

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

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)	
)	Docket No. CWA-07-2016-0042
Clare-Mar Camp, Inc.)	
New London, Ohio)	
)	FINDINGS OF VIOLATION AND
Respondent)	ORDER FOR COMPLIANCE
)	
Proceedings under Section 309(a)(3) of the)	
Clean Water Act, 33 U.S.C. § 1319(a)(3))	
_____)	

Preliminary Statement

1. The following Findings of Violation are made and Order for Compliance ("Order") is issued pursuant to the authority of Section 309(a)(3) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(a)(3). The authority to take action under Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), is vested in the Administrator of the U.S. Environmental Protection Agency ("EPA"). The Administrator has delegated this authority to the Regional Administrator, EPA, Region 7, who in turn has delegated it to the Director of the Water, Wetlands and Pesticides Division of EPA, Region 7.

2. Clare-Mar Camp, Inc. ("Respondent") is the owner and/or operator of a campground which was used for the land application of domestic septage (hereinafter, the "Campground") located at 47571 New London Eastern Road, Wellington, Ohio 44851.

Statutory and Regulatory Framework

3. Section 405 of the CWA, 33 U.S.C. § 1345, and the regulations found at 40 C.F.R. Part 503, govern the disposal or use of sewage sludge, including domestic septage.

4. Section 405(d) of the Act, 33 U.S.C. § 1345(d), authorizes EPA to develop regulations that identify uses for sewage sludge, including domestic septage; specify factors to be taken into account in determining measures and practices applicable to each such use or disposal; and identify concentrations of pollutants which interfere with each such use or disposal.

5. 40 C.F.R. § 503.15(b) requires that the pathogen requirements of 40 C.F.R. § 503.32(c)(1) or (c)(2) shall be met when domestic septage is applied to agricultural land, forest or a reclamation site.

6. 40 C.F.R. § 503.32(b)(5)(vii) specifies site restrictions regarding crop harvesting, animal grazing and public access. The public access restrictions include restricting public access for one year after application of sewage sludge at a site with high potential for exposure.

7. 40 C.F.R. § 503.32(c)(2) specifies that the pH of the domestic septage shall be raised to 12 or higher by alkali addition, (and without the addition of more alkali, shall remain at 12 or higher for 30 minutes) when domestic septage is applied to agricultural land, forest or a reclamation site.

8. 40 C.F.R. § 503.15(d) requires that the vector attraction reduction requirements of 40 C.F.R. § 503.33 (b)(9), (b)(10) or (b)(12) shall be met when domestic septage is applied to agricultural land, forest or a reclamation site.

9. 40 C.F.R. § 503.33(b)(9), (b)(10) or (b)(12) specify that vector attraction reduction shall be achieved by injection into the soil, incorporation into the soil within six hours after application, or the pH shall be raised to 12 or higher by alkali addition, (and without the addition of more alkali, shall remain at 12 or higher for 30 minutes).

10. 40 C.F.R. § 503.11 defines "agricultural land" as "land on which a food crop, a feed crop, or a fiber crop is grown," including "range land and land used as pasture." "Range land" is further defined as "open land with indigenous vegetation."

FACTUAL BACKGROUND

11. Respondent is a "person," as defined by Section 502(5) of CWA, 33 U.S.C. § 1362(5).

12. On September 3, 2014, EPA received information, including photographs, that on July 4, 2014, Respondent applied domestic septage on a grass area near the Campground. The domestic septage was surface applied in a manner that the septage pooled and was not incorporated into the soil or injected below the surface.

13. The grass area next to the Campground is "agricultural land" and "range land," as those terms are defined in 40 C.F.R. § 503.11.

14. On February 11, 2015, EPA issued to Respondent a Request for Information requesting specific information in Respondent's possession regarding the land application of domestic septage at the Campground. The Request for Information included a request for Respondent's activities and records regarding compliance with the pathogen, vector attraction reduction, site restrictions and annual application rate requirements of 40 C.F.R. part 503 applicable to the land application of domestic septage.

15. On April 28, 2015, EPA received an email response to EPA's Request for Information from Respondent. The response indicated that Respondent land applied approximately 153,280 gallons of domestic septage on the grass area near the Campground between May 1, 2014 and October 31, 2014.
16. According to the April 28, 2015 response by Respondent, none of the pathogen requirements of 40 C.F.R. Part 503 were met at any time by Respondent after January 1, 2014.
17. According to the April 28, 2015 response from Respondent, none of the vector attraction reduction requirements of 40 C.F.R. Part 503 were met at any time by Respondent after January 1, 2014.
18. According to the April 28, 2015 response from Respondent, none of the pH requirements of § 503.32(c)(2) were met at any time by Respondent after January 1, 2014.
19. According to the April 28, 2015 response from Respondent, the domestic septage was applied without determining the required annual application rate in accordance with the requirements of 40 CFR § 503.13(c).
20. According to the April 28, 2015 response from Respondent and the information EPA received on September 3, 2014, Respondent did not restrict public access to the land application area at least one year after land application of domestic septage in accordance with 40 C.F.R. § 503.32(b)(5)(vii).
21. On April 27, 2016, EPA, Region 7 presented to Respondent a draft Administrative Compliance Order on Consent identifying Respondent's violations of the CWA. In the transmittal letter that accompanied the draft Order, EPA invited Respondent to discuss the terms of the proposed Order. To date, Respondent has not contacted EPA to discuss the terms of the proposed Order.
22. On August 25, 2016, the Lorain County General Health District inspected Respondent's facility. According to the County's inspection report, the County had received "no reports of a registered pumper (truck) cleaning any of (the facility's) tanks and properly disposing of the waste at a treatment facility," and had "received reports of ... wastewater being land applied along the air strip on the west side of the property."

FINDINGS OF VIOLATION

23. Failure by Respondent to meet the pathogen, vector attraction reduction, annual application rate, pH, injection, and site restriction requirements for the land application of septage is a violation of 40 C.F.R. Part 503, and thus, a violation of Section 405 of the CWA.

Order for Compliance

24. Based on the Findings of Fact and Findings of Violation set forth above, and pursuant to the authority of Section 309(a) of the CWA, 33 U.S.C. § 1319(a), Respondent is hereby ORDERED to take the actions described below.

25. Within 30 calendar days of receipt of the Order, Respondent shall develop and submit to EPA an Operating Plan that describes the procedures for the Campground to achieve compliance with the requirements of 40 C.F.R. Part 503 for the land application of domestic septage. The Respondent shall implement the Operating Plan upon acceptance by EPA in accordance with the following:

- a. If EPA approves the Operating Plan, it shall be implemented according to the schedule for implementation in the approved Plan.
- b. If EPA does not approve the Operating Plan, Respondent shall address the comments and resubmit the Plan for review within thirty (30) days of receipt of EPA's disapproval.
- c. Upon resubmission, the EPA, in its sole discretion, may either approve the Operating Plan, or if the EPA determines that the Plan does not adequately address the comments provided by EPA, the EPA may unilaterally modify the Operating Plan and will provide Respondents with a copy of the Plan as modified. Respondent shall implement the modified Operating Plan according to the schedule contained therein.

26. Once approved by the EPA, the Operating Plan identified above shall be incorporated by reference and fully enforceable under the terms of this Order.

27. All submitted documents required to be submitted to EPA by this Order, shall be submitted by electronic mail to:

teter.royan@epa.gov

Royan Teter, or his successor
U.S. Environmental Protection Agency – Region 7
Water, Wetlands and Pesticides Division
11201 Renner Boulevard
Lenexa, Kansas 66219.

General Provisions

Effect of Compliance with the terms of this Order

28. This Order shall not constitute a permit under the CWA. Compliance with the terms of this Order shall not relieve Respondent of his responsibility to obtain any required local, state, and/or federal permits.

29. This Order does not constitute a waiver or a modification of any requirements of the CWA, 33 U.S.C. § 1251 *et seq.*, all of which remain in full force and effect. EPA retains the right to seek any and all remedies available under Section 309 of the CWA, 33 U.S.C. § 1319, for any violation cited in this Order. Issuance of this Order shall not be deemed an election by EPA to forgo any civil or criminal action to seek penalties, fines, or other appropriate relief under the CWA for any violation whatsoever.

Access and Requests for Information

30. Nothing in this Order shall limit EPA's right to obtain access to, and/or to inspect property operated by Respondent and/or to request additional information from Respondent, pursuant to the authority of Section 308 of the CWA, 33 U.S.C. § 1318 and/or any other authority.

Severability

31. If any provision or authority of this Order, or the application of this Order to Respondent, is held by federal judicial authority to be invalid, the application to Respondent of the remainder of this Order shall remain in full force and effect and shall not be affected by such a holding.

Parties Bound

32. This Order shall apply to and be binding upon the 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 Order.

Failure to Comply

33. Failure to comply with the terms of this Order may result in your liability for significant statutory civil penalties for each violation under Section 309(d) of the Act, 33 U.S.C. § 1319(d), as modified by 40 C.F.R. Part 19. Upon suit by EPA, the United States District Court for the Northern District of Ohio may impose such penalties if, after notice and opportunity for a hearing, the court determines that you have violated the Act as described above and failed to comply with the terms of this Order. In determining the amount of any penalty the court will consider the seriousness of your violations, your economic benefit resulting from the violations,

any history you may have of such violations, any good faith efforts you have made to comply with legal requirements, the economic impact a penalty may have upon you, and such other matters as justice may require. The district court has the authority to impose separate civil penalties for any violations of the Act and for any violations of this Order.

Judicial Review

34. Respondent has the right to seek immediate federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706. Section 706, which is set forth at <http://uscode.house.gov/download/pls/05C7.txt>, provides the grounds for such review.

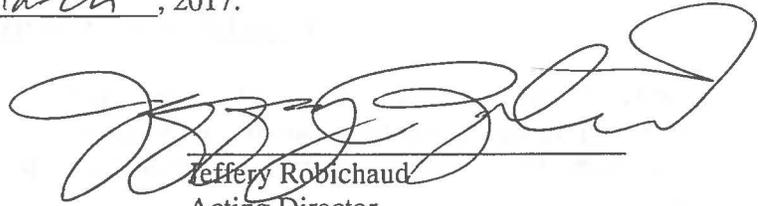
Opportunity to Confer

35. Respondent has the opportunity to confer with and/or submit information to EPA concerning the validity of this Order, including the basis for the Order, the terms of the Order, and the applicability of this Order to the Respondent. Within ten days of receipt of this Order, Respondent may request a conference regarding the Order or may submit information to EPA. If Respondent requests a conference or wishes to submit information, the conference or submission of information shall take place within 30 days of receipt of this Order. EPA shall deem a failure to request a conference or to submit information as a waiver of the opportunity to confer.

Effective Date

36. The terms of this Order shall be effective and enforceable against Respondent 30 days after receipt of an executed copy of the Order.

Issued this 28th day of March, 2017.



Jeffery Robichaud
Acting Director
Water, Wetlands and Pesticides Division



Chris Muehlberger
Assistant Regional Counsel
Office of Regional Counsel

CERTIFICATE OF SERVICE

I certify that on the date noted below I hand delivered the original and one true copy of this Findings of Violation and Administrative Order for Compliance to the Regional Docket Clerk, United States Environmental Protection Agency, 11201 Renner Boulevard, Lenexa, Kansas 66219.

I further certify that on the date noted below I sent a copy of the foregoing Order for Compliance by first class certified mail, return receipt requested, to:

Mr. Donald B. Sears, Registered Agent
Clare-Mar Camp, Inc.
47571 New London Eastern Road
New London, Ohio 44851.

Date

Signature