

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2013 JUL 17 PM 1:01

FILED  
EPA REGION VIII  
HEARING CLERK

Docket No. CWA-08-2011-0025

**IN THE MATTER OF:**

Mr. Corey Jones, Owner  
Jones Farms: FRS I.D. # 2600007908  
4505 Horizon Parkway  
Miles City, MT 59301

Respondent.

**COMBINED COMPLAINT  
AND CONSENT AGREEMENT**  
Proceeding to Assess Class II Civil Penalty  
Under §§309 and 311 of the Clean  
Water Act, 33 U.S.C. §1319 and §1321

Complainant, United States Environmental Protection Agency, Region 8 (the EPA or Complainant), and Respondent, Mr. Corey Jones (Respondent), by their undersigned representatives, hereby consent and agree as follows:

**I. PRELIMINARY MATTERS**

1. This matter is subject to the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation, Termination or Suspension of Permits* (Consolidated Rules), 40 C.F.R. part 22. This Combined Complaint and Consent Agreement (Agreement) contains all terms of the settlement agreed to by the parties.
2. This Agreement is entered into by the Parties for the purpose of simultaneously commencing and concluding this matter, as authorized by 40 C.F.R. §22.13(b), and executed pursuant to 40 C.F.R. §22.18(b)(2) and (3) of the Consolidated Rules.
3. Respondent admits the jurisdictional allegations in this Agreement, but neither admits nor denies the specific factual allegations or legal conclusions made by the Complainant herein.
4. Complainant asserts that settlement of this matter is in the public interest, and Complainant and Respondent agree that entry of this Agreement and Final Order without further litigation and without adjudication of any issue of fact or law is the most appropriate means of resolving this matter.
5. This Agreement, upon incorporation into a Final Order, applies to and is binding upon the EPA and upon Respondent, and Respondent's employees, agents, successors and assigns. Any change in ownership 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.

6. Respondent Corey Jones is an individual with a mailing address of 4505 Horizon Parkway, Miles City, Montana 59301-5814.
7. Respondent owns and/or operates an animal feeding operation, Jones Farms, located at Middle Road, Kinsey, Montana 59345 (the facility).
8. Respondent is a "person" as defined in §§ 311(a)(7) and 502(5) of the Act, 33 U.S.C. §§ 1321(a)(7) and 1362(5).

## **II. STATUTORY AND REGULATORY BACKGROUND**

9. Section 301 of the Act, 33 U.S.C. § 1311(a), prohibits among other things, the discharge of pollutants by any person into waters of the United States, except as in compliance with § 402 of the Act, 33 U.S.C. § 1342.
10. On September 6, 2011, under the above docket number, the EPA issued an Administrative Order for Compliance pursuant to Section 309(a) of the Clean Water Act (Act) to Respondent. This Order directed the Respondent to perform various corrective actions at its facility in order to re-establish compliance with the Act, and also to submit information to the EPA. This Order is available for review at the following location:

<http://yosemite.epa.gov/oa/rhc/epaadmin.nsf/7b598669425eac47852575400050b7e2/1c67cf43060c93fa8525790c001b7f7f!OpenDocument>

11. Any person who discharges a pollutant to navigable waters without a permit in violation of § 301(a) of the Act, 33 U.S.C. § 1311(a), may be assessed a Class II administrative penalty by the EPA, according to § 309(g)(2)(B) of the Act, 33 U.S.C. § 1319(g)(2)(B). As adjusted for inflation pursuant to 40 C.F.R. part 19, the maximum penalty is \$11,000 per day for each day during which the violation continues for violations after March 15, 2004, through January 12, 2009, and \$16,000 per day for each day during which the violation continues after January 12, 2009.

## **III. FINDINGS OF VIOLATION**

12. The September 6, 2011 Administrative Order noted the following at Respondent's facility on April 12, 2011:
  - a. Respondent has a feedlot located on the lower shoulder of the Kinsey Middle Irrigation Canal (Canal);

- b. the facility has created a wastewater lagoon that captures the runoff front the pens located on the southern side of the Canal;
- c. the facility does not actively manage the runoff from the mortality management pile, animal confinement pens, and manure storage areas on the northern side of the Canal;
- d. cattle confined within the westernmost pens may freely access the surface water contained in the Canal;
- e. the EPA observed process wastewater and manure within the Canal;
- f. the Canal is open in May and has a continuous flow of water until October; and
- g. the Canal discharges into waters of the United States by way of the Kinsey Irrigation Ditch; however at the time of the April 12, 2011 site visit, no water was flowing in the Kinsey Irrigation Ditch.

#### **IV. TERMS OF SETTLEMENT**

- 13. Respondent provided documentation and Affidavits in support of his contention that remedial actions were taken by Respondent in response to the information communicated on April 12, 2011.
- 14. The EPA has analyzed the facts and circumstances in this matter with the statutory factors described in § 309 of the Act. The EPA has determined that an appropriate civil penalty to resolve this matter is **FIVE HUNDRED DOLLARS (\$500.00)**.
- 15. Respondent consents to the issuance of a final order and consents for the purposes of settlement, but without any admission of liability or wrongdoing, to pay a civil penalty in the amount of **FIVE HUNDRED DOLLARS (\$500.00)** in the manner described below in this paragraph:
  - a. Payment is due within 30 calendar days from the date written on the Final Order, to be issued by the Regional Judicial Officer that adopts this Complaint and Consent Agreement. If the due date falls on a weekend or legal federal holiday, then the due date becomes the next business day. The date the payment is made is considered to be the date processed by the Bank described below. Payments received by 11:00 AM EST are processed on the same day, those received after 11:00 AM are processed on the next business day.
  - b. The payment shall be made by making a wire transfer as provided below or remitting a cashier's or certified check, including the name and docket number of this case, for the amount, payable to "*Treasurer, United States of America*," to:

**CHECK PAYMENT:**  
U.S. Environmental Protection Agency  
Fines and Penalties

Cincinnati Finance Center  
PO Box 979077  
St. Louis, MO 63197-9000

OVERNIGHT MAIL:

US Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101

(Contact: Natalie Pearson at 314-418-4087)

WIRE TRANSFER:

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  
AD 68010727 Environmental Protection Agency")

ACH (also known as REX or remittance express):

Automated Clearinghouse (ACH) for receiving US currency  
PNC Bank  
808 17th Street, NW  
Washington, DC 20074

(Contact B. Jesse White 301-887-6548  
ABA = 051036706, Transaction Code 22 – Checking  
Environmental Protection Agency  
Account 310006, CTX Format

ON LINE PAYMENT:

There is now an On Line Payment Option, available through the Dept. of Treasury. This payment option can be accessed from the information below:

WWW.PAY.GOV

(Enter sfo 1.1 in the search field. Open form and complete required fields.)

**A copy of the check, or notification that the payment has been made by one of the other methods listed above, including proof of the date payment was made, shall be sent simultaneously to:**

Mr. Seth Draper  
U.S. EPA Region 8 (8ENF-W-NP)  
Technical Enforcement Program  
1595 Wynkoop St.  
Denver, CO 80202-1129

and

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

- c. In the event a payment is not received by the specified due date, interest accrues from 30 days prior to the applicable 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.
  - d. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 31st day from the applicable due date, 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 applicable due date. Payments are first applied to handling charges, 6% penalty interest, and late interest; then any balance is applied to the outstanding principal amount.
  - e. If Respondent elects to pay in installments, Respondent may nevertheless elect to pay the then-remaining amount due at any time prior to the applicable due date without penalty.
  - f. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.
16. Payment of the penalty in this matter does not relieve Respondent of its obligations to comply with the requirements of the Act and the Act's implementing regulations.
17. Failure by Respondent to comply with any of the terms of this Agreement shall constitute a breach of the 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.

18. 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 Respondent's failure to perform pursuant to the terms of this Agreement.


**V. GENERAL PROVISIONS**

19. Each undersigned representative of the Parties to this Agreement certifies that he or she is fully authorized by the Party represented to bind the Party to the terms and conditions of this Agreement and to execute and legally bind that Party to this Agreement.
20. The Parties agree to submit this Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.
21. This Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the Parties, shall be a complete, full and final settlement of the violations alleged in the Administrative Order dated September 6, 2011.
22. The terms, conditions, and compliance requirements of this Agreement may not be modified or amended except upon the written agreement of the Parties, and approval of a Regional Judicial Officer.
23. Each Party shall bear its own costs and attorneys fees in connection with all issues associated with this Agreement.
24. Respondent remains obligated to comply with all requirements of the Clean Water Act and its implementing regulations.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8,  
Office of Enforcement, Compliance, and  
Environmental Justice

COMPLAINANT.


Date: July 17, 2013

By:   
\_\_\_\_\_  
Andrew M. Gaydosh  
Assistant Regional Administrator  
Office of Enforcement, Compliance and  
Environmental Justice

COREY L. JONES, OWNER  
JONES FARMS

RESPONDENT.

Date: 7-2-13

By:   
\_\_\_\_\_  
COREY L. JONES

PRINTED NAME:

TITLE

OWNER

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

**PUBLIC NOTICE OF PROPOSED COMBINED COMPLAINT AND CONSENT  
AGREEMENT AND  
OPPORTUNITY TO COMMENT ON CLEAN WATER ACT MATTER**

**Action:** The United States Environmental Protection Agency Region 8 (EPA) is providing notice to the public of the opportunity for any member of the public to comment on a combined complaint and consent agreement (Agreement) being entered into by the EPA and Corey Jones' Feedlot (Respondent) for alleged violations of the Clean Water Act (CWA). The corporate address of the feedlot is 4505 Horizon Parkway, Miles City, Montana 59301.

**Summary:** The Agreement is entered into by the parties for the purpose of simultaneously commencing and concluding this matter, as authorized by Title 40 of the Code of Federal Regulations (40 C.F.R.), section 22.13(b) and executed pursuant to 40 C.F.R. §§ 22.18(b)(2) and (3). In the Agreement, Respondent agrees to pay a penalty of \$500.00. The alleged violations took place at Respondent's place of business located at Middle Road, Kinsey, Montana 59345. This Agreement is issued under the National Pollutant Discharge Elimination System (NPDES) provisions of the CWA. These regulations govern the discharge of wastewater to "Waters of the United States". The deadline for the public to submit comments for concerning this Agreement is thirty (30) days after first issuance of this notice. Please see the following EPA Region 8 website for the date the public comment period on this Agreement begins:  
<http://www.epa.gov/region8/compliance/publicnotice/>.

The EPA Docket Number for Complaint is CWA-08-2011-0025

In the Agreement, the EPA alleges that Corey Jones' Feedlot has discharged pollutants into waters of the United States without authorization at the time of the EPA site inspection.

The Complaint proposes that a total penalty of \$500.00 be imposed for the alleged violation.

**PUBLIC COMMENTS**

Written comments on the Complaint are encouraged and will be accepted at the address listed below for a period of forty (40) days after the first publication of this notice. Written comments submitted by the public as well as information submitted by Corey Jones 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://www.epa.gov/region8/compliance/publicnotice> by searching for the company name or Docket Number.



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 Agreement or other documents in, or relating to, this proceeding (such as the regulations at 40 C.F.R. Part 22, which set out the administrative hearing process), or to comment upon the proposed penalty assessment or upon any other aspect of this matter, should contact the Regional Hearing Clerk identified above.