

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219
BEFORE THE ADMINISTRATOR

FILED

July 18, 2024

3:27PM

U.S. EPA REGION 7
HEARING CLERK

IN THE MATTER OF	)	
	)	
R.H. Capital-Beets, LLC	)	Docket No. CWA-07-2023-0067
	)	
Respondent	)	CONSENT AGREEMENT AND
	)	FINAL ORDER
	)	
Proceedings under Section 311(b) of the	)	
Clean Water Act, 33 U.S.C. § 1321(b)	)	
_____	)	

CONSENT AGREEMENT AND FINAL ORDER

PRELIMINARY STATEMENT

1. This proceeding for the assessment of a civil penalty pursuant to Section 311(b)(6) of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act ("CWA"), 33 U.S.C. § 1321(b)(6), was initiated on February 1, 2024, when the United States Environmental Protection Agency ("Complainant" or "EPA") filed with the Regional hearing Clerk a Complaint against R.H. Capital-Beets, LLC ("Respondent") and Respondent were served with the Complaint on February 5, 2024.

2. The Complaint alleged that Respondent violated Section 311(j) of the CWA, and the regulations promulgated thereunder. After filing its Answer pursuant to 40 CFR § 22.15, Respondent raised inability to pay as a factor preventing Complainant from pursuing a penalty. This Consent Agreement and Final Order ("CA/FO") is the result of the inability to pay analysis.

CONSENT AGREEMENT

3. Respondent admits the jurisdictional allegations of this CA/FO and agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of the Final Order.

4. Respondent admits the factual allegations contained in paragraphs 34 and 35, and the findings of violations in paragraphs 49 through 52, and neither admits nor denies the remaining factual allegations in the Complaint referenced above.

5. Respondent consents to receiving the filed CA/FO electronically at the following email addresses: tommizou@gmail.com and troy@tdrtaxconsulting.com.

6. Respondent waives any right to contest the allegations and any right to appeal the proposed Final Order accompanying this Consent Agreement.

Penalty Payment

7. EPA has considered the appropriateness of a penalty pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and proposed in the Complaint a penalty of \$86,063. However, pursuant to the statutory requirement of Section 309(g)(3) that EPA consider Respondent's ability to pay, Respondent has demonstrated that it is unable to pay a penalty in this matter. Because of Respondent's inability to pay a penalty, Complainant agrees to resolve the claims alleged in the Complaint without penalties.

Effect of Settlement and Reservation of Rights

8. Respondent certifies by the signing of this Consent Agreement that that it is in compliance with EPA's Findings of Violation and Order for Compliance, Docket No. CWA-07-2023-0067. The effect of the settlement described above is conditioned upon the accuracy of this certification.

9. Nothing contained in the Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations.

10. EPA reserves the right to enforce the terms of this CA/FO by initiating a judicial or administrative action pursuant to Section 311(b) of the CWA, 33 U.S.C. § 1321(b).

11. With respect to matters not addressed in this CA/FO, EPA reserves the right to take any enforcement action pursuant to the CWA, or any other available legal authority, including without limitation, the right to seek injunctive relief, monetary penalties, and punitive damages.

General Provisions

12. Respondent and Complainant each agree to bear its own costs and attorneys' fees.

13. The undersigned representative of Respondent certifies it is fully authorized to enter the terms and conditions of this CA/FO and to execute and legally bind Respondent to it.

14. This CA/FO shall apply to and be binding upon Respondent, its agents, successors, and assigns. Respondent shall ensure that any directors, officers, employees,

contractors, consultants, firms or other persons or entities acting under or for it with respect to matters included herein comply with the terms of this CA/FO.

15. This CA/FO shall become effective upon filing pursuant to 40 C.F.R. § 22.31(b). All time periods herein shall be calculated therefrom unless otherwise provided in this Final Order.

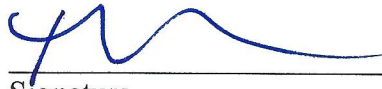
16. In accordance with Section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, on February 1, 2024, EPA provided notice on a proposed administrative penalty assessment in this matter. The public comment period ended on March 25, 2024. No comments were received.

For the Complainant, United States Environmental Protection Agency Region 7:

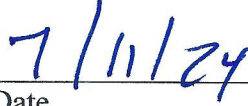
Jodi Bruno
Acting Director
Enforcement and Compliance Assurance Division

Anna Landis
Assistant Regional Counsel
Office of Regional Counsel

For the Respondent, R.H. Capital-Beets, LLC:



Signature



Date



Name



Title

FINAL ORDER

Pursuant to Section 309(g) of the 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 foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

The Respondents are ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

IT IS SO ORDERED.

Date

Karina Borromeo
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify a true and correct copy of the fully-executed Consent Agreement and Final Order was filed with the Regional Hearing Clerk at R7_Hearing_Clerk_Filings@epa.gov.

I further certify that a courtesy copy of the fully-executed Consent Agreement and Final Order was filed with the Headquarters Hearing Clerk via the OALJ E-filing system.

I further certify that a copy was served on each party by electronic mail to:

For Respondent:

Troy Renkenmeyer and Tom Heckman
R.H. Capital-Beets, LLC
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Lake Ozark, MO 65049
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troy@tdrtaxconsulting.com

For Complainant:

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