



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2014 JUL 22 AM 8:23

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

EPA REGION VIII  
HEARING CLERK

DOCKET NO.: SDWA-08-2014-0022

IN THE MATTER OF:

HOBACK STORES, LLC.  
10880 S. Hwy. 89  
Jackson, WY 83001

Respondent

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FINAL ORDER

Pursuant to 40 C.F.R. §22.13(b) and 22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 22<sup>nd</sup> Day of July, 2014

Elyana R. Sutin  
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2014 JUL 22 AM 8:24

IN THE MATTER OF: )

Hoback Stores, LLC )  
10880 S. Highway 89 )  
Jackson, WY 83001 )

Respondent. )  
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Docket No. **SDWA-08-2014-0022**

**COMBINED COMPLAINT AND  
CONSENT AGREEMENT**

EPA REGION VIII  
CIVIL ENGINEER

The United States Environmental Protection Agency Region 8 (Complainant or EPA) and Hoback Stores, LLC (Respondent) hereby consent and agree as follows:

**AUTHORITY**

1. This proceeding is subject to the EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. Part 22. This Combined Complaint and Consent Agreement (Consent 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).
2. Complainant has jurisdiction over this matter pursuant to section 1414(g)(3) of the Safe Drinking Water Act (the Act), as amended, 42 U.S.C. § 300g-3(g)(3).

**GENERAL ALLEGATIONS**

3. The Respondent is a Wyoming Corporation and therefore a "person" within the meaning of section 1401(12) of the Act, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2.
4. The Respondent owns and/or operates the Hoback Stores public water system (system), located in Teton County, Wyoming, for the provision to the public of piped water for human consumption.

5. The system has approximately 2 service connections and/or regularly serves an average of 200 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of section 1401(4) of the Act, 42 U.S.C. § 300f(4), and 40 C.F.R. § 141.2, and a "transient, non-community water system" as defined in 40 C.F.R. § 141.2.
6. The Respondent owns and/or operates a public water system and therefore is a "supplier of water" within the meaning of section 1401(5) of the Act, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. The Respondent is therefore subject to the requirements of part B of the Act, 42 U.S.C. § 300g, and its implementing regulations set forth in 40 C.F.R. part 141.
7. The Respondent operates a system that is supplied solely by a ground water source consisting of one well.
8. On July 26, 2012, the EPA issued an Administrative Order (Order) to the Respondent pursuant to section 1414(g)(1) of the Act, 42 U.S.C. § 300g-3(g)(1), citing violations of the National Primary Drinking Water Regulations (NPDWRs) (40 C.F.R. part 141).
9. The Order requires the system to comply with the NPDWRs.
10. On June 26, 2013, the EPA sent the Respondent a "Violation of Administrative Order" letter citing noncompliance with the Order, NPDWRs and other applicable requirements.
11. On November 26, 2013, the EPA sent the Respondent a "2<sup>nd</sup> Violation of Administrative Order" letter citing noncompliance with the Order, NPDWRs and other applicable requirements.

## VIOLATIONS

### **Count I**

#### **Failure to Monitor for Total Coliform Bacteria**

12. The Order (page 2, paragraph 14) requires that the Respondent pursuant to 40 C.F.R. § 141.21 monitor the system's water quarterly for total coliform bacteria.

13. The Respondent failed to monitor for total coliform bacteria for the 1<sup>st</sup> and 2<sup>nd</sup> quarters of 2013 in violation of the Order, 40 C.F.R. § 141.21, and the Act.

**Count II**  
**Failure to Timely Complete Public Notice**

14. The Order (page 2, paragraph 15) requires that the Respondent pursuant to 40 C.F.R. part 141, subpart Q, notify the public of the failure to monitor nitrate violation within 24 hours of receipt of the Order. The Respondent is required within 10 days of providing public notice to submit a copy to the EPA

15. The Respondent failed to timely provide public notice of the failure to monitor nitrate violation detailed in paragraph 6 of the Order, in violation of the Order, 40 C.F.R. part 141, subpart Q, and the Act.

**Count III**  
**Failure to Report NPDWR Violations to EPA**

16. The Order (page 3, paragraph 17) requires that the Respondent pursuant to 40 C.F.R. § 141.31(b), notify the EPA after discovery of any NPDWR violation

17. The Respondent failed to timely report to the EPA the violations detailed in Count I, above, in violation of the Order, 40 C.F.R. § 141.31(b), and the Act.

**TERMS OF SETTLEMENT**

18. The Respondent admits the jurisdictional allegations of the Consent Agreement and neither admits nor denies the specific factual allegations of the Consent Agreement.

19. The Respondent waives its rights to contest the allegations in the Consent Agreement and to appeal the Final Order issued by the Regional Judicial Officer approving this Consent Agreement.

20. This Consent Agreement, upon incorporation into a Final Order, applies to and is binding upon the EPA and upon the Respondent and the Respondent's successors and assigns. Any change in the Respondent's ownership or operation of the public water system, including, but not limited to, any transfer of assets or real or personal property, shall not alter the Respondent's responsibilities under this Consent Agreement. This Consent Agreement contains all terms of the settlement agreed to by the parties.

#### **CIVIL PENALTY**

21. Pursuant to section 1414(g)(3)(A) of the Act, 42 U.S.C. § 300g-3(g)(3)(A), and 40 C.F.R. part 19, the Administrator may assess an administrative civil penalty not to exceed \$32,500 for each day of violation occurring after January 12, 2009, whenever the Administrator determines that any person has violated, or fails or refuses to comply with, an order under section 1414(g) of the Act. The Act requires the EPA to take into account appropriate factors in assessing a civil penalty including the seriousness of the violation(s), the population at risk and other appropriate factors including the Respondent's degree of willfulness and/or negligence, history of noncompliance and ability to pay.

22. The Respondent consents and agrees to pay a civil administrative penalty in the amount of One Thousand Seven Hundred Dollars (\$1,700), in the manner described below:

- a. Payment shall be in a single payment of \$1,700, due no later than 30 calendar days from the date of the Final Order issued by the Regional Judicial Officer that adopts this Consent Agreement. If the due date falls on a weekend or federal holiday, then the due date for the payment is the next business day. The date the payment is made is considered to be the date processed by U.S. Bank described below. Payment must be received by 11:00 AM Eastern Standard Time to be considered as received that day.
- b. The payment shall be made by remitting a cashier's or certified check, or making a wire or on-line payment. The check or other payment shall designate the name and

docket number of this case, and be payable to “**Treasurer, United States of America.**” It shall be sent as follows:

**If by regular mail:** US EPA Fines and Penalties  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, MO 63197-9000

**If sent by any overnight commercial carrier:** U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101

**If sent by wire transfer:** Any wire transfer must be sent directly to the Federal Reserve Bank in New York City with the following information:

ABA: 021030004  
Account Number: 68010727

**If made on-line:** WWW.PAY.GOV

A copy of the check (or notification of wire transfer or on-line payment) shall be sent simultaneously to:

Kathelene Brainich  
U.S. EPA Region 8 (8ENF-W)  
1595 Wynkoop Street  
Denver, CO 80202-1129

and

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

- c. If the payment is not received by the specified due date, interest accrues from the date of the Final Order, not the 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 (e.g., on the 1<sup>st</sup> late day, 30 days of interest will have accrued).

- d. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 31<sup>st</sup> day from the date of the Final Order, and for each subsequent 30-day period that the debt, or any portion thereof, remains unpaid. In addition, a 6% per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 30 days of the due date. Payments are first applied to outstanding handling charges, 6% penalty interest, and late interest. The remainder is then applied to the outstanding principal amount.
- e. The Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

### GENERAL PROVISIONS

- 23. Nothing in this Consent Agreement shall relieve the Respondent of the duty to comply with the Act and its implementing regulations.
- 24. Any failure by the Respondent to comply with any of the terms of this Consent Agreement shall constitute a breach of this Consent Agreement and may result in referral of the matter to the Department of Justice for enforcement of this Consent Agreement and for such other relief as may be appropriate.
- 25. Nothing in this Consent 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 any failure by the Respondent to meet its obligations under this Consent Agreement.
- 26. The undersigned individual certifies that he is fully authorized to enter into the terms and conditions of this Consent Agreement and to bind the Respondent to the terms and conditions of this Consent Agreement.
- 27. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a Final Order.

28. Each party shall bear its own costs and attorney's fees in this matter.
29. This Consent Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a full settlement of the United States' claims for civil penalties against the Respondent for the specific violations alleged in this Consent Agreement.

**UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8**  
Complainant.

Date: 07/17/14



Eddie A. Sierra  
Acting Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

**HOBACK STORES, LLC**  
Respondent.

Date: 7-10-14



Laurence Huhn, President/Director and  
Authorized Representative of Hoback Stores, LLC



## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMBINED COMPLAINT/CONSENT AGREEMENT and FINAL ORDER** in the matter of **HOBACK STORES, LLC.; DOCKET NO.: SDWA-08-2014-0022**, was filed with the Regional Hearing Clerk on July 22, 2014.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Marc Weiner, Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail, domestic return receipt and emailed on July 22, 2014, to:

Mark Kelley, Owner  
Lawrence Kuhn, President  
Hoback Market  
10880 South Hwy. 89  
Jackson, WY 83001  
hoback@hoback.net

And emailed to:

Kim White  
U. S. Environmental Protection Agency  
Cincinnati Finance Center  
26 W. Martin Luther King Drive (MS-0002)  
Cincinnati, Ohio 45268

July 22, 2014



Tina Artemis  
Paralegal/Regional Hearing Clerk