



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

2016 MAR 28 PM 2:24

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: SDWA-08-2016-0007

IN THE MATTER OF:

Sand Creek Trading Post, LLC
5879 Old Hwy 14
Beulah, Wyoming 82716

RESPONDENT

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FINAL ORDER

Pursuant to 40 C.F.R. §22.13(b) and 22.18(b)(2)(3), 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 28th DAY OF March, 2016.

Thomas Rucki
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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IN THE MATTER OF:)
)
Sand Creek Trading Post, LLC)
5879 Old Hwy 14)
Beulah, Wyoming 82716)
)
Respondent.)
_____)

Docket No. SDWA-08-2016-0007

**COMBINED COMPLAINT AND
CONSENT AGREEMENT**

FILED
EPA REGION VIII
HEARING CLERK

The United States Environmental Protection Agency Region 8 (Complainant or EPA) and Sand Creek Trading Post, 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. EPA 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 Sand Creek Trading Post Water System (system), located in Crook County, Wyoming, for the provision to the public of piped water for human consumption.

5. The system has approximately 5 service connections and regularly serves an average of approximately 30 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 artesian well.
8. On July 25, 2011, 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 and the requirements of the Order.
10. On November 27, 2012, the EPA sent the Respondent a "Violation of Administrative Order" letter citing noncompliance with the Order, NPDWRs and other applicable requirements.
11. On April 29, 2014, the EPA sent the Respondent a "2nd Violation of Administrative Order" letter citing noncompliance with the Order, NPDWRs and other applicable requirements.
12. On December 8, 2015, the EPA sent the Respondent a "3rd Violation of Administrative Order" letter citing noncompliance with the Order, NPDWRs and other applicable requirements.

VIOLATIONS

Count 1

Failure to Timely Monitor for Nitrate

13. The Order (page 2, paragraph 11) requires, pursuant to 40 C.F.R. §§ 141.23(d) and 141.31(a), that the Respondent sample for nitrate annually and report the analytical results to EPA within the first 10 days following the month in which sample results were received.

14. The Respondent failed to monitor for nitrate during the 2013 monitoring period (January – December), in violation of the Order, 40 C.F.R. §§ 141.23(d) and 141.31(a), and the Act.

Count II

Failure to Properly and Timely Monitor for Total Coliform (TC) Bacteria

15. The Order (page 2, paragraph 12) requires, pursuant to 40 C.F.R. § 141.21, that the Respondent monitor the system's water quality on a quarterly basis for total coliform bacteria and, in the event of any result that is positive for total coliform, conduct repeat and additional routine monitoring. Respondent is required, pursuant to 40 C.F.R. § 141.31(a), to report those results to EPA within the first 10 days following the month in which the samples were received.

16. The Respondent failed to collect five additional routine samples in June, 2012, following the May 8, 2012, positive total coliform result, and failed to monitor for total coliform for the 1st Quarter (January-March) of 2015, in violation of the Order, 40 C.F.R. §§ 141.21 and 141.31(a), and the Act.

Count III

Failure to Report Nitrate Monitoring Violation to EPA

17. The Order (page 2, paragraph 11) requires, pursuant to 40 C.F.R. § 141.31(b), that the Respondent report any violation of the nitrate monitoring requirements to EPA within 48 hours of the violation occurring.

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

Count IV
Failure to Report Total Coliform Monitoring Violations to EPA

19. The Order (page 2, paragraph 12) requires, pursuant to 40 C.F.R. § 141.21(g)(2), that the Respondent report any violation of the total coliform monitoring requirements to EPA within 10 days after discovering the violation.

20. The Respondent failed to timely report to the EPA the total coliform monitoring violations detailed in Count II, above, in violation of the Order, 40 C.F.R. § 141.21(g)(2), and the Act.

TERMS OF SETTLEMENT

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

22. 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.

23. 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

24. 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 through December 6, 2013, and \$37,500 for each day of violation after December 6, 2013, 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.

25. The Respondent consents and agrees to pay a civil administrative penalty in the amount of One Thousand Dollars (\$1,000), in the manner described below:

- a. Payment shall be in a single payment of \$1,000, 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 \$1,000 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
Cincinnati Finance Center Box 979077
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
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message
should read "D 68010727 Environmental
Protection Agency"

If made on-line:

WWW.PAY.GOV
Enter sfo 1.1 in the "Search Public Forms
field. Open form and complete required
fields and click "Submit Data"

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

Jill Minter
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 1st late day, 30 days of interest will have
accrued).

- d. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 31st 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


- 26. Nothing in this Consent Agreement shall relieve the Respondent of the duty to comply with the Act and its implementing regulations.
- 27. 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.
- 28. 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.
- 29. The undersigned individual certifies that he/she 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.
- 30. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a Final Order.

31. Each party shall bear its own costs and attorney's fees in this matter.

32. 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.

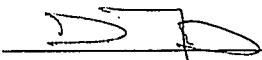
Date: 3/21/16



Suzanne J. Bohan
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

SAND CREEK TRADING POST, LLC.
Respondent.

Date: 3-9-16



Scott Jarvis, Manager and Authorized Representative
for Sand Creek Trading Post, LLC

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMBINED COMPLAINT AND CONSENT AGREEMENT and FINAL ORDER** in the matter of **SAND CREEK TRADING POST, LLC.; DOCKET NO.: SDWA-08-2016-0007** was filed with the Regional Hearing Clerk on March 28, 2016.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to Marc Weiner, Senior Enforcement Attorney. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt on March 28, 2016, to:


Respondent

Scott Jarvis
Manager and Authorized Representative
Sand Creek Trading Post, LLC
5879 Old Hwy 14
Beulah, Wyoming 82716

And emailed to:

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

March 28, 2016


Melissa Haniewicz
Acting Regional Hearing Clerk

