UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18TH STREET- SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
http://www.epa.gov/region08

JAN - 5 2006

Ref: 8RC

Ms. Eurika Durr
U. S. Environmental Protection Agency
Environmental Appeals Board (1103B)
Arial Rios Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: **Docket File for RINDAL OIL, INC. DOCKET NO.: CWA-08-2005-0021**

Dear Ms. Durr:

Enclosed is the entire docket file for the above referenced site in the case of appeal. If you have any questions please contact me at (303) 312-6765.

Sincerely,

Tina Artemis
Regional Hearing Clerk
Paralegal

Enclosure

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2006 JAN -4 PM 3:07

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:	)	
	)	**Docket No. CWA-08-2005-0021**
Rindal Oil, Inc.	)	**Proceeding under Subsection 311(b)(6)**
P.O. Box 504	)	**of the Clean Water Act,**
Lewistown, Montana 59457	)	**33 U.S.C. § 1321(b)(6)**
	)	
Respondent	)	
	)	

DEFAULT ORDER/INITIAL DECISION

On October 4, 2005, The United States Environmental Protection Agency, Region 8 ("U.S. EPA", "EPA", "Agency", or Complainant") filed a motion pursuant to section 22.17(a) of the Consolidated Rules of Practice, 40 C.F.R. § 22.17(a)[1], to find Rindal Oil, Inc. ("Rindal", or "Respondent") in default for failing to file a timely answer to an Administrative Complaint and Notice of Opportunity for Hearing ("Complaint"), issued pursuant to section 311(b)(6)(A) of the Clean Water Act ("CWA"), as amended, for violation of the oil pollution prevention requirements, set forth at 40 C.F.R. Part 112. For the alleged violations, the Complainant is requesting the assessment of an administrative penalty, in the amount of **Six-thousand, eight-hundred and twenty-five dollars ($6,825.00).**

This proceeding is governed by EPA's **Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation or Suspension of Permits, 40 C.F.R. Part 22, Fed. Reg./Vol. 64, N. 141/July 23, 1999** ("Consolidated Rules of Practice," "Consolidated Rules", or "the Rules").

I. BACKGROUND

Respondent owns and operates a bulk fuel storage facility located at 717 Joyland Road, Lewistown, Montana ("facility"). The facility includes, but is not limited to, four 12,000 gallon gasoline or diesel tanks, two 6,000 gallon dyed-diesel #2 tanks, one 2,000 gallon diesel tank, two 1,000 gallon dyed-diesel tanks, one 1,000 gallon gasoline tank, fifteen to twenty 55 gallon lube oil drums, and one portable 500 gallon diesel tank. The facility has a total oil storage capacity of approximately 65,000 gallons.

The facility is a non-transportation onshore facility which, due to its location, could reasonably be expected to discharge oil to a navigable water of the United States.[2]

[1] Motion for Default
[2] 502(7) of the Act, 33 USC § 1362(7), and 40 CFR § 110.1

40 CFR § 112.3 requires that owners or operations of onshore and offshore facilities prepare a Spill Prevention, Control, and Countermeasure ("SPCC") plan in writing, and in accordance with applicable sections of Part 112, including, but not limited to, sections 112.7 and 112.8.

Section 311(b)(6)(A) of the Act, 33 USC § 1321(b)(6)(A), states in pertinent part that any owner, operator, or person in charge of any vessel, onshore facility or offshore facility (ii) who fails or refuses to comply with any regulation issued under subsection (j) of the section to which that owner, operator, or person in charge is subject, may be assessed a Class I or Class II civil penalty by . . . the Administrator.

On June 7, 2005, Complainant filed a Complaint under Section 311(b)(6)(A) of the "CWA", 33 U.S.C. § 1321(b)(6)(A), alleging that the Respondent failed to comply with the oil pollution prevention requirements set forth at 40 CFR Part, 112.

The Complaint was served on the Respondent by certified mail on June 9, 2005. The Respondent's answer to the Complaint was due to be filed with the Regional Hearing Clerk by Monday, July 11, 2005, since the 30 day deadline for filing fell on the weekend. The Respondent failed to meet that deadline and a review of the record revealed that it has not filed an answer to the Complaint, as of the date of this decision.

On October 4, 2005, pursuant to section 22.17 of the Consolidated Rules of Practice[3] the Complainant filed a motion to find the Respondent in default for failing to file a timely answer to the Complaint.

For the alleged violations of the CWA and SPCC regulations, the Complainant is requesting the assessment of an administrative penalty, in the amount of **$6,825.00**. For the reasons set forth below, the Complainant's default motion is granted and the Respondent is assessed a civil penalty in the amount of **Six–thousand, eight-hundred and twenty-five dollars ($6,825.00).**

II. STATUTORY AND REGULATORY FRAMEWORK

The objective of the Clean Water Act is "to restore and maintain the chemical, physical and biological integrity of the Nation's waters." Subsection 101(a) of the Clean Water Act, 33 U.S.C. 1251(a). To maintain the chemical, physical and biological integrity of the Nation's waters, EPA has promulgated regulations to prevent oil pollution of the Nation's waterways.

Section 311(b)(6) of the Act, 33 U.S.C. 1321(b)(6), provides that: "Any owner, operator, or person in charge of any . . . onshore facility, . . . (ii) who fails or refuses to comply with any regulation issued under subsection (j) of this section, to which that owner, operator, or person in charge is subject, may be issued a Class I or Class II civil penalty by . . . the Administrator." Section 311(j)(1) of the Act, 33 U.S. C. §1321(j)(l), provides that the President shall issue regulations "establishing procedures, methods, and

[3] 40 CFR, § 22.17(a)

equipment and other requirements for equipment to prevent discharges of oil . . . from onshore and offshore facilities, and to contain such discharges . . . ."

Substantive Regulations

Under the authority of section 311(j)(1) of the Act, 33 U.S.C. § 1321(j)(1), 40 C.F.R. Part 112 establishes procedures, methods, and requirements for preventing the discharge of oil. These requirements apply to owners or operators of onshore transportation-related facilities engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing or consuming oil or oil products that, due to their location, could reasonably be expected to discharge oil in harmful quantities (as defined in 40 C.F.R. Part 110) to navigable waters of the U.S., or adjoining Shorelines.

Under 40 C.F.R. § 110.3, discharges of oil in harmful quantities are those discharges that either (1) violate applicable water quality standards, or (2) cause a film or sheen or discoloration on the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines. The term "navigable water" is defined in section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1.

Procedural Regulations

This proceeding is governed by the Consolidated Rules of Practice. Two provisions of the Consolidated Rules are relevant to the instant motion:

1. Section 22.15(a) of the Consolidated Rules provides in part as follows: "Failure of Respondent to admit, deny, or explain any material factual allegation contained in the Complaint constitutes an admission of the allegation."

2. Section 22.17 of the Consolidated Rules provides in part that:

   (a) "Default. A party may be found to be in default: after motion, upon failure to file a timely answer to the Complaint; . . . . Default by Respondent constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the complaint and a waiver of Respondent's right to contest such factual allegations.

   (b) Default Order. When the presiding Officer finds that default has occurred, he shall issue a default order against the defaulting party as to any or all parts of the proceeding unless the record shows good cause why a default order should not be issued."

III. DETERMINATION OF LIABILITY

Prima Facie Case

For a default order to be entered against the Respondent, the Presiding Officer must conclude that Complainant has established a ***prima facie*** case of liability against the Respondent. To establish a **prima facie** case of liability, Complainant must present evidence sufficient to establish a given fact . . . which if not rebutted or contradicted, will remain sufficient . . . to sustain judgment in favor of the issue which it supports, but which may be contradicted by other evidence", **Black's Law Dictionary** 1190 (6th Edition, 1990).

Pursuant to 311(j)(1)(C) of the Act, the EPA promulgated the oil pollution prevention regulations, set forth at 40 CFR Part 112. Section 112.1(b) states, in part, that the requirements of part 112 apply to:

> -Owners or operators of non-transportation related onshore and offshore facilities engaged in operations involving "oil" which, due to their location, could reasonably be expected to discharge oil in harmful quantities, as defined in part 40 CFR §110, into or upon the navigable waters of the United States, or adjoining shorelines.

The Respondent owns and operates a bulk fuel storage facility located at 717 Joyland Road; Lewistown, Montana ("facility"). The facility stores approximately 65,000 gallons of petroleum products in various containers, of several sizes[4].

The facility is a "non-transportation related" onshore facility within the meaning of 40 CFR § 112.2.

The facility is located approximately 1,500 feet west of Big Spring Creek, which is tributary to the Judith River, a tributary of the Missouri River.

Big Spring creek, the Judith River and the Missouri River are "navigable waters" and "waters of the United States" within the meaning of section 502(7) of the Act, 33 USC § 1362(7), and 40 CFR § 110.1.

Because of its location near Big Spring Creek, the facility could reasonably be expected to discharge oil in harmful quantities, into or upon navigable waters of the United States, or adjoining shorelines.

Therefore, the facility is subject to the oil pollution prevention requirements of 40 CFR, Part 112, promulgatedpursuant to section 311(j) of the Act, 33 USC § 1321(j).

40 CFR § 112.3 requires that owners or operators of on shore and off shore facilities prepare a Spill Prevention, Control, and Countermeasure ("SPCC") plan in

[4] Complaint, page 1, ¶ 4

writing and in accordance with applicable sections of 40 CFR, Part 112, including, but not limited to, sections 112.7 and 112.8.

On or about September 9, 2004, EPA conducted a SPCC inspection of the facility.

At the time of the Inspection, the facility had a total fuel storage capacity of approximately 65,000 gallons. It was determined that the facility did not have a written SPCC plan in place at the time of the inspection.

Based on the facts set forth above, and the allegations set forth in the Complaint, which are herein admitted, I find that the Complainant has established a **prima facie** case of liability against the Respondent for violating the oil pollution prevention regulations set forth at 40 CFR, Part 112, by not having a written SPCC plan, in place at the time of the inspection.

Default by Respondent

As stated above, under section 22.15(a) of the Consolidated Rules[5], the Respondent is required to file an answer to the Complaint, within 30 days after service of the Complaint. Further, section 22.17(a) of the Consolidated Rules[6], provides that after motion, a party may be found to be in default for failure to file a timely answer to the Complaint.

In the instant case, the Complaint was filed with the Regional Hearing Clerk on June 7, 2005. The Complaint was served on the Respondent on June 9, 2005.[7] Respondent had thirty (30) days from the date of service to file its answer with the Regional Hearing Clerk. Since thirty (30) days following the date of service of the Complaint fell on a Saturday, July 9, 2005, the answer was required to be filed with the Hearing Clerk by the following Monday, July 11, 2005. To date, nearly six months later, the Respondent has yet to file an answer to the Complaint.

On October 4, 2005, the Complainant filed a Motion for Default with the Regional Hearing Clerk. As of the date of that motion, the Respondents had still not filed an answer to the Complaint.

Since the Respondent did not file an answer to the Complaint, it has presented no evidence to contravene the facts alleged in the Complaint. The allegations set forth in the Complaint are incorporated herein by reference. Section 22.17 of the Consolidated Rules[8] provides that "default by Respondent constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations".

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[5] 40 C.F.R., § 22.15(a)
[6] 40 C.F.R., § 22.17(a)
[7] Motion for Default
[8] 40 CFR, § 22.17

Pursuant to Section 22.17(a) of the Consolidated Rules[9], and based on the entire record of these proceedings, I find the Respondent, **Rindal Oil, Inc.**, in default for failing to file a timely answer to the Complaint. I hereby grant the Complainant's October 4, 2005, Motion for Default.

IV. ASSESSMENT OF ADMINISTRATIVE PENALTY

Under section 22.27(b) of the Consolidated Rules of Practice[10], ". . . the Presiding Officer shall determine the amount of the recommended civil penalty based on the evidence in the record and in accordance with any penalty criteria set forth in the Act. The Presiding Officer shall consider any civil penalty guidelines issued under the Act. If the Respondent has defaulted, the Presiding Officer shall not assess a penalty greater than that proposed by Complainant in the Complaint . . . , or motion for default, whichever is less."

The courts have made it clear that, notwithstanding a Respondent's default, the Presiding Officer must consider the statutory criteria and other factors in determining an appropriate penalty. **Katson Brothers Inc., v. U.S. EPA, 839F.2d 1396 (10th Cir. 1988)**. Moreover, the Environmental Appeals Board has held that the Board is under no obligation to blindly assess the penalty proposed in the Complaint. **Rybond, Inc., RCRA (3008) Appeal No 95-3, 6 E.A.D. 614 (EAB, November 8, 1996).**

Section 311(b)(8) of the CWA, 33 U.S.C. § 1321(b)(8), provides in part, that ". . . In determining the amount of a civil penalty . . . , the court, . . . , shall consider the seriousness of the violation or violations, the economic benefit to the violator, if any, resulting from the violation, the degree of culpability involved, any other penalty for the same incident, any history of prior violations, the nature, extent and degree of success of any efforts of the violator to minimize or mitigate the effects of the discharge, the economic impact of the penalty on the violator, and any other matters as justice may require.

In determining the penalty amount, the Complainant also relied on the Agency's "Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act, August 1998" ("Penalty Policy", or "Policy"). The policy sets forth two major penalty component categories: the gravity-based component and an economic benefit component. The gravity-based component incorporates four statutory factors (seriousness, culpability, mitigation efforts, and history of violations) relating to the severity of the violator's actions. The Penalty Policy is based on the Agency's general penalty policies GM-21 and GM-22.[11].

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[9] 40 C.F.R., § 22.17(a)

[10] 40 C.F.R. § 22.27(b)

[11] *1) Policy on Civil Penalties ("the Penalty Policy"), and (2) A Frame work for Statute-Specific Approaches to Penalty Assessments. Implementing EPA's Policy on Civil Penalties ("the Penalty Framework"),* both dated February 16, 1984

Seriousness of the Violation: The Complainant deemed the seriousness of the violations of the SPCC regulations moderate, as the violations have a significant impact on the ability of the Respondent to prevent or respond to worst case oil spills to water of the United States. It arrived at an initial penalty assessment of **$3,536.00**. Also, the potential environmental impact was deemed to be moderate, as a discharge from the facility would impact navigable waters, but not a drinking water supply or endangered species. An additional 25% was added to the initial penalty value for the environmental impact. This raised the calculated penalty amount to **$4,420.00**. The Complainant then considered the duration of the violation. It determined that the violations lasted 13 months. An additional 6.5% (0.5% for each month that the Respondent had failed to come into compliance) was added to the penalty amount. This brought the total penalty amount for the seriousness component to **$4,707.00**.

Culpability: A second gravity component, of the Penalty Policy, is culpability. This component considers the information, sophistication and resources available to the Respondent and the degree to which they should have been able to prevent the violations. Given that the SPCC regulations have been in existence since 1974; two workshops were conducted in Montana in August 2003; that two more workshops were conducted in Montana in November 2003; that three more workshops were conducted in Montana in March 2004; and that one workshop was conducted in Montana in March 2005, the Respondent had sufficient notice of the SPCC program. Further, although **Rindal Oil, Inc.** was informed of the violations found during the September 9, 2004, inspection and was given thirty (30) days to come into compliance, it failed to do so. Considering the above, Complainant made a 45% upward adjustment to the penalty amount, for culpability. This adjustment raised the total penalty to **$6,825.00.**

Economic Benefit: The Complainant made no economic benefit calculation.

Mitigation: as stated above, mitigating factors may include, i.e. the degree of willfulness and/or negligence; the history of noncompliance; ability to pay; degree of cooperation/non-cooperation; and other unique factors specific to the case. By failing to answer the Complaint, the Respondent failed to present any information as to any mitigating circumstances. Under the "Framework", the burden to demonstrate inability to pay, as with the burden of any mitigating circumstances, rests with the Respondent[12] its inability to pay. Since the Respondent did not file an answer to the Complaint, it has presented no evidence to contravene the facts alleged in the Complaint. Therefore no adjustments to the penalty were made for mitigation efforts, or history of prior violations.

Under section 22.17(c) of the Consolidated Rules, ". . . [the] relief proposed in the Complaint or motion for default shall be ordered unless the requested relief is clearly inconsistent with the record of the proceeding or the Act." In its motion for default, the Complainant requested the assessment of a civil penalty, in the amount of **Six-thousand, eight-hundred, and twenty-five dollars ($6,825.00).** Therefore, based on the statute, regulations and the administrative record, I hereby assess the Respondent a civil penalty

[12] See "Framework", p. 23

in the amount of **$6,825.00**, for its violations of the CWA and the SPCC regulations, promulgated pursuant thereto.

V. FINDINGS OF FACT/CONCLUSIONS OF LAW

1. Respondent is a corporation organized under the laws of Montana, and a "person within the meaning of sections 311(a)(7) and 502(5) of the Act, 33 USC §§ 1321(a)(7) and 1362(5)

2. The Respondent owns and operates a bulk fuel storage facility located at 717 Joyland Road; Lewistown, Montana ("the facility"). The facility stores approximately 65,000 gallons of oil and oil products.

3. The facility is an "onshore facility", as defined by section 311(a)(10) of the Act, 33 USC § 1321(a)(10), and 40 CFR § 112.2.

4. Due to its location near Big Spring Creek, the facility could reasonably be expected to discharge oil in harmful quantities to the navigable waters of the U.S., or adjoining shorelines, as described in 40 CFR § 110.3.

5. The facility is a "non-transportation related" onshore facility within the meaning of 40 CFR § 112.2.

6. Under regulations established by 40 CFR, Part 112, pursuant to section 311(j)(1)(C) of the Act, 33 USC § 1321(J)(1)(C), Respondent as the owner of a non-transportation related on-shore oil storage facility that could reasonably be expected to discharge harmful quantities of oil into navigable waters of the United States, is required to have an SPCC plan in place.

7. On or about September 9, 2004, EPA conducted an inspection of Rindal Oil, Inc. The inspection determined that the Respondent did not have an SPCC plan in place, in violation of 40 CFR, Part 112.

8. On June 7, 2005, Complainant filed a Complaint pursuant to section 311(b)(6)(A) of the Clean Water Act, 33 USC § 1321(b)(6)(A), with the Regional Hearing Clerk alleging that the Respondent violated regulations promulgated pursuant to the CWA under 40 CFR, Part 112.

9. The Complaint was served on Respondent by certified mail on June 9, 2005.

10. Pursuant to section 22.15(a) of the Consolidated Rules, 40 C.F.R. § 22.15, Respondent was required to file and answer to the June 9, 2005 Complaint within 30 days of the date of service. Since thirty (30) days following the date of service of the Complaint fell on a Saturday, July 9, 2005, the answer was required to be filed with the Regional Hearing Clerk by the following Monday, July 11, 2005.

11. The Respondent failed to file an answer within the 30-day time period. Further, a review of the record revealed that as of the date of this decision, the Respondent has yet to file an answer to the Complaint.

12. On October 4, 2005, the Complainant filed a motion pursuant to section 22.17(a) of the Consolidated Rules, 40 C.F.R. § 22.17(a), to find the Respondent in default for failing to file an answer to the June 7, 2005 Complaint.

13. Pursuant to section 22.17 (c) of the Consolidated Rules, 40 C.F.R. § 22.17 (c), the Respondent is in default for failing to file a timely answer to the Complaint.

14. Pursuant to section 22.17(a) of the Consolidated Rules, 40 C.F.R. § 22.17(a), "[d]efault by Respondent constitutes, for the purposes of the pending proceeding only, an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations". The Respondent is deemed to have admitted all of the factual allegations in the Complaint.

15. Pursuant to section 22.17(c) of the Consolidated Rules, 40 C.F.R. § 22.17(c) . . . "the relief proposed in the Complaint . . . shall be ordered unless the requested relief is clearly inconsistent with the record of the proceeding or the Act".

16. Considering the statutory factors set forth in section 311(b)(8) of the Act, 33 USC § 1321(b)(8), the Agency's penalty policy and the entire Administrative Record, the Respondent is assessed a civil penalty, in the amount **of Six-thousand, eight-hundred and twenty-five dollars ($6,825),** for its violations of the CWA, and regulations promulgated pursuant thereto, under 40 CFR, Part 112.

DEFAULT ORDER

In accordance with section 22.17 of the Consolidated Rules, 40 C.F.R. § 22.17, and based on the entire administrative record, I hereby grant the Complainant's Motion for Default Order and assess an administrative penalty, in the amount of **Six Thousand, eight-hundred and twenty-five dollars ($6,825.00)** against the Respondent, **Rindal Oil Inc.,** for its violations of the Clean Water Act.

No later than 30 days after the date that this Default Order becomes final, Respondents shall submit a cashier's check or certified check, payable to the order of "Treasurer, United States of America," in the amount of **Six-thousand, eight-hundred, twenty-five dollars ($6,851.00)**, to the following address:

U.S. Environmental Protection Agency
P.O. Box, 371099M
Pittsburgh, Pennsylvania 15251-6859

Respondent shall note on the check the title and docket number of this Administrative action.

Respondent shall serve a photocopy of the check on the Regional Hearing Clerk at the following address:

Regional Hearing Clerk
EPA Region 8
999 18th Street, Suite 300
Denver, Colorado 80202

Each party shall bear its own costs in bringing or defending this action.

Should Rindal Oil fail to pay the penalty specified above in full by its due date, the entire unpaid balance of the penalty and accrued interest shall become immediately due and owing. Pursuant to the Debt Collection Act, 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty, if it is not paid as directed. Interest will be assessed at the rate of the United States Treasury tax and loan rate, in accordance with 40 C.F.R. § 102.13(e).

Also, in accordance with section 311(b)(6)(H) of the Act, 33 U.S.C. § 1321(b)(6)(H), "If any person fails to pay an assessment of a civil penalty . . . (i) after the assessment had become final, . . . the Administrator . . . shall request the Attorney General to bring a civil action . . . to recover the amount assessed (plus interest at currently prevailing rates . . .). In such an action the validity, amount and appropriateness of such penalty shall not be subject to review. Any person who fails to pay the civil penalty on a timely basis] . . . shall be required to pay, in addition to such amount and interest, attorney fees and costs for collection proceedings . . . ."

This Default Order constitutes an Initial Decision, in accordance with section 22.27(a) of the Consolidated Rules[13]. This Initial Decision shall become a Final Order 45 days after its service upon a Party, and without further proceedings unless: (1) a party moves to reopen the hearing; (2) A party appeals the Initial Decision to the Environmental Appeals Board; (3) A party moves to set aside a default order that constitutes an initial decision; or (4) The Environmental Appeals Board elects to review the Initial Decision on its on initiative.

Within 30 days after the Initial Decision is served, any party may appeal any adverse order or ruling of the Presiding Officer by filing an original and one copy of a notice of appeal and an accompanying appellate brief with the Environmental Appeals Board[14].

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[13] 40 C.F.R. § 22.27(a)
[14] 40 C.F.R. § 22.30.

Where a Respondent fails to appeal an Initial Decision to the Environmental Appeals Board pursuant to § 22.30 of the Consolidated Rules, and that Initial Decision becomes a Final Order pursuant to § 22.27© of the Consolidated Rules, **RESPONDENT WAIVES ITS RIGHT TO JUDICIAL REVIEW.**

SO ORDERED This 3rd Day of January 2006

Alfred C. Smith
Presiding Officer

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **DEFAULT ORDER/INITIAL DECISION** in the matter of **RINDAL OIL, IN., DOCKET NO.: CWA-08-2005-0021** was filed with the Regional Hearing Clerk on January 4, 2006.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Wendy Silver, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on January 4, 2006, to:

Donald A. Rindal, Registered Agent for
Rindal Oil, Inc.
P. O. Box 504
Lewistown, MT 59457

And hand carried to:

Regional Judicial Officer
U. S. Environmental Protection Agency
999 18th Street, Suite 300
Denver, CO 80202-2466

January 4, 2006

Tina Artemis
Regional Hearing Clerk

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