

U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGION 8  
DOCKET NO.: SDWA-08-2011-0075

2012 APR 24 AM 8:05

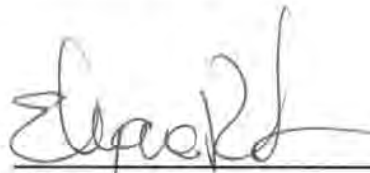
FILED  
EPA REGION 8  
RECORDS CLERK

IN THE MATTER OF: )  
)  
Ron and Judy Newkirk, Owners ) **FINAL ORDER**  
Arlington Outpost Public Water System )  
McFadden, WY )  
PWS ID#WY5600068 )  
)  
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 Respondents are hereby **ORDERED** to comply with all the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

In addition, Complainant's Motion for Order Authorizing Facsimile Filing filed, April 16, 2012, pursuant to 40 C.F.R. § 22.5(a)(1), is **GRANTED**. Respondents' original signature page shall be filed within ten (10) days of this Order.

SO ORDERED THIS 24<sup>th</sup> of April, 2012.



Elyana R. Sutin  
Regional Judicial Officer

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2012 APR 24 AM 8:05

In the Matter of: )  
)  
Ron and Jody Newkirk, Owners )  
Arlington Outpost Public Water System )  
McFadden, WY )  
PWS ID#WY5600068 )  
)  
Respondents. )  
\_\_\_\_\_ )

Docket No. SDWA-08-2011-0075  
**CONSENT AGREEMENT**

Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondents Ron and Jody Newkirk (Respondents) hereby consent and agree as follows:

**FACTUAL AND PROCEDURAL BACKGROUND**

1. On September 22, 2011, 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 the Respondents for failure to monitor for total coliform; failure to report noncompliance with the total coliform rule to EPA; failure to monitor the system's water annually for nitrate and report results to EPA within 10 days following the month in which the samples were received; failure to notify the public of the NPDWR violations; and failure to report any violations of the NPDWRs to EPA within 48 hours (except where a different reporting period is specified). The Complaint proposes a civil penalty for the violations alleged therein.

2. Respondents admit the jurisdictional allegations of the Complaint and neither admit nor deny the specific factual allegations of the Complaint.

3. Respondents waive their 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 Complainant and the Respondents (hereafter referred to collectively as "the parties"). Upon incorporation into a final order, this Consent Agreement applies to and is binding upon Respondents, their employees, and all persons acting under or for the Respondents, 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. Pursuant to section 1414(g)(3) of the Act, 42 U.S.C. § 300g-3(g)(3), taking into account the seriousness of the violation, the population at risk, Respondents' 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 **ONE THOUSAND DOLLARS (\$1,000)**.

#### **TERMS OF SETTLEMENT**

6. Respondents consent to the issuance of the Consent Agreement and consent, 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 no. 5 above. Respondents shall pay the civil penalty cited in paragraph no. 5 above by making a total of four (4) payments as set forth in this Consent Agreement. Respondent shall make an initial payment in the amount of TWO HUNDRED FIFTY DOLLARS (\$250.00) in the manner described below:

- a. Payment is due within 30 calendar days from the date written on the Final 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 of the first payment, 30 days of interest accrues; interest will accrue back to the Final Order date to the date of receipt for any subsequent late installment payments).
- d. In addition to the accrual of interest specified in paragraph 6(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 any penalty payment is not received within 90 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. Respondent agrees that the penalty shall never be claimed as a Federal or other tax deduction or credit.

7. Respondents shall make three additional payments, each in the amount of \$250.00, according to the following schedule and in the same manner as referenced in Paragraph 6 above:

- a. No later than August 1, 2012;
- b. No later than November 1, 2012; and
- c. No later than February 1, 2013;

8. Respondents may pay the full penalty amount any time prior to February 1, 2013, without incurring a pre-payment penalty.

9. EPA reserves the right to call due the entire amount of \$1,000, or the outstanding balance thereof, within thirty days of receipt of notice in the event that any of the above payments are late or missed.

## GENERAL PROVISIONS

10. This Consent Agreement shall not relieve Respondents of their 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 Respondents' failure to perform pursuant to the terms of the Consent Agreement.

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

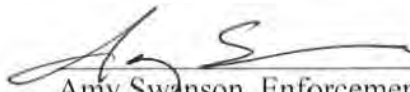
17. This Consent Agreement shall become effective upon filing with the presiding officer.

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

Date: 4/24/2012

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

Date: 4/24/12

  
Amy Swanson, Enforcement Attorney  
U.S. EPA, Region 8  
1595 Wynkoop Street (8ENF-L)  
Denver, CO 80202-1149  
Colorado Atty. Reg. No. 26488  
Telephone: 303/312-6906  
Facsimile: 303/312-6953

**RON AND/OR JODI NEWKIRK,**  
Respondents.

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Arlington Outpost Public Water System Owners

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8 COMPLIANCE

Date: \_\_\_\_\_

By: \_\_\_\_\_

Andrew M. Gaydash,  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

Date: \_\_\_\_\_

Amy Swanson, Enforcement Attorney  
U.S. EPA, Region 8  
1595 Wynkoop Street (81.N) 411  
Denver, CO 80202-1149  
Colorado Atty. Reg. No. 26-88  
Telephone: 303 312-6906  
Facsimile: 303 312-9953

RON AND/OR JODI NEWKIRK,  
Respondents.

Date: 4/5/2012 \_\_\_\_\_

By: \_\_\_\_\_

Jodi Newkirk  
Arlington Outpost Public Water System Owners



## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT and FINAL ORDER** in the matter of **RON and JODY NEWKIRK, OWNERS; ARLINGTON OUTPOST PUBLIC WATER SYSTEM; DOCKET NO.: SDWA-08-2011-0075** was filed with the Regional Hearing Clerk on April 24, 2012.


Further, the undersigned certifies that a true and correct copy 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 documents were placed in the United States mail certified/return receipt on April 24, 2012 to:

Ron and Jody Newkirk, Owners  
Arlington Outpost  
Arlington Route, HC 64  
P. O. Box 95  
McFadden, WY 82083

E-mailed to:

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

April 24, 2012

  
Tina Artemis  
Paralegal/Regional Hearing Clerk



Printed on Recycled Paper