



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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

2011 SEP 21 PM 1:39

FILED  
EPA REGION VIII  
HEARING CLERK

DOCKET NO.: SDWA-08-2011-0022

IN THE MATTER OF:

TAMARACK II LLC.

Respondent

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FINAL ORDER

Pursuant to 40 C.F.R. § 22.18(b), 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.

The Parties are hereby **ORDERED** to comply with all of the terms of this **Order**, effective immediately upon receipt by Parties of this **Order**.

SO ORDERED THIS 21<sup>st</sup> Day of September, 2011

Elyana R. Sutin  
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2011 SEP 21 AM 10:45

FILED  
EPA REGION VIII  
HEARING CLERK

IN THE MATTER OF )  
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Tamarack II LLC, )  
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 ) Docket No. SDWA-08-2011-0022  
 )  
Respondent ) **CONSENT AGREEMENT**  
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 )  
Proceeding under § 1414(g) )  
of the Safe Drinking Water Act, )  
42 U.S.C. § 300g-3(g) )  
 )  
\_\_\_\_\_ )

Complainant United States Environmental Protection Agency Region 8 (EPA) and Tamarack II LLC (Respondent), by their undersigned representatives, hereby consent and agree as follows:

1. On September 12, 2011, EPA issued an Amended Complaint and Notice of Opportunity for Hearing (Amended Complaint), alleging that the Respondent violated an Administrative Order that EPA had previously issued under § 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g). The Amended Complaint proposed that the Respondent pay an administrative civil penalty for its violations, pursuant to § 1414(g)(3) of the Act, 42 U.S.C. § 300g-3(g)(3).

2. The Respondent admits the jurisdictional allegations of the Amended Complaint and neither admits nor denies the specific factual allegations of the Amended Complaint. The Respondent does not admit to any violations of the Act or to any wrongdoing.

3. The Respondent waives its right to a hearing before any tribunal to contest any issue of law or fact set forth in the Amended Complaint or in this Consent Agreement.

4. This Consent Agreement, upon incorporation into a final order, applies to and is binding upon 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 at issue, 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.

5. The Respondent consents and agrees to pay a civil penalty in the amount of four thousand dollars (\$4,000.00) in the manner described below:

- a. Payment shall be in four payments of \$1,000.00 each. The first payment is due no later than thirty calendar days from the date of the Final Order, issued by the Regional Judicial Officer, that adopts this Consent Agreement. The second, third, and fourth payments are due no later than sixty days, ninety days, and one hundred and twenty days, respectively, after the date of the Final Order. If the due date for any payment falls on a weekend or legal federal holiday, then the due date 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. Each payment shall be made by remitting a cashier's or certified check, or making a wire transfer or on-line payment, including the name and docket number of this case, for the amount stated in part "a," above, payable to "Treasurer, United States of America," as follows:

If sent by regular U.S. mail:

U.S. Environmental Protection Agency / Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

If sent by any overnight commercial carrier:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines & Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
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

Each payment may also be made on-line by accessing "www.pay.gov."

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

Kimberly Pardue Welch, Enforcement Officer  
Water Enforcement Program (8ENF-W)  
U.S. EPA Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129

and

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

- c. If any 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 (i.e., 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 thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if any 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.

6. Nothing in this Consent Agreement shall relieve the Respondent of the duty to comply with the Act and its implementing regulations.

7. Any failure by the Respondent to comply with any of the terms of this Consent Agreement shall constitute a breach of the 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.

8. 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 the Respondent's failure to perform pursuant to the terms of this Consent Agreement.

9. The undersigned representative of the Respondent 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.

10. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.

11. Each party shall bear its own costs and attorney fees in this matter.

12. This Consent Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the United States' claims for civil penalties for the specific violations alleged in the Amended Complaint.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY REGION 8,  
Complainant.

Date: 9/20/11

By:   
Arturo Palomares, Director  
Water Technical Enforcement Program  
Office of Enforcement,  
Compliance and Environmental Justice  
U.S. EPA Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129

Date: 9/20/11

By:   
Supervisory Enforcement Attorney  
Legal Enforcement Program  
Office of Enforcement,  
Compliance and Environmental Justice  
U.S. EPA Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129

TAMARACK II LLC,  
Respondent

Date: 9/16/11

By:   
Joshua Townsley  
President

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER** in the matter of **TAMARACK II, LLC; DOCKET NO.: SDWA-08-2011-0022**, was filed with the Regional Hearing Clerk on September 21, 2011.


Further, the undersigned certifies that a true and correct copy of the document was delivered to Margaret "Peggy" Livingston, 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 on September 21, 2011, to:

Joshua Townsley, Operator  
Fazooli's Family Italian  
105 Blacktail Road  
Lakeside, MT 59922

And emailed to:

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

September 21, 2011

  
Tina Artemis  
Paralegal/Regional Hearing Clerk