



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

FEB 9 2009

Ref: 8ENF-I.

CERTIFIED MAIL #7003 2260 0001 7778 2372
RETURN RECEIPT REQUESTED

Tim Birk
Northstar Associates, LLC
2239 Lower Valley Road
Kalispell, MT 59901

Re: Violations of Administrative Compliance Order, Docket No. CWA-08-2008-0028

Dear Mr. Birk:

On September 24, 2008, the Environmental Protection Agency (EPA) issued a Finding of Violation and Order for Compliance (the Order), Docket No. CWA-08-2008-0028, to Northstar Associates, LLC (Respondent) for violations of the Clean Water Act and the storm water requirements at the Spring Creek Estates construction site located in Kalispell, Montana. On October 14, 2008, EPA received written notification from Thayne Johnson, attorney for the Respondent, that Respondent intended to comply with the requirements of the Order.

EPA has determined that Respondent has not complied with the requirements of the Order based upon the following:

1. Paragraph 2 on page 6 of the Order requires:

“Within fifteen (15) calendar days of receipt of this Order, the Respondent shall submit a revised SWPPP (Storm Water Pollution Prevention Plan) which must meet all SWPPP requirements outlined in Part IV of the Permit. The SWPPP must address (1) the installation and maintenance of BMPs at all individual home sites where final stabilization has not occurred and (2) the installation and maintenance of storm drain inlet protection for all storm drain inlets. For BMPs at individual home sites, describe the structural practices (i.e., silt fences, fiber rolls, etc) including design specifications and details to filter and trap sediment before it leaves the home construction site.”

To date, EPA has received only draft SWPPPs from 48 North, Respondent's contractor, none of which have included the requirements of installation and maintenance of BMPs at individual home sites under construction. EPA has sent two letters to 48 North, and copied to you (November 25, 2008 and December 16, 2008), describing what changes need to be made to the SWPPP to comply with the Order.

2. No revised SWPPP has been received from Northstar Associates, LLC signed and certified by the principal executive officer as required in paragraph 10 on page 8 of the Order.
3. Paragraph 6 on page 7 of the Order states:

“The Respondent will conduct, at a minimum, weekly inspections of all BMPs (best management practices) at the site and using the inspection form and directions in Attachment 2. These inspections shall be conducted throughout the year. Within 24 hours of completion of the inspection, a copy shall be faxed to EPA. In addition to weekly inspections, inspections shall also be conducted at any time when site conditions are likely to produce run-off such as during snowmelt or after a precipitation event of 0.5 inches or greater.”

The following inspection reports have been received from Northstar:

<u>Date of Inspection</u>	<u>Date Received</u>
11/12/08	11/13/08
11/17/08	11/28/08
11/26/08	11/28/08
12/3/08	12/4/08
12/9/08	12/11/08
12/31/08	12/31/08
1/6/09	1/8/09
1/8/09	1/16/09

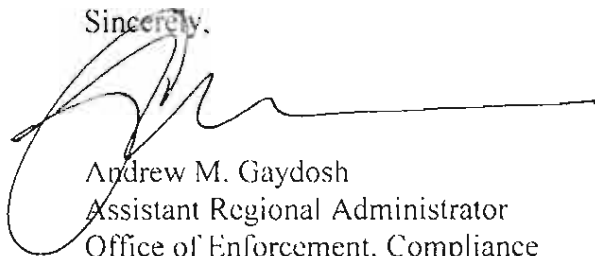
No inspection reports have been received for the weeks of December 14 and 21, 2008 and January 12 and 19, 2009. Only two of the inspections reports have been faxed to EPA within the required 24 hour timeframe. None of the reports referenced above have been signed by the principal executive officer of Northstar as required by the Order.

On January 29, 2009 EPA did receive an inspection report from an inspection conducted on January 28, 2009. This inspection report was signed and certified by Tim Birk, Respondent's principal executive officer, as required by the Order.

Please be advised that section 309(d) of the Act, 33 U.S.C. § 1319(d), authorizes civil penalties of up to \$37,500 per day for each violation of section 301 of the Act, 33 U.S.C. § 1311, and for each violation of an order issued by the Administrator of EPA under section 309(a) of the Act, 33 U.S.C. § 1319(a). Additionally, section 309(g) of the Act, 33 U.S.C. § 1319(g), authorizes EPA to impose administrative penalties for violations of the Act. Further, section 309(c) of the Act, 33 U.S.C. § 1319(c), authorizes fines and imprisonment for willful or negligent violations of the Act.

If you have any questions regarding this letter or any other matters pertinent to compliance with the CWA, the most knowledgeable people on my staff regarding these matters are Rosemary Rowe, Montana Office, at (406) 457-5020, and Marc Weiner, Enforcement Attorney, at (303) 312-6913.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andrew M. Gaydosh', with a long horizontal line extending to the right.

Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

cc: John Arrigo, MTDEQ
Jenny Chambers, MTDEQ
Thayne Johnson, Johnson, Berg, McEvoy & Bostock, PLLP