

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2011 JUN 27 PM 1:02

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF)
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)
)
Tamarack II LLC,)
)
)
Respondent.)
_____)

Docket No. SDWA-08-2011-0022

STATUS REPORT

The United States Environmental Protection Agency (EPA) is filing this status report in response to the Regional Judicial Officer's Order dated May 4, 2011.

The parties have not reached settlement.

On May 3, 2011, EPA emailed Joshua Townsley, a principal of the Respondent, copies of the documents that the Respondent would need to complete in order to make a claim of inability to pay. Although Mr. Townsley replied that day that he would provide the requested information promptly, EPA did not receive any response from him or from any other representative of the Respondent. On June 16, 2011, EPA again emailed Mr. Townsley to say that the EPA had received no documentation regarding inability to pay from the Respondent. EPA has not received a response to this email.

EPA respectfully requests that the Regional Judicial Officer establish deadlines for the following actions:

- (1) Respondent to submit information to EPA in support of claim of inability to pay: requested deadline of July 15, 2011. (This information is to be submitted to

Peggy Livingston and/or Kimberly Pardue Welch, not to the Regional Judicial Officer or the Regional Hearing Clerk. The address for Ms. Livingston and Ms. Pardue Welch is U.S. Environmental Protection Agency, 1595 Wynkoop Street, Denver, CO 80202. Ms. Livingston's mail code is 8ENF-L, and Ms. Pardue Welch's mail code is 8ENF-W.)

- (2) EPA and Respondent to file dispositive motions: requested deadline of August 15, 2011. These motions would be filed with the Regional Hearing Clerk.

If this matter is not resolved by settlement and/or a ruling on any dispositive motion, EPA will request that the Regional Judicial Officer

- (1) establish deadlines for filing prehearing exchanges and
- (2) set a date for an evidentiary hearing.

Respectfully submitted,

Margaret J. (Peggy) Livingston
Margaret J. (Peggy) Livingston
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Office of Enforcement, Compliance
and Environmental Justice
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Certificate of Service

This is to certify that on the date below, a copy of the foregoing status report was sent by certified mail, return receipt requested, to

Josh Townsley, Operator
Fazooli's Family Italian
105 Blacktail Road
Lakeside, MT 59922
Certified Mail No. 7009 3410 0000 2597 5059

Date: 6/27/2011

By: Judith McTernan
Judith McTernan