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U.S. EPA REGION IX
REGIONAL HEARING CLERK

ENVIRONMENTAL PROTECTION AGENCY
REGION IX

In the Matter of:

Scott Lawson (Oasis Mobile Home Park)
(PWS ID No. CA0605129)

Respondent.

Proceeding under Section
1414(g) of the Safe Drinking
Water Act, 42 U.S.C. § 300g-3(g)

09
Docket No. SDWA-2007-0002

CONSENT AGREEMENT
AND [PROPOSED] FINAL ORDER

Pursuant to 40 C.F.R. §§ 22.13 and 22.18.

I. STATUTORY AUTHORITY

This Consent Agreement and proposed Final Order ("CA/FO") is issued to Scott Lawson (Oasis Mobile Home Park) ("Respondent") under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 1414(g)(3)(B) of the Safe Drinking Water Act ("SDWA"), 42 U.S.C. § 300g-3(g)(3)(B). The EPA Administrator has delegated this authority to the Regional Administrator for EPA Region IX. The Regional Administrator of EPA Region IX has delegated the authority to enter into this Consent Agreement to the Director of the Water Division for EPA Region IX, and has delegated the authority to issue the proposed Final Order to the Regional Judicial Officer for EPA Region IX.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Mr. Scott Lawson ("Respondent") owns and operates a public water system known as Oasis Mobile Home Park. This system is located on the Torres Martinez Desert Cahuilla Indian Reservation ("Torres Martinez Reservation") located in Riverside County, California.

1 2. Respondent has alleged that he provides water to the public for human consumption
2 through pipes to approximately 360 service connections and regularly serves approximately
3 1000 year-round residents.¹

4 3. Respondent is a "person" within the meaning of Section 1401(12) of the SDWA and 40
5 C.F.R. § 141.2 and a "supplier of water" as that term is defined in Section 1401(5) of the SDWA
6 and 40 C.F.R. § 141.2. Since May 2002 at the latest, Respondent has owned and operated a
7 "public water system" as defined by Section 1401(4) of the SDWA and 40 C.F.R. § 141.2, and a
8 "community water system" as defined by Section 1401(15) of the SDWA and 40 C.F.R. §
9 141.2. Respondent's water system is a "small water system" as defined by 40 C.F.R. § 141.2.

10 4. Respondent's public water system utilizes a groundwater source.

11 5. Respondent is the "owner" and "operator" of the Oasis Mobile Home Park water system
12 within the meaning of the SDWA and 40 C.F.R. Part 141.

13 6. As a "public water system," "supplier of water," "owner," "operator," and "person,"
14 Respondent is subject to the requirements of Part B of the SDWA, 42 U.S.C. §§ 300g - 300g-9,
15 and all other applicable requirements of the SDWA as defined at 42 U.S.C. § 300g-3(i),
16 including applicable requirements within Part B's implementing regulations at 40 C.F.R. Part
17 141.

18 7. EPA has primary responsibility for administering and enforcing the SDWA and its
19 applicable requirements for all public water systems located within the exterior boundaries of
20 the Torres Martinez Reservation, including Oasis Mobile Home Park.

21 8. On September 3, 2004, EPA issued an Administrative Order (the "Order") to
22 Respondent which found that Respondent, as owner and operator of the Oasis Mobile Home
23 Park, had violated the SDWA and its implementing regulations at 40 C.F.R. Part 141. The
24
25

¹ In the past EPA made a finding that Oasis had a service population of 2,000, and for purposes of this settlement, these population figures need not be reconciled at this time.

1 Order required full compliance with the SDWA and its implementing regulations within
2 timeframes set forth in the Order.

3 9. 40 C.F.R. § 141.21(a) requires community water systems serving 1,000 persons or fewer
4 to sample for total coliform bacteria at least once a month. Samples must be taken at sites that
5 are representative of water throughout the distribution system in accordance with a written
6 sample siting plan that is subject to EPA review and revision.

7 10. The Order required that within thirty (30) days from the effective date of the Order, and
8 during every month thereafter, Respondent comply with 40 C.F.R. § 141.21(a) by collecting at
9 least two (2)² coliform bacteria samples and submitting them for analysis to a certified
10 laboratory. Samples were required to be collected at sites representative of water throughout the
11 distribution system in accordance with a written sample siting plan.

12 11. The Order required Respondent to submit the written sample siting plan to EPA for
13 review and potential revision within thirty (30) days from the effective date of the Order.

14 12. The Order further required Respondent to collect a set of repeat samples within twenty-
15 four (24) hours of being notified of a total coliform-positive result, in accordance with 40 C.F.R.
16 § 141.21(b), which must include at least three (3) repeat samples at specified locations for each
17 total coliform-positive sample found. The Order required that if any routine or repeat sample is
18 positive with coliform bacteria, Respondent must further analyze the sample for fecal coliforms
19 or E. coli in accordance with 40 C.F.R. § 141.21(e).

20 13. Respondent violated the Order by failing to comply with the requirements of 40 C.F.R.
21 § 141.21(a) which required monthly sampling of total coliform bacteria, and by failing to take
22 total coliform bacteria samples at sites that are representative of water throughout Oasis Mobile
23 _____

24 ² In stating this requirement, the Order relied on EPA's estimate of the year-round population, 2,000. As noted
25 above, Respondent has alleged a year-round population of 1,000. Since a system with a year-round population of
1,000 or less is required to conduct one monthly total coliform sample, and Respondent failed to take any monthly
coliform bacteria samples, Respondent nonetheless violated the Order by failing to comply with 40 C.F.R. §
141.21(a).

1 Home Park's distribution system in accordance with a written sample siting plan for the
2 following months: October 2004, March 2005, and August 2005.

3 14. Respondent violated the requirements of the Order by failing to report monitoring
4 results for total coliform bacteria by the deadlines set forth in the Order for the following
5 months in 2005: January, February, April, June, July, September, and October. In each incident
6 of late reporting, Respondent conducted the required monitoring, but failed to report the
7 monthly total coliform analytical result to EPA by the tenth of the following month.

8 15. Respondent violated the Order by failing to submit the written sample siting plan to
9 EPA within thirty (30) days from the effective date of the Order. Respondent was served with a
10 copy of the Order on October 8, 2004, but violated the Order by not submitting the sample siting
11 plan to EPA until December 14, 2004, beyond the thirty (30) day period prescribed by the
12 Order.

13 16. Respondent violated the Order by failing to conduct timely repeat sampling for total
14 coliform-positive samples that were collected on September 20, 2006 (and to therefore report
15 the results of that repeat sampling to EPA). These samples tested positive for total coliform;
16 however, Respondent failed to collect a set of repeat samples within twenty-four (24) hours of
17 being notified of the total coliform-positive result, as required under the Order.

18 17. 40 C.F.R. § 141.24(f) requires each community water system served by groundwater to
19 take four (4) consecutive quarterly samples at each Sampling Point for the volatile organic
20 compounds (VOCs) listed in 40 C.F.R. § 141.61(a)(2)-(21) during the initial three (3)-year
21 compliance period (beginning in April 1995 for the Oasis Mobile Home Park) and conduct
22 follow-up monitoring thereafter.

23 18. Except where a shorter period is required by 40 C.F.R. Part 141, 40 C.F.R. § 141.31(a)
24 requires suppliers of water to report to EPA the results of any test measurement or analysis
25 required by 40 C.F.R. Part 141 within: (1) the first ten (10) days following the month in which

1 the results are received; or (2) the first ten (10) days following the end of the required
2 monitoring period as stipulated by EPA, whichever of these is shortest.

3 19. The Order required Respondent to comply with the requirements of 40 C.F.R. §
4 141.24(f) by collecting the required four (4) consecutive quarterly samples of VOCs listed in §
5 141.61(a)(2)-(21) and submitting them for analysis to a certified laboratory within sixty (60)
6 days from the effective date of the Order. The Order required Respondent to comply with the
7 reporting requirements of 40 C.F.R. § 141.31(a). The Order further required that if Respondent
8 collected four (4) consecutive quarterly samples and did not detect any contaminant listed in §
9 141.61(a), Respondent was required to monitor for the VOCs listed in § 141.61(a)(2)-(21)
10 annually, starting in the calendar year following the fourth quarterly monitoring event, unless
11 Respondent applied for and was granted a waiver by EPA before completion of the next
12 sampling event was required.

13 20. Respondent violated the Order by failing to report quarterly VOC sampling results for
14 the fourth quarter of 2004 and the first two quarters of 2005. Respondent did monitor for VOCs
15 on October 25, 2004, February 16, 2005 and May 20, 2005. Respondent failed, however, to
16 report the quarterly VOCs to EPA by the tenth of the following month in which each sample
17 was taken. Respondent reported each of the three missing VOC quarterly monitoring results on
18 August 19, 2005.

19 21. 40 C.F.R. § 141.24(h) requires each community water system served by groundwater
20 and serving no more than 3,300 persons to take four (4) consecutive quarterly samples at each
21 Sampling Point for the pesticides/synthetic organic chemicals (SOCs) listed in 40 C.F.R. §
22 141.61 (c)(1) and (c)(5)-(33) during the initial three (3)-year compliance period (beginning in
23 April 1995 for the Oasis Mobile Home Park) and to conduct follow-up monitoring thereafter.

24 22. The Order required Respondent to comply with the requirements of 40 C.F.R.
25 §141.24(h)(4)(i) for the purpose of determining the maximum contaminant level by collecting

1 the required samples of pesticides/SOCs listed in 40 C.F.R. § 141.61(c)(1) and (c)(5)-(33) and
2 submitting them for analysis to a certified laboratory within sixty (60) days from the effective
3 date of the Order. The Order required Respondent to comply with the reporting requirements of
4 40 C.F.R. § 141.31(a). The Order further required that Respondent conduct quarterly
5 monitoring for at least one (1) year for the contaminants in 40 C.F.R. § 141.61(c)(1) and (c)(5)-
6 (33).

7 23. Respondent violated the Order by failing to report quarterly SOC and pesticide sampling
8 results for the fourth quarter of 2004 and the first two quarters of 2005. Respondent sampled for
9 SOC and pesticides on October 25, 2004, February 16, 2005 and May 20, 2005, respectively.
10 Respondent failed, however, to report the quarterly SOC and pesticides to EPA by the tenth of
11 the following month each sample was taken. Respondent reported each of the three missing
12 SOC quarterly monitoring results on August 19, 2005.

13 24. 40 C.F.R. § 141.26(a) requires community water systems to conduct four (4)
14 consecutive quarters of monitoring for gross alpha particle activity, radium-226, radium-228,
15 and uranium by December 31, 2007, and to conduct follow-up monitoring thereafter.

16 25. The Order required Respondent to comply with the requirements of 40 C.F.R. §
17 141.26(a) by collecting the required samples from each Sampling Point of gross alpha particle
18 activity, radium-226, and radium-228 and submitting them for analysis to a certified laboratory
19 within thirty (30) days from the effective date of the Order. The Order required Respondent to
20 comply with the reporting requirements of 40 C.F.R. § 141.31(a). The Order further required
21 that Respondent collect four (4) consecutive quarterly samples for at least one (1) year, and
22 comply with any applicable requirements for additional analysis or increased monitoring for
23 radionuclides in accordance with 40 C.F.R. § 141.26(a).

24 26. Respondent violated the Order by failing to report four (4) consecutive quarters of
25 radionuclide sampling results to EPA within the time frames set forth in the Order.

1 27. 40 C.F.R. § 141.86(d) requires small water systems to monitor tap water for lead and
2 copper twice a year once every six (6) months in accordance with all requirements of 40 C.F.R.
3 § 141.86, during the initial two six (6)-month compliance periods, and to conduct follow-up
4 monitoring thereafter.

5 28. 40 C.F.R. § 141.90(a) requires that, within the first ten (10) days following the end of an
6 applicable lead and copper monitoring period, public water systems report specified information
7 to EPA pertaining to lead and copper tap sampling, including, but not limited to: (i) the results
8 of all tap samples, the location of each sampling site, and information regarding the criteria
9 under which the site was selected for the system's sampling pool; and (ii) the 90th percentile
10 concentrations measured from all samples collected during each monitoring period.

11 29. The Order required Respondent to collect and have analyzed one (1) round of tap
12 samples for lead and copper in accordance with 40 C.F.R. § 141.86 by November 15, 2004. The
13 Order required Respondent to submit all specified monitoring information regarding sampling
14 procedures and results, collected in accordance with 40 C.F.R. § 141.86, to EPA by November
15 30, 2004 pursuant to 40 C.F.R. § 141.90. If the first round of lead and copper monitoring did
16 not exceed the applicable action levels for lead and/or copper, the Order required Respondent to
17 collect and have analyzed a second round of tap samples for lead and copper in accordance with
18 40 C.F.R. § 141.86 during the period between January 1, 2005 and June 30, 2005. The Order
19 required Respondent to submit to EPA all specified monitoring information for the second round
20 of tap samples for lead and copper by July 10, 2005 pursuant to 40 C.F.R. § 141.90. The Order
21 also specified that if the lead and/or copper results did not exceed the action levels set forth in
22 40 C.F.R. § 141.80(c) during each of the two (2) consecutive six (6)-month monitoring periods,
23 then Respondent was required to continue to sample for lead and copper on an annual basis
24 during the months of June, July, August, or September, in accordance with 40 C.F.R. §
25 141.86(d), and to report results to EPA in accordance with 40 C.F.R. § 141.90(a).

1 30. Respondent complied with the Order by monitoring for the first round of lead and
2 copper on October 25, 2004, and then reporting the results to EPA within the time frames set
3 forth by the Order.

4 31. Respondent violated the Order by failing to monitor for the second round of lead and
5 copper until February 9, 2006, and did not report the results to EPA until February 27, 2006.

6 32. 40 C.F.R. § 141.152(b) requires each community water system to have prepared and
7 distributed Consumer Confidence Reports ("CCRs") to its customers by October 19, 1999
8 ("1998 CCR"), by July 1, 2000 ("1999 CCR"), and by July 1 annually thereafter. Pursuant to 40
9 C.F.R. § 141.155(c), each community water system for which EPA has primary enforcement
10 responsibility must mail a copy of the CCR to EPA no later than the date the community water
11 system is required to distribute the CCR to its customers under 40 C.F.R. §§ 141.152(b) and
12 141.155(a). 40 C.F.R. § 141.155(c) further requires each such community water system to mail
13 a certification to EPA within three (3) months of the date the community water system is
14 required to distribute the CCR to its customers. The certification must indicate that the CCR has
15 been distributed to customers and that the information is correct and consistent with the
16 compliance monitoring data previously submitted to EPA.

17 33. The Order required that Respondent comply with the requirements of 40 C.F.R.
18 §§141.151 through 141.155 by March 31, 2005, including the preparation of Consumer
19 Confidence Reports that summarized drinking water information from January through
20 December for the years 1998 through 2003 in accordance with 40 C.F.R. §§ 141.151 through
21 141.155, and distribution of the reports to Oasis Mobile Home Park's customers and EPA in
22 compliance with 40 C.F.R. § 141.155. In addition, the Order required Respondent to provide
23 EPA with a certification of the distribution and content of the reports in accordance with 40
24 C.F.R. § 141.155(c) by June 30, 2005.

34. Respondent violated the Order by submitting the 1998-2003 CCR reports (in a combined 1998-2005 CCR) on May 24, 2006, 15 months after the deadline specified in the Order.

35. Pursuant to SDWA § 1414(g)(3)(A), 42 U.S.C. § 300g-3(g)(3)(A), and 40 C.F.R. § 19.4, any person who violates or refuses to comply with an administrative order shall be liable to the United States for an administrative civil penalty of not more than twenty-seven thousand five-hundred dollars (\$27,500.00) for each day in which such violation occurs.

36. Respondent has agreed to hire, within 2 weeks of the effective date of the Final Order, a certified water operator for Oasis Mobile Home Park for a duration no less than one year; alternatively, if, after reasonable effort by Mr. Lawson, a certified operator cannot be secured, Respondent has agreed to provide proof, within that two week period, of enrollment of a full-time employee in a water operator certification course.

III. CONSENT AGREEMENT

37. Based upon the foregoing, and pursuant to SDWA § 1414(g)(3), 42 U.S.C. § 300g-3(g)(3), and 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," 40 C.F.R. Part 22, it is hereby agreed by and between the parties, and Respondent voluntarily and knowingly agrees, as follows:

A. Respondent's Admissions

38. In accordance with 40 C.F.R. § 22.18(b)(2), and for the purpose of this proceeding, Respondent admits the jurisdictional allegations of this CA/FO; neither admits nor denies the specific factual allegations contained in this CA/FO; consents to any and all conditions specified in this CA/FO, including the assessment of a civil administrative penalty under this CA/FO; waives its rights under SDWA § 1414(g)(3)(B), 42 U.S.C. § 300g-3(g)(3)(B), to contest the allegations contained in Section II of this CA/FO; and waives the right to appeal the proposed

1 Final Order contained herein.

2 **B. Civil Administrative Penalty**

3 39. Pursuant to SDWA § 1414(g)(3)(B), 42 U.S.C. § 300g-3(g)(3)(B), Respondent agrees
4 to the assessment of a penalty in the amount of eighteen thousand dollars (\$18,000.00) as final
5 settlement of the civil claims against Respondent arising under the SDWA as alleged in Section
6 II of this CA/FO.

7 40. Respondent shall pay the full penalty amount of \$18,000 within sixty (60) days of the
8 effective date of the Final Order. The date by which this payment must be received shall
9 hereafter be referred to as the "due date."

10 41. Respondent shall make payment under this CA/FO in accordance with any of the
11 accepted methods of payment listed in Attachment A, "EPA Region 9 Collection Information."
12 Concurrent with payment of the penalty, Respondent shall provide written notice of payment,
13 referencing the title and docket number of this case and attach a photocopy of the penalty
14 payment, via certified mail, to:

15 Janelle Kellman
16 Attorney
17 Office of Regional Counsel (ORC-2) and
18 U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105

Danielle Carr
Regional Hearing Clerk
Office of Regional Counsel (ORC-1)
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105

19 42. Failure to pay the penalty in full according to the above provisions may result in referral
20 of this matter to the United States Department of Justice or the United States Department of the
21 Treasury for collection.

22 43. If a payment is not received on or before the due date, interest will be assessed at the
23 annual rate established by the Secretary of the Treasury pursuant to the Debt Collection Act, 31
24 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In
25 addition, a late payment handling charge of fifteen dollars (\$15.00) will be assessed for each

1 thirty (30) day period (or any portion thereof) following the due date in which the balance
2 remains unpaid.

3 44. A six percent (6%) per annum penalty will also be applied on any principal amount not
4 paid within ninety (90) days of the due date.

5 **C. Retention of Rights**

6 45. Issuance of the CA/FO and full payment of the proposed penalty shall not affect the
7 rights of the EPA or the United States to pursue appropriate injunctive or other equitable relief
8 or criminal sanctions for any violations of law. Full payment of the penalty proposed in this
9 CA/FO shall only resolve Respondent's liability for Federal civil penalties for the violations and
10 facts alleged herein.

11 46. EPA's issuance of, or Respondent's compliance with, this CA/FO does not waive,
12 extinguish or otherwise affect Respondent's obligation to comply with all applicable
13 requirements of the SDWA, of any regulations promulgated thereunder, or of any legal order or
14 permit issued thereunder.

15 47. Respondent reserves any and all rights and defenses, whether of a legal or equitable
16 nature, that are not expressly waived in this Agreement.

17 **E. Attorneys' Fees and Costs**

18 48. EPA and Respondent hereto agree to bear their own costs and attorneys' fees in this
19 matter.

20 **F. Binding Effect**

21 49. Each undersigned signatory to this Consent Agreement certifies that the signatory is
22 duly and fully authorized to enter into and ratify this Consent Agreement and to bind the party
23 represented to all the terms and conditions set forth in this Consent Agreement.

24 50. The provisions of this Consent Agreement shall be binding upon Respondent, its
25 officers, directors, agents, servants, authorized representatives and successors or assigns.

1 ENVIRONMENTAL PROTECTION AGENCY
2 REGION IX

3 In the Matter of:

) Docket No.: SDWA-9-2007-_____

4 Scott Lawson (Oasis Mobile Home Park)
5 (PWS ID No. CA0605129)

) [PROPOSED] FINAL ORDER

6 Respondent.

7 Proceeding under Section
8 1414(g) of the Safe Drinking
9 Water Act, 42 U.S.C. § 300g-3(g)

) Pursuant to 40 C.F.R. §§ 22.13 and 22.18

10 Whereas the U.S. Environmental Protection Agency ("EPA"), Region IX, and Respondent Mr.
11 Scott Lawson have entered into the foregoing Consent Agreement,

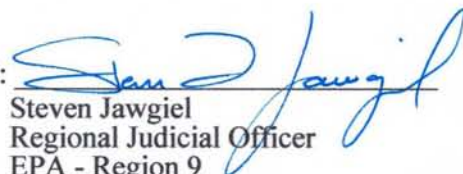
12 IT IS HEREBY ORDERED THAT:

13 1. The foregoing Consent Agreement and this Final Order be entered; and

14 2. Respondent shall pay a civil penalty of eighteen thousand dollars (**18,000.00**) to the
15 Treasurer of the United States of America in accordance with the terms set forth in the Consent
16 Agreement; and

17 3. This Final Order shall become effective on the date that it is filed with the Regional
18 Hearing Clerk, EPA Region IX, San Francisco, California.

19
20 BY:


21 Steven Jawgiel
22 Regional Judicial Officer
23 EPA - Region 9
24 75 Hawthorne Street
25 San Francisco, California 94105

DATE: 09/21/07

1 RESPONDENT:

2
3 BY: 

DATE: 9-08-07

4 TITLE: _____

5 for Respondent Scott Lawson

6 COMPLAINANT:

7
8 BY: 

DATE: 20 Sept. 2007

9 Alexis Strauss

10 Director, Water Division

11 United States Environmental Protection Agency, Region IX

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the CONSENT AGREEMENT and FINAL ORDER was delivered as follows:

Via facsimile and certified mail delivery to:

Ms. Carla Hoke
Fredericks and Peebles LLP
1900 Plaza Drive
Louisville, CO 80027
FAX: (303) 673-9155

Date: 09-27-2007

By: Danielle E Carr
Danielle Carr, Regional Hearing Clerk
Office of Regional Counsel
EPA Region IX