



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

2008 SEP 24 PM 1:47

EPA REGION VIII HEARING CLERK

DOCKET NO.: CWA-08-2008-0009

IN THE MATTER OF:

DAVID J. PAULSON AND
NORTHEAST RIDGE DEVELOPMENT
COMPANY

RESPONDENTS

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)

FINAL ORDER

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

SO ORDERED THIS 24th DAY OF September, 2008.

Elyana R. Sutin
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2008 SEP 24 PM 1:47
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:) **CONSENT AGREEMENT**
)
David J. Paulson, and) Docket No. CWA-08-2008-0009
Northeast Ridge Development Company)
16621 94 ½ R Street, SE)
Hankinson, North Dakota 58041)
)
)
)
Respondents.)
_____)

Complainant, United States Environmental Protection Agency, Region 8 (“EPA”), and Respondents, David J. Paulson and Northeast Ridge Development Company, by their undersigned representatives, hereby consent and agree as follows:

I. BACKGROUND

1. On August 31, 2005, Complainant issued an Administrative Order for Compliance (“Order”) to Respondents pursuant to the Clean Water Act, 33 U.S.C. § 1251 et seq. (the “Act”). The Order directed Respondents to prepare and submit to EPA for review a Restoration Plan for removing discharged dredged and fill material from Lake Elsie and its adjacent wetlands and restoring Lake Elsie and its adjacent wetlands to their pre-impact configuration and/or grade. Respondents submitted several iterations of its Restoration Plan, the last of which was approved by EPA on February 23, 2007.

2. On March 5, 2008, Complainant issued a Complaint against Respondent Northeast Ridge Development Company (“Northeast Ridge”) alleging certain violations of the Act. The Complaint proposed a civil penalty for the violation alleged therein.

3. On May 23, 2008, Complainant issued its First Amended Complaint, adding David J. Paulson as a Respondent.

II. JURISDICTION

4. Respondents admit the jurisdictional allegations of the Complaint and neither admit nor deny the specific factual allegations of the Complaint.

5. Respondents waive their right to a hearing before any tribunal, to contest any issue of law or fact set forth in the Complaint, or this Consent Agreement (“Agreement”).

III. PARTIES BOUND

6. This Agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondents and Respondents’ heirs, successors or assigns. Any change in ownership or corporate status of Respondent Northeast Ridge, including, but not limited to, any transfer of assets or real or personal property, shall not alter Respondents’ responsibilities under this Agreement. This Agreement contains all terms of the settlement agreed to by the parties.

IV. CIVIL PENALTY

7. Respondents consent and agree to pay a civil penalty in the amount of FIFTEEN THOUSAND DOLLARS (\$15,000), in the manner described below in this paragraph. This penalty is based upon an ability-to-pay analysis conducted of Respondents’ finances.

a. Payment is due within 30 calendar days from the date written on the Final Order, issued by the Regional Judicial Officer, that adopts this Consent Agreement. If the due date falls on a weekend or legal federal holiday, the due date is the next business day. Payments must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day.

b. The payment shall be made by any of the methods set forth in Appendix 1 to this Agreement.

c. Notice that payment has been made shall be provided, at the same time that payment has been made, to:

Ken Champagne
Enforcement Specialist
Technical Enforcement Program (8ENF-W)
U.S. EPA Region 8
1595 Wynkoop
Denver, CO 80202-1129

Tina Artemis
Regional Hearing Clerk (8RC)
U.S. EPA Region 8
1595 Wynkoop
Denver, CO 80202-1129

If payment is made by cashier's or certified check, the notice shall include a copy of the check. If payment is made in any other manner, the notice shall include documentation demonstrating that the payment was made.

d. In the event payment is not received by the specified due date, interest accrues from the date of the final order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received (i.e., on the 1st late day, 30 days of interest accrues).

e. In addition, a handling charge of fifteen dollars (\$15) shall be assessed on the 31st day from the date of the final order, and each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not

received within 90 days of the due date (i.e., the 121st day from the date the final order is signed). Payments are first applied to handling charges, 6% penalty interest, late interest, and any balance is then applied to the outstanding principal amount.

f. Respondents' obligation to pay the civil penalty of \$15,000 is joint and several.

g. Respondents agree that the penalty shall never be claimed as a federal or other tax deduction or credit.

V. COMPLIANCE WITH ORDER AND CLEAN WATER ACT

8. In addition, Respondents consent and agree to comply with all terms of the August 31, 2005, Order and to implement all aspects of the December 22, 2006, Restoration Plan, as approved by EPA on February 23, 2007.

9. Nothing in this Agreement shall relieve Respondents of the duty to comply with the Clean Water Act and its implementing regulations.

10. Failure by Respondents to comply with any of the terms of this Agreement shall constitute a breach of the Agreement and may result in referral of the matter to the Department of Justice for enforcement of this Agreement and for such other relief as may be appropriate.

VI. NONCOMPLIANCE WITH AGREEMENT

11. Nothing in this Agreement shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondents' failure to perform pursuant to the terms of this Agreement.

VII. MISCELLANEOUS

12. The undersigned representatives of Respondents certify that they are fully authorized to enter into the terms and conditions of this Agreement and to bind Respondents to the terms and conditions of this Agreement.

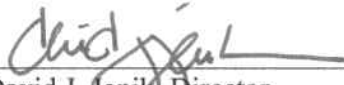
13. The parties agree to submit this Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.

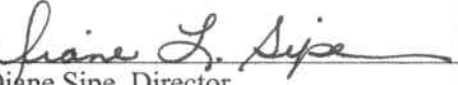
14. Each party shall bear its own costs and attorneys fees in connection with this matter.

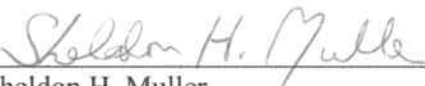
15. This Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint.

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,**

Complainant.

Date: 22 September 2008 By: 
David J. Janik, Director
Legal Enforcement Program

Date: 22 September 2008 By: 
Diane Sipe, Director
Technical Enforcement Program

Date: September 23, 2008 By: 
Sheldon H. Muller
Enforcement Attorney
Legal Enforcement Program

In the Matter of Northeast Ridge Development Company
and David J. Paulson, Docket No. CWA-08-2008-0009

**NORTHEAST RIDGE DEVELOPMENT
COMPANY,**

Respondent.

Date: Sept 16, 2008 By: David J. Paulson
David J. Paulson
President

DAVID J. PAULSON,

Respondent.

Date: Sept 16, 2008 By: David J. Paulson
David J. Paulson

In the Matter of Northeast Ridge Development Company
and David J. Paulson, Docket No. CWA-08-2008-0009

Consent Agreement - Appendix 1

The following are acceptable payment methods for the civil penalty required to be paid pursuant to the Agreement.

1. If payment is being made by cashier's or certified check, submit the check, including the name and docket number of this case, payable to "Treasurer, United States of America," to:

Regular Mail:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

Federal Express, Airborne, or other commercial carrier:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: Natalie Pearson
314-418-4087

2. Wire Transfers:

Wire transfers must indicate the name and docket number of this case and be sent directly to the Federal Reserve Bank in New York City with the following information:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045
Field Tag 4200 of the Fedwire message should read " D 68010727
Environmental Protection Agency "

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and David J. Paulson, Docket No. CWA-08-2008-0009

3. ACH (also known as REX or remittance express):

ACH payments must indicate the name and docket number of this case and be paid in accordance with the following information:

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact - Jesse White 301-887-6548
ABA = 051036706
Transaction Code 22 - checking
Environmental Protection Agency
Account 310006
CTX Format

4. On-line Payment:

There is now an On Line Payment Option, available through the Dept. of Treasury. This payment option can be accessed from the information below:

www.pay.gov

Enter "sfo 1.1" (without the quotation marks) in the "Search Public Forms" field.

Click on the first link to open the form, complete required fields, and then click on "Submit Data" button at bottom of form.

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER, DOCKET NO.: CWA-08-2008-0009** was filed with the Regional Hearing Clerk on September 24, 2008.


Further, the undersigned certifies that a true and correct copy of the document was delivered to Sheldon H. Muller, Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned document were placed in the United States mail certified/return receipt requested on September 24, 2008, to:

Fred Strege, Esquire
Smith Strege & Fredericksen, Ltd.
321 Dakota Avenue, Box 38
Wahpeton, ND 58074-0038

E-mailed to:

Michelle Angel
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MSD-0002)
Cincinnati, OH 45268

September 24, 2008


Tina Artemis
Paralegal/Regional Hearing Clerk

