



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

2008 DEC 11 PM 1:44

DOCKET NO.: SDWA-08-2008-0090

**BITTERROOT RANCH, LLC.
MEL FOX and BAYARD FOX, Operators**

Respondents

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FINAL ORDER

Pursuant to 40 C.F.R. §22.18, 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 Respondents are hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

SO ORDERED THIS 11th DAY OF December, 2008

Elyana R. Surin
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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IN THE MATTER OF)
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Bitterroot Ranch, LLC)
Mel Fox and Bayard Fox, Operators)
Dubois, Wyoming)
Respondents)

) Docket No. SDWA-08-2008-0090

) **CONSENT AGREEMENT**
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Proceedings under section 1414(g)
of the Safe Drinking Water Act,
42 U.S.C. § 300g-3(g)

Complainant United States Environmental Protection Agency, Region 8 (EPA) Bitterroot Ranch, LLC and Mel and Bayard Fox (Respondents), hereby consent and agree as follows:

1. On August 18, 2008, EPA issued an Administrative Penalty Complaint (Complaint) alleging that the Respondents violated an Administrative Order that EPA had previously issued under section 1414(g)(1) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g)(1). The Complaint proposed that the Respondents pay an administrative civil penalty for their violation, pursuant to section 1414(g)(3) of the Act, 42 U.S.C. § 300g-3(g)(3).

2. The Respondents admit the jurisdictional allegations of the Complaint and neither admit nor deny the specific factual allegations of the Complaint. The Respondents do not admit to any violations of the Act or to any wrongdoing.

3. The Respondents waive their right to a hearing before any tribunal to contest any issue of law or fact set forth in the Complaint or in this Consent Agreement.

4. This Consent Agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondents and Respondents' heirs. Any change in the ownership or operation of the public water system at issue, including, but not limited to, any transfer of assets or real or personal property, shall not alter the Respondents' responsibilities under this agreement. This Consent Agreement contains all terms of the settlement agreed to by the parties.

5. The Respondents consent and agree to pay a civil penalty in the amount of one thousand five hundred fifty three dollars and eighty two cents (\$1,553.82) in the manner described below:

- a. Payment shall be made in two installments, the first in the amount of \$775 and the second in the amount of \$778.82, due no later than thirty and sixty calendar days, respectively, from the date of the Final Order, issued by the Regional Judicial Officer, that adopts this Consent Agreement. If the due date for any payment falls on a weekend or legal federal holiday, then the due date is the next business day. The date the payment is made is considered to be the date processed by the Federal Reserve Bank, described below. Payments 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, including the name and docket number of this case, for the amount, payable to "Treasurer, United States of America." (or be paid by one of the other methods listed below) and sent as follows:

Regular Mail:

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

Wire Transfers:

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Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:
Federal Reserve Bank of New York
ABA = 021030004
Account = 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"

Overnight Mail:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact Natalie Pearson
314-418-4087

ACH (also known as REX or remittance express):

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact – Jesse White 301-887-6548
ABA = 051036706
Transaction Code 22-checking
Environmental Protection Agency
Account 310006
CTX Format

On Line Payment:

This payment option can be accessed from the information below:
www.pay.gov
Enter sf01.1 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
Enforcement Officer
Water Enforcement Program (8ENF-W)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

and

Tina Artemis
Regional Hearing Clerk (8RC)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

- c. In the event 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 (i.e., 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 thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., by the 121st day from the date the Final Order is signed). 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 Respondents agree that the penalty shall never be claimed as a federal or other tax deduction or credit.
6. Nothing in this Consent Agreement shall relieve the Respondents of the duty to

comply with the Act and its implementing regulations.

7. Any failure by the Respondents to comply with any of the terms of this Consent Agreement shall constitute a breach of the 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.

8. 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 the Respondents' failure to perform pursuant to the terms of this Consent Agreement.

9. The undersigned representative of the Respondent Bitterroot Ranch, LLC/Mel Fox certifies that she is fully authorized to enter into the terms and conditions of this Consent Agreement and to bind the Respondent Bitterroot Ranch, LLC to the terms and conditions of this Consent Agreement.

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

11. Each party shall bear its own costs and attorney fees in this matter.

12. This Consent Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint.

Bitterroot Ranch, LLC/Mel Fox and Bayard Fox,
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Consent Agreement

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,

Complainant:

Date: 9 December 2008

By: Diane Sipe
Diane Sipe, Director
Water Enforcement Program
Office of Enforcement,
Compliance and Environmental Justice
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

Date: 12/10/08

By: Michael T. Risner
Michael Risner, Director
Legal Enforcement Program
Office of Enforcement,
Compliance and Environmental Justice
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

Bitterroot Ranch, LLC/Mel Fox and Bayard Fox,
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Bitterroot Ranch LLC/Mel Fox, Respondents

Date: 1/12/08

By: Mel Fox
Mel Fox

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **BITTERROOT RANCH LLC, MEL FOX AND BAYARD FOX, OPERATORS, DOCKET NO.: SDWA-08-2008-0090** was filed with the Regional Hearing Clerk on December 11, 2008.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Jean Belille, Enforcement Attorney, U.S. EPA - Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt and e-mailed on December 11, 2008 to:

Richard Fox
1480 East Fork Road
Dubois, WY 82513

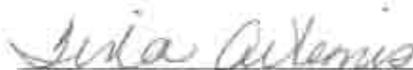
Hand-carried to:

Honorable Elyana R. Sutin
Regional Judicial Officer
U. S. EPA Region 8 (8RC)
1595 Wynkoop Street
Denver, CO 80202-1129

E-mailed to:

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

December 11, 2008



Tina Artemis
Paralegal/Regional Hearing Clerk