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Randal J. French
383-0030

rfrench@bauerandfrench.com

May 4, 2005

Regional Hearing Clerk
U.S. Environmental Protection Agency
1200 Sixth Avenue, Mail Stop ORC-158
Seattle, WA 98101

RE: Landsing Development Group, LLC
Docket No. CWA-10-2005-0081

Dear Sir/Madam:

Enclosed please find an original and one copy of Respondent's Answer in the above-referenced matter. Please return to me, in the pre-addressed stamped envelope also enclosed, a file stamped copy of the Answer.

Please do not hesitate to contact my office should you have any questions or concerns. Thank you very much for your assistance in this matter.

Sincerely,

BAUER & FRENCH



Randal J. French

RJF/nrg
Enclosures
cc Landsing Development Group LLC

BAUER & FRENCH
ATTORNEYS AT LAW

733 N. 7th Street ♦ P.O. Box 2730 ♦ Boise, Idaho 83701-2730
(208) 383-0090 ♦ Fax: (208) 383-0412

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ISB No. 3032

Attorneys for Respondent

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

LANDSING DEVELOPMENT GROUP, LLC

Boise, Idaho

Respondent.

Docket No. CWA-10-2005-0081

ANSWER

COMES NOW Landsing Development Group, LLC, the Respondent herein, by and through its counsel of record, Randal J. French of the firm of Bauer & French, and responds to the Complaint filed on or about April 5, 2005, in this matter.

Landsing Development Group LLC answers as follows.

I.

Landsing Development Group has no knowledge of the information contained in Paragraphs 1.1 through 1.3, and therefore denies the same.

II.

The allegations contained in Complaint Paragraphs 2.1 through 2.14 appear to be allegations of law, and therefore need not be admitted nor denied.

1 III.

2 Respondent admits the allegations contained in Complaint Paragraph 3.1.

3 IV.

4 Landsing admits that it owns the real property which makes up the Southfork
5 Subdivision, and denies the remaining allegations contained in Complaint Paragraphs 3.2
6 through 3.6.

7 V.

8 As to Paragraph 3.7, Landsing incorporates its answers to Paragraphs 1.1 through 3.6, as
9 stated above, and incorporates said answers herein by reference.

10 VI.

11 Landsing denies the allegations contained in Paragraphs 3.8 through 3.12.

12 VII.

13 As to Paragraph 3.13, Landsing incorporates its answer to Paragraphs 1.1 through 3.12,
14 as stated above, and incorporates said answers herein by reference.

15 VIII.

16 Landsing has no knowledge of the veracity of the allegations contained in Paragraph
17 3.14, and therefore denies the same.

18 IX.

19 As to Paragraphs 3.15 through 3.22, Landsing denies the allegations stated therein.

20 X.

21 As to the proposed penalty, and as to Paragraph 4.1, Landsing denies that any
22 administrative penalty is appropriate on the circumstances of this case.

23 XI.

24 As to Paragraph 4.2, Landsing alleges that the statutory penalty factors do not support
25 the imposition of any administrative penalty, and that mitigating factors outweigh any other
26 factors which may support the imposition of any penalty.

1 XII.

2 As to Paragraph 4.3, Landsing denies the allegations and would assert that the nature,
3 circumstances, extent and gravity of violations do not support the imposition of any penalty.

4 XIII.

5 As to Paragraph 4.4, Landsing denies the allegations. Publicly available information
6 discloses that Landsing is currently in a chapter 11 proceeding, and is unable to pay any
7 proposed penalty.

8 XIV.

9 As to Paragraph 4.5, Landsing admits that it does not have any history of prior
10 violations of the Act.

11 XV.

12 As to Paragraph 4.6, Landsing would assert that from not later than October 15, 2003,
13 through September, 2004, for purposes of this law, the operator of the construction site was
14 Ron Mayhew, an individual associated with the joint venture of KCM Enterprises, LP and BLC
15 Properties, LP, who extended financing to Landsing Development to complete the
16 development. As a specific provision of the develop loan agreement, the joint venture required
17 that it had the right to take control of development activities if development activities were not
18 completed by October 15, 2003. Mr. Mayhew, presumably on behalf of the joint venture, did in
19 fact take control of the on-site development activities, directing contracts and subcontractors,
20 and making day to day determinations as to the activities which would be completed.

21 XVI.

22 As to Paragraph 4.7, Landsing denies the allegations contained in said paragraph.

23 XVII.

24 As to Paragraph 4.8, Landsing denies that the allegations contained in said paragraph
25 warrant the action proposed to be taken here.

1 REQUEST FOR HEARING

2 XVIII.

3 As to Paragraph 5.1, Landsing requests a hearing on the material facts contained in the
4 complaint, and the appropriateness of the penalty proposed herein.

5 XIX.

6 As to Paragraphs 6.1 and 6.2, Landsing provides this answer, which prevents the entry
7 of a default order.

8 XX.

9 As to Paragraphs 7.1 through 7.3, Landsing shall request a settlement conference and
10 shall communicate with the appropriate assistant regional counsel.

11 XXI.

12 As to Paragraph 8.1, Landsing admits that it has continuing obligations to comply with
13 the various federal statutes and any compliance order cited, and denies that it has been, or will
14 in the future be, in violation of statutes or any compliance order.

15 DATED this ⁵~~30~~ day of May, 2005.

16 BAUER & FRENCH

17 

18 Randal J. French of the firm, Attorney for
19 Landsing Development Group, LLC
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1 CERTIFICATION OF SERVICE

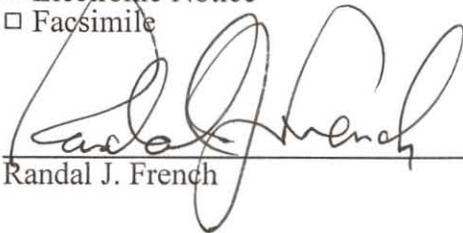
2 I hereby certify that on the 4th day of May, 2005, a true and correct copy of the
3 foregoing was served upon:

4 Courtney Hamamoto, Assistant Regional Counsel
5 U.S. Environmental Protection Agency, Region 10
6 1200 Sixth Avenue, Mail Stop ORC-158
7 Seattle, WA 98101

- First Class Mail
- Hand Delivery
- Electronic Notice
- Facsimile

8 Carol Kennedy, Regional Hearing Clerk
9 U.S. Environmental Protection Agency, Region 10
10 1200 Sixth Avenue, Mail Stop ORC-158
11 Seattle, WA 98101

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Randal J. French