



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2009 NOV 17 AM 11:03

1595 WYNKOOP STREET
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: SDWA-08-2009-0084

IN THE MATTER OF:)
)
KULA GRAIN CO., INC.) FINAL ORDER
)
RESPONDENT)

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 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 17th DAY OF November, 2009.

Elyana R. Sutin
Regional Judicial Officer

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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In the Matter of:)	
)	
Kula Grain Co., Inc.)	
)	CONSENT AGREEMENT
)	
Respondent.)	

Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondent Kula Grain Co., Inc. (Respondent), by their undersigned representatives, hereby consent and agree as follows.

BACKGROUND

1. On September 24, 2009, EPA issued a Proposed Compliance Order, Penalty Complaint and Notice of Opportunity for Hearing (Complaint) to Respondent for certain violations of Part C 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 its 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 and Respondent’s heirs, successors or assigns. Any

change in the ownership or corporate status of Respondent, including, but not limited to, any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement. This Consent Agreement contains all terms of the settlement agreed to by the parties.

5. 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.
6. Respondent agrees to keep the Class V Motor Vehicle Waste Disposal well at issue permanently closed.
7. Due to Respondent's 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.
8. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with the SDWA and its implementing regulations.
9. The undersigned representative of 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.
10. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.
11. Each party shall bear its own costs and attorneys fees in connection with this matter.

12. 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**

Date: 11/13/09

By: Eddie A. Sierra
Eddie A. Sierra
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Kula Grain Co., Inc.

Date: 11-3-09

By: Robert L Kula
Name, Title: ROBERT L KOLA PRES.


CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **KULA GRAIN CO., INC.; DOCKET NO.: SDWA-08-2009-0084** was filed with the Regional Hearing Clerk on November 17, 2009.

Further, the undersigned certifies that a true and correct copy of the documents were delivered Eduardo Quintana, Senior 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 November 17, 2009, to:

Robert L. Kula, President
Kula Grain Co, Inc.
20383 U. S. Highway 34
Fort Morgan, CO 80701

November 17, 2009


Tina Artemis
Paralegal/Regional Hearing Clerk

