

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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**IN THE MATTER OF:** ) Proceeding under Section 1319(g)  
) of the Clean Water Act,  
**City of Dupree, South Dakota** ) 33 U.S.C. § 309(g)  
Dupree, South Dakota )  
NPDES Permit NO. SDG589116 ) **DOCKET NO.: CWA-08-2011-0040**  
)  
Respondent. )  
\_\_\_\_\_ )

**NOTICE AND ORDER**

**PLEASE TAKE NOTICE** that the above action under Section 1319(g) of the Clean Water Act ("CWA"), 33 U.S.C. § 309(g), is docketed and the undersigned designated the Presiding Officer to conduct these proceedings. This action is subject to Subpart I of the 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 ("Consolidated Rules" or "CROP"), 40 C.F.R. Part 22. The Regional Hearing Clerk previously advised the parties of my designation. Correspondence with, or service upon, the undersigned shall be directed to:

Elyana R. Sutin  
Regional Judicial Officer  
U.S. Environmental Protection Agency, Region 8 (8RC)  
1595 Wynkoop Street  
Denver, CO 80202-1129  
Telephone: 303.312.6765  
Fax: 303.312.6859

Counsel for Complainant is directed to confer with Counsel for Respondent and confirm a date and time on my calendar to schedule a telephone conference with my legal assistant (the

Regional Hearing Clerk), Tina Artemis, **on or before December 16 2011**. Ms. Artemis can be reached at 303.312.6765. Please note the conference does not have to take place by December 16, 2011. However, the parties should be prepared to provide Ms. Artemis with several dates and times for the conference by December 16, 2011.

The purpose of the telephone conference is to establish a schedule for proceeding forward in this matter. Unless there are compelling reasons for a face-to-face conference, to minimize the costs in this proceeding, I plan to conduct all such conferences by telephone.

Each party shall advise me, prior to the conference of the telephone number at which they and others on their side participating in the conference call, wish to be contacted. For convenience, Complainant will normally participate on a conference phone located in the offices of the Presiding Officer. This is not considered an ex parte issue, since Respondent will be on the call at the same time. The parties shall have their calendars available for the telephone conference to schedule further proceedings in this matter.

Agency policy encourages settlement. 40 C.F.R. § 22.18(b). The benefits of a negotiated settlement often outweigh the uncertainty, time and expense associated with litigating the matter. The parties are encouraged to have settlement discussions and any efforts needed to reach settlement in this matter. The parties shall take precautions in any settlement negotiations to insulate and shield the Presiding Officer and the Regional Hearing Clerk from any knowledge regarding the details of the settlement including monetary amounts discussed. This can be best accomplished by being certain that the Presiding Officer does not receive a copy of any communications reflecting settlement amounts.

The Regional Hearing Clerk maintains the administrative record for this proceeding under 40 C.F.R. §22.5 of the Consolidated Rules. Please make sure that the originals and one

copy of all documents you wish included in the record are properly filed with the Regional Hearing Clerk. A copy of each document also needs to be provided to the opposing party and the Presiding Officer.

SO ORDERED THIS 29<sup>th</sup> day of November, 2011

A handwritten signature in black ink, appearing to read 'Elyana R. Sutin', written over a horizontal line.

Elyana R. Sutin  
Regional Judicial Officer

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **NOTICE AND ORDER** in the matter of **CITY OF DUPREE, SOUTH DAKOTA; DOCKET NO.: CWA-08-2011-0040** was filed with the Regional Hearing Clerk on November 29, 2011.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Amy Swanson, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. A true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt requested and e-mailed on November 29, 2011, to:

Eric H. Bogue  
Bogue & Bogue, LLP  
Butler Insurance Building, Suite 2  
104 West 1<sup>st</sup> Street/P. O. Box 250  
Faith, SD 57626-0250

November 29, 2011



Tina Artemis  
Paralegal/Regional Hearing Clerk

