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February 25, 2009

U.S. Environmental Protection Agency Region 8 Regional Hearing Clerk 1595 Winkoop Street Mail Code 8RC Denver, CO 80202

Re: In the matter of INREIT Properties, LLP and Goldmark Development Corp.

Docket No. CWA-08-2009-0004

Dear Clerk:

Please find enclosed the response of INREIT Properties, LLP and Goldmark Development Corporation to penalty complaint and notice of opportunity for hearing, document no. CWA-08-2009-0004. Respondents have requested a hearing on this matter and we are currently working with Peggy Livingston to set a date for that hearing.

Should you require anything further from me at this time, please feel free to contact me at 701-235-3300.

Sincerely,

Michael L. Gust

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to Reggy Livingston

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 8

In the Matter of

INREIT Properties. LLLP And Goldmark Development Corp.

Respondents

ANSWER TO PENALTY COMPLAINT AND REQUEST FOR HEARING

Docket No. CWA-08-2009-0004

Respondents INREIT Properties, LLLP and Goldmark Development Corporation, for their Answer to the Allegations contained in the Penalty Complaint and Notice of Opportunity For Hearing filed by the United States Environmental Protection Agency for Region 8 states and alleges as follows:

- Respondents admit paragraphs 1, 2, 3, 5, 7, 9, 11, 13, 22, and 27.
- 2. With regards to the allegations contained in paragraph 4, Respondents admit that INREIT owns property commonly known as Autumn Ridge Apartments 2251, 2351, 2401 and 2451 located at 36th Avenue S. Grand Forks, North Dakota. The remainder of the allegations contained in paragraph 4 are denied and Respondents put Claimant to its strict proof thereof.
- 3 With regards to the allegations contained in paragraphs 8 and 12. Respondents admit that storm water may contain pollutants as defined in 33 U.S.C. § 1362(6) and § 1362(12), but deny that all the pollutants contained in these sections were present in the storm water discharge.
- Respondents deny the allegations contained in paragraphs 6, 25, 26, 28.
 30, 31, 36, 37, 38, and 39.

- Paragraphs 14-21, 23, 24, and 34 contain statements or conclusions of law to which no response is necessary. To the extent a response is deemed necessary.
 Respondents deny the same.
- With regards to the statements contained in paragraph 10, 32, 33 and 35.
 Respondents are without sufficient information to admit of deny these statements and therefore deny the same.

AFFIRMATIVE DEFENSES

7. Upon information and belief, Respondents allege that the area complained of in the Penalty Complaint was for a total disturbance of less than five acres, and therefore Respondents could have preformed the work under their small construction activity permits filed annually with the State of North Dakota. These are no cost permits.

REQUEST FOR HEARING

B. Respondents, individually and jointly, request a hearing on the Penalty Complaint and Notice of Opportunity For Hearing.

Dated this and day of February, 2009.

Michael L. Gust (ND 06468)

Greg L. Thampson (ND 03999)

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