

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2012 JAN 11 AM 9:26

FILED
EPA REGION 8
HEARING CLERK

In the Matter of:

Rick Nelson, owner
Fort Devils Tower

Respondent.

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Docket No. SDWA-08-2011-0021

ORDER TO FILE STATUS REPORT

This action, initiated by the Complainant, Office of Enforcement, Compliance and Environmental Justice, U.S. Environmental Protection Agency (EPA) Region 8, seeks to assess a Class I administrative penalty under Section 1414(g)(3) of the Safe Drinking Water Act (SDWA or Act), 42 U.S.C. § 300g-3(g)(3). Class I penalty actions are governed by procedures set forth in the revised rules for non-Administrative Procedures Act (non-APA) cases. *See* 40 C.F.R. Part 22, Subpart I. I have been assigned to act as Presiding Officer in this matter.

Complainant filed the Administrative Complaint ("Complaint") in this action on February 14, 2011. A United States mail return receipt, commonly referred to as a "green card," filed with the Regional Hearing Clerk indicates that the Complaint was served on the Respondent, on February 17, 2011, making the apparent due date for Respondent's answer March 17, 2011.

The Regional Hearing Clerk's file in this case contains no other filings. After giving consideration to the entire record in this matter and to the Presiding Officer's responsibility to avoid delay in these proceedings, it is ordered that the parties shall comply with following measures for the orderly and efficient conduct of these proceedings:

On or before **February 1, 2012**, Complainant shall file a report on the status of this matter, including, at a minimum: (1) a statement concerning whether Complainant intends to file a motion for default and, if applicable, the date Complainant expects to file its motion; 2) if Complainant does not intend to file a motion for default, its position concerning an extension of the due date for Respondent's answer; 3) a summary of recent contacts between the parties (without disclosing the substance of settlement negotiations); 4) an assessment of whether settlement of this matter appears likely; 5) a statement concerning whether a settlement in principle has been reached; and 6) if applicable, a projected date for the filing of a Consent Agreement and Final Order.

SO ORDERED, this 11th day of January, 2012.

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

Elyana R. Sutin
Regional Judicial Officer
Region 8

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **ORDER TO FILE STATUS**, in the matter of **RICK NELSON, owner, FORT DEVILS TOWER; DOCKET NO.: SDWA-08-2011-0021** was filed with the Regional Hearing Clerk on January 11, 2012.


Further, the undersigned certifies that a true and correct copy of the document was delivered via e-mail to Jean Belille, 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 January 11, 2012, to:

Rick Nelson, Owner
Fort Devils Tower
601 Highway 24
Devils Tower, WY 82714

And e-mailed to:

Honorable Elyana R. Sutin, Regional Judicial Officer
U. S. Environmental Protection Agency – Region 8
1595 Wynkoop Street
Denver, CO 80202-2466

January 11, 2012


Tina Artemis
Paralegal/Regional Hearing Clerk