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2009 AUG 31 PM 1:50
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August 27, 2009

Regional Hearing Clerk of EPA Region 8
1595 Wynkoop Street
Mail Code 8RC
Denver, Colorado 80202

FILED
EPA REGION VIII
HEARING CLERK

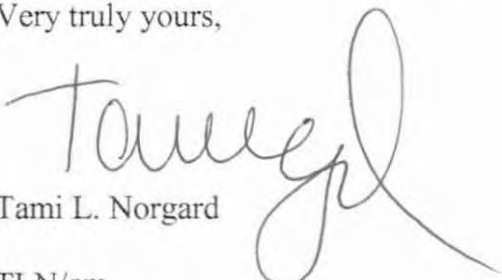
Re: In the Matter of: Valley Realty, Inc., Respondent
U.S. Environmental Protection Agency, Region 8
Docket No. CWA-08-2009-0023
Our File No. 32559.09001

Dear Clerk:

Please find enclosed for filing on behalf of Respondent Valley Realty, Inc. is an original and one copy of Answer to Penalty Complaint and Notice of Opportunity for Hearing regarding the above noted matter.

Should you have questions, please feel free to contact me.

Very truly yours,


Tami L. Norgard

TLN/cm

Enclosure: As Stated

cc: Jim Knutson, Valley Realty, Inc. (w/enc.)
R. Jon Fitzner (w/enc.)
Peggy Livingston (w/enc.)

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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2009 AUG 31 PM 1:50

IN THE MATTER OF:

Valley Realty, Inc.
1268 West Main St.
Valley City, North Dakota 58072

Respondent.

) Docket No. CWA-08-2009-0023
)
) ANSWER TO PENALTY
) COMPLAINT AND NOTICE OF
) OPPORTUNITY FOR HEARING
)
) Proceedings to Assess a Civil Penalty
) Under Section 309(g) of the Clean Water
) Act, 33 U.S.C. § 1319(g)
)

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Respondent, for its Answer to the Penalty Complaint, states and alleges as follows:

1. Respondent denies each and every allegation in the Penalty Complaint unless hereinafter admitted, qualified, or otherwise explained.
2. Respondent admits the allegations of Paragraphs 1, 3, 4, 5, 6, 9, and 10.
3. Paragraphs 2, 7, 8, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22 of the Penalty Complaint are recitations of either statute or regulation, and do not call for response. To the extent a response is required, the allegations of the aforementioned paragraphs are denied.
4. Respondent denies the allegations of paragraph 23. The site controlled by Respondents was located within the Calico Prairie Addition, but Respondents purchased their property separately, developed their own business plan and design, and constructed their apartment buildings without any concerted action, connection to or common development plan with the Calico Prairie Addition developer or any other adjacent developers. Respondent denies being part of a common plan of development disturbing

more than 5 acres and denies that it was required to obtain a permit or follow the conditions associated with disturbances of more than 5 acres.

5. For the reasons stated in the previous paragraph, Respondent denies the allegations of Complaint Paragraphs 24, 29, and 30.

6. With respect to Complaint Paragraph 25, Respondent agrees that it did not have a storm water discharge permit.

7. With respect to Complaint Paragraphs 26, 31, and 32, Respondent denies the allegations.

8. With respect to Complaint Paragraph 27, Respondent admits that it has not submitted a notice of intent to NDDH.

9. Respondent does not have sufficient information upon which to admit or deny the allegations of Complaint Paragraph 28.

10. With respect to the allegations in the 'Introduction,' 'Proposed Civil Penalty' and later sections with paragraphs that are not numbered, these allegations constitute legal or other assertions to which no response is required. To the extent a response is required, the allegations are denied.

RESPONDENT HEREBY REQUESTS A HEARING IN THIS MATTER.

Dated this 27 day of August, 2009.

VOGEL LAW FIRM

By 

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Box 1389

Fargo, ND 58107

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701-237-6983

Attorneys for Respondent