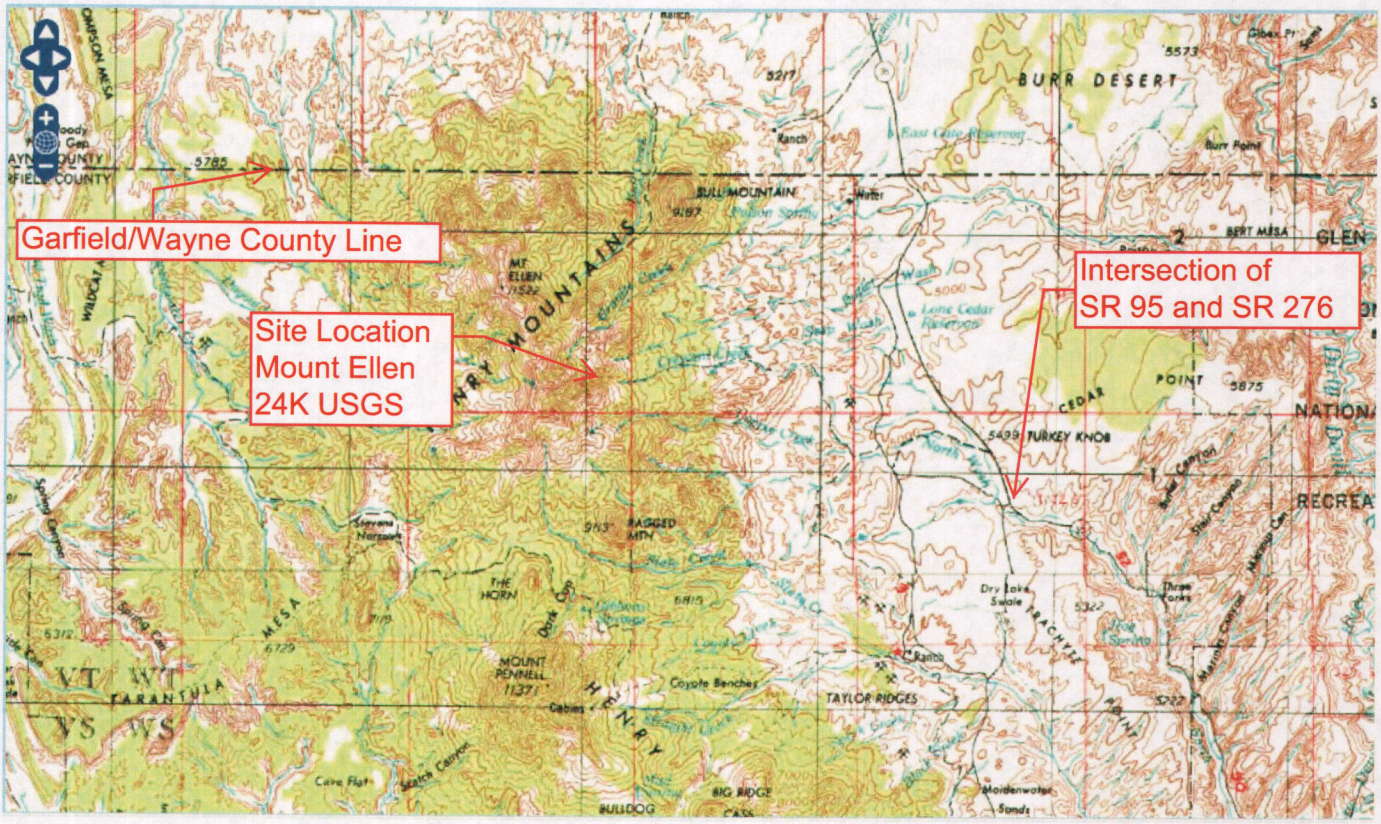
Bromide Mining LLC, Operations Office, 100 East 20 North, Post Office Box 121, Hanksville, Utah 84734
Mr. Art Palomares, Water Technical Enforcement Program, U.S. EPA – Region 8, Mail Code 8ENF, 1595 Wynkoop Street, Denver, Colorado 80208-1129
Mr. Paul Baker, Utah Division of Oil, Gas and Mining, (paulbaker@utah.gov)
Mr. David Barfuss, Bureau of Land Management, (dbarfuss@blm.gov)
Mr. Chuck Williamson, Utah Stream Alteration Office (charleswilliamson@utah.gov)
Mr. William Damery, State of Utah Division of Water Quality (wdamery@utah.gov)
Ms. Betsy Herrmann, U.S. Fish and Wildlife Service (Betsy_Herrmann@fws.gov)

Enclosure 1

Enclosure 1

Enclosure 1

Location Map SPK-2014-00527-SG



Enclosure 2

Enclosure 3

THE CLEAN WATER ACT

Section 404 (33 USC § 1344) states in part:

"(a) The ...Chief of Engineers, may issue permits, ... for the discharge of dredged or fill material into the navigable waters..."

Section 301 (33 USC § 1311) states in part:

"(a) Except as in compliance with this section and sections ... 1344... the discharge of any pollutant by any person shall be unlawful."

Note: Dredged or fill material is considered a pollutant under the Clean Water Act.

Section 309 (33 USC §1319) states in part:

(c) Criminal penalties –

(1) ... (A) Any person who negligently violates Section ... 1311 ... shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or by both ...

(2) .... (A) Any person who knowingly violates section ... 1311 ... shall be punished by a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or by both ...

(d) Civil penalties; ... any person who violates section ...1311...and any person who violates any order issued by the Administrator under subsection (a) of this section, shall be subject to a civil penalty not to exceed $ 25,000 per day for each violation. In determining the amount of a civil penalty the court shall consider the seriousness of the violation or violations, the economic benefit (if any) resulting from the violation, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and such other matters as justice may require. ...