

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2010 JAN -8 AM 9:21

IN THE MATTER OF:)
)
Fulton Fuel Company)
)
a Montana Corporation)
)
)
)
Respondent.)
_____)

Docket No. CWA-08-2009-0006

Proceeding under Subsection 311(b)(6) of
the Clean Water Act, 42 U.S.C. §
1321(b)(6)

FILED
EPA REGION VIII
HEARING CLERK

ORDER TO SCHEDULE STATUS CONFERENCE CALL

On July 9, 2009, Complainant moved for the entry of a Default Order against Fulton Fuel Company and the assessment of a penalty of \$32,500. On August 20, 2009, an Order to Show Cause and Order to Supplement the Record was issued by this court requesting both parties to take action by September 30, 2009. Complainant was ordered to supplement the record with additional information on the penalty calculation either through a declaration or affidavit of an Agency employee. Respondent was ordered to show cause why it should not be held in default or be subject to the full amount of the proposed penalty. Complainant complied with the order. Respondent did not respond.

On November 20, 2009, this court issued a Second Order to Supplement the Record. Complainant complied with the Order and submitted supplemental information. On December 21, 2009, Counsel for Respondent filed a Notice of Appearance and Motion for Additional Time to Supplement the Record and Respond to Order to Show Cause. On December 23, 2009, the Motion was granted and Respondent had until December 30, 2009, to address the Motion for Default and the Orders to Show Cause. Respondent filed a Response dated December 29, 2009, which was filed with the Regional Hearing Clerk on January 4, 2010.

This Court is ordering a conference call be set for **January 14, 2010 at 9:00 am MST** to discuss the status of this matter. If this time does not work for either or both parties please contact Tina Artemis at 303.312.6765 to schedule a time that works on my calendar and for the parties.

If the parties have any interest in discussing settlement pursuant to 40 C.F.R. § 22.18(b), please be prepared to inform the Court of any settlement opportunities without revealing the details of those discussions. Respondent shall advise the Hearing Clerk, prior to the conference, of the telephone number(s) 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.

Please remember that 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 7th day of January, 2010.

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 **ORDER TO SCHEDULE STATUS CONFERENCE CALL** in the matter **FULTON FUEL COMPANY; DOCKET NO.: CWA-08-2009-0006** was filed with the Regional Hearing Clerk on January 8, 2010.

Further, the undersigned certifies that a true and correct copy of the documents were delivered Marc Weiner, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt requested on January 8, 2010, to:

Attorney for Respondent:

Douglas C. Allan
Attorney at Law
P. O. Box 873
Shelby, MT 59474

January 8, 2010



Tina Artemis
Paralegal/Regional Hearing Clerk

