



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

2015 APR 21 AM 9:41

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Ref: 8ENF-L

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Walter Hodgson, Owner
Custer/Mount Rushmore KOA
361 E. Highland Avenue
Sierra Madre, CA 91024

Re: Amended Administrative Order on Consent, LT Campgrounds, LLC, d/b/a Custer/Mount
Rushmore KOA, Docket No. SDWA-08-2014-0038

Dear Mr. Hodgson:

Enclosed is an Amended Administrative Order on Consent (Order) authorized by the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h-2. This amends the Order that was signed by you on June 20, 2014, and lays out a process to bring Custer/Mount Rushmore KOA (KOA) into compliance with the SDWA. This Order is being amended since several of the required provisions of the original Order were not met. Among other things, this Amended Order changes the sampling dates to allow you another opportunity to comply with all of the provisions of the Order. Please pay close attention to the deadlines outlined in the Order.

Within seven (7) calendar days of the effective date of this Order you are required to submit in writing to the EPA Project Coordinator, Ms. Britta Copt, the name of a contractor or consultant retained to perform any work described in this Order. **The contractor or consultant must be licensed by the State of South Dakota to design and install wastewater or septic systems.** You are also required to submit a compliance plan and sampling plan which are subject to approval by the EPA Project Coordinator, as well as a final report of the completed work. Please include a description in the compliance plan of any work that has been completed at the KOA since the June 2014 Order was issued.

If you have any questions or concerns, please contact Ms. Britta Copt at 303-312-6229. Please sign and mail the Order to Ms. Britta Copt at the above address (with the mail code 8ENF-UFO) within 15 days of your receipt of this letter.

We urge your prompt attention to this matter and appreciate your cooperation.

Sincerely,

Marc Weiner
Enforcement Attorney

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

Docket No. SDWA-08-2014-0038

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In the Matter of:)
)
LT Campgrounds, LLC)
d/b/a Custer/Mount)
Rushmore KOA,)
)
Respondent.)

**AMENDED ADMINISTRATIVE
COMPLIANCE ORDER ON CONSENT**

INTRODUCTION

1. This Amended Administrative Compliance Order on Consent (AOC) is authorized by Congress in section 1423 of the Public Health Service Act, commonly known as the Safe Drinking Water Act (the Act), 42 U.S.C. § 300h-2. The Environmental Protection Agency (EPA) regulations authorized by the statute are set out in part 144 of title 40 of the Code of Federal Regulations (C.F.R.) and violations of the statute, regulations or the EPA permits constitute violations of the Act.
2. The undersigned EPA official has been properly delegated the authority to issue this AOC.
3. The EPA alleges that LT Campgrounds, LLC, d/b/a Custer/Mount Rushmore KOA (Respondent), has violated the regulations and therefore the Act, as more fully explained below.

FINDINGS OF FACT AND ALLEGATIONS

The following general allegations apply to all times relevant to this action and to each violation alleged in this AOC:

4. Respondent is a limited liability corporation and therefore is a “person” as defined in the Act, and is subject to the requirements of the statute and/or regulations. 42 U.S.C. § 300f (12).
5. Respondent owns and/or operates the facility known as Custer/Mount Rushmore KOA, located at 12021 US Highway 16, Custer, SD (facility).
6. On July 7, 2011 and May 18, 2012, the EPA received Shallow Waste Disposal System/Well Inventory Request Forms from Custer/Mount Rushmore KOA. These forms indicate that Respondent operates a septic system which has the physical capacity to treat sanitary waste fluids generated by more than 20 people per day.

7. Based on the information described above and other documents subsequently exchanged between Respondent and the EPA, Respondent owns and/or operates a Class V Large Capacity Septic System at the Custer/Mount Rushmore KOA.

8. Respondent's septic system, as identified herein, is classified as a "Class V Injection Well" as defined by 40 C.F.R. sections 144.6, 144.81, and 146.5. Respondent is subject to applicable requirements of 40 C.F.R. sections 124, 144 and 146.

9. Lying beneath Respondent's disposal well is an underground source of drinking water (USDW), including but not limited to, the Madison Aquifer.

10. Based on the information described above and other documents subsequently exchanged between Respondent and the EPA, Respondent's septic system does not have sufficient capacity to effectively process sanitary waste fluids. At various times during the year, Respondent's septic system does not have sufficient capacity to prevent sanitary waste fluid from moving into the USDW given the inability of the septic system to process the large amounts of sanitary waste produced by the people staying at the facility. Respondent's failure to prevent sanitary waste fluids from entering a USDW is a violation of the Act and its implementing regulations found in 40 C.F.R sections 124, 144, and 146.

FINDINGS OF VIOLATION

11. Respondent is in violation of 40 C.F.R. section 144.12 for failing to operate a septic system that prevents sanitary waste fluids from entering the USDW.

ORDER

12. Based on the foregoing findings and pursuant to section 1423(c) of the Act, 42 U.S.C. § 300h-2(c), and 40 C.F.R. section 144.12(d), the EPA orders and the Respondent agrees as follows:

- (a) ***Hiring of a Contractor or Consultant:*** Within seven (7) calendar days of the effective date of this AOC, Respondent shall submit in writing to the EPA Project Coordinator, the name of a contractor or consultant retained to perform any work described in this AOC. The contractor or consultant shall be certified and licensed by the state of South Dakota to design and install wastewater or septic systems. Please provide a copy of the license to the EPA. Respondent shall provide a copy of this AOC to any contractor and/or consultant retained to perform any work described in this AOC at least 48 hours prior to the initiation of such work. No contract between Respondent and a contractor and/or a consultant shall affect Respondent's obligation to comply fully with this AOC.
- (b) ***Compliance Plan:*** Within thirty (30) calendar days of the effective date of this AOC, Respondent shall submit a proposed Compliance Plan to manage the sanitary waste fluids generated by facility at full capacity in a manner that is compliant with the Act and its implementing regulations and any County and State permitting requirements. The proposed Compliance Plan shall include a description of any work that will expand the

capacity of the septic system currently at the facility, a sampling plan consistent with paragraph 12(d) and the completion dates for such construction.

- (c) **Compliance Plan Revisions:** The EPA will review and approve, approve with comments, or disapprove the proposed Compliance Plan described herein. The EPA may request the State and/or the County to provide comments on the proposed Compliance Plan. Any and all revisions to the Compliance Plan, including any County and State revisions offered to the EPA, must be completed within 14 calendar days of notice that the report has been disapproved or approved with comments.
- (d) **Sampling Plan:** Respondent shall collect a sample at the point of discharge prior to the leachfield. If this sampling location is not available, provide sampling location information in the Compliance Plan required by 12(b), above. Respondent must select the sampling location based on the existing septic system and the construction of any expansion of the existing septic system. The samples shall be analyzed for total and fecal coliform, nitrates, and nitrites, using EPA approved methodology. If the septic tanks will be removed from the facility, Respondent shall propose an appropriate location for sampling for the injection wells to be closed. Respondent shall take samples on May 26, 2015, July 7, 2015; August 11, 2015; and September 8, 2015. The sampling analysis results shall be submitted to the EPA within 30 days of the date when the sample was taken.
- (e) **Operation of the Facility:** Respondent shall not operate the facility in a manner that violates the Act and its implementing regulations. Respondent shall not operate the facility in a manner that exceeds the wastewater capacity that can be managed by the existing septic system, whether the existing septic system is expanded or not.
- (f) **Final Report:** Respondent shall submit a Final Report documenting any and all completed construction associated with the septic system and/or operating practices that address the management of the septic system fluids. The Final Report shall include a narrative of the work performed and management practices for the septic system. The Final Report is due fifteen (15) days after all construction associated with the septic system and/or operating practices that address the management of the septic system fluids is completed.
- (g) **Termination and Satisfaction:** Respondent shall submit to the EPA the Final Report documenting the completion of all requirements described herein. Upon receipt and review of the final report, the EPA may schedule an inspection of Respondent's facility with Respondent. The EPA will notify Respondent in writing whether full compliance with this AOC has been achieved. The EPA's Project Coordinator will provide this notification by telephone as promptly as possible. This AOC shall terminate after the EPA issues a written approval of Respondent's Final Report.

(h) *The EPA's Project Coordinator:* Respondent shall submit all documentation to

Britta Copt (Mail Code 8ENF-UFO)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202

GENERAL PROVISIONS

13. Failure by Respondent to comply with any of the terms of this AOC shall constitute a breach of the AOC and may result in referral of the matter to the Department of Justice for enforcement of this AOC and for such other relief as may be appropriate.

14. Nothing in this AOC 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 AOC.

15. Each undersigned representative of the parties to this AOC certifies that he or she is fully authorized by the party represented to legally bind the party to the terms and conditions of this AOC.

16. Each party shall bear its own costs and attorney's fees in connection with all issues associated with this AOC.

17. Respondent remains obligated to comply with all requirements of the Act and its implementing regulations.

18. Respondent waives any and all claims for relief and otherwise available rights or remedies to judicial or administrative review which the Respondent may have with respect to any issue of fact or law set forth in this AOC, including, but not limited to, any right of judicial review of the AOC under the Administrative Procedure Act, 5 U.S.C. §§ 701-708.

19. The effective date of this AOC is the date it is filed with the Region 8 Hearing Clerk after it is signed by the EPA and Respondent.

United States Environmental Protection Agency, Region 8

Date: _____

By: _____
Suzanne J. Bohan
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

LT Campgrounds, LLC d/b/a
Custer/Mount Rushmore KOA

Date: _____

By: _____
Walter Hodgson, Owner

In the Matter of: **LT Campgrounds, LLC d/b/a Custer/Mount Rushmore KOA**
Docket No.:

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of the AMENDED ADMINISTRATIVE COMPLIANCE ORDER ON CONSENT were hand-carried to the Regional Hearing Clerk, EPA Region 8, 1595 Wynkoop Street; Denver, Colorado 80202-1129, and that a true copy of the same was sent via Certified Mail to:

LT Campgrounds, LLC d/b/a Custer/Mount Rushmore KOA
P.O. Box 732
Custer, SD 57730

4/21/15
Date

Jean E. DeWitt

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources, including workshops, training sessions, hotlines, websites and guides, to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

EPA's Small Business Websites

Small Business Environmental Homepage - www.smallbiz-enviroweb.org

Small Business Gateway - www.epa.gov/smallbusiness

EPA's Small Business Ombudsman - www.epa.gov/sbo or 1-800-368-5888

EPA's Compliance Assistance Homepage

[www.epa.gov/compliance/assistance/
business.html](http://www.epa.gov/compliance/assistance/business.html)

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

EPA's Compliance Assistance Centers

www.assistancecenters.net

EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture/

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org or 1-734-995-4911

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Metal Finishing

www.nmfrc.org

Paints and Coatings

www.paintcenter.org

Printed Wiring Board Manufacturing

www.pwbrc.org

Printing

www.pneac.org

Ports

www.portcompliance.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

Hotlines, Helplines and Clearinghouses

www.epa.gov/epahome/hotline.htm

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

Antimicrobial Information Hotline

info-antimicrobial@epa.gov or
1-703-308-6411

Clean Air Technology Center (CATC) Info-line

www.epa.gov/ttn/catc or 1-919-541-0800

Emergency Planning and Community Right-To-Know Act

[www.epa.gov/superfund/resources/
infocenter/epcra.htm](http://www.epa.gov/superfund/resources/infocenter/epcra.htm) or 1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or
734-214-4100

National Pesticide Information Center

www.npic.orst.edu/ or 1-800-858-7378

National Response Center Hotline -

to report oil and hazardous substance spills
www.nrc.uscg.mil or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC)

www.epa.gov/opptintr/ppic or
1-202-566-0799

Safe Drinking Water Hotline

[www.epa.gov/safewater/hotline/index.
html](http://www.epa.gov/safewater/hotline/index.html) or 1-800-426-4791

Stratospheric Ozone Protection Hotline

www.epa.gov/ozone or 1-800-296-1996

Toxic Substances Control Act (TSCA) Hotline

tsc-hotline@epa.gov or 1-202-554-1404

Wetlands Information Helpline

www.epa.gov/owow/wetlands/wetline.html or 1-800-832-7828

State and Tribal Web-Based Resources

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

www.smallbiz-enviroweb.org

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits. The website is a central point for sharing resources between EPA and states.

EPA's Tribal Compliance Assistance Center

www.epa.gov/tribalcompliance/index.html

The Center provides material to Tribes on environmental stewardship and regulations that might apply to tribal government operations.

EPA's Tribal Portal

www.epa.gov/tribalportal/

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www.epa.gov/compliance/incentives/smallbusiness/index.html

This Policy offers small businesses special incentives to come into compliance voluntarily.

EPA's Audit Policy

www.epa.gov/compliance/incentives/auditing/auditpolicy.html

The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247), or go to their website at www.sba.gov/ombudsman.

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.