

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7
901 NORTH FIFTH STREET
KANSAS CITY, KS 66101

10 FEB 23 AM 8:45
ENVIRONMENTAL PROTECTION
AGENCY REGION VII
REGIONAL HEARING CLERK

IN THE MATTER OF)
)
Michael L. Collins)
520 21st Avenue)
Council Bluffs, IA 51501)
Respondent)
)
Proceeding under Section 309(a))
Clean Water Act, 33 U.S.C. Section 1319(a))
_____)

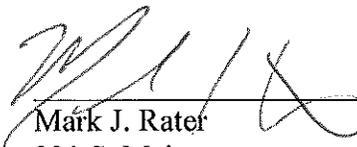
Docket No. CWA-07-209-0074
ANSWER OF RESPONDENT
AND REQUEST FOR 45 DAY
DELAY

The Respondent hereby files his answer as follows:

1. Paragraph 1 is admitted.
2. The respondent affirmatively denies said violations.
3. Paragraph 3 is admitted.
4. Paragraph 4 is admitted.
5. Paragraphs 5-12 are admitted as to the definitions set forth therein.
6. Paragraph 13 is admitted.
7. Paragraph 14 is admitted that respondent originally was the owner and/or operator of the construction site known as Traceview Estates. Respondent however has sold off major portions of that property during the time periods reflected herein and therefore his ownership interest was very small over a good portion of the relevant time and respondent transferred responsibility properly for stormwater discharge.

8. Paragraph 15 is denied. Respondent does not believe there are tributaries that flow into a navigable water off of Traceview Estates.
9. Respondent denies that said stormwater contains pollutants as set forth in paragraph 16.
10. Paragraph 17 is denied.
11. Paragraph 18 is denied.
12. Paragraph 19 is denied.
13. Paragraph 20 is admitted that said discharge would require a permit.
14. Paragraph 21 is admitted.
15. Paragraph 22 is admitted.
16. Paragraph 23 is admitted.
17. Paragraph 24 is admitted.
18. Paragraph 25 is admitted.
19. Paragraph 26 is admitted as to the first sentence and denied for lack of information as to the last sentence.
20. Paragraph 27 is admitted as to what was noted but denied as to the truthfulness of said notes.
21. Paragraph 28 incorporates prior answers.
22. Paragraph 29 is admitted.
23. Paragraph 30 is admitted as to what the inspection noted but denied as to the truthfulness of said notes.
24. Paragraph 31 is denied.
25. Paragraph 32 is denied.

26. Paragraph 33 is admitted as to maximum penalties allowed by law.
27. Paragraph 34 is denied.
28. Paragraph 35 is denied.
29. Paragraph 36 is admitted that respondent question his ability to pay and has requested review.
30. Paragraphs 37 and 38 are admitted.
31. Respondent requests a hearing on this matter as per paragraph 39.
32. Respondent's general denial is based upon the fact that the respondent does not believe that there is a navigable water as defined by the Rapanos decision off of the Traceview Property. Respondent also believes his property was 70% vegetated thus not requiring him to have a permit. Respondent had also transferred responsibility for any discharge to property owners who purchased individual lots from him. Respondent also believes he followed best management practices. Respondent does not believe that it can be shown that stormwater discharge came from a point source as defined.
33. Respondent further requests an informal settlement conference. Respondent's financial papers are currently reviewed. EPA consents to a 45 day extension.
- WHEREFORE prays the respondent that this action be dismissed; be set for hearing; have an informal settlement conference and other such relief as the Court deems fair and equitable.


Mark J. Rater
221 S. Main
Council Bluffs, IA 51503

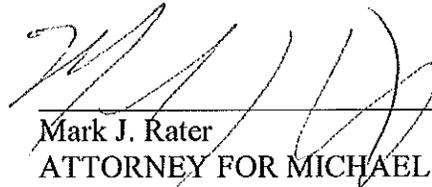
Ph. 712-323-3266

Fax 712-323-9368

ATTORNEY FOR RESPONDENT

CERTIFICATE OF SERVICE

I, Mark J. Rater hereby certify that the original and one true and correct copy of the foregoing answer and request for 45 day delay and informal conference were mailed to the Regional Hearing Clerk, US EPA, Region 7, 901 N. 5th St., Kansas City, KS 66101; two copies were sent to Kristen Nazar, Office of Regional Counsel, US EPA, Region 7, 901 N. 5th St, Kansas City, KS 66101 on the 20th day of February, 2010.



Mark J. Rater
ATTORNEY FOR MICHAEL COLLINS