

montgomery goff & bullis



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

2009 AUG 17 PM 3: 12

FILED  
EPA REGION VIII  
HEARING CLERK

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 Old Orchard,  
LLC and Meridian Commercial Construction, LLC  
Docket No.: CWA 08-2009-0015  
Our File No. KGP-186-1

Dear Clerk:

Enclosed herewith for filing please find the following:

1. Meridian Commercial Construction, LLC's Motion to Amend Answer;
2. Meridian Commercial Construction, LLC's Unopposed Amended Answer and Request for Hearing;
3. Affidavit of Kyle G. Pender; and,
4. Affidavit of Service by Mail.

Very truly yours,

Kyle G. Pender  
KGP/jjy  
Enclosure

pc: Kim E. Brust  
Peggy Livingston



UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2009 AUG 17 PM 3:12

In the Matter of: )  
)  
Old Orchard, LLC, )  
and )  
Meridian Commercial Construction, LLC, )  
)  
Respondents. )  
\_\_\_\_\_ )

Docket No. CWA 08-2009-0015

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HEARINGS CLERK

**MOTION TO AMEND ANSWER OF  
MERIDIAN COMMERCIAL  
CONSTRUCTION, LLC**

Meridian Commercial Construction, LLC hereby moves for leave to file the attached Unopposed Amended Answer. The Affidavit of Kyle G. Pender is submitted in support of this motion.

Dated: August 14, 2009.

MONTGOMERY GOFF & BULLIS, P.C.

By 

James R. Bullis ND ID #04980

Kyle G. Pender ND ID #06300

PO Box 9199

Fargo ND 58106-9199

Telephone: (701) 281-8001

Attorneys for Respondent Meridian  
Commercial Construction, LLC

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2009 AUG 17 PM 3: 12

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EPA REGION VIII  
HEARING CLERK

In the Matter of: )  
 )  
Old Orchard, LLC )  
and )  
Meridian Commercial Construction, LLC, )  
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Respondents. )  
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**MERIDIAN COMMERCIAL  
CONSTRUCTION, LLC'S UNOPPOSED  
AMENDED ANSWER AND REQUEST  
FOR HEARING**

Docket No. CWA 08-2009-0015

Meridian Commercial Construction, LLC (hereinafter "Meridian"), for its Answer to the Complaint, states and alleges as follows:

1. Except as is hereinafter admitted, qualified, or otherwise explained, Respondent Meridian denies each and every allegation of the Complaint.

2. Respondent Meridian admits the allegations contained in Paragraphs 1 through 5, 7 through 23, 27 through 30, and 32 of the Complaint.

3. Respondent Meridian denies Paragraph 6 of the Complaint. Meridian has had the day-to-day responsibility for the construction site for a portion of the construction period since 2006.

4. Respondent Meridian denies Paragraph 24 of the Complaint as it relates to Meridian.

5. Respondent Meridian admits Paragraph 25 of the Complaint to the extent that the EPA conducted a storm water inspection on September 23, 2008, and expressly denies the remaining portion of Paragraph 25.

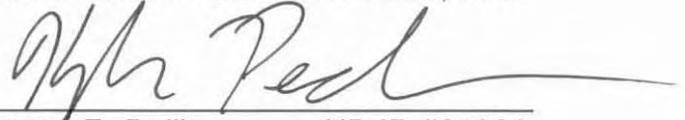
6. Respondent Meridian admits Paragraph 26 of the Complaint to the extent that the EPA inspected on September 23, 2008.

7. Respondent Meridian is incapable of admitting or denying Paragraph 32.
8. Respondent Meridian denies Paragraphs 31 and 33 through 38 of the Complaint.

WHEREFORE, Respondent Meridian requests a hearing with respect to the allegations of the Complaint and the appropriateness of the proposed penalty.

Dated: August 14, 2009.

MONTGOMERY GOFF & BULLIS, P.C.

By 

James R. Bullis                      ND ID #04980  
Kyle G. Pender                      ND ID #06300  
PO Box 9199  
Fargo ND 58106-9199  
Telephone: (701) 281-8001  
Attorneys for Respondent Meridian  
Commercial Construction, LLC

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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HEARING CLERK

In the Matter of: )  
)  
Old Orchard, LLC, )  
and )  
Meridian Commercial Construction, LLC,) )  
)  
Respondents. )  
\_\_\_\_\_ )

Docket No. CWA 08-2009-0015

**AFFIDAVIT OF KYLE G. PENDER**

I, Kyle G. Pender, after being first duly sworn, depose and state as follows:

1. I am one of the attorneys for Meridian Commercial Construction, LLC and have filed this Affidavit in support of the Motion to Amend Answer.

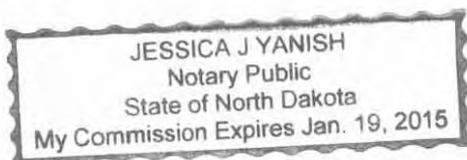
2. Respondent, Meridian Commercial Construction, LLC originally filed its Answer on June 29, 2009. This original Answer failed to admit or deny several paragraphs of the Complaint. Respondent, Meridian Commercial Constructions, LLC's Amended Answer clarifies its answer to each and every paragraph in the Complaint.

3. I have spoken with all parties. They have authorized me to state that they do not oppose the Motion to Amend Answer.

Dated: August 14, 2009.

  
\_\_\_\_\_  
Kyle G. Pender

Subscribed and sworn before me on August 14, 2009.



  
\_\_\_\_\_  
Notary Public  
Cass County, North Dakota