



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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Phone 800-227-8917

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EPA REGION VIII  
HEARING CLERK

DOCKET NO.: CWA-08-2015-0024

IN THE MATTER OF:

CITY OF BURLINGTON,  
COLORADO

RESPONDENT

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)  
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)  
)

FINAL ORDER

Pursuant to 40 C.F.R. §22.13(b) and 22.18(b)(2)(3), 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 23 DAY OF September, 2015.

Elyana R. Sutto  
Regional Judicial Officer

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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FILED  
EPA REGION VIII  
HEARING CLERK

In the Matter of: )  
)  
City of Burlington, Colorado, ) COMBINED COMPLAINT AND  
) CONSENT AGREEMENT  
)  
)  
Respondent. ) Docket No. **CWA-08-2015-0024**

The United States Environmental Protection Agency, Region 8 (EPA) and the City of Burlington, Colorado (Respondent), by their undersigned representatives, hereby consent and agree as follows:

**AUTHORITY**

1. This Combined Complaint and Consent Agreement (Agreement) is issued under the authority of section 309 (g)(2)(A) of the Clean Water Act (the Act), 33 U.S.C. § 1319(g)(2)(A).

**STATEMENTS OF THE PARTIES**

2. With this Agreement, the parties intend to commence and conclude this matter simultaneously, as authorized by 40 C.F.R. §§ 22.13(b) and 28.18(b)(2) and (3).
3. Solely for the purposes of this proceeding, the Respondent admits the jurisdictional allegations contained in paragraphs 4 and 5 of this Agreement. The Respondent consents to the assessment of the civil penalty referenced below, waives any right to a hearing before any tribunal or to contest any statement of law or fact in this Agreement, and waives any right to appeal any final order approving this Agreement (the Final Order). The Respondent does not admit or deny any matter the EPA has alleged in paragraphs 6 through 85 of this Agreement.

**THE EPA'S ALLEGATIONS**

The following allegations apply to all times relevant to this action and to each part of this Agreement.

### **Jurisdictional Allegations**

4. This Agreement is issued pursuant to section 309(g) of the Act, 33 U.S.C. §1319(g). Section 309(g) of the Act authorizes the EPA to assess civil administrative penalties for violations of, among other things, section 405 of the Act, 33 U.S.C. § 1345.
5. This proceeding is subject to the EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. part 22, a copy of which has been provided to the Respondent.

### **General Allegations**

6. Section 405(d)(1) of the Act directed the EPA to develop and publish "regulations providing guidelines for the disposal of sewage sludge and the utilization of sewage sludge for various purposes." 33 U.S.C. § 1345(d)(1). The EPA has promulgated those regulations. They have been codified at 40 C.F.R. part 503.
7. The regulations in 40 C.F.R. part 503 apply, among other things, to any person who prepares sewage sludge, applies sewage sludge to land, or owns or operates a sewage sludge disposal site. 40 C.F.R. § 503.1(b).
8. "Sewage sludge" is defined at 40 C.F.R. § 503.9(w) as "solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in treatment works [and] includes, but is not limited to, domestic septage, scum or solids removed in primary, secondary, or advanced wastewater treatment processes, and a material derived from sewage sludge."
9. No person shall use or dispose of sewage sludge through any practice for which requirements are established in 40 C.F.R. part 503 except in accordance with these requirements. 40 C.F.R. § 503.3(b).
10. Any person who prepares sewage sludge shall ensure that the applicable requirements of 40 C.F.R. part 503 are met when the sewage sludge placed on a surface disposal site. 40 C.F.R. § 503.7.
11. Any person who prepares sewage sludge that is placed on a surface disposal site is subject to the requirements of 40 C.F.R. part 503, subpart C, i.e., 40 C.F.R. §§ 503.20 through 503.28.
12. No person shall place sewage sludge on an active sewage sludge unit unless the requirements of 40 C.F.R. part 503, subpart C are met. 40 C.F.R. § 503.22(a).
13. A "sewage sludge unit" is defined as "land on which only sewage sludge is placed for final disposal." 40 C.F.R. § 503.21(n).

14. An “active sewage sludge unit” is defined as a “sewage sludge unit that has not closed.” 40 C.F.R. § 503.21(a).
15. The State of Colorado has not applied for or obtained primary authority to administer and enforce the sewage sludge management program pursuant to 40 C.F.R. part 501. Consequently, in Colorado, the EPA directly implements the sewage sludge management program and is the “permitting authority” as defined in 40 C.F.R. § 503.9(p).

Pollutant Limits

16. Sewage sludge that is placed on an active sewage sludge unit without a liner and leachate collection system shall not, according to 40 C.F.R. § 503.23(a)(1), exceed the following amounts, in milligrams per kilogram on a dry weight basis:

Arsenic	73
Chromium	600
Nickel	420

17. Alternatively, if sewage sludge is placed on an active sewage sludge unit whose boundary is less than 150 meters from the property line of the surface disposal site, 40 C.F.R. § 503.23(a)(2) establishes different maximum allowable concentrations than those referenced in paragraph 16, above. The maximum allowable levels depend on the distance of the sewage sludge from the property boundary.
18. Alternatively, the owner/operator of a surface disposal site may request site-specific pollutant limits. 40 C.F.R. § 503.24(b).

Closure Plan

19. The owner/operator of an active sewage sludge unit is required to submit a written closure and post-closure plan to the permitting authority 180 days before the date the active sewage sludge unit closes, i.e., the date that the last layer of soil or other material is placed on the sewage sludge unit. 40 C.F.R. §§ 503.21(g) and 503.22(c). According to 40 C.F.R. § 503.22(c), the closure plan shall describe how the sewage sludge unit will be closed and, at a minimum, shall include:
  - (1) a discussion of how the leachate collection system will be operated and maintained for three years after the sewage sludge unit closes if the sewage sludge unit has a liner and leachate collection system,
  - (2) a description of the system used to monitor for methane gas in the air in any structures within the surface disposal site

and in the air at the property line of the surface disposal site, as required in 40 C.F.R. § 503.24(j)(2), and

- (3) a discussion of how public access to the surface disposal site will be restricted for three years after the last sewage sludge unit in the surface disposal site closes.

#### Pathogen Reduction

20. The term “pathogenic organisms” is defined in 40 C.F.R. § 503.31(f) as “disease-causing organisms, including, but not limited to, certain bacteria, protozoa, viruses, and viable helminth ova.”
21. According to 40 C.F.R. § 503.22(a), whenever sewage sludge (other than domestic septage) is placed on an active sewage sludge unit, either the requirements for Class A pathogens in 40 C.F.R. § 503.32(a) or one of requirements for Class B pathogens in 40 C.F.R. § 503.32 (b)(2) through (b)(4) must be met. However, these requirements do not apply if the vector attraction reduction requirement in 40 C.F.R. § 503.33(b)(11) is met.

#### Vector Attraction Reduction

22. “Vector attraction” is defined in 40 C.F.R. § 503.31(k) as “the characteristic of sewage sludge that attracts rodents, flies, mosquitoes, or other organisms capable of transporting infectious agents.”
23. According to 40 C.F.R. §§ 503.22(b) and 503.25(b), whenever sewage sludge (other than domestic septage) is placed on an active sewage sludge unit, one of the vector attraction requirements in 40 C.F.R. §§ 503.33(b)(1) through (b)(11) must be met.

#### Management Practices

24. According to 40 C.F.R. § 503.24(a), sewage sludge shall not be placed on an active sewage sludge unit if it is likely to adversely affect a threatened or endangered species listed under section 4 of the Endangered Species Act or its designated critical habitat.
25. According to 40 C.F.R. § 503.24(b), an active sewage sludge unit shall not restrict the flow of a base flood.
26. When a surface disposal site is located in a seismic impact zone, an active sewage sludge unit shall be designed to withstand the maximum recorded horizontal ground level acceleration. 40 C.F.R. § 503.24(c).

27. According to 40 C.F.R. § 503.24(d), an active sewage sludge unit shall be located 60 meters or more from a fault that has displacement in Holocene time, unless otherwise specified by the permitting authority.
28. According to 40 C.F.R. § 503.24(e), an active sewage sludge unit shall not be located in an unstable area.
29. According to 40 C.F.R. § 503.24(f), an active sewage sludge unit shall not be located in a wetland, except as provided in a permit issued pursuant to section 402 or 404 of the Act, 33 U.S.C. § 1342 or § 1344.
30. Run-off from an active sewage sludge unit shall be collected and shall be disposed in accordance with National Pollutant Discharge Elimination System permit requirements and any other applicable requirements. 40 C.F.R. § 503.24(g)(1).
31. According to 40 C.F.R. § 503.24(g)(2), the run-off collection system for an active sewage sludge unit shall have the capacity to handle run-off from a 24-hour, 25-year storm event.
32. The leachate collection system for an active sewage sludge unit that has a liner and leachate collection system shall be operated and maintained during the period the sewage sludge unit is active and for three years after the sewage sludge unit closes. 40 C.F.R. § 503.24(h).
33. According to 40 C.F.R. § 503.24(i), leachate from an active sewage sludge unit that has a liner and leachate collection system shall be collected and shall be disposed of in accordance with the applicable requirements during the period the sewage sludge unit is active and for three years after the sewage sludge unit closes.
34. When a cover is placed on an active sewage sludge unit, the concentration of methane gas in air in any structure within the surface disposal site shall not exceed 25 percent of the lower explosive limit for methane gas during the period that the sewage sludge unit is active and the concentration of methane gas in air at the property line of the surface disposal site shall not exceed the lower explosive limit for methane gas during the period that the sewage sludge unit is active. 40 C.F.R. § 503.24(j)(1).
35. When a final cover is placed on a sewage sludge unit at closure, the concentration of methane gas in air in any structure within the surface disposal site shall not exceed 25 percent of the lower explosive limit for methane gas for three years after the sewage sludge unit closes and the concentration of methane gas in air at the property line of the surface disposal site shall not exceed the lower explosive limit for methane gas for three years after the sewage sludge unit closes, unless otherwise specified by the permitting authority. 40 C.F.R. § 503.24(j)(2).

36. According to 40 C.F.R. § 503.24(k), a food crop, a feed crop, or a fiber crop shall not be grown on an active sewage sludge unit, unless the owner/operator of the surface disposal site demonstrates to the permitting authority that through management practices, public health and the environment are protected from any reasonably anticipated adverse effects of pollutants in sewage sludge when crops are grown.
37. According to 40 C.F.R. § 503.24(l), animals shall not be grazed on an active sewage sludge unit, unless the owner/operator of the surface disposal site demonstrates to the permitting authority that through management practices, public health and the environment are protected from any reasonably anticipated adverse effects of pollutants in sewage sludge when animals are grazed.
38. According to 40 C.F.R. § 503.24(m), public access to a surface disposal site shall be restricted for the period that the surface disposal site contains an active sewage sludge unit and for three years after the last active sewage sludge unit in the surface disposal site closes.
39. According to 40 C.F.R. § 503.24(n)(1), sewage sludge placed on an active sewage sludge unit shall not contaminate an aquifer. Results of a ground-water monitoring program developed by a qualified ground-water scientist or a certification by a qualified ground-water scientist shall be used to demonstrate that sewage sludge placed on an active sewage sludge unit does not contaminate an aquifer. 40 C.F.R. § 503.24(n)(2).

#### Monitoring

40. Any person who prepares sewage sludge that is placed on a surface disposal site and any owner/operator of a sewage disposal site must monitor the sewage sludge. An owner/operator of a facility that places between 1,500 and 15,000 metric tons of sludge on an active sewage sludge unit per 365-day period must monitor at least once per 60 days, or six times per year. 40 C.F.R. § 503.26(a).
41. The monitoring requirement referenced in paragraph 40, above, applies to compliance with:
  - (1) the arsenic, chromium, and nickel concentration limits in 40 C.F.R. § 503.23(a)(1);
  - (2) the pathogen density requirements in 40 C.F.R. § 503.32(a) and § 503.32(b)(2); and
  - (3) the vector attraction reduction requirements in 40 C.F.R. § 503.33(b)(1) through (b)(4) and § 503.33(b)(7) through (b)(8). 40 C.F.R. § 503.26(a).

## Recordkeeping

42. Any person who prepares sewage sludge (other than domestic septage) that is placed on an active sewage sludge unit is required by 40 C.F.R. § 503.27(a)(1) to develop the following information and to retain it for five years:

- (1) the concentrations of arsenic, chromium, and nickel;
- (2) the following certification statement:

I certify, under penalty of law, that the information that will be used to determine compliance with the pathogen requirements (insert § 503.32(a), § 503.32(b)(2), § 503.32(b)(3), § 503.32(b)(4) when one of these requirements is met) and the vector attraction reduction requirement in (insert one of the vector attraction requirements in § 503.33(b)(1) through (b)(8) if one of those requirements is met) was prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment;

- (3) a description of how the pathogen requirements in 40 C.F.R. § 503.32(a), 503.32(b)(2), 503.32(b)(3), or 503.32(b)(4) are met; and
- (4) a description of how one of the vector attraction reduction requirements in 40 C.F.R. § 503.33(b)(1) through (b)(8) are met.

43. Any owner/operator of an active sewage sludge disposal site is required by 40 C.F.R. § 503.27(a)(2) to develop the following information and retain it for five years:

- (1) the concentrations of arsenic, chromium, and nickel;
- (2) the following certification statement:

I certify, under penalty of law, that the information that will be used to determine compliance with the management practices in § 503.24 and the vector attraction reduction requirement in (insert one of the requirements in § 503.33(b)(9) through § 503.33(b)(11) if one of these requirements is met)



was prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment;

- (3) a description of how the management practices in 40 C.F.R. § 503.24 are met; and
- (4) a description of how the vector attraction reduction requirements in 40 C.F.R. § 503.33(b)(9) through (b)(11) are met if one of those requirements is met.

### **FINDINGS OF FACT AND OF VIOLATION**

- 44. The Respondent is a municipality and, therefore, a “person” for purposes of federal enforcement under sections 309 and 502(5) of the Act, 33 U.S.C. §§ 1319 and 1362(5), and 40 C.F.R. § 503.9(q).
- 45. The Respondent owns and operates a domestic wastewater treatment facility (WWTP) located approximately one mile south of Interstate 70 on County Road 49, in Burlington, Colorado. The WWTP includes a lagoon/pond system in which wastewater is aerated and disinfected prior to being discharged to Sand Creek.
- 46. In the course of treating wastewater at the WWTP, the Respondent prepares and/or generates sewage sludge.
- 47. The Respondent prepared and/or generated the sewage sludge described in this Complaint.
- 48. In June of 2010, the Respondent entered into a contract with Earth Contractors, Inc. (Earth Contractors), an Oregon corporation, to expand and renovate the WWTP.
- 49. As part of its bid solicitation for the project referenced in paragraph 48, above, the Respondent specified that the project would include removing organic sludge and transporting it to nearby fields.
- 50. By letter dated June 16, 2010, the Colorado Department of Public Health and Environment (CDPHE) notified the Respondent that it had reviewed and approved the final plans and specifications that the Respondent had submitted for the project referenced in paragraph 48, above. The approval letter stated, on page 2, “This review does not relieve the owner from compliance with all Federal, State, and local regulations

and requirements prior to construction nor from responsibility for proper engineering, construction, and operation of the facility.”

51. Beginning in July of 2010 and extending at least into May of 2011, in connection with the expansion/renovation project referenced in paragraph 48, above, the Respondent and/or another entity or entities acting on behalf of the Respondent (including Earth Contractors) removed sewage sludge from the lagoon system at the WWTP.
52. Beginning in July of 2010 and extending at least into May of 2011, the Respondent and/or another entity acting on behalf of the Respondent (including Earth Contractors), and as documented by Daily Field Observation Reports prepared by an engineering firm retained by the Respondent, hauled the sludge referenced in paragraph 51, above, to a field east of the WWTP and disposed of it by placing it in various trenches and/or spreading it across the field.
53. The trenches and field referenced in paragraph 52, above, constitute an “active sewage sludge unit” as defined in 40 C.F.R. § 503.21(a).
54. At all relevant times, the Respondent owned the trenches and field referenced in paragraph 52, above.
55. As owner and operator of the trenches and field referenced in paragraph 52, above, where sewage sludge was disposed of, the Respondent at all relevant times has been an owner/operator of a surface disposal site.
56. Notwithstanding having disposed of sludge as described in paragraphs 51 and 52, above, in August of 2010, the Respondent submitted a discharge permit application to the CDPHE stating that the last time biosolids had been removed was “unknown” and that no biosolids would be removed in the next 1-5 years.
57. Notwithstanding having generated the sludge described in paragraphs 51 and 52, above, in February of 2011 the Respondent filed a Biosolids Land Application Report with CDPHE stating that it had generated no biosolids from January 1, 2010, to December 31, 2010.
58. On March 7, 2013, the EPA sent the Respondent a request for information pursuant to section 308 of the Act, 33 U.S.C. § 1318, to determine compliance with section 405 of the Act, 33 U.S.C. § 1345, and its implementing regulations at 40 C.F.R part 503.
59. The Respondent answered the information request referenced in paragraph 58, above, by letter dated April 29, 2013, from Timothy R. Gablehouse, counsel for the Respondent.
60. By letter dated February 18, 2014, counsel for the Respondent responded to a follow-up request for information from the EPA.

61. In the response referenced in paragraph 59, above, the Respondent indicated that it had no documentation in its possession concerning:
- the number of loads or total quantity of sewage sludge removed from the lagoon at the WWTP,
  - any sample analyses of sewage sludge that had been removed from the lagoon at the WWTP, or
  - whether and how it had achieved compliance with the pathogen and vector attraction reduction requirements in 40 C.F.R. part 503.
62. In the response referenced in paragraph 59, above, the Respondent indicated that it was unaware whether the sewage sludge referenced in 51, above, had been treated prior to its removal from the lagoon.
63. On December 20, 2013, the EPA sent Earth Contractors a request for information pursuant to section 308 of the Act, 33 U.S.C. § 1318, to determine compliance with section 405 of the Act, 33 U.S.C. § 1345, and its implementing regulations at 40 C.F.R. part 503.
64. Earth Contractors answered the information request referenced in paragraph 63, above, by letter dated January 10, 2014, from Gregory V. Pelton, counsel for Earth Contractors.
65. The answer from Earth Contractors referenced in paragraph 64, above, stated that based on a geotechnical evaluation conducted by an engineering firm on behalf of Earth Contractors, approximately 23,000 to 28,000 cubic yards of sewage sludge were placed into approximately 22 trenches and approximately 75,000 to 100,000 cubic yards of sewage sludge and sewage sludge-contaminated materials from the ponds were spread over a 31-acre area. The answer also stated that based on this evaluation, the total amount of sewage sludge and sewage sludge-contaminated material removed from the ponds and placed in the trenches or spread across the field corresponded to approximately 98,000 to 128,000 cubic yards.
66. Neither the Respondent nor any contractor or agent for the Respondent applied for or was issued any permit from the EPA or the CDPHE to remove, dispose of, or land apply sewage sludge.

Count I - Failure to Monitor Pollutant Concentrations

67. The Respondent did not sample the sewage sludge referenced in paragraphs 51 and 52, above, for arsenic, chromium, or nickel.

68. The Respondent's failure to sample the sewage sludge, as described in paragraph 67, above, violated section 405(e) of the Act, 33 U.S.C. § 1345(e), and 40 C.F.R. §§ 503.22(a) and 503.16(a).

Count II - Failure to Monitor for Pathogen Reduction

69. The Respondent did not sample the sewage sludge referenced in paragraphs 51 and 52, above, to ensure compliance with the pathogen density requirements of 40 C.F.R. §§ 503.32(a) and 503.32(b)(2).
70. The Respondent's failure to sample the sewage sludge, as described in paragraph 69, above, violated section 405(e) of the Act, 33 U.S.C. § 1345(e), and 40 C.F.R. §§ 503.22(a) and 503.26(a).

Count III - Failure to Monitor for Vector Attraction Reduction

71. The Respondent did not sample the sewage sludge referenced in paragraphs 51 and 52, above, to ensure compliance with the vector attraction reduction requirements in 40 C.F.R. §§ 503.33(b)(1) through (b)(4) and 503.33(b)(7) through (b)(8).
72. The Respondent's failure to sample the sewage sludge, as described in paragraph 71, above, violated section 405(e) of the Act, 33 U.S.C. § 1345(e), and 40 C.F.R. §§ 503.22(a) and 503.26(a).

Count IV - Failure to Develop and Retain Records

73. As a person preparing sludge, the Respondent was required to develop and retain the records described in paragraphs 42 and 43, above, for the sewage sludge that was removed from the WWTP as described in paragraphs 51 and 52, above.
74. The Respondent did not develop and retain the records described in paragraphs 42 and 43, above, for the sewage sludge that was removed from the WWTP as described in paragraphs 51 and 52, above.
75. The Respondent's failure to develop and retain records of the sewage sludge removed from the WWTP violated section 405(e) of the Act, 33 U.S.C. § 1345(e), and 40 C.F.R. §§ 503.22(a) and 503.27(a)(1) and (a)(2).

Count V - Failure to Submit a Closure Plan

76. The Respondent did not submit a closure plan for the active sewage sludge unit described in paragraphs 52 and 53, above.

77. The Respondent's failure to submit a closure plan for the surface disposal pit, as described in paragraph 76, above, violated section 405(e), 33 U.S.C. § 1345(e), and 40 C.F.R. § 503.22(a) and (c).

Count VI - Failure to Monitor Ground Water

78. The Respondent did not submit results of a ground-water monitoring program to demonstrate that sewage sludge placed on the sewage sludge disposal site did not contaminate ground water.
79. The Respondent's failure to submit results of a ground-water monitoring program, as described in paragraph 78, above, violated section 405(e) of the Act, 33 U.S.C. § 1345(e), and 40 C.F.R. §§ 503.22(a) and 503.24(n)(2).

Count VII - Failure to Meet Pathogen Requirements

80. Based on the information that the Respondent has provided concerning the manner in which the sewage sludge was placed on the trenches and field referenced in paragraph 52 and 53, above, the Respondent did not meet (a) the Class A pathogen requirements in 40 C.F.R. § 503.32(a), (b) any of the Class B pathogen requirements in 40 C.F.R. § 503.32(b)(2) through (b)(4), or (c) the vector attraction reduction requirements in 40 C.F.R. § 503.33(b)(11).
81. The Respondent's failure to meet the pathogen reduction and vector attraction reduction requirements referenced in paragraph 80, above, violated section 405(e) of the Act, 33 U.S.C. § 1345(e), and 40 C.F.R. §§ 503.22(a) and 503.25(a).

Count VIII - Failure to Meet Vector Attraction Reduction Requirements

82. Based on the information that the Respondent has provided concerning the manner in which the sewage sludge was placed on the trenches and field referenced in paragraphs 52 and 53 above, the Respondent did not meet any of the vector attraction reduction requirements in 40 C.F.R. § 503.33(b)(1) through § 503.33(b)(11).
83. The Respondent's failure to meet the vector attraction reduction requirements referenced in paragraph 82 above, violated section 405(e) of the Act, 33 U.S.C. § 1345(e), and 40 C.F.R. §§ 503.22(a) and 503.25(b).

Count IX - Failure to Ensure Compliance

84. For the sewage sludge that was placed on an active sewage sludge disposal unit, the Respondent did not ensure compliance with the applicable requirements in 40 C.F.R. part 503.

85. The Respondent's failure to ensure compliance with the applicable requirements of 40 C.F.R. part 503 violated section 405(e) of the Act, 33 U.S.C. § 1345(e), and 40 C.F.R. §§ 503.7 and 503.22(a).

**CIVIL PENALTY**

86. The Respondent consents and agrees to pay a civil penalty in the amount of thirty thousand dollars (\$30,000) in the manner described below:
- a. Payment shall be in a single payment of \$30,000, due no later than 30 calendar days from the date of the Final Order. If the due date for the payment falls on a weekend or federal holiday, then the due date is the next business day. The date the payment is made is considered to be the date processed by U.S. Bank, as described below. Payment must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day.
  - b. The payment shall be made by remitting a cashier's or certified check or making an electronic payment. The check or other payment shall designate the name and docket number of this case, be in the amount stated in part "a," above, and be payable to "Treasurer, United States of America." It shall be remitted as follows:

**If remitted by regular U.S. mail:**

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

**If remitted by any overnight commercial carrier:**

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, Missouri 63101

**If remitted by wire transfer:** Any wire transfer must be sent directly to the Federal Reserve Bank in New York City, using the following information:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, New York 10045

Field Tag 4200 of the Fedwire message should read "D 68010727  
Environmental Protection Agency"

**If remitted through the Automated Clearing House (ACH) for  
receiving US currency:**

U.S. Treasury REX / Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 -- checking

Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, Maryland 20737

Contacts: John Schmid (202-874-7026) and REX (Remittance Express)  
800-234-5681

**If remitted on-line with a debit card, credit card, or bank account  
transfer:** No user name, password, or account number is necessary for this  
option. On-line payment can be accessed via [WWW.PAY.GOV](http://WWW.PAY.GOV), entering  
1.1 in the form search box on the left side of the screen to access the  
EPA's Miscellaneous Payment Form, opening the form, following the  
directions on the screen and, after selecting "submit data," entering the  
relevant debit card, credit card, or bank account information.

At the time of payment, a copy of the check (or notification of other type  
of payment) shall also be sent to:

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

and

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

- c. If the payment is not received by the specified due date, interest accrues from the date of the Final Order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received (e.g., on the 1<sup>st</sup> late day, 30 days of interest will have accrued).
  - d. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 31<sup>st</sup> day from the date of the Final Order, and for each subsequent 30-day period that the debt, or any portion thereof, remains unpaid. In addition, a 6% per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 30 days of the due date. Payments are first applied to outstanding handling charges, 6% penalty interest, and late interest. The remainder is then applied to the outstanding principal amount.
  - e. The Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.
87. Nothing in this Agreement shall relieve the Respondent of the duty to comply with the Act, its implementing regulations, and any permit issued pursuant to the Act.
88. Any failure by the Respondent to comply with any of the terms of this Agreement shall constitute a breach of this Agreement and may result in referral of the matter to the Department of Justice for enforcement of this Agreement and for such other relief as may be appropriate.
89. Nothing in this Agreement shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of any failure by the Respondent to meet its obligations under this Agreement.
90. The undersigned individual certifies that he or she is fully authorized to enter into the terms and conditions of this Agreement and to bind the Respondent to the terms and conditions of this Agreement.
91. The parties submit this Agreement to the Regional Judicial Officer, with a request that it be incorporated into a Final Order.




- 92. Each party shall bear its own costs and attorney's fees in this matter.
- 93. This Agreement, upon incorporation into a Final Order and full satisfaction by the parties, shall be a full settlement of the United States' claims for civil penalties against the Respondent for the specific violations alleged in this Agreement.

**PUBLIC NOTICE**

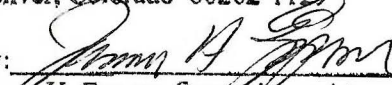
- 94. As required by section 309(g)(4) of the Act, 33 U.S.C. § 1319(g)(4), prior to requesting issuance of the Final Order, the EPA will provide public notice of this Agreement and a reasonable opportunity for the public to comment on the matter and, if a hearing is held, to be heard and present evidence.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8, Complainant**

Date: 08/04/15

By:   
 Gwenette C. Campbell, Unit Chief  
 NPDES Enforcement Unit  
 Office of Enforcement, Compliance and Environmental Justice  
 United States Environmental Protection Agency  
 Region 8  
 1595 Wynkoop Street (ENF-W-NP)  
 Denver, Colorado 80202-1129

Date: 8/5/15

By:   
 James H. Eppers, Supervisory Attorney  
 Legal Enforcement Program  
 Office of Enforcement, Compliance and Environmental Justice  
 United States Environmental Protection Agency  
 Region 8  
 1595 Wynkoop Street (ENF-L)  
 Denver, Colorado 80202-1129

**CITY OF BURLINGTON, COLORADO, Respondent**

Date: 7-30-15

By:   
 Kerry Korsvold, Mayor

**CERTIFICATE OF SERVICE**

The undersigned certifies that the original of the attached **COMBINED COMPLAINT, CONSENT AGREEMENT** in the matter **CITY OF BURLINGTON, COLORADO; DOCKET NO.: CWA-08-2015-0024** was filed with the Regional Hearing Clerk on August 6, 2015; **THE FINAL ORDER** was filed on September 21, 2015.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Peggy Livingston, Enforcement Attorney. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt and emailed on September 21, 2015 to:

Attorney for Respondent:

Timothy Gablehouse  
Gablehouse, Granberg, LLC.  
410 Seventeenth Street, Suite 1375  
Denver, CO 80202  
tgablehouse@gcgllc.com

And emailed to:

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

September 23, 2015



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Michael Nelson  
Acting Regional Hearing Clerk



## CORRECTED CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMBINED COMPLAINT, CONSENT AGREEMENT** in the matter **CITY OF BURLINGTON, COLORADO; DOCKET NO.: CWA-08-2015-0024** was filed with the Regional Hearing Clerk on August 6, 2015; **THE FINAL ORDER** was filed on September 23, 2015.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Peggy Livingston, Enforcement Attorney. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt and emailed on September 23, 2015 to:


Attorney for Respondent:

Timothy Gablehouse  
Gablehouse, Granberg, LLC.  
410 Seventeenth Street, Suite 1375  
Denver, CO 80202  
tgablehouse@gcgllc.com

And emailed to:

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

September 23, 2015

  
Tina Artemis  
Paralegal/Regional Hearing Clerk

