

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

2007 DEC 19 11:19:25

Docket No.: SDWA-08-2007-0092

In the Matter of:)	
)	
Jerry Byrkeland dba Rivercity)	
Sandblasting and JB Body Shop;)	
)	
and)	CONSENT AGREEMENT
)	
Dennis Mines,)	
)	
)	
Respondents.)	

Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondent Jerry Byrkeland dba Rivercity Sandblasting and JB Body Shop and Respondent Dennis Mines (together referred to as "Respondents"), by their undersigned representatives, hereby consent and agree as follows.

BACKGROUND

1. On September 26, 2007, EPA issued a Penalty Complaint and Notice of Opportunity for Hearing (Complaint) to Respondents alleging 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. Respondents admit the jurisdictional allegations of the Complaint and neither admit nor deny the specific factual allegations of the Complaint.

3. Respondents waive their right to a hearing before any tribunal and 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 Respondents and Respondents' heirs, successors or assigns. Any change in the ownership of Respondents, including, but not limited to, any transfer of assets or real or personal property, shall not alter Respondents' responsibilities under this agreement. This Consent Agreement contains all terms of the settlement agreed to by the parties.
5. Respondents consent and agree to pay a civil penalty in the amount of thirteen thousand five hundred dollars (\$13,500.00), in the manner described below in this paragraph:

- a. The first payment of five thousand dollars (\$5,000.00) is due within 30 calendar days from the date written on the Final Order, issued by the Regional Judicial Officer, that adopts this Consent Agreement.

The second payment of three thousand dollars (\$3,000.00) is due within 120 calendar days from the date written on the Final Order.

The third payment of three thousand dollars (\$3,000.00) is due within 210 calendar days from the date written on the Final Order.

The fourth and final payment of two thousand five hundred dollars (\$2,500.00) plus interest (see subparagraph c of this paragraph 5) is due within 300 calendar days from the date written on the Final Order. EPA will provide to Respondents, in writing, the exact amount due in the final payment.

If any due date falls on a weekend or legal federal holiday, the due date is the next business day. The date the payment is made is considered to be the date of the deposit ticket issued by the bank or finance center described below. Payments must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day.

- b. Payments shall be made by remitting a cashier's or certified check, including the name and docket number of this case, for this amount, payable to "Treasurer, United States of America," to:

REGULAR MAIL:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

WIRE TRANSFERS:

Wire transfers should be directed to the Federal Reserve Bank of New York

Federal Reserve Bank of New York

ABA = 021030004

Account = 68010727

SWIFT address = FRNYUS33

33 Liberty Street

New York NY 10045

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

OVERNIGHT MAIL:

U.S. Bank

1005 Convention Plaza

Mail Station SL-MO-C2GL

St. Louis, MO 63101

Contact: Natalie Pearson

314-418-4087

Copies of the checks shall be sent simultaneously to:

Carol Hutchings

Technical Enforcement Program (8ENF-UFO)

U.S. EPA Region 8

1595 Wynkoop Street

Denver, CO 80202-1129

and to:

Tina Artemis

Regional Hearing Clerk (8RC)

U.S. EPA Region 8

1595 Wynkoop Street

Denver, CO 80202-1129

- c. 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. (i.e., on the 1st late day, 30 days of interest accrues).
 - d. In addition, a handling charge of fifteen dollars (\$15.00) shall be assessed on the 31st day from the date of the final order, and each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the original due date (i.e., the 121st day from the date the final order is signed). Payments are first applied to handling charges, 6% penalty interest, late interest, and any balance is then applied to the outstanding principal amount.
 - e. Respondents agree that the penalty shall never be claimed as a federal or other tax deduction or credit.
6. Nothing in this Consent Agreement shall relieve Respondents of the duty to comply with the SDWA and its implementing regulations.
7. Failure by Respondents to comply with any of the terms of this Consent Agreement shall constitute a breach of the consent agreement and may result in referral of the matter to the United States Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.

8. Nothing in this Consent 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 Respondents' failure to perform pursuant to the terms of this Consent Agreement.
9. The undersigned representatives of Respondents certify that they are fully authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondents 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: 12/7/07

By: Michael T. Bisher
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

**JERRY BYRKELAND dba RIVERCITY
SANDBLASTING and JB BODY SHOP**

Date: 11-28-07

By: Jerry Byrkeland
Name: Jerry Byrkeland

DENNIS MINES

Date: 11-28-07

By: Dennis Mines
Name: Dennis Mines

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter **JERRY BYRKELAND d/b/a RIVERCITY SANDBLASTING AND JB BODY SHOP; AND DENNIS MINES,;** **DOCKET NO.: SDWA-08-2007-0092.** These documents were filed with the Regional Hearing Clerk on December 19, 2007.

Further, the undersigned certifies that a true and correct copy of the documents were delivered to James H. Eppers, 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 December 19, 2007, to:

Jerry Byrkland, Owner/Operator
JB Body Shop/Rivercity Sandblasting
1906 East Highway 50
Yankton, SD 57078

And

Dennis Mines, Property Owner
1904 East Highway 50
Yankton, SD 57078

E-mailed to:

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

December 19, 2007



Tina Artemis
Paralegal/Regional Hearing Clerk

