



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 WYNKOOP STREET
DENVER, CO 80202-1129

Phone 800-227-8917

<http://www.epa.gov/region08>

2009 JAN 21 9 53

DOCKET NO.: CWA-08-2008-0029

| | | |
|---------------------------|---|-------------|
| IN THE MATTER OF: |) | |
| |) | |
| INDUSTRIAL BUILDERS, INC. |) | FINAL ORDER |
| 1307 County Road 17N |) | |
| West Fargo, ND 58078 |) | |
| |) | |
| RESPONDENT |) | |

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 22nd DAY OF January, 2009.

Elyana R. Surin
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

| | | |
|--------------------------------|---|-----------------------------|
| IN THE MATTER OF: |) | CONSENT AGREEMENT |
| |) | |
| Industrial Builders, Inc. |) | Docket No. CWA-08-2008-0029 |
| 1307 County Road 17 N |) | |
| West Fargo, North Dakota 58078 |) | |
| |) | |
| |) | |
| Respondent. |) | |
| _____ |) | |

Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondent, Industrial Builders, Inc., by their undersigned representatives, hereby consent and agree as follows:

I. BACKGROUND

1. On September 30, 2008, Complainant issued a Complaint against Respondent alleging certain violations of the Clean Water Act, 33 U.S.C. § 1251 et seq. (Act). The Complaint proposed a civil penalty for the violations alleged therein.

2. On October 30, 2008, Respondent filed its Answer, requesting a hearing in this matter.

II. JURISDICTION

3. Respondent admits the jurisdictional allegations of the Complaint and neither admits nor denies the specific factual allegations of the Complaint.

4. Respondent waives its right to a hearing before any tribunal, to contest any issue of law or fact set forth in the Complaint, or in this Consent Agreement (Agreement).

III. PARTIES BOUND

5. This Agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this Agreement. This Agreement contains all terms of the settlement agreed to by the parties.

IV. CIVIL PENALTY

6. Respondent consents and agrees to pay a civil penalty in the amount of EIGHT THOUSAND SIX HUNDRED NINETY DOLLARS (\$8,690), in the manner described below in this paragraph.

a. Payment is due within 30 calendar days from the date written on the Final Order, issued by the Regional Judicial Officer, that adopts this Consent Agreement. If the due date falls on a weekend or legal federal holiday, the due date is the next business day. Payments must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day.

b. The payment shall be made by any of the methods set forth in Appendix I to this Agreement.

c. Notice that payment has been made shall be provided, at the same time that payment has been made, to:

Monica Heimdal
Enforcement Specialist
Technical Enforcement Program (8ENF-W)
U.S. EPA Region 8
1595 Wynkoop
Denver, CO 80202-1129

Tina Artemis
Regional Hearing Clerk (8RC)
U.S. EPA Region 8
1595 Wynkoop
Denver, CO 80202-1129

If payment is made by cashier's or certified check, the notice shall include a copy of the check. If payment is made in any other manner, the notice shall include documentation demonstrating that the payment was made.

d. In the event payment is not received by the specified due date, interest accrues from the date of the final order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received (i.e., on the 1st late day, 30 days of interest accrues).

e. In addition, a handling charge of fifteen dollars (\$15) shall be assessed on the 31st day from the date of the final order, and each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., the 121st day from the date the final order is signed). Payments are first applied to handling charges, 6% penalty interest, late interest, and any balance is then applied to the outstanding principal amount.

f. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

V. COMPLIANCE WITH CLEAN WATER ACT

7. Nothing in this Agreement shall relieve Respondent of the duty to comply with the Clean Water Act and its implementing regulations.

8. Failure by Respondent to comply with any of the terms of this Agreement shall constitute a breach of the Agreement and may result in referral of the matter to the Department of Justice for enforcement of this Agreement and for such other relief as may be appropriate.

VI. NONCOMPLIANCE WITH AGREEMENT

9. Nothing in this Agreement shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Agreement.

VII. MISCELLANEOUS

10. The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions of this Agreement and to bind Respondent to the terms and conditions of this Agreement.

11. The parties agree to submit this Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.

12. Each party shall bear its own costs and attorneys fees in connection with this matter.

13. This Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint.

In the Matter of Industrial Builders, Inc., Docket No. CWA-08-2008-0029

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8.**

Complainant:

Date: 1/22/09 By: Michael T. Risner
Michael T. Risner, Director
Legal Enforcement Program

Date: 27 January 2009 By: Diane Sipe
Diane Sipe, Director
Technical Enforcement Program

Date: January 21, 2009 By: Sheldon H. Muller
Sheldon H. Muller
Enforcement Attorney
Legal Enforcement Program

In the Matter of Industrial Builders, Inc., Docket No. CWA-08-2008-0029

INDUSTRIAL BUILDERS, INC.,

Respondent.

Date 19 JAN 2009 By:



Paul W. Diederich
President

Consent Agreement - Appendix 1

The following are acceptable payment methods for the civil penalty required to be paid pursuant to the Agreement.

1. If payment is being made by cashier's or certified check, submit the check, including the name and docket number of this case, payable to "Treasurer, United States of America," to:

Regular Mail:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

Federal Express, Airborne, or other commercial carrier:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: Natalie Pearson
314-418-4087

2. Wire Transfers:

Wire transfers must indicate the name and docket number of this case and be sent directly to the Federal Reserve Bank in New York City with the following information:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read " D 68010727
Environmental Protection Agency "

In the Matter of Industrial Builders, Inc., Docket No. CWA-08-2008-0029

3. ACH (also known as REX or remittance express):

ACH payments must indicate the name and docket number of this case and be paid in accordance with the following information:

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact - Jesse White 301-887-6548
ABA = 051036706
Transaction Code 22 - checking
Environmental Protection Agency
Account 310006
CTX Format

4. On-line Payment:

There is now an On Line Payment Option, available through the Dept. of Treasury. This payment option can be accessed from the information below:

www.pay.gov

Enter "sfo 1.1" (without the quotation marks) in the "Search Public Forms" field.

Click on the first link to open the form, complete required fields, and then click on "Submit Data" button at bottom of form.

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **INDUSTRIAL BUILDERS, INC.**, **DOCKET NO.: CWA-08-2008-0029**, the **CONSENT AGREEMENT/FINAL ORDER** was filed with the Regional Hearing Clerk on January 23, 2009.

Further, the undersigned certifies that a true and correct copy of the documents were delivered to Sheldon H. Muller, 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 and e-mailed on January 23, 2009, to:

Tami L. Norgard, Esq.
Vogel Law Firm
218 NP Avenue
P. O. Box 1389
Fargo, ND 58107-1389

Hand-carried to:

Honorable Elyana R. Sutin
Regional Judicial Officer
U. S. Environmental Protection Agency – Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

E-mailed to:

Michelle Angel
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

January 23, 2009


Tina Artemis
Paralegal/Regional Hearing Clerk