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HEARINGS CLERK  
EPA--REGION 10

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	)	
	)	DOCKET NO. CWA-10-2012-0138
	)	
Jug Mountain Ranch, LLC	)	
	)	REQUEST FOR INFORMATION
	)	AND COMPLIANCE ORDER
	)	BY CONSENT
Respondent.	)	

**STATUTORY AUTHORITY**

1. The following FINDINGS AND CONCLUSIONS are made and ORDER issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by Sections 308 and 309(a) of the Clean Water Act (CWA), 33 U.S.C. §§ 1318 and 1319(a). This authority has been delegated to the Regional Administrator for EPA Region 10 and has been redelegated to the Director of the Office of Compliance and Enforcement.

**STATEMENT OF PARTIES**

2. The following FINDINGS AND CONCLUSIONS are made solely by EPA. In signing this Compliance Order by Consent, Jug Mountain Ranch, LLC, hereafter, Respondent, neither admits nor denies the FINDINGS AND CONCLUSIONS. Respondent consents to issuance of this Compliance Order by Consent and Respondent waives any and all claims for relief, and otherwise available rights to judicial or administrative review or other remedies which

Respondent may have with respect to any issue of fact or law or any terms and conditions set forth in this Consent Order by Consent, including any right of judicial review under the Administrative Procedure Act, 5 U.S.C. §§ 701-708.

### FINDINGS AND CONCLUSIONS

3. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants into waters of the United States by any person except in accordance with other specified sections of the CWA, including Section 402, 33 U.S.C. § 1342.

4. Section 402(a) of the CWA, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the National Pollutant Discharge Elimination System (NPDES) program for the discharge of any pollutant into the waters of the United States upon such specific terms and conditions as the Administrator may prescribe.

5. Section 504(12) of the CWA, 33 U.S.C. § 1362(12), defines “discharge of a pollutant” to include “any addition of any pollutant to navigable waters from any point source.” “Navigable waters” are defined as “waters of the United States.” 40 C.F.R. § 122.2 defines “waters of the United States” to include waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce; all interstate waters; and tributaries to those waters.

6. Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), provides that the Administrator may issue a compliance order when the Administrator finds that a person is in violation of any permit condition or limitation that implements Section 402 of the CWA, 33 U.S.C. § 1342.

7. Respondent, Jug Mountain Ranch, LLC (JMR), is a “person” within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

8. Respondent owns and/or operates a wastewater treatment plant (JMR WTP) located in McCall, Idaho.

9. Respondent is authorized to discharge treated wastewater containing pollutants from the JMR WTP pursuant to NPDES Permit No. ID-002802-9, which became effective on August 24, 2004, (Permit). The Permit was set to expire on July 31, 2009. A timely and complete permit application was received from Respondent to renew the Permit and pursuant to 40 C.F.R. § 122.6, the Permit was administratively extended. The Permit is by the administrative extension effective and enforceable until a new permit is issued.

10. The JMR WTP discharges pollutants from Outfall 001, a "point source" as defined in Section 502(14) of the CWA, 33 U.S.C. § 1362(14). Outfall 001 discharges into Cold Creek, a tributary of Boulder Creek, a tributary of Cascade Reservoir. Cold Creek and Boulder Creek are each a "navigable water" within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and "waters of the United States" within the meaning of 40 C.F.R. § 122.2.

11. Section I.A. of the Permit establishes effluent limits for the discharge from Outfall 001. These effluent limits include, but are not limited to, Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), *Escherichia coli* (*E. coli*) Bacteria, Total Nitrogen, Total Residual Chlorine (TRC), Total Phosphorus, Total Ammonia, and Ortho-Phosphorus.

12. Section I.B. of the Permit requires Respondent to conduct surface water monitoring for flow, Total Ammonia, Total Nitrogen, Total Phosphorus, Ortho-Phosphorus, *E. coli* Bacteria, pH, and Temperature.

13. Section II.B. of the Permit requires Respondent to summarize monitoring results for the Facility each month in a Discharge Monitoring Report (DMR) and to submit those reports and surface water sampling monitoring reports summarizing each sampling event as an addendum to the DMR.

14. Respondent's DMRs from February 2007 to December 2011 indicate the JMR WTP had 1,012 violations of the effluent limitations set forth in the Permit. Exceedance of a monthly average effluent limit is counted as one violation for each day of the month in which the exceedance occurred. Exceedance of a weekly average effluent limit is counted as one violation for each day of the week in which the exceedance occurred. Exceedance of a daily maximum effluent limit is counted as one violation.

#### **REQUEST FOR INFORMATION AND COMPLIANCE ORDER**

15. Based upon the foregoing FINDINGS and pursuant to Sections 308 and 309(a) of the CWA, 33 U.S.C. §§ 1318 and 1319(a), it is hereby ORDERED as follows:

- a. By no later than December 31, 2012, Respondent shall establish an inspection plan, to be implemented beginning no later than January 31, 2013, to conduct routine and storm event inspections of all manholes, and shall include a schedule for re-grouting or otherwise sealing manholes identified during inspections as needing re-grouting or sealing by an alternate recognized method.
- b. By no later than January 31, 2013, Respondent shall install HDPE manhole inserts on all manholes with known drainage and infiltration issues. Respondent shall submit a report detailing the installations to EPA upon completion of the installations and shall include a plan to maintain installed manhole inserts.
- c. By no later than January 31, 2013, Respondent shall increase onsite process testing using Hach DR90 meter and test strips, to allow for enhanced system compliance and performance, and to make necessary adjustments in a timely manner. If test results are outside the allowable parameters of the Permit, Respondent will re-test before making any adjustments. If after re-testing, the results continue to be outside the allowable parameters of the Permit, Respondent

will make such adjustments as it determines necessary to bring the JMR WTP back into compliance. Respondent will only discharge effluent if the aforementioned test results are within the allowable parameters of the Permit. If the test results are outside the allowable parameters of the Permit, Respondent will instead route effluent back through to the beginning of the wastewater treatment system. Respondent shall, on a regular basis, conduct onsite testing using Hach DR99 meter to monitor TSS levels, strips to test Nitrogen levels (Nitrate/nitrite/ammonia), and conduct quality assurance testing of the onsite testing and shall compare such onsite testing to lab results.

- d. By no later than December 31, 2012, Respondent shall provide a list of steps taken to train and have certified no fewer than one additional Level I waste water operator and shall provide a plan to have personnel participate in additional training in compliance for the Facility once the Facility is expanded.
- e. By no later than 30 days after the average monthly flow to the sewer treatment plant is 6,000 gallons per day (gpd) or more for two consecutive months, Respondent shall complete a compliance plan for the expansion/upgrade of the treatment plant to serve all currently platted lots in Jug Mountain Ranch, including a schedule to complete all construction of such upgrade. This compliance plan shall specify which alternative treatment plan upgrade was chosen as the preferred alternative, and shall at a minimum include a plan for the installation of a larger distribution tank to accommodate additional unexpected inflow and infiltration. The compliance plan shall include the following:
  - i. A schedule to complete all construction of the upgraded treatment plant, including, but not limited to, a date to begin construction of the upgraded facility; and a date to complete construction of the upgraded facility; and

- ii. An outline of the contents of a report detailing the award of contracts to contractors which shall include, but not be limited to, a list of contractors and their functions, and dates individual contractor work is expected to be completed. The report shall provide a timeframe in which the Respondent shall come into compliance with their Permit.

16. Commencing on February 1, 2013, and each February 1<sup>st</sup> thereafter until the termination of this ORDER pursuant to Paragraph 19, Respondent shall submit an annual report detailing work completed in the previous year. Each annual report shall provide an update to the schedule.

17. In the event Respondent is unable to comply with the requirements of this ORDER, Respondent shall, within 10 days of becoming aware of such inability, provide the following:

- a. A summary of the specific reasons why Respondent is unable to comply with the requirement;
- b. A summary of all actions taken by Respondent or others which Respondent alleges demonstrates "good faith efforts" to comply with the requirement; and
- c. The expected date and required activities by which Respondent will comply with the requirement.

18. Submittals required by this ORDER shall be submitted to:

U.S. Environmental Protection Agency Region 10  
1200 Sixth Avenue, Suite 900, OCE-133  
Seattle, Washington 98101  
Attn: Chae Park

### TERMINATION

19. Respondent shall provide a written request for termination to EPA at such time as Respondent has been in compliance with this ORDER for a period of at least two years. The request for termination shall include a summary of the information supporting the termination request. EPA will review the information and upon verification that the information provided by Respondent is sufficient to support the termination request EPA will provide a written notice of termination to Respondent. This ORDER shall terminate upon EPA's provision of written notice of termination to Respondent.

### SANCTIONS

20. Notice is hereby given that violation of, or failure to comply with, any of the provisions of the foregoing ORDER may subject Respondent to (1) civil penalties of up to \$37,500 per day of violation pursuant to Section 309(d) of the CWA, 33 U.S.C. § 1319(d); (2) administrative penalties of up to \$16,000 per day for each violation pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g); or (3) civil action in federal court for injunctive relief pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b).

21. Nothing in this ORDER shall be construed to relieve Respondent of the requirement to fully comply with other applicable federal, state or local laws and requirements. EPA reserves the right to take enforcement action as authorized by law for any violation of this ORDER, and for any future or past violations of the Permit (other than the past violations referred to at Paragraph 14, supra) or any other applicable legal requirements.

22. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this ORDER and to bind Respondent to this document.

23. The provisions of this ORDER shall bind Respondent and its agents, servants, employees, successors, and assigns.

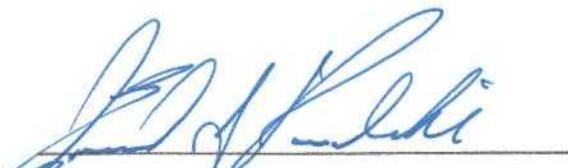
STIPULATED and AGREED on this 27<sup>th</sup> day of July, 2012.

For JUG MOUNTAIN RANCH, LLC:

  
Name: D. John Carey  
Position: Manager

It is so ORDERED and AGREED this 14<sup>th</sup> day of August, 2012.

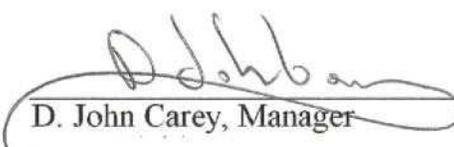
For U.S. ENVIRONMENTAL PROTECTION AGENCY

  
EDWARD J. KOWALSKI  
Office of Compliance and Enforcement, Director

AGREED AND CONSENTED TO BY:

\_\_\_\_\_  
JUG MOUNTAIN RANCH, LLC

I, D. John Carey, hereby certify that I am the Manager, of Jug Mountain, LLC, and that I have the authority to enter into agreements on behalf of Jug Mountain Ranch, LLC, and to otherwise legally bind Jug Mountain Ranch, LLC. I hereby acknowledge that I have freely and voluntarily consented to and signed this Order on behalf of Jug Mountain, LLC, after obtaining advice of counsel.

By:   
D. John Carey, Manager

Date: 7 | 27 | 2012