

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2011 SEP 26 AM 9:26

IN THE MATTER OF: )  
)  
Cheerful Cesspool Service )  
18758 Surface Creek Road )  
Cedaredge, CO 81413 )  
)  
Respondent. )  
\_\_\_\_\_ )

FILED  
EPA REGION VIII  
FEDERAL CLERK

Docket No. CWA-08-2009-0017

STATUS REPORT

Complainant, United States Environmental Protection Agency, Region 8 (EPA), by its undersigned attorney, provides the following status report:

On August 3, 2011, following Judge Sutin's Order in this matter dated July 27, 2011, Complainant sent a letter to Respondent Cheerful Cesspool Service, a copy of which is attached hereto. The August 3, 2011, letter enclosed a copy of the original Clean Water Act section 308 request for information that EPA sent to Respondent in November of 2007, acknowledged Respondent's partial response of October 19, 2009, and asked that the remainder of the information requested in the section 308 letter be provided to EPA by September 2, 2011. To date, EPA has not received any response from Cheerful Cesspool Service.

Respectfully Submitted,

Date: 9/26/11

By:

Wendy I. Silver  
Wendy I. Silver  
Senior Attorney  
EPA Region 8  
1595 Wynkoop Street  
Denver, CO 80202  
303-312-6637 (phone)  
303-312-6953 (fax)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 Wynkoop Street  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

August 3, 2011

Ref: 8ENF-L

Merl Reynolds  
Cheerful Cesspool Service  
18758 Surface Creek Road  
Cedaredge, CO 81413

Re: Request for Information Pursuant to Section  
308 of the Clean Water Act

Dear Mr. Reynolds:

On July, 27, 2011, the Regional Judicial Officer denied Cheerful Cesspool Service's answer to the complaint because it was neither complete nor timely. In its Order, the Regional Judicial Officer stated that:

"If Respondent agrees to provide all the necessary information by September 2, 2011 to the Complainant, this court is willing to consider Respondent's cooperation in determining the appropriate penalty amount."

To help you in providing the information, I have enclosed a copy of the original Clean Water Act section 308 request for information (308 request) that the U.S. Environmental Protection Agency, Region 8 (EPA) issued to you in November of 2007. On October 19, 2009, EPA received from you copies of invoices from CB Industries - Delta, Inc. covering the time period from January 1, 2007, to September 28, 2009. Please review the enclosed 308 request and provide the rest of the requested information by September 2, 2011, to:

Emilio Llamozas (8ENF-W-NP)  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129.

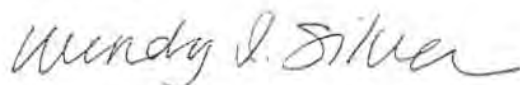
Please answer each numbered request separately, numbering your response to correspond with each numbered request. You must provide all information in your possession that is responsive to any part of each request. If you cannot answer any request, please explain why.

Your response must be accompanied by a certificate that is signed and dated by you or the person who is authorized by you to respond to the request. The certification must state that the response is

complete and contains all information and documentation available to you that is responsive to the 308 request. The 308 request includes a sample Statement of Certification.

If you have any questions concerning the 308 request, you may contact Mr. Llamozas at 303-312-6407 or me at 303-312-6637. You may also use our toll-free number to contact either of us: 800-227-8917.

Sincerely,



Wendy I. Silver  
Senior Attorney

Enclosure: November 2007 Section 308 Information Request

cc: Emilio Llamozas, 8ENF-W-NP



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

NOV 26 1993

Ref: 8ENF-W-NP

CERTIFIED MAIL: 7005-1160-0005-3397-2296  
RETURN RECEIPT REQUESTED

Merl Reynolds  
Cheerful Plumbing (Cesspool Service)  
18758 Surface Creek Road  
Cedaredge, Colorado 81413

Re: Request for Information  
Pursuant to section 308 of the  
Clean Water Act, 33 U.S.C. § 1318

Dear Mr. Reynolds:

The Environmental Protection Agency (EPA) has received information regarding your company's operations that has given us reason to believe that you may be subject to the domestic septage regulations found at 40 C.F.R. Part 503. Therefore, this letter is a Request for Information regarding the method(s) of septage disposal that may be employed by Cheerful Plumbing. Section 308 of the Clean Water Act (Act), 33 U.S.C. § 1318, gives EPA the authority to request information of this nature. The term, "Cheerful Plumbing", will be used throughout the information request to include any and all operation(s) performed by this company. Please provide a separate and complete narrative response to each and every question and subpart of a question. Precede each answer with the number of the question to which it corresponds. Your response to this request must be accompanied by a certificate that is signed and dated by you or the person who is authorized by you to respond to the request. The certification must state that the response is complete and contains all information and documentation available to you that is responsive to the request. We have enclosed a sample Statement of Certification and a copy of the Domestic Septage Regulatory Guidance with this letter.

The Federal government promulgated regulations found at 40 C.F.R. Part 503 in February 1993, governing the use and disposal of sewage sludge, including septage. The aforementioned regulations contain specific requirements for record keeping, land application and/or disposal of septage. Septage is defined at 40 C.F.R. § 503.9(f) as either liquid or solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works that receives only domestic sewage. Failure to comply with these regulations constitutes a violation of the Act. You are hereby required to provide to EPA the following information within forty-five (45) days of receipt of this letter:

Requested Information:

1. Describe the business operations of Cheerful Plumbing, including all types of waste accepted, size of operation, and the percentage of total waste accepted or picked up that qualifies as septage. (Defined above and at 40 C.F.R. § 503.9(f).)
2. Provide a list of all septage received or picked up by Cheerful Plumbing from November 1, 2005 to present. Include the name and address where the septage was received, the date it was received, the type of septage, and the amount (gallons) received. Typically the truck manifest or trucking log will contain this information.
3. Describe each and every method of septage disposal employed by Cheerful Plumbing (i.e., land application, surface disposal, disposal into a wastewater treatment facility, incineration). Provide the following requested information from November 1, 2005, to present, for every disposal method utilized:
  - a) If disposing of septage into a publicly owned treatment works (POTW) or other contract site, describe the location and method of disposal. Include the name of the POTW or contract site, the name of the POTW or contract site employee who authorized such disposal, and copies of any written agreements, disposal logs and/or billing statements between your company and the POTW or contract site.
  - b) If land application or surface disposal of septage is or has been employed provide:
    - (i) Provide a list of all land application and disposal locations utilized. Include the size of each site, the Section, Township and Range in which the site is located or the Global Positioning System (GPS) coordinates (if available) and the number of acres applied at each site;
    - (ii) Identify the application rate and application method of each load that your company applied, the overall gallons applied to each site and the nitrogen requirement for the crop or vegetation grown on each site during the given time frame;
    - (iii) Provide copies of all sample analyses for all septage that was land applied and/or surface disposed.
    - (iv) Describe any treatment of the septage which took place prior to application or disposal. If the septage was incorporated into the soil during land application, describe the process used and time period between application and incorporation.
    - (v) Describe how your company is achieving compliance with pathogen and vector attraction reduction requirements found in 40 C.F.R. § 503.

EPA has agreed to notify small businesses of their right to comment on regulatory enforcement activities at the time of an EPA enforcement activity pursuant to the Small Business Regulatory Enforcement and Fairness Act (SBREFA), section 22. SBREFA does not eliminate your responsibility to comply with the Clean Water Act or this Information Request, nor does it create any new rights or defenses under law. We have enclosed a SBREFA information sheet containing further information on compliance assistance resources and tools available to small businesses.

Please be advised that under section 309 of the CWA, 33 U.S.C. § 1319, failure to respond or furnish information, or for knowingly providing false information requested pursuant to section 308 of the CWA, 33 U.S.C. § 1318, may result in an order requiring compliance, a civil action for appropriate relief, or criminal prosecution. In addition, under section 309 of the CWA, 33 U.S.C. § 1319, violation of any such order or failure to submit required information may be punishable by a fine of not more than \$32,500 per day of violation, or by imprisonment of not more than one year, or by both.

Please submit the information requested in this letter to:

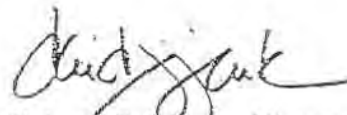
Aaron Urdiales (8ENF-W-NP)  
Environmental Scientist  
United States Environmental Protection Agency  
Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129

If you have any questions concerning the information request or submittal of your response, please contact Aaron Urdiales at 303-312-6844.

Sincerely,



Darcy O'Connor, Unit Chief  
NPDES Enforcement Unit  
Office of Enforcement, Compliance  
and Environmental Justice



Michael T. Resner, Director  
David J. Janik, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures: Statement of Certification  
*Supplemental Information for Small Business*  
*Domestic Septage Regulatory Guidance*

CC: Kenan Dicker, CDPHE

Cheerful Plumbing

Request for Information Pursuant to Section 308 of the Clean Water Act

Statement of Certification

I certify under penalty of law that the foregoing responses and attachments to EPA's Request for Information Pursuant to the Clean Water Act ("Request") were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. The response and attachments contain all documents and information responsive to the Request that are known to me following a complete and thorough review of all information and sources available to me. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

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Signature

Date

---

Printed Name

---

Official Title



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In the Matter of: Cheerful Cesspool Service  
Docket No. CWA-08-2009-0017

CERTIFICATE OF SERVICE

I certify that on the date noted below, I sent by first class mail and by certified mail a copy of the foregoing STATUS REPORT to:

Merl Reynolds  
Cheerful Cesspool Service  
18758 Surface Creek Road  
Cedaredge, CO 81413

The original and one copy were hand-delivered to:

Tina Artemis  
Regional Hearing Clerk  
U.S. Environmental Protection Agency (8RC)  
1595 Wynkoop Street  
Denver, CO 80202-1129

Date: 9/26/2011

Judith M. McTernan