

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2012 MAY 24 PM 1:24

IN THE MATTER OF:)
)
Lake Sakakawea & Associates, LLC)
)
2500 9th Avenue NW Apt. 1)
Mandan, ND 58554-1526)
)
Respondent.)
)
Proceeding to assess Class II penalty)
Section 309(g) of the Clean Water)
Act, 33 U.S.C. § 1319(g))
_____)

U.S. EPA
EPA REGION VIII
MOUNTAIN VIEW

Docket No. CWA-08-2011-0017

ORDER TO CLARIFY AND SUPPLEMENT THE RECORD

On April 3, 2012, U.S. EPA (Complainant) filed a Motion for Default (Motion) against Lake Sakakawea & Associates, LLC (Respondent). Attached to the Motion was a Memorandum in Support of Motion for Default (Memo in Support) and the Declaration of Natasha Davis (Davis Declaration). No other exhibits in support of the Motion were filed.

In reviewing the documents before me, I discovered an inconsistency that must be addressed in order to move forward on the Motion. The Complaint dated June 22, 2011, which was not included with the Motion, states in Paragraph 21 that “Respondent engaged in construction activities at the Eagle Catch Casino & Resort Site (the Site) development on a **25 acre Indian Allotment...**” (emphasis added). See, Complaint, p. 6. In contrast, the Memo in Support of the Motion states “Respondent commenced construction activities during the spring of 2008 at the Site on a **75 acre Indian Allotment...**” (emphasis added). See, Memo in Support, p. 3. Without any further evidence, this court cannot discern the correct acreage. This

information is necessary to evaluate the appropriateness of the proposed penalty in this matter.

In addition, if either party wishes to supplement the record with further evidence of the alleged violations, please do so by the date noted below. The court is interested in any information that supports the alleged violations or that supports a defense to the alleged violations for purposes of evaluating the \$ 84,000 penalty proposed in the Complaint and the Motion for Default.

IT IS SO ORDERED:

Complainant shall submit the clarifying information by June 22, 2012.

Complainant and/or Respondent may supplement the record by June 22, 2012.

ORDERED on the 24th DAY of May, 2012.



Elyana R. Sutin
Regional Judicial Officer
U.S. EPA, Region 8

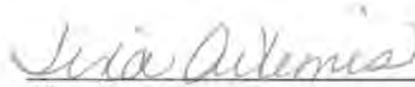
CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached, **ORDER TO CLARIFY AND SUPPLEMENT THE RECORD** in the matter of **LAKE SAKAKAWEA & ASSOCIATES, LLC.; DOCKET NO.: CWA-08-2011-0017** was filed with the Regional Hearing Clerk on May 24, 2012.

Further, the undersigned certifies that a true and correct copy of the documents were delivered to, Amy Swanson, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt requested on May 24, 2012 to:

Mr. Dale Little Soldier, President
Lake Sakakawea & Associates, LLC.
3765 Highway 1806
Mandan, ND 58554-8240

May 24, 2012



Tina Artemis
Paralegal/Regional Hearing Clerk

