

5 Respondent waives its right to an administrative or judicial hearing on any issue of fact or law set forth in the Complaint, any right to contest the allegations, and its right to appeal this Consent Agreement and Final Order (CAFO).

6 Respondent consents to the issuance of this CAFO and the assessment of the specified civil penalty and agrees to comply with the terms of the CAFO.

7 U.S. EPA and Respondent agree that the settlement of this matter is in the public interest, and that the entry of this CAFO without engaging in further litigation is the most appropriate means of resolving this matter.

Civil Penalty

8 In consideration of Respondent's limited ability to pay a penalty, and its cooperation in resolving this matter, Complainant agrees to accept the penalty amount of \$1,000, to be paid in quarterly installments, with interest, in resolution of this action.

9 Respondent agrees to pay the penalty amount of \$1,000, in quarterly installments.

Respondent shall make the first payment on or before November 1, 2005, and make subsequent payments on or before the first day of every third month, to, and including August 1, 2006.

Respondent shall make payments as provided in the attached schedule of payment.

10 Respondent shall make all penalty payments by cashier's or certified check payable to the "Treasurer, United States of America."

11 Respondent must send each penalty payment check to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

12 A transmittal letter stating Respondent's name, complete address, the case docket number, and the billing document number must accompany each payment made. Respondent must write the case docket number and the billing document number on the face of the check.

Respondent must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (R-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3590

Attn: Valdis Aistars (WC-15J)
Water Enforcement and Compliance Assurance Branch
Water Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard (WC-15J)
Chicago, IL 60604-3590

Maria E. Gonzalez
Office of Regional Counsel (C-14J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3590

13 Respondent acknowledges that civil penalty payments are not deductible for federal tax purposes, and shall not attempt to so deduct any civil penalty payment it makes pursuant to this CAFO.

14 Pursuant to 31 C.F.R. § 901.9, Respondent shall pay the following on any amount overdue under this CAFO:

(a) **Interest.** Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury.

(b) **Monthly Handling Charge.** Respondent will pay a \$15 handling charge each month

that any portion of the penalty is more than 30 days past due.

(c) **Non-Payment Penalty.** Respondent will pay a 6 percent per annum penalty on any principal amount 90 days past due. This non-payment penalty is in addition to charges that accrue under subparagraphs (a) and (b).

General Provisions

15 This CAFO settles U.S. EPA's claims for civil penalties for the violations alleged in the Complaint.

16 The effect of settlement described in paragraph 15 above is conditional upon the accuracy of the Respondent's representations to EPA, as referenced in Respondent's correspondence dated May 18, 2004, November 5, 2004, and December 1, 2004

17 Respondent certifies that, to the best of its knowledge and belief, it is in compliance with the applicable regulations at 40 C.F.R. Part 503, and Section 405 of the Act, 33 U.S.C. § 1345.

18 Respondent agrees to comply with the requirements of 40 C.F.R. Part 503 when applying domestic septage to land.

19 If Respondent fails to comply with any provision of this CAFO, the full amount of civil penalty proposed in the Complaint, that being \$1,000, immediately shall become due and owing, to be paid by Respondent as provided for in Paragraphs 10-12, minus any penalty amounts on the principal earlier paid by Respondent. U.S. EPA may bring an action to collect any unpaid portion of the penalty, with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action, under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in any collection action.

20 Nothing in this CAFO restricts U.S. EPA's authority to seek Respondent's compliance with the Act and other applicable laws and regulations.

21 This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state and local laws, and regulations.

22 This CAFO shall apply to and be binding upon Respondent, its officers, directors, servants, employees, agents, successors and assigns, including, but not limited to, subsequent purchasers.

23 This CAFO constitutes a Final Order pursuant to section 309(g)(5) of the Clean Water Act, 33 U.S.C. § 1319(g)(5).

24 Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

25 Each party to this CAFO agrees to bear its own costs and fees in this action.

26 The effective date of this CAFO shall be the day it is filed with the Regional Hearing Clerk.

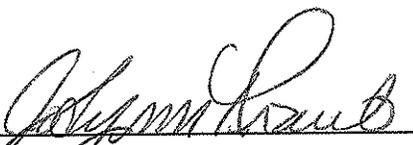
27 This CAFO constitutes the entire agreement between the parties.

KIRKMAN'S PLUMBING & EEL SERVICE, INC.
GREENVILLE, OHIO
RESPONDENT

Keith Kirkman
Keith Kirkman
President

9/7/05
Date

REGION 5
U.S. ENVIRONMENTAL PROTECTION AGENCY
COMPLAINANT



Jo Lynn Traub
Water Division

9/14/05
Date

In The Matter of: Kirkman's Plumbing & Eel Service, Inc.
Docket No. CWA-05-2005-0007
Consent Agreement and Final Order

FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby ordered to comply with all of the terms and conditions of the Consent Agreement upon the filing of this Consent Agreement and Final Order with the Regional Hearing Clerk.



Thomas V. Skinner
Regional Administrator
Region 5
U.S. Environmental Protection
Agency
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

9-15-05
Date

U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 5

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RECEIVED
REGION 5