



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2010 NOV -4 AM 11:42

1595 WYNKOOP STREET
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

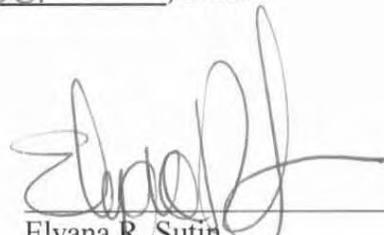
FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: SDWA-08-2009-0040

IN THE MATTER OF:)
)
THE KINNEAR STORE, INC.) FINAL ORDER
)
RESPONDENT)

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 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 4th DAY OF November, 2010.



Elyana R. Sutin
Regional Judicial Officer

2010 NOV -3 PM 1:50

FILED
EPA REGION VIII
HEARING CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF)	
)	
The Kinnear Store, Inc.)	
)	Docket No. SDWA-08-2009-0040
)	
Respondent)	CONSENT AGREEMENT
)	
Proceeding under § 1414(g))	
of the Safe Drinking Water Act,)	
42 U.S.C. § 300g-3(g))	
)	

Complainant United States Environmental Protection Agency Region 8 (EPA) and The Kinnear Store, Inc. (Respondent), by their undersigned representatives, hereby consent and agree as follows:

1. On March 9, 2009, EPA issued a Complaint and Notice of Opportunity for Hearing (Complaint) alleging that the Respondent violated an Administrative Order that EPA had previously issued under § 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g). The Complaint proposed that the Respondent pay an administrative civil penalty for its violations, pursuant to § 1414(g)(3) of the Act, 42 U.S.C. § 300g-3(g)(3).
2. The Respondent admits the jurisdictional allegations of the Complaint and neither admits nor denies the specific factual allegations of the Complaint. The Respondent does not admit to any violations of the Act or to any wrongdoing.

3. The Respondent waives its 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 Respondent and Respondent's successors and assigns. Any change in Respondent's 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 Respondent's responsibilities under this Consent Agreement. This Consent Agreement contains all terms of the settlement agreed to by the parties.

5. The Respondent consents and agrees to pay a civil penalty in the amount of five hundred dollars (\$500.00), an amount EPA has agreed to accept because the Respondent has demonstrated it is unable to afford the penalty proposed in EPA's Complaint, in the manner described below:

- a. Payment shall be in a single payment of \$500, due no later than thirty calendar days from the date of the Final Order, issued by the Regional Judicial Officer, that adopts this Consent Agreement. If the due date for the 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 U.S. Bank, described below. Payment must be received by 11:00 AM Eastern Standard Time to be considered as received that day.
- b. The payment shall be made by remitting a cashier's or certified check, or making a wire transfer or on-line payment, including the name and docket number of this case, for the amount stated in part "a," above, payable to "Treasurer, United States of America," as follows:

The Kinnear Store, Inc.
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If sent by regular U.S. mail:

U.S. Environmental Protection Agency / Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

If sent by any overnight commercial carrier:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
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

The payment may also be made on-line by accessing "www.pay.gov."

A copy of the check (or notification of wire transfer or on-line payment)
shall be sent simultaneously to:

Kimberly Pardue Welch, 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. 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 (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 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.

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

7. Any failure by the Respondent 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 Respondent's failure to perform pursuant to the terms of this Consent Agreement.

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9. The undersigned representative of the Respondent certifies that 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.

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.

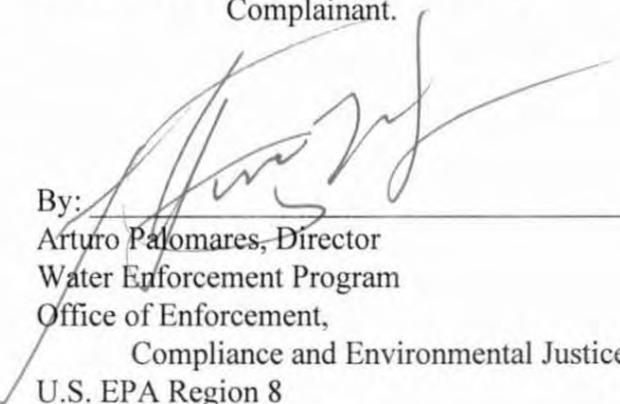
11. The Respondent agrees to monitor the water at its public water system at least quarterly for total coliform bacteria and at least yearly for nitrate and to submit the monitoring results to EPA within 10 days of the end of the pertinent monitoring period.

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

13. This Consent Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a full settlement of the United States' claims for civil penalties against the Respondent for the violations alleged in the Complaint.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY REGION 8,
Complainant.

Date: November 2, 2010

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

The Kinnear Store, Inc.
Docket No. SDWA-08-2009-0040
Consent Agreement

Date: 11/2/10

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

THE KINNEAR STORE, INC.
Respondent

Date: 10-28-10

By: Fred Nelson
Fred Nelson, President

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **THE KINNEAR STORE, INC.; DOCKET NO.: SDWA-08-2009-0040** the **CONSENT AGREEMENT** was filed with the Regional Hearing Clerk on November 3, 2010; the **FINAL ORDER** was filed on November 4, 2010.

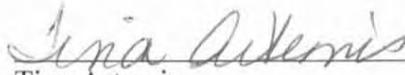
Further, the undersigned certifies that a true and correct copy of the documents were delivered Margaret "Peggy" Livingston, Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt requested on November 4, 2010 to:

Fred Nelson, President
The Kinnear Store, Inc.
P. O. Box 372
11519 Hwy. 26
Kinnear, WY 82516

E-mailed to:

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

November 4, 2010


Tina Artemis
Paralegal/Regional Hearing Clerk

