

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY 2009 OCT 20 AM 9:36  
REGION 8

FILED  
EPA REGION VIII  
HEARING CLERK

In the Matter of: )  
)  
Old Orchard, LLC )  
and )  
Meridian Commercial Construction, LLC, ) Docket No. CWA-08-2009-0015  
)  
Respondents. )

UNCONTESTED MOTION TO WITHDRAW

Region 8 of the United States Environmental Protection Agency (EPA) moves to withdraw Old Orchard, LLC (Old Orchard) without prejudice as a respondent in this action.

EPA's complaint alleged that Old Orchard, LLC owned the property at which the alleged violations occurred. In making this statement, EPA relied in large part on documents provided to EPA and the North Dakota Department of Health by a representative of Respondent Meridian Commercial Construction, LLC (Meridian). After EPA filed this action, counsel for Old Orchard presented documentation showing that Old Orchard sold the real property in question before the alleged violations occurred, and Meridian agreed to take full responsibility for the alleged violations. Negotiations between EPA and Meridian are continuing.

Dated: 10.9.09

By: Eddie A. Sierra  
Eddie A. Sierra  
Acting Assistant Regional Administrator

By: Margaret J. (Peggy) Livingston  
Margaret J. (Peggy) Livingston  
Enforcement Attorney

Office of Enforcement, Compliance and  
Environmental Justice,  
Region 8  
United States Environmental Protection Agency  
1595 Wynkoop Street (ENF-L)  
Denver, CO 80202

CERTIFICATE OF SERVICE

I certify that on the date noted below, I sent by certified mail, return receipt requested, a copy of the foregoing UNCONTESTED MOTION TO WITHDRAW, along with the proposed ORDER GRANTING UNCONTESTED MOTION TO WITHDRAW, to:

Kim Brust  
Attorney for  
Old Orchard, LLC  
CONMY FESTE, LTD.  
406 Main Avenue, Suite 200  
P.O. Box 2686  
Fargo, ND 58108-2686

James R. Bullis  
Attorney for  
Meridian Commercial Construction, LLC  
Montgomery, Goff & Bullis  
4650 38<sup>th</sup> Avenue South, Suite 110  
P.O. Box 9199  
Fargo, ND 58106-9199

Certified Mail  
Return Receipt Requested  
No. 7005-1820-0005-4856-4368

Certified Mail  
Return Receipt Requested  
No. 7005-1820-0005-4856-4375

I further certify that on the same date below I sent a copy of this document by EPA pouch mail to:

Hon. Susan L. Biro  
Chief Administrative Law Judge  
U.S. Environmental Protection Agency  
Mail Code 1900L  
1200 Pennsylvania Avenue NW  
Washington, D.C. 20460-2001

On the same date, I hand delivered the original and one copy to:

Tina Artemis  
Regional Hearing Clerk  
U.S. Environmental Protection Agency (8RC)  
1595 Wynkoop Street  
Denver, CO 80202-1129

Date: Oct 20, 2009

Judith M. McTernan

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

In the Matter of: )  
 )  
Old Orchard, LLC )  
 and )  
Meridian Commercial Construction, LLC, ) Docket No. CWA-08-2009-0015  
 )  
Respondents. )

**ORDER GRANTING UNCONTESTED MOTION TO WITHDRAW**

Region 8 of the United States Environmental Protection Agency (EPA) has moved to withdraw Old Orchard, LLC (Old Orchard) without prejudice as a respondent in this action. The stated grounds for the motion are sufficient. Consequently the motion is hereby GRANTED.

Dated: \_\_\_\_\_.

By: \_\_\_\_\_  
Administrative Law Judge  
United States Environmental Protection Agency

CERTIFICATE OF SERVICE

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Fargo, ND 58106-9199

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Return Receipt Requested  
No. \_\_\_\_\_

Certified Mail  
Return Receipt Requested  
No. \_\_\_\_\_

I further certify that on the same date below I sent copies of this document by EPA pouch mail to:

Peggy Livingston  
Enforcement Attorney, 8ENF-L  
U.S. Environmental Protection Agency  
1595 Wynkoop Street  
Denver, CO 80202-1129

and

Tina Artemis  
Regional Hearing Clerk  
U.S. Environmental Protection Agency (8RC)  
1595 Wynkoop Street  
Denver, CO 80202-1129

Date: \_\_\_\_\_