

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

BD# 2751143W003

In the Matter of:)

David Brickles)
d/b/a Jack's Septic Service, LLC)
39825 Gold Ridge Road)
Pomeroy, Ohio)

Respondent)

Proceeding to Assess a)
Class II Civil Penalty)
Pursuant to Section 309(g))
of the Clean Water Act)
33 U.S.C. § 1319(g))

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U.S. ENVIRONMENTAL
PROTECTION AGENCY

No. CWA -05-2010-0012

CONSENT AGREEMENT AND FINAL ORDER

(1) The Administrator has duly delegated to the Director of the Water Division, Region 5, United States Environmental Protection Agency, authority to bring administrative penalty actions pursuant to the Administrator's authority under Section 309(g) of the Clean Water Act (the Act), 33 U.S.C. § 1319(g).

(2) As discussions between the Administrator's Delegated Complainant (Complainant) and Respondent have resulted in a resolution of this matter, it is the intent of the parties that this Consent Agreement and Final Order (CAFO) be filed in this matter.

(3) The Complaint alleges that Respondent violated Section 405(e) of the Act, 33 U.S.C. § 1345(e), and 40 C.F.R. §§ 503.17(b), in the course of operating its septage hauling and disposal business in Pomeroy, Ohio. The Complaint proposes that the Administrator assess a civil penalty of \$92,844 for Respondent's violations.

STIPULATIONS

(4) Respondent admits the jurisdictional allegations in the Complaint and neither admits nor denies the factual allegations in the Complaint.

(5) Respondent waives its right to contest the allegations in the Complaint, and waives its right to appeal under Section 309(g) of the Act, 33 U.S.C. § 1319(g).

(6) Respondent certifies that it is in compliance with the Administrator's Standards for the Use or Disposal of Sewage Sludge, codified at 40 C.F.R. Part 503.

(7) Respondent certifies that the financial information and records it submitted, in response to EPA's request regarding this matter, is true and accurate.

(8) The parties consent to the terms of this CAFO.

CIVIL PENALTY

(9) In consideration of Respondent's willingness to expeditiously resolve this matter without the further expenditure of agency resources and Respondent's financial circumstances, Complainant agrees to accept Respondent's payment of a settlement amount of \$5,000 as a resolution of this action.

(10) Respondent shall pay the settlement amount of \$5,000 on or before the 30th day following the filing of this CAFO with the Region 5 Hearing Clerk.

(11) Respondent shall make payment by cashier's or certified check, payable to the "Treasurer, United States of America."

(12) Respondent shall send the payment to:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

(13) With the payment check, Respondent shall include a transmittal letter which identifies Respondent's name, complete address, the case docket number, and the billing document number [the billing document number will be provided to Respondent with a copy of the fully executed CAFO], and shall write the case docket number and the billing document number on the face of each installment payment check.

(14) Respondent shall send a copy of the payment check and transmittal letter to:

Attn: Regional Hearing Clerk, (E-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Attn: Newton Ellens (WC-15J)
Water Enforcement and Compliance Assurance Branch
Water Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Joseph Williams (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3509

(15) Respondent acknowledges that the settlement payment amount is not deductible for federal tax purposes, and shall not attempt to deduct any civil penalty payment it makes pursuant to this CAFO.

(16) Interest will accrue on any settlement amount overdue from the date payment was due at a rate established under 26 U.S.C. § 6621(a)(2). In addition, Respondent shall pay a \$15 handling charge each month that any portion of the settlement amount is more than 30 days past due.

General Provisions

(17) Respondent agrees to develop and retain septage application records, required under 40 C.F.R. § 503.17, each time Respondent applies domestic septage.

(18) Respondent shall submit a copy of its septage application records for one year, on a semi-annual basis, to Newton Ellens, at the corresponding address listed in Paragraph 14.

(19) This CAFO settles EPA's claims for civil penalties for the violations alleged in the Complaint.

(20) If Respondent fails to comply with any provision of this CAFO, the full amount of civil penalty proposed in the Complaint, that being \$92,844, immediately shall become due and owing, to be paid by Respondent as provided for in Paragraphs 10-14, minus any amount already paid by Respondent under this CAFO.

(21) EPA may bring an action to collect any unpaid portion of amounts owing under this CAFO, with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action, under Section 113(d)(5) of the

Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the settlement amount and civil penalty proposed in the Complaint are not reviewable in any collection action.

(22) Nothing in this CAFO restricts U.S. EPA's authority to seek Respondent's compliance with the Act and other applicable laws and regulations.

(23) This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state and local laws, and regulations.

(24) The terms of this CAFO bind Jack's Septic Service, LLC, and its successors, and assigns.

(25) Each party to this CAFO agrees to bear its own costs and fees in this action.

(26) This CAFO constitutes the entire agreement between the parties.

Complainant

Date: 12-28-10



Tinka G. Hyde, Director
Water Division
U.S. Environmental Protection Agency,
Region 5

Respondent

Date: 12-16-10



David Brickles
Jack's Septic Service, LLC

CONSENT AGREEMENT AND FINAL ORDER
In Re Jack's Septic Service, LLC
Docket No. CWA-05-2010-0012

Final Order

It is ordered as agreed to by the parties and as stated in the consent agreement,
effective immediately upon filing of this CAFO with the Regional Hearing Clerk.

Date: 12/29/10



Susan Hedman
Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

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Docket No.: CWA-05-2010-0012

CERTIFICATE OF SERVICE

I hereby certify that today I lodged the original and one copy of a CONSENT AGREEMENT AND FINAL ORDER in the office of the Regional Hearing Clerk (E-19J), U.S. Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, IL 60604-3590

I then mailed true and accurate copies of the documents in the manner indicated to:

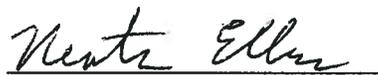
Judge Spencer T. Nissen
Office of Administrative Law Judges
U.S. Environmental Protection Agency (1900L)
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Via FAX and first class mail

Christopher E. Tenoglia, Esq.
Attorney at Law
200 East Second Street
Pomeroy, OH 45769

Via first class mail

dated: 1/3/2011



Newton Ellens
Water Division
U.S. EPA Region 5
77 W. Jackson Blvd.
Chicago, IL 60604-3590
(312) 886-3164

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