



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

2013 JUL 15 AM 11:43

FILED  
EPA REGION VIII  
HEARING CLERK

DOCKET NO.: SDWA-08-2012-0056

IN THE MATTER OF:

RICK SMITH, OWNER  
LODORE SUPPER CLUB AND SALOON

Respondent

)  
)  
)  
)  
)  
)  
)  
)  
)

FINAL ORDER

Pursuant to 40 C.F.R. § 22.13(b) 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 Parties are hereby **ORDERED** to comply with all of the terms of this **Order**, effective immediately upon receipt by Parties of this **Order**.

SO ORDERED THIS 15<sup>th</sup> Day of July, 2013

Elyana R. Smith  
Regional Judicial Officer

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

2013 JUL 15 AM 11:43

IN THE MATTER OF	)	
	)	
Rick Smith, Owner	)	
Lodore Supper Club and Saloon	)	Docket No. SDWA-08-2012-0056
	)	
Respondent	)	<b>CONSENT AGREEMENT</b>
	)	
Proceeding under section 1414(g)	)	
of the Safe Drinking Water Act,	)	
42 U.S.C. § 300g-3(g)	)	
<hr/>		

FILED  
EPA REGION VIII  
HEARING CLERK

The United States Environmental Protection Agency Region 8 (EPA or Complainant), by its undersigned representatives, and Rick Smith (Respondent) hereby consent and agree as follows:

1. On September 25, 2012, the EPA issued a Complaint and Notice of Opportunity for Hearing (Complaint) alleging that the Respondent violated an Administrative Order that the EPA had previously issued under section 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 the alleged violations, pursuant to section 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 his rights to contest the allegations in the Complaint and to appeal the Final Order issued by the Regional Judicial Officer approving this Consent Agreement.
4. This Consent Agreement, upon incorporation into a Final Order, applies to and is binding upon the EPA and upon the Respondent and the Respondent's heirs and assigns. Any change in the Respondent's ownership and/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) in the manner described below:

- a. Payment shall be in two payments of \$250.00 each, due no later than 30 and 60 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 federal holiday, then the due date is the next business day. The date a payment is made is considered to be the date processed by U.S. Bank, as described below. Payment 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 or making a wire transfer or on-line payment. Each check or other payment shall designate the name and docket number of this case, be in the amount stated in part "a," above, and be payable to "Treasurer, United States of America." Each payment shall be sent as follows:

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

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

A copy of each 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. If a 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 (e.g., on the 1<sup>st</sup> late day, 30 days of interest will have accrued).
- d. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 31<sup>st</sup> day from the date of the Final Order, and for each subsequent 30-day period that the debt, or any portion thereof, remains unpaid. In addition, a 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 this 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 any failure by the Respondent to meet his obligations under this Consent Agreement.

9. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a Final Order.

10. Each party shall bear its or his own costs and attorney's fees in this matter.

11. 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 specific violations alleged in the Complaint.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY REGION 8,  
Complainant.

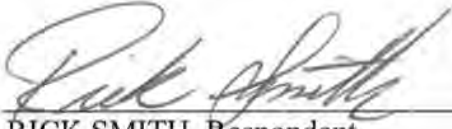
Date: 7-12-2013

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

Date: 7-12-13

By: Margaret G. (Peggy) Livingston, Acting for  
James H. Eppers, 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

Date: 7-9-13

  
RICK SMITH, Respondent

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **RICK SMITH, OWNER, LODORE SUPPER CLUB AND SALOON; DOCKET NO.: SDWA-08-2012-0056**. The documents were filed with the Regional Hearing Clerk on July 15, 2013.

Further, the undersigned certifies that a true and correct copy of the documents were delivered to, 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 July 15, 2013, to:

Rick Smith, Owner  
Lodore Supper Club and Saloon  
P. O. Box 6044  
Sheridan, WY 82802

e-mailed to:

Honorable Elyana R. Sutin  
Regional Judicial Officer  
U. S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street (8RC)  
Denver, CO 80202

and:

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

July 15, 2013



Tina Artemis  
Paralegal/Regional Hearing Clerk