

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

2007 JUN -7 PM 1:07
REGIONAL OFFICE
EPA

In the matter of:)	
)	
)	
All Town & Country Septic Service, Inc.)	Proceeding to Assess a Class II Civil Penalty
Norton, Ohio,)	Under Section 309(g) of the Clean Water Act,
)	33 U.S.C. § 1319(g)
Respondent.)	
)	Docket No. CWA-05-2007-0003
)	
_____)	

CONSENT AGREEMENT

The Director of the Water Division, United States Environmental Protection Agency ("U.S. EPA"), Region 5, and All Town & Country Septic Service, Inc., 3500 South Hametown Road, Norton, Ohio ("Respondent"), consent to the entry of this Joint Civil Complaint and Consent Agreement and Final Order.

PRELIMINARY STATEMENT

1. U.S. EPA institutes this civil administrative proceeding for the assessment of a civil penalty pursuant to Section 309(g) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation Termination or Suspension of Permits, 40 C.F.R. Part 22. The maximum civil penalty U.S. EPA may assess under Section 309(g) of the CWA, 33 U.S.C. § 1319(g), is \$137,500.
2. Pursuant to 40 C.F.R. § 22.18(b) and (c), where the parties agree to settlement of one or more causes of action before the filing of a Complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Joint Civil Complaint and Consent Agreement and Final Order (hereinafter "CAFO").
3. The parties have agreed to a settlement of the matter in controversy through the

entry of this CAFO.

4. On December 29, 2003, U.S. EPA issued an Information Request to Respondent, pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, Docket No. V-W-04-308-03, ordering Respondent to submit information regarding Respondent's compliance with federal regulations governing the land application of domestic septage.

5. A Supplemental Information Request, Docket No. V-W-04-308-03, was issued May 17, 2004.

6. Based on information submitted in response to the Information Request and Supplemental Information Request, and follow-up communications with the Respondent, U.S. EPA determined that Respondent had violated Section 405(d) of the CWA, 33 U.S.C. § 1345(d), by failing to follow the Standards for the Use or Disposal of Sewage Sludge, set forth at 40 C.F.R. Part 503.

7. On numerous occasions between the November 1998 and December 2003, Respondent applied domestic septage to agricultural land.

8. U.S. EPA determined that from November 1998 to December 2003, Respondent failed to properly develop and retain records pertaining to the land application of domestic septage.

9. Respondent's applications of domestic septage to agricultural land without properly preparing and maintaining the records specified at 40 C.F.R. § 503.17(b)(4), (b)(5), (b)(7), and (b)(8), constitute violations of Section 405(e) of the CWA, 33 U.S.C. § 1345(e).

10. On September 20, 2004, U.S. EPA issued a Notice of Intent to file a civil administrative complaint against Respondent for violations of the standards set forth at 40 C.F.R. Part 503. U.S. EPA offered Respondent an opportunity to advise U.S. EPA of any

factors to be considered before the filing of a complaint and proposing a penalty of \$137,500.

11. On September 29, 2005, after communications with Respondent, U.S. EPA issued an amended Notice of Intent to file a civil administrative complaint against Respondent for violations of the standards set forth at 40 C.F.R. Part 503. U.S. EPA offered Respondent an opportunity to advise U.S. EPA of any factors to be considered before the filing of a complaint and proposing a penalty of \$120,000.

12. After further communications, and based upon such factors as quick settlement reduction and litigation considerations, U.S. EPA and Respondent agreed to settle this matter for \$35,500.00.

TERMS OF SETTLEMENT

13. For the purpose of this proceeding and according to 40 C.F.R. § 22.18(b) and (c), Respondent: (1) admits that U.S. EPA has jurisdiction over the subject matter set forth in this consent agreement; (2) neither admits nor denies the facts stipulated in this consent agreement; and (3) consents to the terms of this CAFO.

14. This CAFO settles the civil violations alleged in the September 29, 2005, amended Notice of Intent letter.

15. Upon execution of the final order attached hereto, Respondent waives all rights to request a judicial or administrative hearing on any issue of law or fact set forth in this consent agreement, including, but not limited to, its right to request a hearing under section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), and its right to appellate review of the attached Final Order found at section 309(g)(8)(B) of the CWA, 33 U.S.C. § 1319(g)(8)(B).

16. Based on Respondent's alleged violations, which continued from November 1998 to December 2003, U.S. EPA calculated a penalty for this action in the amount of \$120,000.

17. For the alleged violations referred to in paragraphs 6 through 9, U.S. EPA hereby agrees to resolve the calculated penalty in paragraph 16 above in the amount of \$35,500.00.

18. Respondent will pay the \$35,500.00 civil penalty for the alleged violations in the September 29, 2005, amended Notice of Intent letter by mailing a certified or cashier's check made payable to "Treasurer, United States of America" to the following address:

U.S. EPA, Region 5
P.O. Box 371531
Pittsburgh, PA 15251-7531

Payment of the civil penalty is due within sixty (60) calendar days from the effective date of this CAFO, as defined in Paragraph 28, below. U.S. EPA reserves the right to require Respondent to provide a docket number on the check.

19. This civil penalty is not deductible for federal tax purposes.

20. When Respondent pays the civil penalty in accordance with Paragraph 18, above, Respondent shall simultaneously and separately send notice of such payment, including a copy of the check, to each of the following three parties at the address indicated:

Regional Hearing Clerk (E-13J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Mark J. Koller
Office of Regional Counsel (C-14J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

and

Valdis Aistars
Water Division (WC-15J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

21. Respondent's failure to pay the assessed civil penalty in accordance with Paragraph 18, above, will result in the referral of this matter to the United States Department of Justice for collection in accordance with Section 309(g)(9) of the Act, 33 U.S.C. § 1319(g)(9). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. In addition to any unpaid balance and interest of this penalty, Respondent shall also be required to pay attorney's fees and costs for collection proceedings and a quarterly nonpayment penalty. This nonpayment penalty shall be in an amount equal to 20% of the aggregate amount of Respondent's penalties and nonpayment penalties which are unpaid as of the beginning of each such quarter.

22. Notwithstanding anything in Paragraph 21 of this CAFO, interest shall accrue on any amount overdue under the terms of this CAFO at an annual rate calculated in accordance with 40 C.F.R. § 13.11.

23. Respondent agrees to comply with the requirements of 40 C.F.R. Part 503 when land applying domestic septage. The parties agree that all issues concerning alleged noncompliance with 40 C.F.R. Part 503 are settled and resolved as of the effective date.

OTHER MATTERS

24. Nothing in this CAFO relieves Respondent of the duty to comply with the CWA or other federal, state or local laws or statutes.

25. This Consent Agreement binds both parties, their officers, directors, employees,

successors, and assigns to this action. The representative of each party signing this consent agreement certifies that he or she has authority to enter into the terms of this consent agreement and bind that party to it.

26. Each party agrees to bear its own costs accrued in the course of this action.

27. U.S. EPA acknowledges that throughout the discussions between the parties from December 2003 through the date of this consent agreement, Respondent has fully cooperated by providing extensive documentation, answering all inquiries either through correspondence by telecommunications or by personal appearance at the Region 5 office, thereby demonstrating a willingness to cooperate and comply with all U.S. EPA requirements.

28. The effective date of this CAFO is the date that the Final Order signed by the Regional Administrator or her designated representative is filed in the office of the Regional Hearing Clerk, and is subject to the requirements of Section 309(g)(4)(C) of the CWA, 33 U.S.C. 1319(g)(4)(C).

In the Matter of: All Town & Country Septic Service, Inc.

WE AGREE TO THIS CONSENT AGREEMENT AND FINAL ORDER:

RESPONDENT:

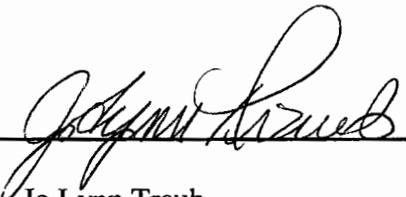
ALL TOWN & COUNTRY SEPTIC SERVICE, INC.
NORTON, OHIO

By 
Tom Blankenship
For All Town & Country Septic Service, Inc.

Date Jan 29/07

COMPLAINANT:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

By 
Jo Lynn Traub
Director, Water Division
U.S. EPA, Region 5

Date 2/20/07

CWA-05-2007-0003