

4650 38th Ave. S. Suite 110 • Fargo, ND PO Box 9199•58106-9199 Phone (701) 281-8001 Fax (701) 281-8007

Michael S. Montgomery mike@bullislaw.com

John T. Goff John@bullislaw.com

James R. Bullis Jim@bullislaw.com

Kyle G. Pender kyle@bullislaw.com

Licensed In North Dakota and Minnesota August 14, 2009

Regional Hearing Clerk (8RC) US EPA, Region 8 1595 Wynkoop Street Denver CO 80202-1129

RE: Proposed Assessment of Civil Penalty against 47th Street Townhomes, LLC, Jordahl Custom Homes, Inc., and Master Construction Co., Inc. Docket No.: CWA 08-2009-0021 Our File No. JRB-1515-3

Dear Clerk:

Enclosed herewith for filing please find the following:

- 1. 47th Street Townhomes, LLC's and Jordahl Custom
 - Homes, Inc.'s Answer and Request for Hearing; and,
- 2. Affidavit of Service by Mail.

Very truly yours,

Kyle G. Pender KGP/jjy Enclosure pc: Client Peggy Livingston 2009 AUG 17 PM 3: 12

FILED EPA REGION VIII HEARING CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 8

2009 AUG 17 PM 3: 12

W.3.0.101

In the Matter of: 47th Street Townhomes, LLC, Jordahl Custom Homes, Inc., and Master Construction Co., Inc.

Respondents.

Docket No.: CWA-08-2009-0021FILED EPA REGION VIII 47TH STREET TOWNHOMES, LEC'S CLERK AND JORDAHL CUSTOM HOMES, INC.'S ANSWER TO PENALTY COMPLAINT AND REQUEST FOR HEARING

Respondents, 47th Street Townhomes, LLC (hereinafter "47th Street") and Jordahl Custom Homes, Inc. (hereinafter "Jordahl") as and for their Answer to the Penalty Complaint and Notice of Opportunity for Hearing ("Complaint") allege and state as follows:

 Except as is hereinafter admitted, qualified, or otherwise explained, Respondents, 47th Street and Jordahl deny each and every allegation of the Complaint.

Respondents, 47th Street and Jordahl admit Paragraphs 1 through
7, 9 through 27, 29 through 33, 35, and 37 of the Complaint.

3. Respondents, 47th Street and Jordahl admit Paragraph 8 of the Complaint to the extent that Master Construction began construction on or about April 28, 2008. Respondents deny that Master Construction had completed construction by May 30, 2008.

4. Respondents, 47th Street and Jordahl admit Paragraph 28 of the Complaint to the extent that the Environmental Protection Agency apparently inspected the site on or about September 23, 2008.

1

RE: Proposed Assessment of Civil Penalty Against 47th Street Townhomes, LLC; Jordahl Custom Homes, Inc. and Master Construction Co., Inc. REF No.: CWA-08-2009-0021 2009 AUG 17 PM 3: 12

STATE OF NORTH DAKOTA))ss.)	AFFIDAVIT OF SERVICE BY MAIL
COUNTY OF CASS		

The undersigned, being first duly sworn, says that a copy of the attached:

47th Street Townhomes, LLC's and Jordahl Custom Homes, Inc.'s Answer to Penalty Complaint and Request for Hearing

was served upon the following by enclosing the same in an envelope addressed to such person(s)/attorney at his/her/their business address with postage fully prepaid and by depositing the said envelopes in a United States Postal Service mailbox at Fargo, North Dakota, on August 29, 2009.

Ms. Peggy Livingston, Enforcement Attorney Program Office of Enforcement, Compliance and Environmental Justice Region 8 United States EPA 1595 Wynkoop Street, ENF-L Denver CO 80202

Mr. Fred Schlanser, Jr. Master Construction Co. PO Box 788 Fargo ND 58107-0788

Viett. Schwarm

Subscribed and sworn to before me on August $\underline{|}^{\perp}$, 2009.

Notary Public, Cass County, North Dakota Commission Expires:

> JESSICA J YANISH Notary Public State of North Dakota My Commission Expires Jan. 19, 2015