



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 WYNKOOP STREET
DENVER, CO 80202-1129

Phone 800-227-8917

<http://www.epa.gov/region08>

2016 FEB 17 AM 10:48

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: SDWA-08-2014-0019

IN THE MATTER OF:

JOHNSON COUNTY MOOSE LODGE #2675
P. O. Box 369
Buffalo, Wyoming 82834

)
)
) FINAL ORDER
)
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)

RESPONDENT

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 17th DAY OF February, 2016.

Thomas Rucki
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8 2016 FEB 16 PM 2:04

IN THE MATTER OF:)
)
Johnson County Moose Lodge #2675)
P.O. Box 369)
Buffalo, Wyoming 82834)
)
Respondent.)
_____)

FILED
REGION VIII
Docket No. PSDWA-08-2014-0019
HEARING CLERK

**COMBINED COMPLAINT AND
CONSENT AGREEMENT**

The United States Environmental Protection Agency Region 8 (EPA) and Johnson County Moose Lodge #2675 (Respondent) hereby consent and agree as follows:

AUTHORITY

1. This proceeding is subject to 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 (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 Johnson County Moose Lodge #2675 Public Water System (System), located in Johnson County, Wyoming, for the provision of piped water to the public for human consumption.

5. The System has approximately 1 service connection and/or regularly serves an average of approximately 27 individuals daily at least 60 days out of the year. Therefore, the System is a “public water system” as defined in section 1401(4) of the Act, 42 U.S.C. § 300f(4), and 40 C.F.R. § 141.2. The System is also 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 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. As such, the Respondent is subject to the requirements of part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, the National Primary Drinking Water Regulations (NPDWRs), set forth in 40 C.F.R. part 141. The NPDWRs set forth what is an “applicable requirement” as defined in section 1414(i) of the Act, 42 U.S.C. § 300g-3(i).
7. The source of the System’s water is groundwater accessed from one well.
8. On June 30, 2014, EPA issued Administrative Order Docket No. SDWA-08-2014-0019 (Order) to the Respondent pursuant to section 1414(g) of the Act, 42 U.S.C. § 300g-3(g), citing violations of the NPDWRs.
9. The Order requires the System to comply with the NPDWRs.
10. On January 14, 2015, EPA sent the Respondent an Administrative Order Violation letter citing noncompliance with the Order and NPDWRs.
11. On May 8, 2015, EPA sent the Respondent an Administrative Order Violation #2 letter citing noncompliance with the Order and NPDWRs.
12. Wyoming has not sought primary authority for enforcing the public water supply supervision program. Therefore, EPA directly implements this program in Wyoming and, as

provided by the definition of “state” in 40 C.F.R. § 141.2, EPA is the “state” for purposes of the NPDWRs in Wyoming.

VIOLATIONS

Count I

Failure to Monitor for Total Coliform Bacteria

13. The Order (page 2, paragraph 10) requires, pursuant to 40 C.F.R. § 141.21, that the Respondent monitor the System’s water quarterly for total coliform bacteria.

14. The Respondent failed to monitor the System’s water for total coliform bacteria during the 3rd (July-September) and 4th (October-December) quarters of 2014 and the 2nd (April-June) quarter of 2015 and, therefore, violated this requirement.

Count II

Failure to Timely Report Coliform Monitoring Violation

15. The Order (page 2, paragraph 12) requires, pursuant to 40 C.F.R. § 141.21(g)(2), that the Respondent report any failure to comply with any coliform monitoring requirement to EPA within 10 days after discovering the violation.

16. The Respondent failed to report the violations listed in paragraph 14, above, to EPA and, therefore, violated this requirement.

TERMS OF SETTLEMENT

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

18. 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.

19. 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, 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

20. The Act authorizes EPA to assess a civil penalty of up to \$25,000 per day for violation of an order issued under section 1414(g). 42 U.S.C. § 300g-3(g)(3). This amount has been adjusted for inflation to \$32,500 for violations occurring March 16, 2004, through January 12, 2009, and to \$37,500 for violations occurring after January 12, 2009. *See*, Civil Monetary Penalty Inflation Adjustment Rule, 78 Fed. Reg. 66643, 66647 (Nov. 6, 2013) (codified at 40 C.F.R. pt. 19). The Respondent's violations at issue occurred beginning in 2013, and fall within the most recent inflation adjustment of \$37,500 per day of violation. The Act requires EPA to take into account appropriate factors in assessing a civil penalty including the seriousness of the violation, the population at risk and other appropriate factors. 42 U.S.C. § 300g-3(b).

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

- a. Payment shall be in four successive payments in the amounts of: \$251.59, \$251.59, \$251.59 and \$249.02. The first payment is due no later than thirty (30) 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 one hundred and twenty (120), two hundred and ten (210) and three hundred (300) days, respectively, after the date of the final order. 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. Each 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:

U.S. 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
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read "D6801027 Environmental Protection Agency".

If made on-line:

www.pay.gov
Enter sfo 1.1 in the search field.
Open form and complete required fields.

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 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

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

23. 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.

24. Nothing in this Consent Agreement shall be construed as a waiver by 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.

25. The undersigned individual certifies that s/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.

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

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

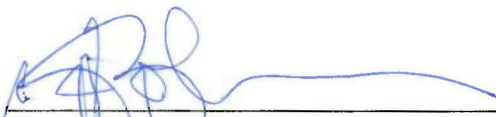
28. The Respondent waives any and all claims for relief, and otherwise available rights to judicial or administrative review or other remedies which the Respondent may have, with respect to any issue of fact or law or any terms and conditions set forth in this Consent Agreement, including any right of judicial review under the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

29. This Consent Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction of all requirements of this Consent Agreement by the parties, shall resolve the Respondent's liability for federal civil penalties for the violations and facts alleged in this Consent Agreement.

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

Date:

2/10/16




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

JOHNSON COUNTY MOOSE LODGE #2675
Respondent.

Date:

1/29/14



Ed Sik "Admin. Station"
Authorized Representative of Respondent

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one true copy of the **COMBINED COMPLAINT AND CONSENT AGREEMENT** was hand-carried to the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado, and that a true copy of the same was sent by U.S. Postal Service, as indicated below:

to

Jerry Boesflug, Registered Agent
Johnson County Moose Lodge #2675
P.O. Box 369
Buffalo, WY 82834

and hand-carried, one copy to

Hon. Elyana R. Sutin
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

Date: **FEB 16 2016**

By: *Dayle Aldinger*
Dayle Aldinger

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMBINED COMPLAINT AND CONSENT AGREEMENT** in the matter of **JOHNSON COUNTY MOOSE LODGE #2675, LLC.; DOCKET NO.: SDWA-08-20014-0019** was filed with the Regional Hearing Clerk on, February 16, 2016; the **FINAL ORDER** was filed on February 17, 2016.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Mia Bearley, Enforcement Attorney. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt on February 17, 2016 to:


Respondent

Jerry Boesflug, Registered Agent
Johnson County Moose Lodge #2675
P. O. Box 369
Buffalo, WY 82834

And emailed to:

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

February 17, 2016


Tina Artemis
Paralegal/Regional Hearing Clerk

