

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2015 MAY -8 PM 4: 17

DOCKET NO.: SDWA-08-2013-0058

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF)	
)	
MACKAY INVESTMENTS, LLC)	COMPLAINANT'S THIRD
)	STATUS REPORT
Jackson Hole Camp Ground)	
Public Water System)	
)	
PWS ID# WY5600520)	
)	
<u>Respondent.</u>)	

On April 17, 2015, the Presiding Officer ordered the undersigned to file a status report to address the delay in this proceeding on or before April 24, 2015. Having inadvertently missed that date, Complainant requests leave of this Court to submit a Third Status Report.

As noted in the above-referenced Order, Complainant's Second Status Report indicated that after a period during which Complainant was unable to reach Respondent, Respondent did establish contact and undertook actions to come into compliance. As such, Complainant agreed to enter into negotiations to address payment of a suitable penalty. After initial exchanges, Respondent ultimately claimed that it had an inability to pay the proposed penalty. Subsequent negotiations between the parties focused on Respondent's finances and Complainant's processes in evaluating Respondent's ability to pay (ATP) claims. On May 23, 2014, Complainant agreed to email ATP evaluation forms to Respondent, to be completed and returned by June 9, 2014. Respondent submitted incomplete records on June 25, 2014. Complainant notified Respondent of the insufficiencies and granted an extension to July 11, 2014. Respondent sent additional information on July 21, 2014, however, the information remained incomplete.

On July 15, 2014, Complainant submitted a referral to its headquarters office for a contractor, Industrial Economics, Inc., (IE) to provide financial analysis case support. Support was granted.

Upon receipt of Respondent's second (yet still incomplete) submission of financial information, Complainant amended the scope of the referral and IE began its case analysis on July 29, 2014.

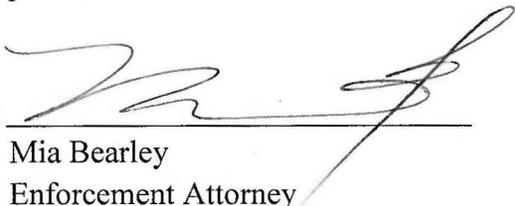
Complainant received the IE financial analysis report on November 4, 2014. Complainant evaluated the report and then contacted Respondent to request a joint review. On December 12, 2014, the parties reviewed Respondent's ATP together by phone. During that call, Respondent raised a substantial debt that was not listed in Respondent's tax returns. Complainant stated that it would review information Respondent committed to email that day. Respondent responded approximately one month later, providing a partial answer to clarification requested and claimed continuing inability to pay. Complainant consulted IE regarding the additional debt and concluded that Respondent did have an ability to pay the penalty. On January 14, 2015, Complainant requested that Respondent communicate its response to its final settlement offer (which included a reduced penalty amount and installment plan) by January 16, 2015. To date, Respondent has not provided a response to that offer.

Complainant intends to file a motion for default within the next 15 days.

Respectfully submitted,
United States Environmental Protection Agency
Region 8

Complainant.

DATE: May 8, 2015

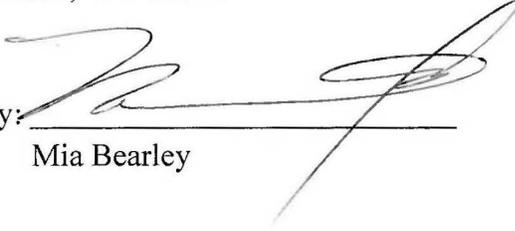
BY: 
Mia Bearley
Enforcement Attorney

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of the COMPLAINANT'S THIRD STATUS REPORT was hand-carried to the Regional Hearing Clerk, EPA, Region 8, 1595 Wynkoop Street, Denver, Colorado, and that a true copy of the same was sent by U.S. Postal Service, to the following address:

Mr. Jamie Mackay, Registered Agent
Mackay Investments, LLC
2780 N. Moose Wilson Rd
P.O. Box 1827
Wilson, WY 83014

DATE: May 8, 2015

By: 

Mia Bearley