



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2012 OCT 25 AM 10:33

1595 WYNKOOP STREET
DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

FILED
EPA REGION 8
DENVER, CO

DOCKET NO.: SDWA-08-2012-0016

IN THE MATTER OF:

ARTHUR E. MARTINEZ
a/k/a ART E. MARTINEZ
SURFACE CREEK AUTO

RESPONDENT

)
)
)
)
)
)
)

FINAL ORDER

Pursuant to 40 C.F.R. §22.18(b)(2) of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 25th DAY OF October, 2012.

Elyana R. Sutin
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2012 OCT 25 AM 10:33

Docket No. SDWA-08-2012-0016

FILED
EPA REGION 8
HEARING ROOM

In the Matter of:)
)
Arthur E. Martinez AKA)
Art E. Martinez)
Surface Creek Auto)
)
Respondent.)

CONSENT AGREEMENT

Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondent, Arthur E. Martinez, AKA, Art E. Martinez (Respondent), owner/operator of Surface Creek Auto, by his undersigned representatives, hereby consent and agree as follows.

BACKGROUND

1. On February 29, 2012, the EPA issued a Proposed Compliance Order, Penalty Complaint and Notice of Opportunity for Hearing (Complaint) to Respondent for certain violations of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h et seq., and the underground injection control regulations promulgated thereunder.
2. Respondent admits the jurisdictional allegations of the Complaint and neither admits nor denies the specific factual allegations of the Complaint.
3. Respondent waives his right to a hearing before any tribunal to contest any issue of law or fact set forth in the Complaint or this Consent Agreement.
4. This Consent Agreement, upon incorporation into a final order, applies to and is binding upon the EPA and upon Respondent and Respondent's heirs, successors or assigns. Any change in the ownership or corporate status of Respondent, including, but not limited to,

any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this Consent Agreement. This Consent Agreement contains all terms of the settlement agreed to by the parties.

5. The EPA acknowledges that Respondent has timely closed the Class V Motor Vehicle Waste Disposal well at issue and submitted documentary evidence of the closure to the EPA.
6. Respondent agrees to keep the Class V Motor Vehicle Waste Disposal well at issue permanently closed.
7. Due to Respondent's timely compliance and in consideration of the statutory penalty factors at 42 U.S.C § 300h-2(c)(4)(B), the EPA agrees to settle this action without the assessment of a civil penalty.
8. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with the SDWA and its implementing regulations.
9. The undersigned representative of the Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to the terms and conditions of this Consent Agreement.
10. The parties agree to submit this Consent Agreement to the Regional Judicial Officer with a request that it be incorporated into a final order.
11. Each party shall bear its own costs and attorney fees in connection with this matter.
12. Respondent waives any and all claims for relief, and otherwise available rights to judicial or administrative review or other remedies which the Respondent may have, with respect to any issue of fact or law or any terms and conditions set forth in this Consent

Agreement, including any right of judicial review under the Administrative Procedure Act, 5 U.S.C. §§ 701-708.

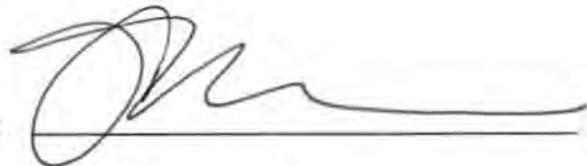
13. This Consent Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction of all requirements of this Consent Agreement by the parties shall be a complete and full civil settlement of the specific violations alleged in the Complaint.

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,**

Complainant.

Date: 10-24-2012

By:

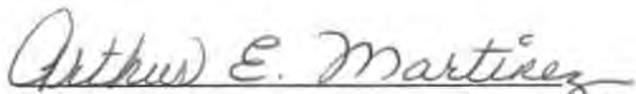


Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Respondent.

Date: 9-12-12

By:



Name, Title: Owner - Surface Creek
3 Auto

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER**, in the matter of **ARTHUR E. MARTINEZ a/k/a ART E. MARTINEZ SURFACE CREEK AUTO; DOCKET NO.: SDWA-08-2012-0016** was filed with the Regional Hearing Clerk on October 25, 2012.

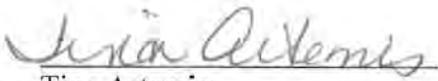
Further, the undersigned certifies that a true and correct copy of the documents were delivered to James Eppers, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt requested on October 25, 2012, to:

Arthur E. Martinez
a/k/a Art E. Martinez Surface Creek Auto
21256 Myers Road
Eckert, CO 81418

And emailed to:

Elizabeth Whitsel
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, OH 45268

October 26, 2012


Tina Artemis
Paralegal/Regional Hearing Clerk