

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6

FILED

2012 JUN -4 PM 4: 07

REGIONAL HEARING CLERK  
REGION VI

In the Matter of

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Docket No. CWA-06-2012-1722

Morningstar Minerals Corporation,  
A New Mexico Corporation,

Respondent

NPDES Facility No. NMU001745

**MOTION TO WITHDRAW COMPLAINT WITHOUT PREJUDICE**

COMES NOW COMPLAINANT, the Director of the Compliance Assurance and Enforcement Division, United States Environmental Protection Agency, Region 6, by and through its attorney, submits this Motion to Withdraw Complaint Without Prejudice (“Motion”), pursuant to 40 C.F.R. § 22.14(d). In support thereof, Complainant states the following:

1. Complainant filed the Administrative Complaint (“Complaint”) in this matter on December 21, 2011. The Complaint alleged that Morningstar Minerals Corporation (“Respondent”) discharged pollutant-laden storm water associated with industrial activity from the facility site (“facility”).
2. Respondent filed an Answer to the Complaint on March 19, 2012.
3. On or about April 10, 2012, Respondent provided Complainant with a photo outlining the boundaries of a berm between the facility and the Animas River
4. A follow up inspection conducted on May 3, 2012 confirmed the placement of the berm as well as ditches preventing storm water from entering the Animas River.
5. Based upon information provided by Respondent and additional information provided by the follow up inspection, Complainant believes that Respondent has substantially remedied the violations alleged in the Complaint. Therefore, Complainant believes it is not in the public interest to continue to prosecute this case.
6. Respondent has stated it does not object to this Motion to Withdraw Complaint Without Prejudice.

RESPECTFULLY SUBMITTED,



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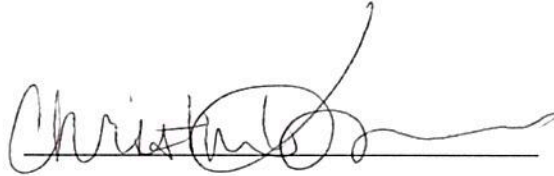
Christina Kracher  
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U.S. EPA, Region 6  
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**CERTIFICATE OF SERVICE**

I certify that the original of the foregoing MOTION TO WITHDRAW COMPLAINT WITHOUT PREJUDICE was hand-delivered to and filed with the **Regional Hearing Clerk**, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and a true and correct copy was sent to the following on this 21<sup>st</sup> day of June, 2012, in the following manner:

VIA FIRST CLASS U.S. MAIL:

Mr. Gary Risley, Attorney for Morningstar Minerals Corporation  
Risley Law Firm, P.C.  
4991 N. Butler Ave.  
Farmington, New Mexico 87401

A handwritten signature in black ink, appearing to read "Christopher", is written over a horizontal line. The signature is stylized and cursive.