



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
1595 WYNKOOP STREET
DENVER, CO 80202-1129
Phone 800-227-8917
http://www.epa.gov/region08

2008 AUG 14 PM 12: 25

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: SDWA-08-2008-0037

IN THE MATTER OF:
ED SWISHER, OWNER OF
SWISHER DIESEL AND AUTOMOTIVE
RESPONDENT
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 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 14th DAY OF August, 2008.

Elyana R. Sutin
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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Docket No. SDWA-08-2008-0037

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In the Matter of:)
)
Ed Swisher, Owner of) CONSENT AGREEMENT
Swisher Diesel and Automotive)
)
Respondent)

The United States Environmental Protection Agency, Region 8 (Complainant), and Ed Swisher, Owner of Swisher Diesel and Automotive (Respondent), by their undersigned representatives, hereby consent and agree as follows:

1. On March 21, 2008, Complainant issued to Respondent a Proposed Compliance Order, Penalty Complaint, And Notice Of Opportunity For Hearing (complaint) alleging certain violations of the Safe Drinking Water Act, 42 U.S.C. §§ 300f to 300j-26.

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 successors or assigns. This Consent Agreement contains all terms of the settlement agreed to by the parties.

5. Complainant acknowledges that Respondent has closed the Class V Motor Vehicle Waste Disposal well at issue and has, pursuant to the requirements of the complaint, timely submitted documentary evidence of the closure.

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 accordance with Complainant's enforcement strategy for these specific types of cases, Complainant 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 Safe Drinking Water Act and its implementing regulations.

Ed Swisher, Owner of Swisher Diesel and Automotive
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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, once signed, 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 attorney 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: 8/15/08

Complainant

By: 

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

**ED SWISHER, OWNER OF SWISHER
DIESEL AND AUTOMOTIVE**

Date: 7-29-2008

Respondent

By: 

Ed Swisher

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **ED SWISHER, OWNER OF SWISHER DIESEL AND AUTOMOTIVE; DOCKET NO.: SDWA-08-2008-0037** was filed with the Regional Hearing Clerk on August 14, 2008.


Further, the undersigned certifies that a true and correct copy of the documents were delivered to Michelle Marcu, 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 August 14, 2008, to:

Ed Swisher, Owner
Swisher Diesel and Automotive
31455 U. S. Hwy. 24
Buena Vista, CO 81211

E-mailed to:

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

August 14, 2008


Tina Artemis
Paralegal/Regional Hearing Clerk

