



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: CWA-08-2015-0012

IN THE MATTER OF:

STROMO, LLC.

RESPONDENT

)
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)
)

FINAL ORDER

Pursuant to 40 C.F.R. §22.13(b), 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 13th DAY OF April, 2015.



Elyana R. Sutin
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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1595 WYNKOOP STREET
DENVER, COLORADO 80202-1129

FILED
EPA REGION VIII
HEARING CLERK

BEFORE THE ADMINISTRATOR

IN THE MATTER OF:)
)
)
Stromo, LLC,)
)
)
)
Respondent,)
)
Proceedings under Section 309(g) of the)
Clean Water Act, 33 U.S.C. § 1319(g))
_____)

COMPLAINT AND
CONSENT AGREEMENT/
FINAL ORDER

DOCKET NO.: CWA-08#2015-0012

COMPLAINT

Jurisdiction

1. This is an administrative action for the assessment of civil penalties instituted pursuant to Section 309(g) of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act (“CWA”), 33 U.S.C. § 1319(g), and in accordance with the United States Environmental Protection Agency’s (“EPA”) 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 (“Consolidated Rules of Practice”).

2. This Complaint and Consent Agreement/Final Order serves as notice that EPA has reason to believe that Respondent violated Section 405 of the CWA, 33 U.S.C. § 1345, and a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and regulations promulgated thereunder.

Parties

3. The authority to take action under Section 309(g) of the CWA, 33 U.S.C. § 1319(g), is vested in the Administrator of the EPA. The Administrator has delegated this authority to the Regional Administrator of EPA, Region 8, who in turn has delegated it to the undersigned officials in the Office of Enforcement, Compliance, and Environmental Justice, Region 8 (Complainant).

4. Respondent is Stromo, LLC (hereafter “Respondent”), a company incorporated in the State of Colorado, which owns and operates a facility that treats sewage sludge to derive compost.

Statutory and Regulatory Framework

5. Section 405(a) of the CWA, 33 U.S.C. § 1345(a), prohibits the disposal of sewage sludge resulting from the operation of a treatment works where the disposal would result in any pollutant from such sewage sludge entering the navigable waters, except in accordance with a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

6. Section 402 of the CWA, 33 U.S.C. § 1342, provides that pollutants may be discharged only in accordance with the terms of a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to that Section.

7. Section 405(d)(1) of the CWA, 33 U.S.C. § 1345(d)(1), provides that the Administrator shall develop and publish regulations providing guidelines for the disposal of sludge and the utilization of sludge for various purposes.

8. Pursuant to Section 405(d)(1) of the CWA, the EPA promulgated regulations governing the Standards for the Use or Disposal of Sewage Sludge which are set forth at 40 C.F.R. Part 503 (the “Sludge Management Program”). These regulations establish recordkeeping and reporting requirements, pollutant limits and site management practices applicable to owners or operators of treatment works treating domestic sewage, and standards for the final use or disposal of sewage sludge generated during the treatment of domestic sewage in treatment works.

9. The State of Colorado has not applied for or obtained primary authority to administer and enforce the sludge management program pursuant to 40 C.F.R. Part 501. The EPA directly implements the sludge management program in Colorado.

10. Section 405(e) of the CWA, 33 U.S.C. § 1345(e), prohibits the disposal of sludge from a treatment works treating domestic sewage for any use for which regulations have been established pursuant to subsection (d) of that Section, except in accordance with such regulations.

11. The regulations found in Subpart B of 40 C.F.R. Part 503 apply to any person who prepares sewage sludge that is applied to the land, to any person who applies sewage sludge to the land, to sewage sludge applied to the land, and to the land on which sewage sludge is applied. 40 C.F.R. § 503.10(a).

12. Pursuant to 40 C.F.R. § 503.9(r), a “person who prepares sewage sludge” is either the person who generates sewage sludge during the treatment of domestic sewage in a treatment works or the person who derives a material from sewage sludge.

13. Pursuant to 40 C.F.R. § 503.11(h), “land application” means the spraying or spreading of sewage sludge onto the land surface; the injection of sewage sludge below the land surface; or the incorporation of sewage sludge into the soil so that the sewage sludge can either condition the soil or fertilize crops or vegetation grown in the soil.

14. Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), authorizes the issuance of a penalty against any person who violates Section 405 of the CWA, 33 U.S.C. § 1345, or a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

Factual Background

15. Respondent is a “person” as defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5) and 40 C.F.R. § 503.9(q).

16. At all relevant times, Respondent has owned and/or operated a facility (hereinafter, the “Facility”) located at 21970 Road 30 in Hudson, Weld County, Colorado, used for the “treatment of sewage sludge” as defined in 40 C.F.R. § 503.9(z). Respondent treats sewage sludge at the Facility by composting the sewage sludge in windrows.

17. Respondent sells or gives away materials derived from sewage sludge which are used for land application as defined in 40 C.F.R. § 503.11(h).

18. Respondent is subject to Section 405 of the Act, 33 U.S.C. § 1345, and 40 C.F.R. Part 503, Subpart B, because it is a “person who prepares sewage sludge,” as defined at 40 C.F.R. § 503.9(r).

19. The EPA Region 8 issued a biosolids general permit (COG650000) pursuant to Section 405(d) of the Act, 33 U.S.C. § 1345(d), and 40 C.F.R. Part 503, effective October 19, 2007, for the permitting of EPA Region 8 facilities/operations that generate, treat, and/or use or dispose of sewage sludge by means of land application, landfill, and surface disposal. Respondent applied for and was issued general permit number COG-650222 which became effective on October 22, 2007 and expired on October 19, 2012 (the “2007 permit”). Respondent then applied for and was issued general permit number COG-650222, which became effective May 15, 2013 and expired on January 15, 2015 (the “2013 permit”).

20. Part 4.1.4.5 of the 2007 and 2013 permits, which is part of the section describing Self-Monitoring Requirements for Land Application, describes the minimum monitoring frequency for sewage sludge that is land applied. This provision requires that the permittee monitor for pathogen requirements once per 60 days (6 times per year) if the amount of sewage sludge received by a person who prepares sewage sludge that is sold or given away in a bag or other container for application to the land is between 1,500 and 15,000 dry metric tons. The regulations at Table 1 of 503.16 state the same requirement.

21. On April 24, 2014, EPA received a response from Respondent to a request for information (hereafter “EPA’s Information Request”) issued by EPA to Respondent on March 25, 2014, under the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a).

22. According to Respondent's response to EPA's Information Request, Respondent received approximately 1,911 dry metric tons of sewage sludge in 2011, 1,755 dry metric tons in 2012, and 1,658 dry metric tons in 2013, which it prepared and sold for land application.

ALLEGATIONS

23. The facts stated in Paragraphs 14 through 22 above are herein incorporated.

24. Based on observations documented during the review of available information, EPA alleges that Respondent violated Section 405(e) of the act, 33 U.S.C. § 1345(e), and the terms and conditions of its NPDES permit, in at least the following ways:

Count I - Failure to Sample at Required Frequency

25. Respondent violated Part 4.1.4.5 of the 2007 and 2013 permits and 40 C.F.R. § 503.16, Table 1, by failing to monitor for pathogens at the required minimum frequency. The volume of sewage sludge Respondent received during 2011, 2012, and 2013, as described in Paragraph 22, was such that Respondent was required to monitor six times per year. Respondent only collected samples for pathogens three times in 2011 (on or about January 20, April 14, and June 29); twice in 2012 (on or about January 13 and August 16); and twice in 2013 (on or about August 6 and November 19).

26. Respondent's violations of the pathogen monitoring requirements, as described in Paragraph 25, above, are violations of Section 405(e), 33 U.S.C. § 1345(e), its 2007 and 2013 permits issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and implementing regulations.

27. Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), it is proposed that a civil penalty be assessed against Respondent for the violations of the CWA identified above, the amount of which is set forth in Paragraph 37 below.

CONSENT AGREEMENT

28. Respondent and EPA agree to the terms of this Consent Agreement/Final Order and Respondent agrees to comply with the terms of the Final Order.

29. Respondent admits the jurisdictional allegations set forth in this Complaint and Consent Agreement/Final Order and agrees not to contest EPA's jurisdiction in this proceeding or in any subsequent proceeding to enforce the terms of the Final Order portion of this Consent Agreement/Final Order.

30. Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this Complaint and Consent Agreement/Final Order.

31. Respondent waives any right to contest the allegations set forth in this Consent Agreement/Final Order and its right to appeal this Consent Agreement and the accompanying

Final Order.

32. Respondent and Complainant each agree to resolve the matters set forth in this Consent Agreement/Final Order without the necessity of a formal hearing and agree to bear their own costs and attorney's fees.

33. Nothing contained in this Consent Agreement/Final Order shall alter or otherwise affect Respondent's obligations to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.

34. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement/Final Order and to execute and legally bind Respondent to it.

35. Respondent certifies by signing this Consent Agreement/Final Order that, to the best of its knowledge, Respondent is in compliance with all requirements of the CWA.

36. The effect of settlement is conditional upon the accuracy of Respondent's representations to EPA, as memorialized in Paragraph 35 of this Consent Agreement/Final Order.

37. Respondent consents to the issuance of the Final Order hereinafter recited and agrees to pay a civil penalty in the amount of \$29,700.

38. Payment of the entire civil penalty resolves all civil and administrative claims of the EPA alleged in Paragraphs 25 and 26 of this Complaint and Consent Agreement/Final Order.

Reservation of Rights

39. EPA reserves the right to enforce the terms of this Consent Agreement/Final Order by initiating a judicial or administrative action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319.

40. With respect to matters not addressed in this Consent Agreement/Final Order, 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.

41. With respect to matters not addressed in this Consent Agreement/Final Order, Respondent reserves all rights regarding any enforcement action pursuant to the CWA, or any other legal authority.

Payment

Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and based upon information contained in this Consent Agreement:

42. Respondent shall pay a civil penalty of Twenty-Nine Thousand Seven Hundred Dollars (\$29,700) within thirty calendar days of the effective date of this Final Order. Respondent shall pay the penalty by cashier's or certified check made payable to "Treasurer, United States of America," and shall deliver the check with a transmittal that identifies the case name, facility address, and docket number to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000.

Copies of the transmittal letter and the check shall be simultaneously sent to:

Tina Artemis
U.S. EPA Region 8 (8RC)
1595 Wynkoop Street
Denver, Colorado 80202-1129,

Emilio Llamozas
U.S. EPA Region 8 (8ENF-W-NP)
1595 Wynkoop Street
Denver, Colorado 80202-1129,

and

Anthony Petruska
U.S. EPA Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

43. Should the civil penalty not be paid as provided above, interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. The interest will be assessed on the overdue amount from the due date through the date of payment. Failure to pay the civil penalty when due may result in the commencement of a civil action in Federal District Court to collect said penalty, together with costs and interest thereon.

44. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this Consent Agreement/Final Order shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.

General Terms

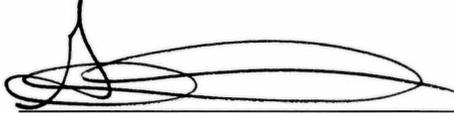
45. This Final Order shall apply to and be binding upon Respondent, its agents, successors, and assigns. Respondent shall ensure that any directors, officers, employees, contractors, consultants, firms or other persons or entities acting under or for him with respect to matters included herein, comply with the terms of this Consent Agreement/Final Order.

46. This Final Order shall become effective upon receipt by Respondent of a fully executed copy hereof. All time periods herein shall be calculated therefrom unless otherwise provided in this Final Order.

47. This executed Complaint and Consent Agreement/Final Order shall be filed with the Regional Hearing Clerk, U.S. Environmental Protection Agency, 1595 Wynkoop Street, Denver, Colorado 80202-1129.

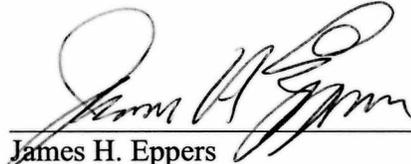
COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 8

02/23/15
Date


Gwenette C. Campbell, Unit Chief
NPDES Enforcement Unit
Office of Enforcement, Compliance, and
Environmental Justice

FEB 26 2015

Date


James H. Eppers
Supervisory Attorney
Regulatory Enforcement Unit
Legal Enforcement Program
Office of Enforcement, Compliance, and
Environmental Justice

RESPONDENT:
STROMO, LLC

2/9/22
Date

John Moser
Name


Signature

Manager
Title

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 8
1595 Wynkoop Street, Denver, CO 80202-1129**

**PUBLIC NOTICE OF PROPOSED COMPLAINT AND CONSENT AGREEMENT AND
OPPORTUNITY TO COMMENT**

Action: The EPA is providing notice of the opportunity to comment on a proposed Complaint and Consent Agreement (CCA). The agreement relates to alleged biosolids violations of the Clean Water Act (CWA) at the Stromo LLC sewage sludge composting facility in Hudson, Colorado. The corporate address of Stromo is 6600 W. 20th Street, Unit #11, Greeley, Colorado 80634.

Summary: The EPA is authorized by section 309(g)(2) of the CWA, 33 U.S.C. § 1319(g)(2), and by 40 C.F.R. §§ 22.13(b) and 22.38, to issue an order assessing a civil administrative penalty for violations of certain CWA requirements, after providing (1) an opportunity for the person to be assessed the penalty (Respondent) to request a hearing to contest the penalty, and (2) notification to the public of its rights to submit written comments and to participate in any hearing. The deadline for the public to submit comments is thirty days after issuance of this notice.

The EPA and Stromo have agreed to enter into a CCA to resolve the EPA's alleged violations of the biosolids requirements listed below. Stromo has agreed to pay a civil penalty of \$29,700.00 to resolve its civil penalty liability for these claims. Pursuant to section 309(g)(4) of the CWA, the EPA hereby notifies the public of the opportunity to comment on this proposed penalty assessment.

EPA Docket Number for CCA: **CWA-08-2015-0012**

Alleged violations: (1) Respondent failed to monitor for pathogens at the required minimum frequency during the years of 2011, 2012, and 2013.

PUBLIC COMMENTS

Written comments on the CCA are encouraged and will be accepted at the address listed below for a period of thirty (30) days after the publication of this notice. Written comments submitted by the public as well as information submitted by Respondent will be available for public review, subject to the provisions of law restricting the disclosure of confidential information. Any person submitting written comments has a right to participate in a hearing, if one is held. The complaint is available for review between 9:00 a.m. and 4:00 p.m. at the address listed below and on the internet at: <http://yosemite.epa.gov/oa/rhc/epaadmin.nsf>.

Please submit written comments to:

Tina Artemis (8RC)
Regional Hearing Clerk
U.S. EPA, Region 8
1595 Wynkoop Street
Denver, CO 80202-1129
Telephone: (303) 312-6765

FOR FURTHER INFORMATION: Persons wishing to receive a copy of the CCA or other documents in this proceeding (such as the regulations in 40 C.F.R. Part 22, which establish procedures for the hearing), or to comment upon the proposed penalty assessment or upon any other aspect of the matter, should contact the Regional Hearing Clerk identified above.

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER** in the matter **STROMO, LLC; DOCKET NO.: CWA-08-2015-0012**. **THE CONSENT AGREEMENT** was filed with the Regional Hearing Clerk on March 2, 2015; **THE FINAL ORDER** was filed on April 13, 2015.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Erin Weekley, Office of Regional Counsel, U. S. EPA – Region 7, 11201 Renner Blvd., Lenexa, Kansas. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt on April 13, 2015 to:

Chris Skelton, P.G.
Consultant, AGPROfessionals
3050 67th Avenue, Suite 200
Greeley, CO 80634

John R. Moser, Registered Agent
Stromo, LLC.
6600 W. 20th Street, Unit #11
Greeley, CO 80634

And emailed to:

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

April 13, 2015



Tina Artemis
Paralegal/Regional Hearing Clerk

