

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2013 MAR 11 AM 8:27

IN THE MATTER OF:)
)
Mountain Village Parks, Inc.)
Big Piney, WY)
PWS ID #WY5600221)
)
Respondent)
_____)

Docket No. SDWA-08-2012-0026

FILED
EPA REGION VIII
HEARING CLERK

ORDER TO SUPPLEMENT THE RECORD

On February 26, 2013, The Environmental Appeals Board (EAB) remanded this matter for clarification of the liability findings and determination of a penalty consistent with such findings and the EAB's February 26, 2013 decision. The EAB found several deficiencies in the Default Initial Decision that were, in part, based on inconsistencies in the Complaint and supporting pleadings as well as analysis of this Presiding Officer in my decision.

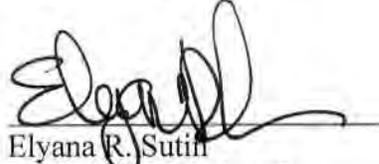
In order to address the EAB's concerns Complainant must provide certain information as follows:

- 1) Clarify the discrepancy between Count II and Count III in the Complaint. As noted by the EAB, "the Complaint does not allege that Respondent had an obligation to monitor for lead and copper during the period of July 1 to December 31, 2011, and that it failed to monitor during such period". However, the Count III allegation related to failure to report lead and copper sampling violations includes July 1 to December 31, 2011. Please address this inconsistency and how, if at all, it impacts the penalty analysis for Count II and Count III. Provide an explanation for the six month violation in Count II but the penalty covering a twelve month period.
- 2) Clarify the discrepancy between Mario Merida's penalty assumptions for gravity in his declaration and in the Memorandum in Support of Default.
- 3) Provide a breakdown of the total economic benefit calculation for each Count in the Complaint.
- 4) Justify the basis for the "Standard Increase for Pleading Purposes" used in the penalty calculation as described in the Memorandum in Support of Default and

Mario Merida's Declaration. Explain how the increase was calculated for this penalty.

This information shall be provided on or before **April 5, 2013**.

It is so **ORDERED** this 11th day of March, 2013.

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

Elyana R. Sutin
Regional Judicial Officer
US EPA, Region 8

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **ORDER TO SUPPLEMENT THE RECORD** in the matter of **MOUNTAIN VILLAGE PARKS, INC.; DOCKET NO.: SDWA-08-2012-0026** was filed with the Regional Hearing Clerk on March 11, 2013.

Further, the undersigned certifies that a true and correct copy of the documents were delivered to, Amy Swanson, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on March 11, 2013, to:

Diana Alexander, Registered Agent
Mountain Village Parks, Inc.
P. O. Box 1226
Big Piney, WY 83113

Emailed to:

Honorable Elyana R. Sutin
Regional Judicial Officer
U. S. EPA Region 8 (8RC)
1595 Wynkoop Street
Denver, CO 80202

March 11, 2013


Tina Artemis
Paralegal/Regional Hearing Clerk