



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590  
August 27, 2009

REPLY TO THE ATTENTION OF  
E-19J

Honorable Susan L. Biro, Chief ALJ  
Office of Administrative Law Judges  
U. S. Environmental Protection Agency  
Ariel Rios Building, Mailcode: 1900L  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460

RE: In The Matter of: **Barton Septic Tank Service (St. Clairsville, Ohio)**  
Docket No.: **CWA-05-2009-0009**  
Complaint Date: **July 30, 2009**  
Total Proposed Penalty: **\$55,000.00**

Dear Judge Biro:

Enclosed is a copy of the Answer for Barton Septic Tank Service in St. Clairsville, Ohio.

Please assign an Administrative Law Judge for this case.

If you have questions contact me at (312) 886-3713.

Sincerely,

A handwritten signature in blue ink that reads "La Dawn Whitehead".

La Dawn Whitehead  
Regional Hearing Clerk

Enclosure

cc: Mr. Christopher B. Congeni  
Counsel for the Respondent  
Brennan, Manna, and Diamond, LLC  
75 East Market  
Akron, Ohio 44308  
(330) 253-2038

Jeffrey M. Trevino, Esquire  
Associate Regional Counsel  
Office Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Blvd., C-14J  
Chicago, Illinois 60604-3590  
(312) 886-6729

# BRENNAN, MANNA & DIAMOND

ATTORNEYS & COUNSELORS AT LAW

Christopher B. Congeni  
Direct Dial: (330) 253-2038  
Direct Fax: (330) 253-2043  
E-Mail: [cbcongeni@bmdllc.com](mailto:cbcongeni@bmdllc.com)

August 26, 2009

RECEIVED

AUG 27 2009

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

**VIA OVERNIGHT MAIL**

Regional Hearing Clerk of Region 5  
United States Environmental Protection Agency, Region 5  
77 West Jackson Boulevard (E-13J)  
Chicago, IL 60604-3590

**Re: In the Matter of:  
Barton Septic Tank Service  
St. Clairsville, Ohio  
Docket No. CWA-05-2000-0009**

Dear Sir or Madame:

Please find enclosed for filing an original and three copies of the Answer to Complaint Assessing a Class II Civil Penalty Pursuant to the Clean Water Act 33 U.S.C. sec. 1319(g) in the above-captioned matter.

Thank you for your attention to this matter.

Sincerely,



Christopher B. Congeni

set

encls.

cc: Jeffrey M. Trevino  
Associate Regional Counsel  
U.S. EPA  
77 West Jackson Blvd. (C-14J)  
Chicago, IL 60604-3590

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

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PROTECTION AGENCY

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IN THE MATTER OF:	)	Docket No. CWA-05-2000-9009
BARTON SEPTIC TANK SERVICE	)	
ST. CLAIRSVILLE, OHIO	)	Answer to Complaint Assessing
	)	a Class II Civil Penalty
RESPONDENT.	)	Pursuant to the Clean Water Act,
	)	33 U.S.C. sec. 1319(g)
	)	

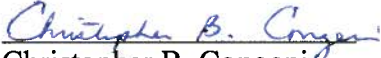
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ANSWER

1. The Respondent DENIES any and all liability regarding alleged and proposed violations of section 309(g) of the Clean Water Act, namely 33 U.S.C. section 1319(g) and 40 C.F.R. Part 22, the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination of Suspension of Permits.
2. Respondent DENIES any liability regarding alleged and proposed violations of section 405 of the CWA, 33 U.S.C. section 1345.
3. Respondent DENIES he applied domestic sewage to agriculture land on occasions from July 1, 2004 – August 2, 2005 as put forward in Complaint #12.
4. Respondent DENIES all of Complaint #13 which alleges he failed to keep accurate records as required by 40 C.F.R. section 503.17(b)(4) and (b)(6).
5. Respondent DENIES Complaint #14 in whole.
6. Respondent DENIES Complaint #15 in whole considering the Debt Collection Improvement Act of 1986 does not apply to the case at bar. Further, Respondent is not able to pay alleged Civil II penalty amount proposed.

The Respondent further requests a hearing on not only liability in the above captioned matter, but also regarding the ability to pay the proposed Civil II penalty pursuant to section 309(g)(4)(B) of the CWA, 33 U.S.C. section 1319(g)(4)(B). A settlement conference has been set in this matter for September 8<sup>th</sup>, 2009 at 11am with Valdis Aistars and Jeffrey Trevino and counsel for the Respondent.

Sincerely,

  
Christopher B. Congeni  
Brennan, Manna, and Diamond, LLC  
75 East Market, Akron, Ohio, 44308  
Attorney for the Respondent

**CERTIFICATE OF SERVICE**


A COPY OF THE FOLLOWING Answer to alleged CWA violations has been sent to the Regional Hearing Clerk of Region 5 of the U.S. EPA located at 77 West Jackson Blvd. (E-13J), Chicago, Illinois, 60604-3590 this the 27<sup>th</sup> day of August, 2009 by overnight delivery.

cc.

Jeffrey M. Trevino  
Associate Regional Counsel  
U.S. EPA  
77 West Jackson BLVD. (C-14J)  
Chicago Illinois 60604-3590

**RECEIVED**  
AUG 27 2009

**REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY.**

  
Christopher B. Congeni (0078160)  
Counsel for the Respondent