



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

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REGIONAL OFFICE  
DENVER, COLORADO

DOCKET NO.: SDWA-08-2008-0093

IN THE MATTER OF:	)	
	)	
ETHETE PUBLIC WATER SYSTEM	)	FINAL ORDER
NORTHERN ARAPAHO UTILITIES	)	
Ethete, WY	)	
	)	
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 30<sup>th</sup> DAY OF April, 2009.

  
 \_\_\_\_\_  
 Elyana R. Sutin  
 Regional Judicial Officer

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

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IN THE MATTER OF )  
 )  
Ethete Public Water System )  
Northern Arapaho Utilities )  
Ethete, Wyoming )  
PWS ID# 085690002, )  
 )  
Respondent. )  
\_\_\_\_\_ )

Docket No. SDWA-08-2008-0093 )  
**CONSENT AGREEMENT** )

Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondent, Northern Arapaho Utilities (“NAU” or “Respondent”), by their undersigned representatives, hereby consent and agree as follows:

**FACTUAL AND PROCEDURAL BACKGROUND**

1. On August 20, 2008, Complainant issued a Complaint and Notice of Opportunity for Hearing (Complaint) alleging certain violations of the National Primary Drinking Water Regulations (NPDWRs) set forth at 40 C.F.R. Part 141 and Section 1414 of the Safe Drinking Water Act (Act), 42 U.S.C. § 300g *et seq.* Specifically, the Complaint cites NAU for failure to monitor quarterly for disinfection byproducts, failure to determine and report quarterly to EPA the enhanced coagulation calculation, failure to provide public notice, and failure to report to EPA noncompliance with the NPDWRs. The Complaint proposes a civil penalty for the violations alleged therein.

2. Respondent admits the jurisdictional allegations of the Complaint and neither admits nor denies the specific factual allegations of the Complaint.

3. Respondent waives its right to a hearing before any tribunal, to contest any issue of law or fact set forth in the Complaint or the Consent Agreement.

4. This Consent Agreement contains all terms of the settlement agreed to by the Parties. Upon incorporation into a final order, this Consent Agreement applies to and is binding upon Respondent, its officers, directors, employees, agents and all persons acting under or for Respondent, until such time as the civil penalty required under paragraph no. 6 has been paid. This Consent Agreement upon incorporation into a final order shall constitute full civil settlement of the violations alleged in the Complaint.

5. The system currently is in compliance with the Act and the NPDWRs. In a good-faith effort to maintain present and promote future compliance with the NPDWR requirements imposed by the Act at the Ethete, Arapaho Community and Arapaho Industrial Park public water systems operated and maintained on behalf of the Northern Arapaho Tribe by the NAU, the NAU and the Northern Arapaho Tribe have made the following compliance commitments: 1) retain the services of a contractor for a period of three years, plus an additional year in an advisory capacity, to work with the NAU to conduct required sampling, monitoring, and reporting for all three NAU-operated systems; 2) provide training for at least two operators and for one administrative support staff; and 3) develop a map of SDWA monitoring compliance points and make recommendations for improving the drinking water distribution system.

6. Pursuant to section 1414(g)(3) of the Act, 42 U.S.C. § 300g-3(g)(3), the seriousness of the violation, the population at risk, the Respondent's degree of willfulness and/or negligence, history of noncompliance, if any, and ability to pay, EPA has determined that an appropriate civil penalty to settle this action is in the amount of **TWELVE THOUSAND, SEVEN HUNDRED, FIFTY DOLLARS (\$12,750)**.

## TERMS OF SETTLEMENT

7. Respondent consents to the issuance of the Consent Agreement and consents, for the purposes of settlement and without admitting any of the allegations in the Order not heretofore admitted, to the payment of the civil penalty cited in paragraph 6 above. Respondent shall pay the civil penalty cited in paragraph 6 above by making a total of three payments as set forth in this Consent Agreement. Respondent shall make an initial payment in the amount of FOUR THOUSAND TWO HUNDRED FIFTY DOLLARS (\$4,250.00) in the manner described below:

- a. Payment is due within 30 calendar days from the date written on the Final Consent Order, issued by the Regional Judicial Officer, that adopts this Consent Agreement. If the due date falls on a weekend or legal federal holiday, then the due date becomes the next business day. The date the payment is made is considered to be the date processed by Mellon Bank described below. Payments received by 11:00 AM EST are processed on the same day, those received after 11:00 AM are processed on the next business day.
- b. The payment shall be made by remitting a cashier's or certified check, referencing the name and docket number of this case for this amount, payable to "**Environmental Protection Agency**," to:

**US checks by regular  
US postal service mail:**

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

**Federal Express, Airborne,  
or other commercial carrier:**

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101

**Wire transfers:**

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"

**On Line Payment:**

WWW.PAY.GOV  
Enter sfo 1.1 in the search field

Open form and complete required  
fields.

Copies of the check or wire transfer shall be simultaneously sent to:

Amy Swanson, Enforcement Attorney  
U.S. EPA Region 8 (8ENF-L)  
1595 Wynkoop Street  
Denver, CO 80202-1129

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

- c. In the event payment is not received by the specified due date, interest accrues from the date of the final order, not the payment 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 the payment is received in full (i.e., on the 1<sup>st</sup> late day, 30 days of interest accrues).
- d. In addition to the accrual of interest specified in paragraph 5(c) of this Agreement, a handling charge of fifteen dollars (\$15.00) shall be assessed on the 31<sup>st</sup> day from the date of the final order, and each subsequent 30-day period that the penalty, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if the penalty payment is not received within 90 days of the due date (i.e., the 121<sup>st</sup> 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. Respondent agrees that the penalty shall never be claimed as a Federal or other tax deduction or credit.

8. The Respondent shall make two additional payments according to the following payment schedule and in the same manner as referenced in paragraph 7 above:

- a. No later than August 15, 2009, Respondent shall pay \$4,250 plus interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717 which totals **\$4,297.87**, if timely paid;
- b. No later than November 15, 2009, Respondent shall pay the remaining \$4,250 plus interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717 which totals **\$4,297.87**, if timely paid.

9. Should Respondent so choose, but in compliance with paragraph 7, it may pay the entire amount of the civil penalty agreed to in paragraph 6 within the thirty (30) day timeframe specified in paragraph 7a without the interest for payment by installment in paragraph 8.

#### **GENERAL PROVISIONS**

10. This Consent Agreement shall not relieve Respondent of its obligation to comply with the Act and its implementing regulations.

11. Nothing in this Consent Agreement shall be construed as a waiver by the EPA of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of the Consent Agreement.

12. The undersigned representative of Respondent certifies that he is fully authorized to enter into the terms and conditions for this Consent Agreement and to bind the Respondent to the terms and conditions of this Consent Agreement.

13. The parties agree to submit this Consent Agreement to the presiding officer with a request that it be incorporated into a final order.

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



15. Failure by Respondent to comply with any of the terms of the Consent Agreement shall constitute a breach of the agreement and may result in referral of the matter to the Department of Justice for enforcement of the Consent Agreement and for such other relief as may be appropriate in federal district court.

16. The Consent Agreement, upon incorporation into a final order by the presiding officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint.

17. This Consent Agreement shall become effective upon filing with the presiding officer.

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

Date: 29 April 2009

By: Sharon L Kercher  
for Andrew M. Gaydosh,  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

**NORTHERN ARAPAHO UTILITIES,  
Respondent.**

Date: 4-29-09

By: Gerald Redman  
Gerald Redman, Manager  
Northern Arapaho Utilities

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter **ETHETE PUBLIC WATER SYSTEM, NORTHERN ARAPAHO UTILITIES; DOCKET NO.: SDWA-08-2008-0093**; the **CONSENT AGREEMENT** was filed on April 29, 2009, and the **FINAL ORDER** was filed with the Regional Hearing Clerk on April 30, 2009.

Further, the undersigned certifies that a true and correct copies of the documents were delivered to Amy Swanson, Senior 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 requested on April 30, 2009 to:

Berthenia S. Crocker  
Attorney for Respondent  
Baldwin & Crocker, P. C.  
P. O. Box 1229  
Lander, WY 82520

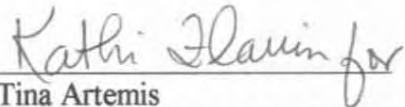
Hand-carried to:

Honorable Elyana R. Sutin  
Regional Judicial Officer  
U. S. Environmental Protection Agency

E-mailed to:

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

April 30, 2009

  
Tina Artemis  
Paralegal/Regional Hearing Clerk