

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2011 OCT 19 PM 1:11

IN THE MATTER OF: ) Docket No. CWA-08-2010-0024  
)  
)  
Nova Energy, Inc. ) **MOTION TO FILE ORIGINAL**  
401 E. 1<sup>st</sup> Street, Suite 301 ) **SIGNATURE PAGE IN LIEU OF FACSIMILE**  
Casper, WY 82601, )  
)  
)  
Respondent. )

FILED  
EPA REGION VIII  
READING ROOM

Complainant, United States Environmental Protection Agency, Region 8 (EPA), by its undersigned attorney, hereby moves to file Respondent's original signature page in lieu of a facsimile temporarily submitted in conjunction with a Consent Agreement filed in the above-referenced matter on October 14, 2011. In support of this motion, Complainant states as follows:

1. On October 14, 2011, pursuant to an Order Granting Extension of Time of File Consent Agreement issued by the Honorable Elyana R. Sutin, the parties filed a fully-executed Consent Agreement. A facsimile of the Respondent's signature page was included in the filing, with a commitment to the Regional Hearing Clerk that the parties would endeavor to provide the original as soon as possible.
2. Judge Sutin issued a Final Order approving and incorporating by reference the Consent Agreement on October 17, 2011.
3. According to a Facsimile Findings Memorandum authored by Judge Sutin on October 20, 2011,

The Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules of Practice), 40 C.F.R. part 22, allow for the filing of documents by facsimile. 40 C.F.R. 22.5 states "The Presiding Officer . . . may by order authorize facsimile or electronic filing, subject to any appropriate conditions and limitations." Based on my reading of 40 C.F.R. 22.5, a fax cannot be filed without an order from the Regional Judicial Order authorizing the fax. In

order to assure full compliance with Consolidated Rules of Practice, a party needs to file a motion requesting a fax filing.

In Region 8, a majority of the faxes received by the Regional Hearing Clerk for filing are Respondent signature pages for a Consent Agreement. The Regional Judicial Officer and the Regional Hearing Clerk prefer to receive the original signature pages when filing a Consent Agreement. If this is not possible, a faxed signature page with an appropriate motion attached is acceptable. The original signature page should be filed and included with the agreement as soon as possible.

4. Complainant's attorney was on work-related travel the day of and week leading up to the filing deadline of the Consent Agreement, and was unable to submit an appropriate motion with the faxed signature page at the time of filing.

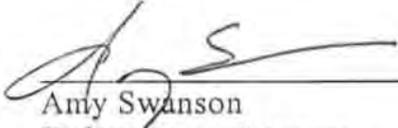
5. Consistent with the Judge's October 20, 2006 memo and 40 C.F.R. § 22.5, the parties are providing the original signature page and requesting that it be filed and included with the Consent Agreement within four business days of initially filing the document.

WHEREFORE, Complainant, on behalf of both parties, respectfully requests that the Judge accept the Respondent's original signature page for the Consent Agreement in lieu of the facsimile previously filed.

Dated this 19<sup>th</sup> day of October 2011.

Respectfully submitted,

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8,  
Complainant.

By:   
Amy Swanson  
Enforcement Attorney  
U.S. EPA, Region 8  
1595 Wynkoop Street (8ENF-L)  
Denver, CO 80202-1129  
Telephone: (303) 312-6906

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on October 19, 2011, the original and one copy of the **MOTION TO FILE ORIGINAL SIGNATURE PAGE IN LIEU OF FACSIMILE** were hand-carried to the Regional Hearing Clerk, EPA Region 8, 1595 Wynkoop Street (8RC), Denver, Colorado, and that a true copy of the same was sent as follows:

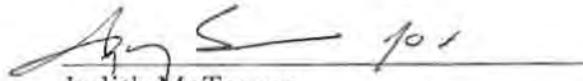
Via hand-delivery to:

The Honorable Elyana R. Sutin  
Regional Judicial Officer  
United States Environmental Protection Agency, Region 8  
1595 Wynkoop Street (8RC)  
Denver, CO 80202-1129

Via regular and electronic mail to:

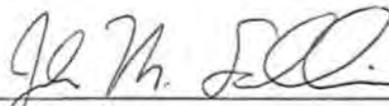
John Scherlin  
Nova Energy, Inc.  
400 E. 1<sup>st</sup> Street, Suite 301  
Casper, WY 82601  
scherlin@bresnan.net

Dated: 10/19/2011

  
Judith McTernan

NOVA ENERGY, INC.  
Respondent.

Date: 10/12/2011

By:   
John M. Scherlin,  
Share-holder and Acting President