



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

2013 JUL 26 AM 8:06

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: SDWA-08-2012-0032

IN THE MATTER OF:

DARRIN KERN, OWNER
D. K. AUTO COLLISION

Respondent

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FINAL ORDER

Pursuant to 40 C.F.R. §22.18 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 Parties are hereby **ORDERED** to comply with all of the terms of this **Order**, effective immediately upon receipt by Parties of this **Order**.

SO ORDERED THIS 26th Day of July, 2013

Elyana R. Smith
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY 2013 JUL 26 AM 8:06
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CONSENT AGREEMENT

Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondent, Darrin Kern, owner of D.K. Auto Collision, (Respondent), by their undersigned representatives, hereby consent and agree as follows.

BACKGROUND

1. On July 2, 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 (UIC) 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 EPA and upon Respondent. This Consent Agreement contains all terms of the

settlement agreed to by the parties.

5. If Respondent transfers its title to a successor, in the contract that transfers title,

Respondent agrees to insert the following language:

The buyer/successor agrees that it will continue to permanently close the one floor drain, also known as the Class V Motor Vehicle Waste Disposal well, located in the vehicle maintenance area.

6. 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 EPA.
7. Respondent agrees to keep the Class V Motor Vehicle Waste Disposal well at issue permanently closed.
8. Due to Respondents timely compliance and in consideration of the statutory penalty factors at 42 U.S.C § 300h-2(c)(4)(B), EPA agrees to settle this action without the assessment of a civil penalty.
9. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with the SDWA and its implementing regulations.
10. 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.
11. The parties agree to submit this Consent Agreement to the Regional Judicial Officer with a request that it be incorporated into a final order.
12. Each party shall bear its own costs and attorney fees in connection with this matter.
13. 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.


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13.

This Consent Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction 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: 7-26-2013

By: 

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

Respondent.

Date: 7-7-2013

By: Tanya Kern

Name, Title: owner

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **DARRIN KERN, OWNER, D. K. AUTO COLLISION; DOCKET NO.: SDWA-08-2012-0032**. The documents were filed with the Regional Hearing Clerk on July 26 2013.


Further, the undersigned certifies that a true and correct copy of the documents were delivered to, Dana Stotsky, 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 July 26, 2013, to:

Darrin Kern, Owner
D. K. Auto Collision
27 Vinson Mill Road
Trout Creek, MT 59874

e-mailed to:

Kim White
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

July 26, 2013


Tina Artemis
Paralegal/Regional Hearing Clerk