



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

NOV 16 2007

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:

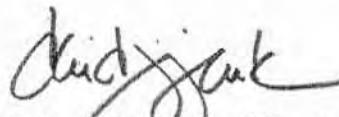
Aaron Urdiales (8ENF-W-NP)
Environmental Scientist
United States Environmental Protection Agency
Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

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. Risner, 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.

Signature

Date

Printed Name

Official Title



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

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

RENE-WIND 10

COMPLETE THIS SECTION ON DELIVERY

A. Signature

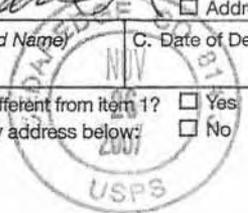
Merl Reynolds

- Agent
- Addressee

B. Received by (Printed Name)

MR

C. Date of Delivery



D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

- Certified Mail
- Express Mail
- Registered
- Return Receipt for Merchandise
- Insured Mail
- C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number
7005 1160 0005 3397 2296



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 8
 1595 Wynkoop Street
 DENVER, CO 80202-1121
 Phone 800-227-8917
<http://www.epa.gov/region08>

MAR 14 2008

Ref: 8ENF-W-NP

CERTIFIED MAIL: 7005-0390-0000-4846-9689
RETURN RECEIPT REQUESTED

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

7005 0390 0000 4846 9689

CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)
 For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To: *Cheerful Plumbing*
Merl Reynolds
 Street, Apt. No., or PO Box No.: *18758 Surface Creek Road*
 City, State, ZIP+4: *Cedaredge, CO 81413*

PS Form 3800, June 2002 See Reverse for Instructions

Re: Follow-up and Opportunity to Confer to November 16, 2007, Request for Information Pursuant to section 308 of the Clean Water Act, 33 U.S.C. § 1318

Dear Mr. Reynolds:

On November 16, 2007, the United States Environmental Protection Agency (EPA) requested information regarding the method(s) of septage disposal that may be employed by Cheerful Plumbing. Although, the response due date was January 10, 2008, EPA has not yet received a response from Cheerful Plumbing. Therefore, EPA now requests, again, that you and/or Cheerful Plumbing provide the information requested on November 16, 2007. Section 308 of the Clean Water Act (CWA), 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.

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 fourteen (14) 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.

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:

Elizabeth Fagen (8ENF-W-NP)
Environmental Engineer
United States Environmental Protection Agency
Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

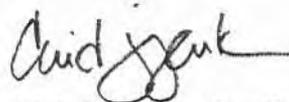
You are welcome to confer with EPA via conference call concerning any of the information EPA has requested from you. If you prefer a conference call meeting, we would encourage you to contact us to schedule the call before the answers to this request are due.

Due to the serious ramifications of non-compliance with a request for information, we urge your prompt attention to this matter. If you have any questions concerning the information request or submittal of your response, please contact Elizabeth Fagen at 303-312-6095.

Sincerely,



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



David J. Janik, Acting Director
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures: Statement of Certification

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.

Signature _____ Date _____

Printed Name _____

Official Title _____



EPA United States
Environmental Protection Agency
REGION 8
1595 Wynkoop Street
Denver, CO 80202-1129

OFFICIAL BUSINESS - PENALTY FOR PRIVATE USE - \$300

8ENF-UFO

RETURN RECEIPT
REQUESTED

3-17-08
First Name
3-24
4-01

**Merl Reynolds
Cheerful Plumbing
(Cesspool Service)
18757 Surface Creek
Cedaredge, CO 8141**

8141318127 P001
80202@1129

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE
CERTIFIED MAIL



7005 0390 0000 4846 9689

LET US DARE TO READ,
THINK, SPEAK AND WRITE.

John Adams, 1765

\$05.210

03/14/2008

Mailed From: 80202

US POSTAGE

CERTIFIED

NIXIE 802 SE 1 74 04/12/08

RETURN TO SENDER
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UNABLE TO FORWARD

BC: 80202112995 *1368-00784-14-46





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

JUN 30 2008

Ref: 8ENF-I.

VIA FEDERAL EXPRESS

JUL 3 2008 *Fed Ex'd*

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

Re: Opportunity to Confer and Order for
Compliance with Information Request,
Docket No. **CWA-08-2008-0016**

Dear Mr. Reynolds:

Enclosed is a U.S. Environmental Protection Agency (EPA) Notice of Opportunity to Confer and Order for Compliance with Information Request (Notice and Order) issued under the authority vested in the Administrator of EPA by sections 308 and 309(a)(3) of the Clean Water Act (the Act), 33 U.S.C. §§ 1318 and 1319(a)(3). This authority has been properly delegated to the Assistant Regional Administrator of the Office of Enforcement, Compliance, and Environmental Justice, EPA Region 8. The Notice and Order provides Cheerful an opportunity to confer with EPA regarding information requested by EPA and further requires Cheerful Cesspool Service to submit requested information to EPA within the time frame set forth in the Notice and Order. That time frame provides ample opportunity for Cheerful to confer with EPA prior to having to submit the requested information to EPA.

On November 16, 2007, EPA sent a Request for Information (Request) regarding the method(s) of septage disposal employed by Cheerful. Section 308 of the Clean Water Act, 33 U.S.C. § 1318, gives EPA the authority to request information of this nature. Cheerful received the Request on November 26, 2007, and the response was due on or before January 10, 2008. To date, EPA has not received a response to the Request from Cheerful, in violation of section 308 of the Act.

Section 309(a)(3) of the Act, 33 U.S.C. § 1319(a)(3), authorizes the Administrator of EPA to issue an order requiring compliance with a section 308 request for information. However, under section 309(a)(4) of the Act, 33 U.S.C. § 1319(a)(4), such an order may not take effect until the person to whom the order has been issued has had an opportunity to confer with EPA regarding the alleged violation of section 308. Following Cheerful's failure to respond to



the Request, on March 14, 2008, EPA sent Cheerful a Follow-up and Opportunity to Confer (Opportunity to Confer), as required by section 309(a)(4) of the Act. Cheerful refused to accept service by first class mail of the Opportunity to Confer.

The enclosed Notice and Order again provides notice of an opportunity for you to confer with EPA via conference call concerning Cheerful's alleged violation of section 308 of the Act. If you wish to take advantage of this opportunity, you are encouraged to contact Elizabeth Fagen at 303-312-6095. The Compliance Order portion of the Notice and Order will not become effective until thirty days following Cheerful's receipt of the Notice and Order, providing you with sufficient time to confer with EPA before the information required by the Compliance Order is due.

The Act requires the Administrator of EPA to take all appropriate enforcement action to secure prompt compliance with the Act and any order issued thereunder. Section 309 of the Act authorizes a variety of possible enforcement actions, including filing of a civil or criminal action, administrative penalty action, and/or disbarment from federal contracts and/or loans for any non-compliance with the Act or an order issued pursuant to the Act.

Please review the Notice and Order carefully. If you have any questions, the most knowledgeable people on my staff are Elizabeth Fagen, Environmental Engineer, at 303-312-6095, and Wendy Silver, Senior Attorney, at 303-312-6637.

Sincerely,

Eddie A. Sierra
for Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance and
Environmental Justice

Enclosures

cc: Tina Artemis, EPA, Regional Hearing Clerk

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2008 JUL 30 AM 11:43

IN THE MATTER OF:)
)
Cheerful Cesspool Service)
18758 Surface Creek Rd.)
Cedaredge, CO 81413)
)
Respondent.) DOCKET NO. **CWA-08-2008-0016**

INTRODUCTION

This notice of opportunity to confer and administrative order for compliance ("Notice and Order") is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by sections 308 and 309(a)(3) of the Federal Water Pollution Control Act (also referred to as the Clean Water Act) (the "Act"), 33 U.S.C. §§ 1318 and 1319(a)(3). This authority has been properly delegated to the Assistant Regional Administrator of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8. This Notice and Order is based on the findings of violation of section 308 of the Act, 33 U.S.C. § 1318, resulting from Cheerful Cesspool Service's failure to respond to a request for information made by EPA on or about November 19, 2007, pursuant to section 308 of the Act, 33 U.S.C. § 1318.

FINDINGS OF VIOLATION

1. Cheerful Cesspool Service ("Respondent") owns and operates a domestic septage disposal service at 18758 Surface Creek Rd. in Cedaredge, Colorado.
2. At all relevant times, Respondent engaged in the disposal of domestic septage.

3. On November 19, 2007, EPA sent to Respondent a request for information (“November 19, 2007 Request”) pursuant to section 308 of the Act, 33 U.S.C. § 1318, to determine compliance with section 405 of the Act (Disposal or Use of Sewage Sludge), 33 U.S.C. § 1345, and regulations promulgated thereunder and found at 40 C.F.R. Part 503. Respondent’s response to the November 19, 2007 Request was due within 45 days of its receipt by Respondent. The November 19, 2007 Request was sent via certified mail (article number 7005-1160-0005-3397-2296), return receipt requested. The return receipt card was signed by Merl Reynolds on behalf of Respondent on November 26, 2007.
4. To date, EPA has not received a response from Respondent to the November 19, 2007 Request.
5. On March 14, 2008, EPA sent a follow-up and opportunity to confer (“Opportunity to Confer”) regarding the November 19, 2007 Request to Respondent, pursuant to section 309(a)(4) of the Act, 33 U.S.C. § 1319(a)(4). The Opportunity to Confer reiterated the November 19, 2007 Request and offered Respondent an opportunity to confer with EPA via conference call regarding the November 19, 2007 Request. Respondent’s response to the Opportunity to Confer was due within fourteen days of its receipt by Respondent. The Opportunity to Confer was sent to Respondent via certified mail (article number 7005-0390-0000-4846-9689) on March 14, 2008.
6. Respondent did not accept service of the Opportunity to Confer, and it was returned to EPA by the U.S. Postal Service on April 12, 2008.
7. Respondent is a “person” within the meaning of section 502(5) of the Act, 33 U.S.C. § 1362(5).

8. Equipment used by Respondent to dispose of domestic septage constitutes a "point source" within the meaning of section 502(14) of the Act, 33 U.S.C. § 1362(14).
9. As the owner or operator of equipment used to dispose of domestic septage, Respondent is the "owner or operator" of a point source.
10. Section 308(a)(2)(A) of the Act, 33 U.S.C. § 1318(a)(2)(A), authorizes the Administrator of the EPA to require the owner or operator of any point source to provide information as necessary to determine whether any person is in violation of any effluent limit or other limitation, prohibition or effluent standard, pretreatment standard, or standard of performance, or to carry out section 405 of the Act, 33 U.S.C. § 1345.
11. Respondent's failure to respond to the November 18, 2007 Request and to the Opportunity to Confer constitute violations of section 308 of the Act, 33 U.S.C. § 1318.

COMPLIANCE ORDER

Based upon the foregoing FINDINGS OF VIOLATION, and pursuant to the authority vested in the Administrator of EPA pursuant to sections 308 and 309 of the Act, 33 U.S.C. §§ 1318 and 1319, as properly delegated to the Assistant Regional Administrator of the Office of Enforcement, Compliance, and Environmental Justice, it is hereby ORDERED:

- I. Within 30 calendar days of the effective date of this Notice and Order, Respondent shall submit to EPA the following information:
 - a. Describe the business operations of Cheerful Cesspool Service, including all types of wastes accepted, and the percentage of total waste accepted that qualifies as septage defined at 40 C.F.R. § 503.9(f).
 - b. Provide a list of all septage received by Cheerful Cesspool Service from November 1, 2005 to present. Include the name, address of the source, date of receipt of septage, and type of septage.

- c. Describe each and every method of septage disposal employed by Cheerful Cesspool Service (i.e., land application, surface spreading, trenching, disposal into a wastewater treatment facility, incineration) from November 1, 2005 to present.
- d. If land application of septage is or has been employed, describe how Cheerful Cesspool Service is achieving compliance with the record keeping requirements found in 40 C.F.R. § 503.17. Please refer to the enclosed publication entitled *Domestic Septage Regulatory Guidance* and 40 C.F.R. Part 503 for specific record-keeping requirements (Attachment A). Please provide all land application records from November 1, 2005 to present.
- e. If land application of septage is employed, describe how Cheerful Cesspool Service is achieving compliance with the pathogen and vector attraction reduction requirements of 40 C.F.R. § 503.15(b).
- f. If land application of septage is employed, describe how Cheerful Cesspool Service is achieving compliance with the monitoring requirements found in 40 C.F.R. § 503.16. Provide all monitoring documentation from November 1, 2005 to present.
- g. If land application of septage is employed, list all locations utilized by Cheerful Cesspool Service. Include size of each site, property owner's name and address, type of crop or vegetation growing at each site, maps, and locations of nearby drainage ditches, ponds, streams, rivers, or other bodies of water.
- h. If land application of septage is employed, list the source of the septage, date, time, location, application rate, and application method of each load Cheerful Cesspool Service has applied from November 1, 2005 to present.
- i. Provide all sample analysis for all of Cheerful Cesspool Service's septage that was land applied from November 1, 2005 to present.
- j. If Cheerful Cesspool Service is disposing of septage into a publicly owned treatment works (POTW), describe the location and method of disposal. Please provide all records of disposal into a POTW from November 1, 2005 to present.
- k. If Cheerful Cesspool Service disposes of septage employing surface disposal, provide the name and address of all surface disposal sites and records of disposal from November 1, 2005 to present.
- l. If Cheerful Cesspool disposes of septage employing surface disposal, list sources of each load of septage, the date, and the amount disposed of at each surface disposal site.

- m. If Cheerful Cesspool Service disposes of septage employing surface disposal, describe how compliance with the pathogen and vector attraction reduction requirements of 40 C.F.R. § 503.25(c) is achieved. Provide documentation from November 1, 2005 to present.
 - n. If Cheerful Cesspool Service disposes of septage employing surface disposal, explain how the record keeping requirements of 40 C.F.R. § 503.27(b) are being achieved.
 - o. If Cheerful Cesspool Service disposes of septage employing surface disposal, provide all sample analysis from November 1, 2005 to present.
 - p. For the period November 1, 2005 to present, provide the following costs incurred by Cheerful Cesspool Service along with all written and/or electronic documentation for the treatment and disposal of septage as follows:
 - 1. Cost of sampling & analysis
 - 1. Cost of equipment used for land application
 - 2. Cost of operation and maintenance of application equipment
 - 3. Cost of disposal at a POTW or other site
 - 4. Cost of pathogen and vector reduction
2. Respondent's responses to the questions set forth in paragraph 1 of this section must be accompanied by a certificate that is signed and dated by a person authorized to represent Respondent. The certification must state that the response is complete and contains all information and documentation available to Respondent that is responsive to the questions listed above. A sample Statement of Certification can be found in Attachment B.
3. Please be advised that under section 309 of the Act, 33 U.S.C. § 1319, violation of this Notice and Order or failure to submit the required information, or making a false statement under section 308 of the Act, may be punishable by a fine of not more than \$32,500 per day of violation, or by imprisonment for not more than one year, or by both

4. Copies of the information required by this Notice and Order shall be sent to EPA at the following address:

Liz Fagen (8ENF-W-NP)
U.S. EPA Region 8
1595 Wynkoop St.
Denver, Colorado 80202-1129

NOTICE OF OPPORTUNITY TO CONFER

1. As required by section 309(a)(4) of the Act, 33 U.S.C. § 1319(a)(4), the Compliance Order portion of this Notice and Order shall not take effect until Respondent has the opportunity to confer with EPA on the alleged violations. The effective date of the Compliance Order portion of this Notice and Order is therefore delayed until 30 calendar days after Respondent's receipt of this Notice and Order. If you wish to confer with EPA via conference call concerning any information EPA has requested from you, we encourage you to contact Elizabeth Fagen, at 303-312-6095, to schedule the call before the answers to the request are due.

Issued this 23rd day of June, 2008.



Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance,
and Environmental Justice

IN THE MATTER OF: Cheerful Cesspool Service
DOCKET NO.: CWA-08-2008-0016

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of the attached ORDER FOR COMPLIANCE was hand delivered to the Regional Hearing Clerk, EPA Region 8, 1595 Wynkoop St., Denver, Colorado, and that a true copy of the same was sent via FedEx to the following:

Cheerful Cesspool Service
18758 Surface Creek Rd.
Cedaredge, CO 81413

7/3/08
DATE

Judith M. McTernan
SIGNATURE OF SERVER

United States
Environmental Protection
Agency

Office of Water
(4204)

EPA 832-B-92-005
September 1993

1st Page only



Domestic Septage Regulatory Guidance

A Guide to The EPA 503 Rule



**Statement of Certification
Cheerful Cesspool Service**

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.

Signature

Date

Printed Name

Official Title



FedEx Express
Customer Support Trace
3875 Airways Boulevard
Module H, 4th Floor
Memphis, TN 38116

U.S. Mail: PO Box 727
Memphis, TN 38194-4643
Telephone: 901-369-3600

July 30, 2008

Dear Customer:

The following is the proof-of-delivery for tracking number **864232029275**.

Delivery Information:

Status:	Delivered	Delivery date:	Jul 8, 2008 14:26
Signed for by:	N.REYNOLDS		
Service type:	Priority Envelope		

Shipping Information:

Tracking number:	864232029275	Ship date:	Jul 3, 2008
		Weight:	1.0 lbs.

Recipient:
US

Shipper:
US

Reference

ENF

Thank you for choosing FedEx Express.

FedEx Worldwide Customer Service
1.800.GoFedEx 1.800.463.3339

Track Shipments/FedEx Kinko's Orders
Detailed Results

Tracking number	864232029275	Reference	ENF
Signed for by	N.REYNOLDS	Delivered to	Residence
Ship date	Jul 3, 2008	Service type	Priority Envelope - Direct Signature Required
Delivery date	Jul 8, 2008 2:26 PM	Weight	1.0 lbs.
Status	Delivered		
Signature image available	Yes		

Date/Time	Activity	Location	Details
Jul 8, 2008	2:26 PM	Delivered	
	9:34 AM	On FedEx vehicle for delivery	MONTROSE, CO
Jul 7, 2008	6:31 PM	At local FedEx facility	MONTROSE, CO
	1:11 PM	Delivery exception	MONTROSE, CO Customer not available or business closed - Sig required
	8:13 AM	On FedEx vehicle for delivery	MONTROSE, CO
Jul 5, 2008	8:59 AM	At local FedEx facility	MONTROSE, CO
	8:59 AM	At local FedEx facility	MONTROSE, CO Package not due for delivery
	6:43 AM	At dest sort facility	GRAND JUNCTION, CO
Jul 4, 2008	4:32 AM	Departed FedEx location	MEMPHIS, TN
	4:38 AM	In transit	MEMPHIS, TN
	1:00 AM	Arrived at FedEx location	MEMPHIS, TN
Jul 3, 2008	7:35 PM	Left FedEx origin facility	DENVER, CO
	4:50 PM	Picked up	DENVER, CO

Subscribe to tracking updates (optional)

Your name:

Your e-mail address:

E-mail address

Language

Exception updates

- English
- English
- English
- English

Select format: HTML Text Wireless

Add personal message:

Not available for Wireless or non-English characters.

Request For Special Mail Handling

Date: 6/2/08 ^{CWA-08-2008-0016}

From: Elizabethn Fagen Mail Code: ENF-W-NP

Ship To: Name / Company: Merv Reynolds

Address: Cheerful Cesspool Services
18758 Surface Creek Road
Cedaredge CO State: CO Zip Code: 81413

Service Required: Express: UPS: Other: FedEx

Overnight Delivery (Date): _____

Second-Day Delivery (Date): _____

Justification: Will not accept documents sent by EPA

Supervisor's Approval
Dargow 7/1/08
Date

8PM-AS Office Approval
Pat Leutoma
Date 7/03/08

This Space Reserved For Mail Room

Air Bill No.: 8642 3202 9275

Carrier(s) Used And Routing: _____

Total Weight: _____ Estimated Cost: \$ _____



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

2008 DEC 16 10 58 AM

DEC 16 2008

Ref: 8ENF-L

VIA FEDERAL EXPRESS

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

Re: Opportunity to Confer and Order for
Compliance with Information Request,
Docket No. CWA-08-2008-0016

Dear Mr. Reynolds:

On June 30, 2008, the U.S. Environmental Protection Agency (EPA) sent you a Notice of Opportunity to Confer and Order for Compliance with Information Request (Notice and Order) issued under the authority vested in the Administrator of EPA by sections 308 and 309(a)(3) of the Clean Water Act (the Act), 33 U.S.C. §§ 1318 and 1319(a)(3). The Notice and Order require you to submit certain information concerning the operations of Cheerful Cesspool (Cheerful) within thirty days of the effective date of the Notice and Order, and offered you the opportunity to confer with EPA regarding the requested information. You received the Notice and Order on July 8, 2008, but, to date, EPA has not received your response or any indication through phone calls or email that you wish to confer with EPA.

EPA is concerned with your continued refusal to comply with our requests for information on Cheerful's operations. As you may recall, in November 2002, EPA sent you a supplemental request for information to which you failed to respond. The supplemental request was sent to you because some required information was missing from your response to EPA's 2001 request for information. In January 2003, EPA sent you a letter by certified mail offering the opportunity to confer with EPA regarding the November 2002, request for information, but you refused to claim that letter. On November 16, 2007, EPA sent you a request for information regarding the method(s) of septage disposal employed by Cheerful. Cheerful received that request on November 26, 2007, and the response was due on or before January 10, 2008. After you failed to respond to the November 2007, request, on March 14, 2008, EPA sent Cheerful a follow-up and opportunity to confer, as required by section 309(a)(4) of the Act. Cheerful refused to accept service by first class mail of the opportunity to confer. EPA made several attempts to contact Cheerful via telephone November 2008 to discuss the Notice and Order; however Cheerful has not returned the phone messages left by EPA.

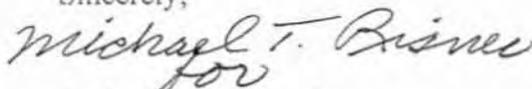


Printed on Recycled Paper

As you have been informed in prior correspondence from EPA, the Act requires the Administrator of EPA to take all appropriate enforcement action to secure prompt compliance with the Act and any order issued under the Act. Section 309 of the Act authorizes a variety of possible enforcement actions, including a civil or criminal action; administrative penalty action; and disbarment from federal contracts and loans for any non-compliance with the Act or an order issued pursuant to the Act. At this time, EPA is planning to pursue an action for administrative penalties against Cheerful for its non-compliance with the November 2007, request for information unless Cheerful provides EPA with complete responses to each question contained in that document, a copy of which is enclosed, prior to January 9, 2009. Section 309(g) of the Act authorizes administrative penalties of up to \$11,000 per day for each day that a violation continues, up to a maximum of \$157,500.

If you have any questions concerning this letter or the information being requested of Cheerful, the most knowledgeable person on my staff is Elizabeth Fagen, Environmental Engineer, at 303-312-6095. Legal questions should be directed to Wendy Silver, Senior Attorney, at 303-312-6637.

Sincerely,

A handwritten signature in cursive script that reads "Michael T. Bisnes" with a large flourish underneath.

Andrew M. Gaydos
Assistant Regional Administrator
Office of Enforcement, Compliance and
Environmental Justice

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

DEC 16 2008

DEC 16 2008

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.

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.

Signature

Date

Printed Name

Official Title



Bcc: Aaron Urdiales, ENF-W-NP
Bob Brobst, 8P-W-WW

CC: Address

Kenan Dicker
Water Quality Control Division
Biosolids
Colorado Department of Public
Health and Environment
4300 Cherry Creek Drive South
Denver, CO 80246-1530

Detailed Results

[Printable Version](#)

[Help](#)

Enter tracking number

Track

- Detailed Results**
- Notifications

Tracking no.: 864217266058

[E-mail notifications](#)

Delivered



Delivered
Signed for by: Signature release on file

Shipment Dates
Ship date [?] Dec 16, 2008
Delivery date [?] Dec 17, 2008 3:31 PM

Destination
[Proof of Delivery](#) [?]

Shipment Facts

[Help](#)

Service type: Priority Envelope Delivered to: Residence

Shipment Travel History

[Help](#)

Select time zone: Local Scan Time

Select time format: [12H](#) | [24H](#)

All shipment travel activity is displayed in local time for the location

Date/Time	Activity	Location	Details
Dec 17, 2008 3:31 PM	Delivered		Left at front door. Package delivered to recipient address - release authorized
Dec 17, 2008 9:57 AM	On FedEx vehicle for delivery	MONTROSE, CO	
Dec 17, 2008 9:26 AM	At local FedEx facility	MONTROSE, CO	
Dec 17, 2008 8:23 AM	At dest sort facility	GRAND JUNCTION, CO	
Dec 17, 2008 5:55 AM	Departed FedEx location	MEMPHIS, TN	
Dec 17, 2008 12:54 AM	Arrived at FedEx location	MEMPHIS, TN	
Dec 16, 2008 9:50 PM	Left FedEx origin facility	DENVER, CO	
Dec 16, 2008 4:49 PM	Picked up	DENVER, CO	





FedEx Express
Customer Support Trace
3875 Airways Boulevard
Module H, 4th Floor
Memphis, TN 38116

U.S. Mail: PO Box 727
Memphis, TN 38194-4643
Telephone: 901-369-3600

February 24, 2009

Dear Customer:

The following is the proof-of-delivery for tracking number **864217266058**.

Delivery Information:

Status:	Delivered	Delivery date:	Dec 17, 2008 15:31
Signed for by:	Signature release on file		
Service type:	Priority Envelope		

NO SIGNATURE REQUIRED

Proof-of-delivery details appear below; however, no signature is available for this FedEx Express shipment because a signature was not required.

Shipping Information:

Tracking number:	864217266058	Ship date:	Dec 16, 2008
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Recipient:
US

Shipper:
US

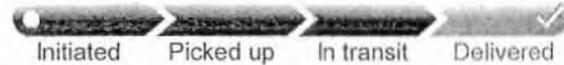
Thank you for choosing FedEx Express.

FedEx Worldwide Customer Service
1.800.GoFedEx 1.800.463.3339

Tracking no.: 866784117290



Delivered



Delivered

Signed for by: Signature not required

Shipment Dates

Ship date Jun 18, 2009

Delivery date Jun 19, 2009 2:06 PM

Destination

[Proof of Delivery](#)

Shipment Facts

[Help](#)

Service type	Priority Envelope	Delivered to	Residence
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Shipment Travel History

[Help](#)

Select time zone:

Select time format: [12H](#) | [24H](#)

All shipment travel activity is displayed in local time for the location

Date/Time	Activity	Location	Details
Jun 19, 2009 2:06 PM	Delivered		Left at front door. Package delivered to recipient address - release authorized
Jun 19, 2009 9:12 AM	On FedEx vehicle for delivery	MONTROSE, CO	
Jun 19, 2009 8:50 AM	At local FedEx facility	MONTROSE, CO	
Jun 19, 2009 6:42 AM	At dest sort facility	GRAND JUNCTION, CO	
Jun 19, 2009 3:41 AM	Departed FedEx location	MEMPHIS, TN	
Jun 19, 2009 12:49 AM	Arrived at FedEx location	MEMPHIS, TN	
Jun 18, 2009 8:30 PM	Left FedEx origin facility	DENVER, CO	
Jun 18, 2009 4:51 PM	Picked up	DENVER, CO	

REQUEST FOR SPECIAL MAIL HANDLING

DATE: August 7, 2009

FROM: Wendy Silver MAIL CODE: ENF-L

SHIP TO: Name/Company: Merl Reynolds

Address : Cherful Cesspool Service

18758 Surface Creek Rd

State Codrington CO Zip Code: 81413

SERVICE REQUIRED: Express UPS Other

Overnight Delivery (Date): _____

Second-Day Delivery (Date): August 10, 2009

JUSTIFICATION: lit deadline

[Signature]
Supervisor's Approval
Aug. 7, 09
Date

[Signature]
BPM-AS Office Approval
Aug. 7, 09
Date

THIS SPACE RESERVED FOR MAIL ROOM

Airbill No.: 86 34 4770 6080

Carrier(s) used and routing: _____

Total weight: _____

Estimated cost: \$ _____

Original - Mail Room

Yellow - Customer



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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

Ref: 8ENF-L

AUG - 7 2009

VIA FEDERAL EXPRESS

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

Re: Administrative Complaint and Notice of
Opportunity for Hearing
Docket No. CWA-08-2009-0017

Dear Mr. Reynolds:

Enclosed please find a copy of the administrative complaint and notice of opportunity for hearing that was sent to you on June 18, 2009. In a conversation with Elizabeth Fagen of the U.S. Environmental Protection Agency, Region 8 on August 6, 2009, your wife indicated that you might have misplaced these documents. Please note that your answer is already past due.

Sincerely,

A handwritten signature in cursive script that reads "Wendy I. Silver".

Wendy I. Silver
Senior Attorney

Enclosures:

1. Administrative Complaint and Notice of Opportunity for Hearing
2. Consolidated Rules of Civil Practice (40 C.F.R. Part 22)
3. U.S. EPA Small Business Resources Information Sheet
4. SEC Disclosure Notice



Printed on Recycled Paper

Detailed Results

Printable Version

Enter tracking number

Detailed Results	Notifications
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Tracking no.: 863447706080

**Delivered**
Delivered

Signed for by: M.REYNOLDS

Shipment Dates

Ship date ⓘ Aug 7, 2009
 Delivery date ⓘ Aug 10, 2009 12:13 PM

Destination

Signature Proof of Delivery ⓘ

Shipment Facts

Service type	Priority Envelope	Delivered to	Residence
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Shipment Travel History

Select time zone: Select

Select time form

All shipment travel activity is displayed in local time for the location

Date/Time	Activity	Location	Details
Aug 10, 2009 12:13 PM	Delivered		
Aug 10, 2009 8:19 AM	On FedEx vehicle for delivery	MONTROSE, CO	
Aug 10, 2009 7:59 AM	At local FedEx facility	MONTROSE, CO	
Aug 10, 2009 5:16 AM	At dest sort facility	GRAND JUNCTION, CO	
Aug 9, 2009 9:01 PM	At local FedEx facility	DENVER, CO	
Aug 9, 2009 3:28 PM	Departed FedEx location	MEMPHIS, TN	
Aug 8, 2009 1:40 PM	In transit	MEMPHIS, TN	
Aug 8, 2009 11:05 AM	Arrived at FedEx location	MEMPHIS, TN	
Aug 7, 2009 9:40 PM	At local FedEx facility	DENVER, CO	
Aug 7, 2009 8:09 PM	Left FedEx origin facility	DENVER, CO	
Aug 7, 2009 4:00 PM	Picked up	DENVER, CO	



FedEx Express
Customer Support Trace
3875 Airways Boulevard
Module H, 4th Floor
Memphis, TN 38116

U.S. Mail: PO Box 727
Memphis, TN 38194-4643
Telephone: 901-369-3600

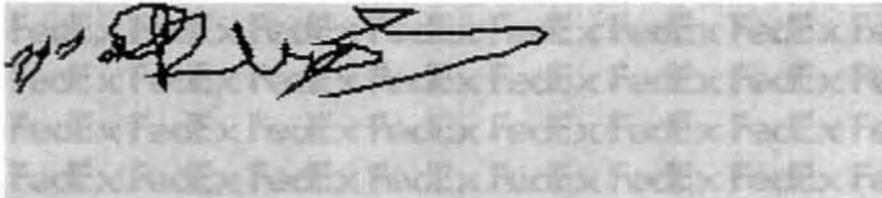
August 11, 2009

Dear Customer:

The following is the proof-of-delivery for tracking number **863447706080**.

Delivery Information:

Status:	Delivered	Delivery date:	Aug 10, 2009 12:13
Signed for by:	M.REYNOLDS		
Service type:	Priority Envelope		



Shipping Information:

Tracking number:	863447706080	Ship date:	Aug 7, 2009
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Recipient:
US

Shipper:
US

Thank you for choosing FedEx Express.

FedEx Worldwide Customer Service
1.800.GoFedEx 1.800.463.3339



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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

Ref: 8ENF-L

SEP 17 2009

**VIA FEDERAL EXPRESS AND
FIRST CLASS MAIL**

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

Re: Administrative Complaint and Notice of
Opportunity for Hearing
Docket No. CWA-08-2009-0017

Dear Mr. Reynolds:

This letter concerns the above-referenced complaint that the U.S. Environmental Protection Agency, Region 8 (EPA) filed against Cheerful Cesspool Service (Cheerful) on June 18, 2009, proposing that a penalty of \$6,200.00 be assessed for Cheerful's repeated failure to respond to a request for information issued pursuant to section 308 of the Clean Water Act. The complaint was sent to you via Federal Express (FedEx), and was delivered to you on June 19, 2009. As noted both in the transmittal letter and the complaint itself, Cheerful was required to file an answer to the complaint with the EPA Regional Hearing Clerk within thirty (30) days of receipt of the complaint.

On August 6, 2009, after you failed to file an answer within the 30-day period, Ms. Liz Fagen of EPA called you to remind you of the necessity of filing an answer. Ms. Fagen spoke with your wife, who indicated that you were not home, and explained to her the requirement to file an answer and further told your wife that you should contact her if you had any questions concerning the process. Your wife stated that you might have lost the complaint, so I sent a complete copy of the complaint and cover letter to you the next day via FedEx. You or your wife (it is a bit hard to read the signature obtained by FedEx) signed for that mailing on August 10, 2009. Over thirty days have passed since you received the copy of the complaint, yet you have still not filed an answer.

I am writing this letter to stress the importance of filing an answer and to reiterate the information contained in the complaint and cover letter concerning the potential consequences of failing to file an answer. As explained in the documents you have received, in order to request a hearing to contest the allegations in the complaint and the penalty proposed by EPA, you must

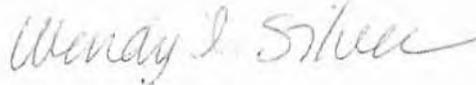


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file an answer within 30 days of receipt of the complaint or the right to a hearing will be waived. In addition, section 22.17 of Consolidated Rules of Practice, a copy of which was enclosed with the complaint, allows EPA to request that the presiding officer assigned to the case enter a default judgment against a respondent such as Cheerful who fails to timely file an answer. The presiding office may then impose the full penalty proposed in the complaint. Please be aware that if you do not file an answer by October 5, 2009, I intend to file a motion requesting that a default judgment be entered in this case, and that the entire penalty of \$6,200.00 be imposed against Cheerful Cesspool. If you then refuse to pay the penalty, the case may be referred to the U.S. Department of Justice or the Internal Revenue Service for further enforcement.

Due to the serious ramifications of failing to file an answer, I strongly recommend that you submit an answer in accordance with the directions in paragraphs 29 - 31 of the complaint by October 5, 2009. If you have any questions, please contact me at 303-312-6637 or 1-800-227-8917.

Sincerely,



Wendy I. Silver
Senior Attorney

REQUEST FOR SPECIAL MAIL HANDLING

9/17/09

DATE: _____

FROM: WENDY SILVER MAIL CODE: 8ENF-L

SHIP TO: Name/Company: MERL REYNOLDS

Address : CHEERFUL CESSPOOL SERVICE
18758 SURFACE CREEK ROAD

GEDAREGE

State : COLORADO Zip Code: 81413

SERVICE REQUIRED: Express UPS _____ Other _____

Overnight Delivery (Date): 9/18/09

Second-Day Delivery (Date): _____

JUSTIFICATION: DOES NOT OPEN MAIL THAT IS SENT TO HIM - HE HAS TO SIGN FOR
FED EX MAIL

Wendy Silver acting for
Supervisor's Approval
17 Sept. 2009
Date

Jan Zulaika
SPM-AS Office Approval
9/17/09
Date

THIS SPACE RESERVED FOR MAIL ROOM

Airbill No.: 8642 1726 3953

Carrier(s) used and routing: _____

Total weight: _____

Estimated cost: \$ _____

Original - Mail Room

Yellow - Customer



[Package/Envelope](#) | [Freight](#) | [Expedited](#) | [Office/Print Services](#) *
[Ship](#) > | [Track](#) > | [Manage](#) > | [Business Solutions](#) >

Detailed Results

[Printable Version](#)

[Help](#)

Enter tracking number

[Track](#)

Detailed Results	Notifications
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Tracking no.: 864217263953

[E-mail notifications](#)

Delivered



Delivered

Signed for by: Signature not required

Shipment Dates

Destination

Ship date Sep 17, 2009

Proof of Delivery

Delivery date Sep 18, 2009 2:50 PM

Shipment Facts [Help](#)

Service type: Priority Envelope | Delivered to: Residence

Shipment Travel History [Help](#)

Select time zone: [Select](#)

Select time format: [12H](#) | [24H](#)

All shipment travel activity is displayed in local time for the location

Date/Time	Activity	Location	Details
Sep 18, 2009 2:50 PM	Delivered		Left at front door. Package delivered to recipient address - release authorized
Sep 18, 2009 9:15 AM	On FedEx vehicle for delivery	MONTROSE, CO	
Sep 18, 2009 8:54 AM	At local FedEx facility	MONTROSE, CO	
Sep 18, 2009 1:56 AM	At dest sort facility	GRAND JUNCTION, CO	
Sep 18, 2009 1:56 AM	Departed FedEx location	MEMPHIS, TN	
Sep 17, 2009 8:18 PM	Left FedEx origin facility	DENVER, CO	
Sep 17, 2009 4:35 PM	Picked up	DENVER, CO	