



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
<http://www.epa.gov/region08>

June 9, 2004

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ref: 8ENF-L

Lee Poole
Joe Vujovich
Moonlight Basin Ranch Inc.
Moonlight Basin Ranch Limited Partnership
P.O. Box 1369
Ennis, MT 59729

Re: Findings of Violation and
Administrative Order for
Compliance
Docket No. CWA-08-2004-0046

Dear Mr. Vujovich and Mr. Poole:

Based on our review of all available information, the United States Environmental Protection Agency (EPA) has determined that you are in violation of the Clean Water Act, as amended (CWA). The CWA requires that an authorizing permit be obtained from the United States Army Corps of Engineers prior to the discharge of pollutants (i.e., dredged or fill material) into waters of the United States. See, 33 U.S.C. § 1311. Waters of the United States include both surface waters and wetlands as defined by 33 C.F.R. § 328.3.

Specifically, you have discharged dredged and fill material into waters of the United States without authorization under the CWA. These discharges of pollutants into streams and wetlands occurred in Sections 14, 23 and 24 in Township 6 South, Range 2 East, in Madison County, Montana.

Enclosed is an EPA Region 8 administrative order which specifies the nature of the violations and describes actions necessary in order for you to achieve compliance with the CWA. EPA's authority for such action is provided under section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3). The order requires you to inform EPA in writing, within five days of receipt, of your intent to fully comply with the order.

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2. Respondent Moonlight Basin Ranch Limited Partnership (MBRLP) is a Montana corporation incorporated under the laws of the State of Ohio in 1992. MBRLP has offices located at 117 East Main Street, Ennis, Montana.

3. At all relevant times, Respondents MBRI and MBRLP owned, controlled, and/or operated approximately twenty-five thousand acres of property containing wetlands and other waters of the United States in Madison County, Montana. These waters are specifically located in portions of sections 14, 23 and 24, Township 6 South, Range 2 East (hereafter, the "Site"). A residential development and ski resort known as Moonlight Basin are located at the Site.

4. On May 2, 2002, personnel from the U.S. Army Corps of Engineers ("Corps" or "COE") met with representatives of Respondents and their technical consultants to explain the CWA regulatory process.

5. On July 23, 2002, the COE and EPA conducted a field inspection at the Site and met with Respondents to explain CWA regulations. During the field inspection, the COE and EPA discovered that there had been unauthorized discharges of dredged or fill material associated with the installation of three culverts associated with an access road. The fill affected approximately 0.08 acres of jurisdictional waters of the United States.

6. On August 1, 2002, the COE issued an after-the-fact Nationwide Permit 39 for the unauthorized fills discovered on July 23, 2002.

7. On August 29, 2002, the COE authorized three culverts for ski runs under Nationwide Permit 42 and a temporary wetland fill for an access road during timber harvest under Nationwide Permit 33.



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