U.S. Environmental Protection Agency-Reg 2
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REGIONAL HEARING CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II
290 BROADWAY
NEW YORK, NEW YORK 10007-1866

IN THE MATTER OF:

Emerald Beach Resort I
Emerald Beach Resort II
c/o De Lyrot Holding/Best Western, Inc.
8070 Lindbergh Bay
St. Thomas, VI 00802

Respondent.

Emerald Beach Resort I (VI1000083)
Emerald Beach Resort II (VI1000084)

Proceeding Pursuant to Section §1414(g)(3)(B) of the Safe Drinking Water Act, 42 U.S.C. § 300g-3(g)(3)(B)

CONSENT AGREEMENT
AND
FINAL ORDER

Docket Nos.
SDWA-02-2014-8402
SDWA-02-2014-8403

I. PRELIMINARY STATEMENT

1. This administrative proceeding for the assessment of a civil penalty was instituted pursuant to Section 1414(g)(3)(B) of the Safe Drinking Water Act (the "Act"), 42 U.S.C. §300g-3(g)(3)(B).

2. The Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, Region 2, United States Environmental Protection Agency ("EPA"), issued a "Complaint, Findings of Violation, Notice of Proposed Assessment of a Civil Penalty and Notice of Opportunity to Request a Hearing" ("Complaint") to the Emerald Beach Resort I and Emerald Beach Resort II c/o De Lyrot Holding/Best Western, Inc. ("Respondent") on August 8, 2014.

3. The Complaint charged Respondent with violating the terms and conditions of an Administrative Order issued to Respondent pursuant to Section 1414(g) of the Act, 42 U.S.C. §300g-3(g), requiring compliance with an applicable requirement of the Act at Respondent's Emerald Beach Resort I and Emerald Beach Resort II public water systems, located in St. Thomas, United States Virgin Islands.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent operates the Emerald Beach Resort I and Emerald Beach Resort II "public water systems," located in St. Thomas, United States Virgin Islands, within the meaning of Section 1401(4) of the SDWA, 42 U.S.C. §300f(4) and 40 C.F.R. § 141.2.

2. Respondent is a "supplier of water" as that term is defined in Section 1401(5) of the SDWA, 42 U.S.C. §300(f)(5), and 40 C.F.R. § 141.2.

3. Respondent is a "person" within the meaning of Section 1401(12) of the SDWA, 42 U.S.C. §300f(12).

4. According to SDWA § 1414(g)(3)(b), 42 U.S.C. §300g-3(g)(3)(B), each person that owns or operates any public water system is subject to and must comply with, all federal, State, interstate, and local requirements, both substantive and procedural, to the same extent as any supplier of water is subject to such requirements.

5. Respondent provides piped water for human consumption and regularly serves a population of at least 25 individuals for at least 6 months per year, and is therefore a non-transient non-community water system ("NTNCWS") as defined by Section 1401(16) of the SDWA, 42 U.S.C. §300f(16), and 40 C.F.R. 141.2. Respondent is therefore subject to the requirements of Part B of the SDWA, 42 U.S.C. §300g, and its implementing regulations found at 40 C.F.R. Part 141.

6. The United States Virgin Islands Department of Planning and Natural Resources ("VIDPNR" or "State") administers the Public Water Supply Supervision Program in the United States Virgin Islands pursuant to Section 1413 of the SDWA, 42 U.S.C. §300g. The approval of primary enforcement responsibility from EPA to VIDPNR was effective as of September 22, 1979. VIDPNR is the primacy agency, as that term is defined in 40 C.F.R. §142.2. On August 1, 2011, VIDPNR referred the Emerald Beach Resort I and Emerald Beach Resort II public water systems ("PWSs") to EPA for appropriate action.

7. On December 16, 1998, EPA promulgated the Stage 1 Disinfectants and Disinfection Byproducts Rule ("Stage 1 DBPR"), 40 C.F.R. Part 141, Subpart L. The Stage 1 DBPR was promulgated with the intention of protecting public health from exposure to potentially harmful disinfection byproducts. The Stage 1 DBPR established criteria under which community water systems and non-transient non-community water systems that add a chemical disinfectant to the water in any part of the drinking water treatment process must modify their practices to meet maximum contaminant levels ("MCL") for disinfection byproducts , 40 C.F.R. §141.64, and maximum residual disinfectant levels, 40 C.F.R. §141.65, and must meet the treatment technique requirements for the control of disinfection byproduct precursors listed in 40 C.F.R. §141.135.