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2 Department of Environmental Quality  
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Attorney for Plaintiff

FILED this 14<sup>th</sup> day of  
October AD 2009  
at 1:26 o'clock P. M.  
MONTANA BOARD OF  
ENVIRONMENTAL REVIEW  
by: M. Gable

5 Craig Sundberg  
6 P.O. Box 1036  
Anaconda MT 59711  
7 Telephone: (406) 563-6123  
Appellant

8  
9 **BEFORE THE BOARD OF ENVIRONMENTAL REVIEW  
OF THE STATE OF MONTANA**

10 IN THE MATTER OF:  
11 APPEAL OF VIOLATIONS OF THE MONTANA  
12 SEPTAGE DISPOSAL AND LICENSURE LAWS  
13 BY CRAIG SUNDBERG, D/B/A SUNNY'S  
SEPTIC SERVICE AND EXCAVATING,  
ANACONDA, DEER LODGE COUNTY,  
MONTANA [FID 1791, DOCKET NO. SDL-09-01]

Case BER 2009-15 SDL

**STIPULATION  
FOR DISMISSAL**

14  
15 The parties hereby stipulate, pursuant to Rule 41(a), M.R.Civ.P., to the dismissal of this  
16 contested case appeal. The parties have reached a resolution of the matters at issue and  
17 Appellant withdraws his appeal and request for hearing.

18 STATE OF MONTANA  
Department of Environmental Quality

APPELLANT  
CRAIG SUNDBERG  
D/B/A SUNNY'S SEPTIC  
SERVICE AND EXCAVATING

19  
20  
21 by:

Jim Madden, for  
Norman J. Mullen  
Attorney for Department

by:

Sj

22  
23  
24 Date

Oct 14, 2009

Date

10/9/09

Stipulation for Dismissal

1 BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
2 OF THE STATE OF MONTANA

3 IN THE MATTER OF:  
4 VIOLATIONS OF THE MONTANA  
5 SEPTAGE DISPOSAL AND LICENSURE  
6 LAWS BY CRAIG SUNDBERG D/B/A  
7 SUNNY'S SEPTIC SERVICE AND  
8 EXCAVATING, ANACONDA, DEER  
9 LODGE COUNTY, MONTANA (FID 1791)

ADMINISTRATIVE  
ORDER ON CONSENT

Docket No. SDL-09-01

7 This Administrative Order on Consent (Consent Order) is issued to resolve and conclude  
8 the enforcement action (FID #1791) initiated by the State of Montana, acting by and through the  
9 Department of Environmental Quality (Department), against Craig Sundberg, d/b/a Sunny's  
10 Septic Service and Excavating, (Sundberg) for alleged violations of the Montana Septage  
11 Disposal and Licensure Laws (SDLL), Title 75, chapter 10, part 12, MCA, and the  
12 administrative rules adopted thereunder (Administrative Rules of Montana (ARM) Title 17,  
13 chapter 50, subchapter 8).

14 1. The Department is an agency of the executive branch of government of the State  
15 of Montana, created and existing under the authority of § 2-15-3501, MCA.

16 2. The Department is charged with the administration and enforcement of the SDLL  
17 and is specifically authorized to institute and maintain administrative enforcement proceedings  
18 under the SDLL, including the assessment of administrative penalties not to exceed \$500 for  
19 each day of violation. See Section 75-10-1222, MCA.

20 3. Sundberg is an individual and is, therefore, a "person" as defined in  
21 Section 75-10-1201(6), MCA.

22 4. On July 21, 2009, the Department issued its Notice of Violation and  
23 Administrative Compliance and Penalty Order (Order) to Sundberg (referred to as "Sunberg" in  
24 the Order), alleging that Sundberg violated the SDLL by engaging in the business of cleaning

1 cesspools and septic tanks and disposing of septage or car wash sump waste on 10 days from  
2 January 1, 2009 through April 22, 2009 without a license from the Department. The Order also  
3 assessed an administrative penalty of \$3,000 to resolve the violations.

4 5. On August 20, 2009, Sundberg appealed the Order to the Board of Environmental  
5 Review.

6 6. During a September 10, 2009 telephone call with the Department, Sundberg said  
7 that he no longer planned to engage in the business of cleaning cesspools and septic tanks and  
8 disposing of septage or car wash sump waste. Sundberg's Cesspool Septic Tank and Privy  
9 Cleaners License, No. S-981, expires on December 31, 2009.

10 7. The Department and Sundberg have reached an agreement, as set forth in this  
11 Consent Order, to correct and resolve the violations alleged in the Department's Order.

12 **ADMINISTRATIVE ORDER ON CONSENT**

13 **NOW, THEREFORE, the Department hereby ORDERS and Sundberg hereby**  
14 **AGREES as to the following:**

15 8. Sundberg shall stipulate, and the Department shall agree, to a dismissal of  
16 Sundberg's appeal to the Board of Environmental Review, Case No. BER 2009-15 SDL, and  
17 that the Department's Order is fully and finally settled.

18 9. To settle the violations cited in the Order, Sundberg shall pay to the Department  
19 \$1,500 of the \$3,000 administrative penalty that was assessed in the Order. The penalty must be  
20 paid by check or money order, made payable to the "Montana Department of Environmental  
21 Quality," and shall be sent to:

22 //

23 //

24 //

1 John L. Arrigo, Administrator  
2 Enforcement Division  
3 Department of Environmental Quality  
4 1520 East Sixth Avenue  
5 P.O. Box 200901  
6 Helena, MT 59620-0901

7 10. No later than January 15, 2010, Sundberg shall submit to the Department copies  
8 of monthly pumping and disposal records for the period between July 1 and December 31, 2009.  
9 If neither pumping nor disposal were conducted, a monthly record with "No pumping or disposal  
10 conducted" written on it must be submitted. The monthly records shall be sent to the address in  
11 Paragraph 9.

12 11. If Sundberg fails to comply with any term of this Consent Order, the Department  
13 may demand and Sundberg shall pay to the Department the remaining \$1,500 balance of the  
14 \$3,000 administrative penalty that was assessed in the Order. The demand shall become due and  
15 payable in full within 30 days after the date of the Department's written notice of demand for  
16 payment and sent to the address in Paragraph 9.

#### 17 **CONSENT TO ADMINISTRATIVE ORDER**

18 12. Sundberg waives his right to an administrative appeal or judicial review of this  
19 Consent Order and agrees that this Consent Order is the final and binding resolution of the issues  
20 raised in the Order.

21 13. Sundberg agrees that the violations established by the Findings of Fact and  
22 Conclusions of Law in the Order may be considered by the Department as history of violation in  
23 calculating penalties for subsequent violations of the SDLL.

24 14. The terms of this Consent Order constitute the entire agreement between the  
Department and Sundberg with respect to the issues addressed herein notwithstanding any other

1 oral or written agreements and understandings made and entered into between the Department  
2 and Sundberg prior to the effective date of this Consent Order.

3 15. Except as herein provided, no amendment, alteration, or addition to this Consent  
4 Order shall be binding unless reduced to writing and signed by both parties.

5 16. Each of the signatories to this Consent Order represents that he or she is  
6 authorized to enter into this Consent Order and to bind the parties represented by him or her to  
7 the terms of this Consent Order.

8 17. None of the requirements in this Consent Order are intended to relieve Sundberg  
9 from his obligation to comply with all applicable state, federal, and local statutes, rules,  
10 ordinances, orders, and permit or license conditions.

11 18. Sundberg agrees to waive defenses based upon the statute of limitations for the  
12 violations alleged herein and not to challenge the Department's right to seek judicial relief if  
13 Sundberg fails to fully and satisfactorily comply with the terms of this Consent Order.

14 19. The Department may take an additional enforcement action against Sundberg,  
15 including the filing of a court action seeking injunctive relief, civil penalties, and other available  
16 relief, for any violation of, or failure or refusal to comply with, this Consent Order.

17 20. The Department may take an administrative or judicial enforcement action against  
18 Sundberg for any violation not addressed in this Consent Order.

19 21. This Consent Order shall terminate upon Sundberg's full payment of the \$1,500  
20 penalty and submittal of copies of monthly pumping and disposal records required in Paragraph  
21 9 and 10, respectively.

22 //

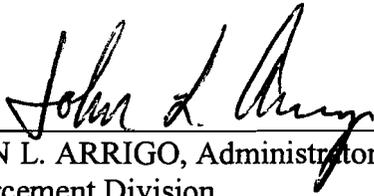
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1 22. This Consent Order becomes effective upon signature of the Director of the  
2 Department or his designee.

3 IT IS SO ORDERED:

4 DEPARTMENT OF ENVIRONMENTAL  
5 QUALITY

6   
7 JOHN L. ARRIGO, Administrator  
Enforcement Division

8  
9  
10 Date

10/14/09

IT IS SO AGREED:

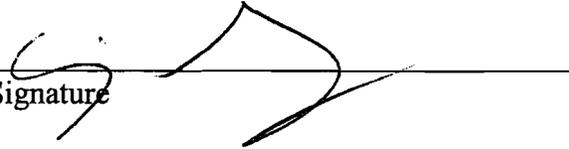
CRAIG SUNDBERG, D/B/A/ SUNNY'S  
SEPTIC SERVICE AND EXCAVATING

Signature

Print Name

Title

Date



Craig Sundberg

Owner

10/9/09

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3 **OF THE STATE OF MONTANA**

4 IN THE MATTER OF:  
5 APPEAL OF VIOLATIONS OF THE MONTANA  
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8 SEPTIC SERVICE AND EXCAVATING,  
9 ANACONDA, DEER LODGE COUNTY,  
10 MONTANA [FID 1791, DOCKET NO. SDL-09-01]

Case BER 2009-15 SDL

**ORDER OF DISMISSAL**

8 The Board of Environmental Review has received a Stipulation for Dismissal in the  
9 above-referenced matter. It was signed by Appellant Sundberg on October 9, 2009, and by the  
10 Department on October 14, 2009. In view of the parties' submission of the Stipulation for  
11 Dismissal,

12 IT IS HEREBY ORDERED that this case is dismissed with prejudice.

13 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.  
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16 \_\_\_\_\_  
17 JOSEPH W. RUSSELL, M.P.H., Chairman  
18 Montana Board of Environmental Review  
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