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2008 JUN 12 PM 2:41  
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U.S. REGIONAL  
HEARING CLERK

June 10, 2008

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

Mr. Sheldon Muller  
Enforcement Attorney  
U.S. EPA Region 8 (8ENF-L)  
1595 Wynkoop Street  
Denver, CO 80202-1129

RE: David J. Paulson and Northeast Ridge Development Company

Enclosed for filing is an original and one copy of the Respondents' Answer to the Amended Administrative Complaint for the Regional Hearing Clerk.

Also, enclosed and served upon Mr. Muller is a copy of the Answer.

Sincerely yours,

SMITH, STREGE & FREDERICKSEN, LTD.



Fred Strege  
A Member of the Firm

FS:amb

Enclosure

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6/4/08

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5. Paragraph 27 alleges that Respondents are developing a marina and residential subdivision on the Site. It is specifically denied that Paulson is the developer in that Northeast Ridge is the sole owner and developer of said marina and subdivision.

6. Paragraph 28 alleges that the Respondents owned, controlled, and/or operated the Site. It is specifically denied that Paulson owned, controlled, and/or operated the Site in that Northeast Ridge was the sole owner, controller, or operator of the Site.

7. Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations as to whether Lake Elsie and wetlands are correctly classified as a "Water of the United States" and accordingly denies the same and puts the Petitioner to its strictest proof thereon.

8. Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 34 and accordingly denies the same and puts the Plaintiff to its strictest proof thereon.

9. To reiterate, wherever Paulson is referenced in paragraphs 35-59 of Part IV. Specific Allegations, it is denied that Paulson was acting in his individual capacity or for his individual benefit and states that all actions by Paulson were taken on behalf of Northeast Ridge for Northeast Ridge's sole benefit.

10. With respect to paragraph 37, Respondents allege that prior to any notice by any governmental entity to Respondents that the Site contained wetlands, Paulson was told by local United States governmental officials that the area to be developed was not a wetland. Paulson was told the area was a marshland but not a wetland.

11. With respect to paragraph 48, to place the allegation in context, Respondents provide that the deepening and widening of the inlet channel and the placement of the riprap was done for erosion control. The inlet channel was eroding and without the work performed, the channel was at the mercy of Mother Nature. The deepening, widening and placement of riprap served to enhance the wetlands which are the subject of this action and to prevent flooding of adjoining lake property owned by others besides the Respondents. Further, the extent of the deepening and widening was as follows: the channel was made not more than approximately three feet deeper and 10 feet wider on each side (but the width is measured from the outer banks so, considering the slope of the sides, the 10 feet width referenced does not present a true picture). The amount of riprap materials placed was approximately 300 yards of rock. Further, the amount of material taken from the channel and which was moved to other places on the Site amounted to approximately 1,200 yards of dirt. The dirt was placed on the perimeter of the Site in what the Respondents thought, based on the comments of government official stated above, was a marshland. The location of the dirt placement involved very little wetlands.

12. With respect to paragraph 49, because corporations can only take action through their living, breathing directors, officers, employees, and agents, Paulson was the individual who acted on behalf of Northeast Ridge with respect to any activities alleged in paragraph 49.

13. With respect to paragraph 52, the use of the word "components" needs to be explained. Particularly, the only action taken and the purpose of the action was

described above. The action taken constitutes approximately five to eight percent of the entire project that was contemplated by Northeast Ridge.

14. Paragraph 57 is specifically denied.

15. As to the Restoration Plan referred to throughout Part IV Specific Allegations, the Restoration Plan prepared by Damon DeVillers, a licensed engineer, was only recently approved by the Corps of Engineers on March 18, 2008. As of this date, it has been too wet to implement the plan, but the Restoration Plan and work set forth therein should be completed during the month of June 2008. The Restoration Plan costs, as estimated by Mr. DeVillers, are estimated to be \$73,978.60 (at a minimum -- fuel costs have gone up since this estimate). Northeast Ridge has limited funds to pay for the Restoration Plan and Paulson is advancing the funds in that regard.

16. With respect to paragraphs 68 and 69, it is specifically denied that a penalty of \$85,000 is fair, reasonable, or appropriate under the circumstances. It is further specifically denied that Paulson should have any personal responsibility therefore.

17. Respondents do request a hearing for all of the purposes set forth in paragraph 70 of the Complaint.

18. Respondent Northeast Ridge is agreeable to an order from the Court in which Northeast Ridge is ordered to implement and complete the Restoration Plan and to pay a small penalty. Ordering the payment of an \$85,000 penalty is not reasonable or appropriate under the circumstances.

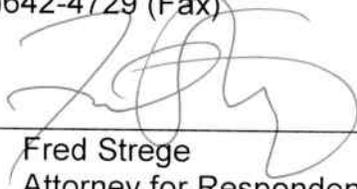
19. With respect to the penalty, Ken Champagne, on behalf of the EPA, represented to both Paulson and to Damon Devillers, a consultant used to prepare the Restoration Plan, that if the Restoration Plan were prepared, implemented, and completed, there would be no additional financial ramifications, penalty, or consequences to the Respondents.

20. Respondents are very willing to participate in an informal settlement conference.

Dated this 10 day of June, 2008.

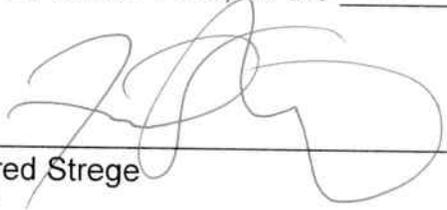
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By \_\_\_\_\_

  
Fred Stregé  
Attorney for Respondents  
North Dakota ID #03445

### CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was furnished by U.S. first class mail to, Mr. Sheldon Muller, Enforcement Attorney, U.S. EPA Region 8 (8ENF-L), 1595 Wynkoop Street, Denver, CO 80202-1129, on the 10 day of June, 2008.

  
Fred Stregé