



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

JUN 13 2013

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**Article Number: 7005 3110 0000 5954 9315**

Mike Anderson, Deputy Superintendent  
US Virgin Islands National Park  
National Park Service  
Department of the Interior  
1300 Cruz Bay Creek  
St. John, VI 00830

Re: In the Matter of: U.S. Department of Interior, National Park Service  
Cinnamon Bay Campground Public Water System (PWS ID: VI0000557)  
Docket No. SDWA-02-2013-8413

Dear Mr. Anderson:

Enclosed you will find a fully executed Consent Agreement and Final Order ("CA/FO") which settles the above referenced action. The original and one copy of the CA/FO are being filed with the Regional Hearing Clerk with a copy of this letter.

Please do not hesitate to contact me at (212) 637-3231 should you have any questions. Thank you for your efforts to resolve this matter.

Sincerely,

Lauren Fischer  
Assistant Regional Counsel

Enclosures

cc: Karen Maples, Regional Hearing Clerk w/ original and copy

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG.11  
2013 JUN 13 P 2:33  
REGIONAL HEARING  
CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION II  
290 BROADWAY  
NEW YORK, NEW YORK 10007-1866

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG.II  
2013 JUN 13 P 2:33  
REGIONAL HEARING  
CLERK

**IN THE MATTER OF:**

United States Department of the Interior  
National Park Service  
St. John, United States Virgin Islands

Respondent.

Cinnamon Bay Campground (VI0000557)

Proceeding Pursuant to Section 1447 of the Safe  
Drinking Water Act, 42 U.S.C. § 300j

**CONSENT AGREEMENT**  
**AND**  
**FINAL ORDER**

**Docket No.**  
**SDWA-02-2013-8413**

**I. PRELIMINARY STATEMENT**

1. This is a civil administrative proceeding for the assessment of a civil penalty instituted pursuant to Section 1447(a) and (b) of the Safe Drinking Water Act ("SDWA" or the "Act"), 42 U.S.C. § 300j-6(a)-(b).
2. Section 1447 of the SDWA, 42 U.S.C. § 300j-6, authorizes the United States Environmental Protection Agency ("EPA") to take an enforcement action whenever it determines that a Federal agency is in violation of any requirement of the SDWA, EPA's regulations thereunder, or any regulation of a state drinking water program which has been authorized by EPA. Pursuant to Section 1447(a) and (b), EPA may issue a penalty order against any Federal agency that owns or operates any public water system that violates a requirement of the Act.
3. EPA is initiating and concluding this administrative proceeding for the assessment of a civil penalty pursuant to Section 1447(b)(2) of the Act, 42 U.S.C. § 300j-6(b)(2), and 40 C.F.R. § 22.13(b) of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" ("CROP"), which sets forth procedures for simultaneous commencement and conclusion of administrative civil penalty assessment proceedings through issuance of a consent agreement and final order pursuant to 40 C.F.R. § 22.18(b)(2) and (3).

4. This Consent Agreement is entered into by the Director of the Division of Enforcement and Compliance Assistance, Region 2, United States Environmental Protection Agency (“Complainant”) and the United States Department of the Interior, National Park Service, Virgin Islands National Park (“Respondent”), pursuant to Section 1447 of the Act, 42 U.S.C. § 300j-6(b), and in accordance with 40 C.F.R. Part 22. The authority to issue this Consent Agreement has been duly delegated to the Director of the Division of Enforcement and Compliance Assistance of EPA Region 2.
5. This Consent Agreement and Final Order (collectively “CA/FO”) resolves violations of the specific requirements under subchapter XII of 42 U.S.C. §§ 300f to 300j-26, Sections 1401 to 1465 of the SDWA, as provided for in Sections II and III below.

## II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent operates the Cinnamon Bay Campground “public water system,” located in St. John, United States Virgin Islands, within the meaning of Section 1401(4) of the SDWA, 42 U.S.C. § 300f(4) and 40 C.F.R. § 141.2.
2. Respondent is a “supplier of water” as that term is defined in Section 1401(5) of the SDWA, 42 U.S.C. § 300(f)(5), and 40 C.F.R. § 141.2.
3. Respondent is a “person” within the meaning of Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12).
4. Respondent is a “Federal agency” as defined by Section 1401(11) of the SDWA, 42 U.S.C. § 300f(11).
5. According to SDWA § 1447(a), 42 U.S.C. § 300j-6(a), each department, agency, or instrumentality of the executive branch of the federal government that owns or operates any public water system is subject to and must comply with, all federal, State, interstate, and local requirements, both substantive and procedural, to the same extent as any person is subject to such requirements.
6. Respondent provides piped water for human consumption and regularly serves a population of at least 25 individuals for at least 6 months per year, and is therefore a non-transient non-community water system (“NTNCWS”) as defined by Section 1401(16) of the SDWA, 42 U.S.C. § 300f(16), and 40 C.F.R. 141.2. Respondent is therefore subject to the requirements of Part B of the SDWA, 42 U.S.C. § 300g, and its implementing regulations found at 40 C.F.R. Part 141.
7. The United States Virgin Islands Department of Planning and Natural Resources (“VIDPNR” or “State”) administers the Public Water Supply Supervision Program in the United States Virgin Islands pursuant to Section 1413 of the SDWA, 42 U.S.C. § 300g. The

approval of primary enforcement responsibility from EPA to VIDPNR was effective as of September 22, 1979. VIDPNR is the primacy agency, as that term is defined in 40 C.F.R. § 142.2. On August 1, 2011, VIDPNR referred the Cinnamon Bay Campground public water system (“PWS”) to EPA for appropriate action.

8. On December 16, 1998, EPA promulgated the Stage 1 Disinfectants and Disinfection Byproducts Rule (“Stage 1 DBPR”), regulated under 40 C.F.R. Part 141, Subpart L. Stage 1 DBPR was promulgated with the intent to improve public health by reducing exposure to disinfectant byproducts in drinking water. The Stage 1 DBPR applies to all community and NTNCWS that add a disinfectant to the drinking water during any part of the treatment process and transient non-community water systems that use chloride dioxide.
9. Respondent utilizes a ground water source, serves a non-transient population of 490 individuals and adds a chemical disinfectant to the water as part of the drinking water treatment process. Respondent is therefore required to comply with the Stage 1 DBPR.
10. Pursuant to 40 C.F.R. § 141.132 (b)(1), Respondent is required to monitor for total trihalomethanes (“TTHMs”) and five haloacetic acids (“HAA5”). Specifically, Respondent must collect one water sample per year per treatment plant at the point of maximum residence time during the month of warmest water temperature.
11. Pursuant to 40 C.F.R. § 141.134, Respondent is required to report Stage 1 DBPR monitoring data to the State within 10 days after the end of the monitoring period in which samples were collected. The reported information must include the location, date and result of each sample taken during the monitoring period.
12. On May 4, 2000, EPA promulgated the Public Notification Rule (“PNR”), regulated under 40 C.F.R. Part 141, Subpart Q. The PNR was enacted to alert consumers of problems in the drinking water that may pose a risk to public health, including but not limited to, the failure to perform water quality monitoring as required by the drinking water regulations.
13. Pursuant to 40 C.F.R. § 141.204, PWSs with monitoring violations must provide public notice not later than one year after the system learns of the violation. Instead of individual public notice, a PWS may use an annual report detailing all violations and situations that occurred during the previous twelve months.
14. On May 26, 2012, EPA issued a Request for Information (“RFI”), Docket Number IR-PWS-2012-006, to Respondent, requesting information on monitoring results pursuant to the National Primary Drinking Water Regulation conducted since January 1, 2007.
15. In response to the RFI, EPA received via electronic mail monitoring data pertaining to the Cinnamon Bay Campground PWS on August 9 and 15, 2012.

16. On August 24, 2012, EPA issued a second RFI, Docket Number IR-PWS-2012-008, to Respondent, requesting information that was not previously submitted as a response to the RFI issued on May 26, 2012. Specifically, the August 24, 2012, RFI requested the following information: lead and copper data for 2009; Stage 1 DBPR (TTHM and HAA5) data for 2009; inorganic, volatiles organics and synthetic contaminants data for 2008-2012.
17. On September 13, 2012, Respondent submitted to EPA via electronic mail, a copy of the public notice posted at the Cinnamon Bay Campground PWS alerting consumers of the failure to monitor for Stage 1 DBPR contaminants during 2009.
18. Information provided by Respondent uncovered that the Cinnamon Bay Campground PWS failed to monitor for Stage 1 DBPR contaminants during 2009. In addition, Respondent failed to notify consumers of the failure to monitor for Stage 1 DBPR contaminants within one year of the violation.

**Count 1: Failure to monitor for Stage 1 contaminants**

19. Pursuant to 40 C.F.R. §141.132(b)(1), PWSs using only ground water and serving fewer than 10,000 people must monitor for total trihalomethanes (“TTHMs”) and five haloacetic acids (“HAA5”). Specifically, the system must collect one water sample per year per treatment plant at the point of maximum residence time during the month of warmest water temperature.
20. Based on information provided to EPA, Respondent failed to monitor for TTHMs and HAA5 during the year 2009. Respondent monitored for Stage 1 DBPR contaminants on September 15, 2010.
21. Respondent therefore violated 40 C.F.R. §141.132(b)(1) from December 31, 2009, to September 14, 2010.

**Count 2: Failure to notify public of violations to the NPDWR**

22. Pursuant to 40 C.F.R. §141.204, PWSs with monitoring violations must provide public notice not later than one year after the system learns of the violation. Instead of individual public notice, a PWS may use an annual report detailing all violations and situations that occurred during the previous twelve month.
23. Based on information provided to EPA, Respondent failed to alert consumers of the failure to monitor for Stage 1 DBPR contaminants during 2009 within 1 year of the violation. On September 13, 2012, Respondent submitted to EPA a copy of the public notice posted at the Cinnamon Bay Campground PWS alerting consumers of the failure to monitor for Stage 1 DBPR contaminants during 2009.

24. Respondent therefore violated 40 C.F.R. §141.204, from January 1, 2011, to September 12, 2012.
25. Respondent failed to comply with 40 C.F.R. §141.132(b)(1) by failing to monitor for Stage 1 DBPR contaminants during 2009, and failed to notify consumers of the monitoring violation, in violation of 40 C.F.R. §141.204. Respondent's failure to comply with the SDWA and its implementing regulations constitute violations of the SDWA.
26. EPA has jurisdiction over the subject matter of this action pursuant to Section 1447 of the SDWA, 42 U.S.C. § 300j-6, and over Respondent.

### III. CONSENT AGREEMENT

1. Section II, Paragraphs 1-18 are re-alleged and incorporated by reference.
2. EPA and Respondent agree that it is in the public interest to resolve the issues alleged in this Consent Agreement without further litigation and the expense and effort that litigation entails.
3. Based upon the foregoing and pursuant to Section 1447 of the SDWA, 42 U.S.C. § 300j-6, and Section 22.13(b) of the CROP, 40 C.F.R. § 22.13(b), it is hereby agreed by and between EPA and Respondent, and Respondent voluntarily and knowingly agrees as follows:

### IV. TERMS OF SETTLEMENT

1. For the purpose of this proceeding, Respondent:
  - a. Admits the jurisdictional allegations of this CA/FO;
  - b. Neither admits nor denies the factual allegations contained herein;
  - c. Waives its right to contest the allegations, a judicial or administrative hearing, or to appeal this CA/FO; and
  - d. Consents to the payment of a civil penalty in the amount of **TWO THOUSAND DOLLARS (\$2,000.00)**, as stated in Section VI below.

### V. PAYMENT OF CIVIL PENALTY

1. Respondent shall pay a civil penalty to EPA in the amount of **TWO THOUSAND DOLLARS (\$2,000.00)**. Such payment shall be made by check, or by Electronic Fund Transfer ("EFT"). If the payment is made by check, then the check shall be payable to the "Treasurer, United States of America," and shall be mailed to:

United States Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, MO 63197-9000

The check shall be identified with a notation thereon listing the following: **IN THE MATTER OF THE UNITED STATES DEPARTMENT OF THE INTERIOR, NATIONAL PARK SERVICE, CINNAMON BAY CAMPGROUND PWS**, and shall bear thereon the **Docket Number SDWA-02-2013-8413**. Payment of the penalty must be received at the above address on or before forty-five (45) calendar days after the Effective Date of this CA/FO.

If Respondent elects to make the payment by EFT, then Respondent shall provide the following information to its remitter bank:

- a. Amount of Payment: \$2,000.00.
- b. SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045
- c. Account Code for Federal Reserve Bank of New York receiving payment:  
68010727
- d. Federal Reserve Bank of New York ABA routing number: 021030004
- e. Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"
- f. Name of Respondent: Department of Interior, National Park Service
- g. Case Number: SDWA-02-2013-8413

Such EFT must be received on or before 45 calendar days after the Effective Date of this CA/FO. Whether the payment is made by check or by EFT, Respondent shall promptly thereafter furnish reasonable proof that such payment has been made, to both:

Lauren Fischer, Esq., Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16th floor  
New York, New York 10007-1866  
(212) 637-3231

and

Karen Maples, Regional Hearing Clerk  
U.S. Environmental Protection Agency – Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York NY 10007-1866

- h. Failure to pay the amount in full within the time period set forth above may result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection.
- i. The civil penalty constitutes a penalty within the meaning of 26 U.S.C. §162(f).
- j. Any requirement for the payment of funds established under the terms of this Consent Agreement shall be subject to the availability of appropriated funds, and no provision herein shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341.

## VI. GENERAL PROVISIONS

1. The provisions of this CA/FO shall be binding upon Respondent, its officers, directors, agents, servants, authorized representatives and successors or assigns, including but not limited to, subsequent purchasers. No transfer of ownership or operation shall relieve Respondent of its obligation to comply with this CA/FO.
2. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable and consents to its issuance and its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein.
3. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement and agrees to pay the penalty in accordance with the terms of this Consent Agreement.
4. Respondent knowingly and explicitly waives its rights under Section 1447(b)(3) of the Act, 42 U.S.C. § 300j-6(b)(3), to request or to seek any Hearing on or appeal of this Consent Agreement or the Findings of Fact and Conclusions of Law herein, or on the accompanying Final Order.
5. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8, to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator or the Deputy Regional Administrator where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the accompanying Final Order.
6. Respondent also hereby expressly waives its right to confer with the Administrator under Section 1447(b)(3) of the Act, 42 U.S.C. § 300j-6(b)(3).



7. EPA reserves the right to commence action against any person or persons, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the CROP. Further, EPA reserves any right and remedy available to it under the SDWA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction to enforce the provisions of this CA/FO, following its filing with the Regional Hearing Clerk.
8. Failure to obtain adequate funds or appropriations from Congress does not release Respondent from its obligation to comply with the SDWA, the applicable regulations thereunder, or with this CA/FO.
9. Issuance of the CA/FO does not constitute a waiver by EPA of its right to enforce the substantive legal requirements underlying this penalty assessment, either administratively or judicially pursuant to Section 1414 of the Act, 42 U.S.C. § 300g-3. Issuance of or compliance with this CA/FO does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable requirements of the Act, of regulations promulgated thereunder and of any legal order or permit issued thereunder.
10. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all the terms and conditions set forth in this Consent Agreement.
11. Respondent consents to service by a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.
12. This CA/FO shall become effective 30 days after the date of signature on the Final Order.
13. Each party hereto agrees to bear its own costs and fees in this matter.
14. Pursuant to 40 C.F.R. § 22.18(c), this CA/FO constitutes a full and final resolution of Respondents' liability for Federal civil penalties pursuant to 1447(b) of SDWA, 42 U.S.C. § 300j-6 for the specific violations and matters alleged in this Consent Agreement.
15. The person signing this CA on behalf of the Respondent certifies to EPA by his or her signature herein that Respondent, as of the date of its execution of this CA, is in compliance with the provisions of the Safe Drinking Water Act, its implementing regulations and the Virgin Islands federally authorized Safe Drinking Water Program at the Cinnamon Bay Facility referenced herein. This certification is based on the personal knowledge of the signer or an inquiry of the person or persons responsible for the Facility's compliance with the SDWA."

FOR RESPONDENT:

DATE: 5-15-2013

Mike Anderson

Mike Anderson, Deputy Superintendent  
US Virgin Islands National Park  
National Park Service  
Department of the Interior  
1300 Cruz Bay Creek  
St. John, VI 00830

FOR COMPLAINANT:

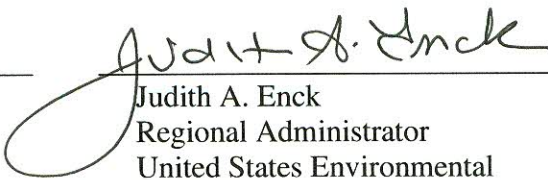
DATE: JUNE 7, 2013

Dore LaPosta  
Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance  
US Environmental Protection Agency  
Region 2  
New York, New York 10007-1866

**VIII. FINAL ORDER**

The Regional Administrator of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Agreement entered into by the parties is hereby approved, incorporated herein, and issued as a Final Order. The effective date of this Final Order shall be 30 days after the date of signature.

DATE: 6/10/13



Judith A. Enck  
Regional Administrator  
United States Environmental  
Protection Agency - Region 2  
290 Broadway  
New York, New York 10007-1866

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION II  
290 BROADWAY  
NEW YORK, NEW YORK 10007-1866

**IN THE MATTER OF:**

United States Department of the Interior  
National Park Service  
St. John, United States Virgin Islands

Respondent.

Cinnamon Bay Campground (VI0000557)

Proceeding Pursuant to Section 1447 of the Safe  
Drinking Water Act, 42 U.S.C. § 300j

**CONSENT AGREEMENT**  
**AND**  
**FINAL ORDER**

**Docket No.**  
**SDWA-02-2013-8413**

**CERTIFICATE OF SERVICE**

I certify that, on the date noted below, I caused to be mailed, by certified mail, return receipt requested, a copy of the foregoing "CONSENT AGREEMENT AND FINAL ORDER" and a copy of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," (40 C.F.R. Part 22) to the following person at the addresses listed below:

Mike Anderson, Deputy Superintendent  
US Virgin Islands National Park  
National Park Service  
Department of the Interior  
1300 Cruz Bay Creek  
St. John, VI 00830

I sent by inter-office mail the original and a copy of the foregoing Consent Agreement/Final Order to the office of the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2.

Date: JUN 13 2013

Print Name: Marie St. Germain  
New York, NY