



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
 REGION 8  
 1595 WYNKOOP STREET  
 DENVER, CO 80202-1129  
 Phone 800-227-8917  
<http://www.epa.gov/region08>

2013 SEP 24 AM 11:08


FILED  
 EPA REGION VIII  
 HEARING CLERK

DOCKET NO.: SDWA-08-2013-0062

IN THE MATTER OF:	)	
	)	
<b>TRIANGLE C RANCH, LLC.</b>	)	<b>FINAL ORDER</b>
3737 Highway 26	)	
Dubois, Wyoming 82513	)	
	)	
<b>RESPONDENT</b>	)	

Pursuant to 40 C.F.R. §22.13(b) and 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 24<sup>th</sup> DAY OF September, 2013.

  
 Elyana R. Sutin  
 Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2013 SEP 24 AM 11:08

IN THE MATTER OF:

Triangle C Ranch, LLC  
3737 Highway 26  
Dubois, Wyoming 82513

Respondent.

COMBINED COMPLAINT AND  
CONSENT AGREEMENT

Docket No. SDWA-08-2013-0062

FILED  
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Complainant, the United States Environmental Protection Agency, Region 8 (EPA or Complainant) and Respondent, Triangle C Ranch, LLC (Respondent), by their undersigned representatives, hereby consent and agree as follows:

I. STATUTORY AUTHORITY

1. This matter is subject to 40 C.F.R. Part 22. This Combined Complaint and Consent Agreement (Consent Agreement) is entered into by the parties for the purpose of simultaneously commencing and concluding this matter, as authorized by 40 C.F.R. § 22.13(b) and executed pursuant to 40 C.F.R. § 22.18(b)(2) and (3).

2. The EPA has jurisdiction over this matter pursuant to section 1414(g)(3) of the Safe Drinking Water Act (Act) as amended, 42 U.S.C. § 300g-3(g)(3).

II. PARTIES BOUND

3. The Consent Agreement, upon incorporation into a final order, applies to and is binding upon Complainant and Respondent, and Respondent's officers, directors, agents, successors and assigns. Any change in ownership or in corporate organization, structure or status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter any of Respondent's responsibilities under this Consent Agreement unless Complainant, Respondent and the transferee agree in writing to allow the transferee to assume such responsibilities.

Additionally, thirty (30) days prior to such transfer, Respondent shall notify Complainant at the address specified in paragraph 37d. of this Consent Agreement of the pending transfer.

### III. STATEMENT OF THE PARTIES

4. For the purposes of this settlement only, Respondent admits the jurisdictional allegations; however, Respondent neither admits nor denies the specific factual allegations contained herein and makes no admission of any violation of law in entering into this Consent Agreement.

5. Respondent waives its right to a hearing before any tribunal to contest any issue of law or fact set forth in this Consent Agreement. Respondent further waives its right to appeal the final order in this matter.

6. Complainant asserts that settlement of this matter is in the public interest, and Complainant and Respondent agree that entry of this Consent Agreement and its incorporation into a final order without further litigation and without adjudication of any issue of fact or law will avoid prolonged and complicated litigation between the parties.

7. This Consent Agreement contains all settlement terms agreed to by the parties.

### IV. GENERAL ALLEGATIONS

8. Respondent is a limited liability company and is therefore a "person" within the meaning of section 1401(12) of the Act, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2. Respondent's mailing address is 3737 Highway 26, Dubois, Wyoming 82513.

9. Respondent owns and/or operates a public water system, the Triangle C Ranch public water supply system (system), located in Fremont County, Wyoming that provides piped water to the public for human consumption.

10. The system has approximately 20 service connections and/or regularly serves approximately 21 individuals daily at least 60 days out of the year, and is therefore a "public water system" within the meaning of section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "transient non-community water system" within the meaning of 40 C.F.R. § 141.2.
11. Respondent is a "supplier of water" within the meaning of section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2.
12. Respondent is subject to the Act and the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. Part 41. The NPDWRs are "applicable requirements" as defined in section 1414(i) of the Act, 42 U.S.C. § 300g-3(i).
13. The state of Wyoming does not have primary enforcement responsibility pursuant to section 1413 of the Act, 42 U.S.C. § 300g-2. Pursuant to 40 C.F.R. § 141.2, the term "State" for purposes of enforcement of the NPDWRs in the state of Wyoming is therefore the Regional Administrator of Region 8 for the EPA.
14. Pursuant to 40 C.F.R. § 141.23(d), Respondent was required to monitor the system's water annually for nitrate.
15. Pursuant to 40 C.F.R. § 141.21(a), Respondent was required to monitor the system's water quarterly for total coliform bacteria.
16. Pursuant to 40 C.F.R. § 141.31(b), Respondent was required to report any failure to comply with the nitrate monitoring requirements to the EPA within 48 hours of the monitoring violation.
17. Pursuant to 40 C.F.R. § 141.21(g)(2), Respondent was required to report any failure to comply with the coliform monitoring requirements to the EPA within ten days after discovering the violation.

## V. SPECIFIC ALLEGATIONS

### The September 13, 2011 Administrative Order

18. Respondent failed to monitor the system's water for nitrate for the year 2010.
19. Respondent failed to monitor the system's water for total coliform bacteria during the second quarter (April-June) of 2011.
20. Respondent failed to notify the EPA of its failure to comply with the monitoring requirements.
21. On September 13, 2011, under authority of section 1414(a)(2) of the Act, 42 U.S.C. § 300g-3(a)(2), the EPA issued an Administrative Order to Respondent notifying Respondent that it had failed to comply with the NPDWRs and ordered Respondent to comply with the monitoring requirements for nitrate and total coliform bacteria, and that any violation of the nitrate monitoring requirements must be reported to the EPA within 48 hours of the violation, and any violation of the coliform monitoring requirements must be reported to the EPA within ten days of the discovery of the violation.

### The June 12, 2012 Administrative Order Violation

22. Respondent failed to monitor for total coliform bacteria during the fourth quarter (October-December) of 2011.
23. Respondent failed to report the noncompliance to EPA.
24. On June 12, 2012, the EPA issued an Administrative Order Violation letter to Respondent notifying Respondent that it had violated the September 13, 2011, Administrative Order, and that the EPA was considering additional enforcement action as a result of Respondent's violations of the Administrative Order and the NPDWRs.

The January 7, 2013 Administrative Order Violation

25. Respondent failed to monitor for total coliform bacteria during the third quarter (July-September) of 2012, and took only one of the two total coliform samples required during the first (January-March) and second (April-June) quarters of 2012.
26. Respondent failed to report the noncompliance to the EPA.
27. On January 7, 2013, the EPA issued an Administrative Order Violation letter to Respondent notifying Respondent that it had violated the September 13, 2011 Administrative Order, and that the EPA was considering additional enforcement action as a result of Respondent's violations of the Administrative Order and the NPDWRs.

The May 15, 2013 Administrative Order Violation

28. Respondent failed to monitor for nitrate for the year 2012.
29. Respondent failed to monitor for total coliform bacteria during the fourth (October-December) quarter of 2012.
30. Respondent failed to report the noncompliance to the EPA.
31. On May 15, 2013, the EPA issued an Administrative Order Violation to Respondent notifying Respondent that it had violated the September 13, 2011, Administrative Order, and that the EPA was considering additional enforcement action as a result of Respondent's violations of the Administrative Order and the NPDWRs.

VI. FINDING OF VIOLATIONS

32. Respondent's failure to monitor for nitrate for the years 2010 and 2012 constitute violations of 40 C.F.R. § 141.23(d).

33. Respondent's failure to monitor for total coliform bacteria during the second quarter (April-June) of 2011; the fourth quarter (October-December) of 2011; the third quarter (July-September) of 2012; the fourth (October-December) quarter of 2012; and its incomplete monitoring for total coliform bacteria during the first (January-March) and second (April-June) quarters of 2012, constitute violations of 40 C.F.R. § 141.21.

34. Respondent's failure to report the nitrate monitoring violations to the EPA constitute violations of 40 C.F.R. § 141.31(b).

35. Respondent's failure to report the coliform monitoring violations to the EPA constitute violations of 40 C.F.R. § 141.21(g)(2).

#### VII. CIVIL PENALTY

36. Pursuant to section 1414(g)(3) of the Act, 42 U.S.C. § 300g-3(g)(3), and 40 C.F.R. part 19, any person who violates, or fails or refuses to comply with an Administrative Order shall be liable to the United States for a civil penalty of not more than \$37,500 per day of violation.

37. The EPA has determined that a civil penalty of \$1,000.00 is appropriate to settle this matter, to be paid in accordance with the Consent Agreement and signed final order issued by the Regional Judicial Officer, as specified below.

38. Respondent consents and agrees to the assessment and payment of the civil penalty cited in the foregoing paragraph for settlement purposes.

39. This Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete, full and final settlement of the civil penalty owed for violations alleged in this Agreement.

40. Respondent shall pay the penalty in three monthly installments, starting within 30 days after receipt of the final order, and continuing at thirty day intervals thereafter.

41. Respondent shall pay the agreed upon civil penalty by one of the following methods:

a. **Payments by cashier's or certified check:**

Cashier's or certified checks, including the name and docket number of this case, payable to "Treasurer, United States of America," to:

Regular Mail:

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

Overnight Mail:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines and Penalties  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, MO 63101

b. **Wire Transfer:**

Wire transfers should be directed to the Federal Reserve Bank of New York with the following information:

ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 680107272 Environmental Protection Agency"



c. **Online Payment:**

This option is available through the Department of the Treasury.

[www.pay.gov](http://www.pay.gov)

Enter sfo 1.1 in the search field.

Open form and complete the required fields.

d. Copies of checks or record of payment if made by other means shall be sent to:

Kathelene Brainich  
U.S. Environmental Protection Agency (8ENF-W-PWS)  
1595 Wynkoop Street  
Denver, CO 80202-1129

and

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

A transmittal letter identifying the case title and docket number must accompany the remittance and copies of the check.

42. In the event payment is not received by the specified due date, interest accrues from the date of the final order, not the due date (on the 1<sup>st</sup> late day, 30 days of interest will have accrued), 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.

43. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 31<sup>st</sup> day from the due date of any payment, 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. Payments are first applied to outstanding handling charges, 6% penalty interest, and late interest. The remainder is then applied to the outstanding principal amount.

44. The Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

VIII. OTHER TERMS AND CONDITIONS

45. Failure to comply with any of the terms of this 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 this Consent Agreement and for such other relief as may be appropriate.

46. Nothing in this Consent Agreement shall be construed as a waiver by Complainant 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 this Consent Agreement.

47. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to bind the parties to the terms and conditions of this Consent Agreement and to execute and legally bind that party to this Consent Agreement.

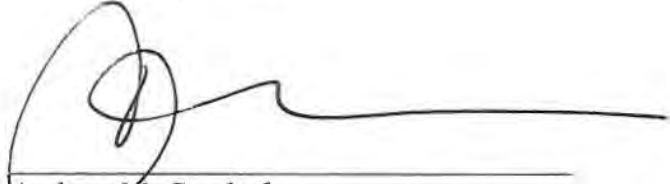
48. Each party shall bear its own costs and attorneys fees in connection with all issues associated with this Consent Agreement.

IN THE MATTER OF Triangle C Ranch, LLC, Docket No.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8

Complainant

Date: Sept. 24, 2013



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

TRIANGLE C RANCH, LLC

Respondent

Date: Sept. 6, 2013



Vicki Garnick  
Owner

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMBINED COMPLAINT, CONSENT AGREEMENT and FINAL ORDER** in the matter **TRIANGLE C RANCH, LLC.; DOCKET NO.: SDWA-08-2013-0062**. The **COMBINED COMPLAINT, CONSENT AGREEMENT AND FINAL ORDER** was filed with the Regional Hearing Clerk on September 24, 2013.


Further, the undersigned certifies that a true and correct copy of the documents were delivered to, Linda Kato, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were sent and placed in the United States mail certified/return receipt on September 24, 2013 to:

Vicki Garnick, Owner  
Triangle C Ranch, LLC.  
3737 Highway 26  
Dubois, Wyoming 82513

And emailed to:

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

September 24, 2013

  
Tina Artemis  
Paralegal/Regional Hearing Clerk



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