

1 2. Respondent provides water to the public for human consumption through pipes to at least
2 fourteen (14) service connections and regularly serves approximately thirty (30) year-round
3 residents.

4 3. Respondent is a “person” within the meaning of Section 1401(12) of the SDWA and 40
5 C.F.R. § 141.2 and a “supplier of water” as that term is defined in Section 1401(5) of the SDWA
6 and 40 C.F.R. § 141.2. Since May 2002 at the latest, Respondent has owned and operated a
7 “public water system” as defined by Section 1401(4) of the SDWA and 40 C.F.R. § 141.2, and a
8 “community water system” as defined by Section 1401(15) of the SDWA and 40 C.F.R. §
9 141.2. Respondent’s water system is a “small water system” as defined by 40 C.F.R. § 141.2.

10 4. Respondent’s public water system utilizes a groundwater source.

11 5. Respondent is the “owner” and “operator” of the Indian Village Mobile Home Park
12 water system within the meaning of the SDWA and 40 C.F.R. Part 141.

13 6. As a “public water system,” “supplier of water,” “owner,” “operator,” and “person,”
14 Respondent is subject to the requirements of Part B of the SDWA, 42 U.S.C. §§ 300g - 300g-9,
15 and all other applicable requirements of the SDWA as defined at 42 U.S.C. § 300g-3(i),
16 including applicable requirements within Part B’s implementing regulations at 40 C.F.R. Part
17 141.

18 7. EPA has primary responsibility for administering and enforcing the SDWA and its
19 applicable requirements for all public water systems located within the exterior boundaries of
20 the Torres Martinez Reservation, including Indian Village Mobile Home Park.

21 8. On September 3, 2004, EPA issued an Administrative Order (the “Order”) to
22 Respondent which found that Respondent, as owner and operator of the Indian Village Mobile
23 Home Park, had violated the SDWA and its implementing regulations at 40 C.F.R. Part 141.
24 The Order required full compliance with the SDWA and its implementing regulations within
25 timeframes set forth in the Order.

1 9. 40 C.F.R. § 141.21(a) requires community water systems serving 1,000 persons or fewer
2 to sample for total coliform bacteria at least once a month. Samples must be taken at sites that
3 are representative of water throughout the distribution system in accordance with a written
4 sample siting plan that is subject to EPA review and revision.

5 10. The Order required that within thirty (30) days from the effective date of the Order, and
6 during every month thereafter, Respondent comply with 40 C.F.R. § 141.21(a) by collecting a
7 set of coliform bacteria samples and submitting them for analysis to a certified laboratory.
8 Samples were required to be collected at sites representative of water throughout the distribution
9 system in accordance with a written sample siting plan.

10 11. The Order required Respondent to submit the written sample siting plan to EPA for
11 review and potential revision within thirty (30) days from the effective date of the Order.

12 12. The Order further required Respondent to collect a set of repeat samples within twenty-
13 four (24) hours of being notified of a total coliform-positive result, in accordance with 40 C.F.R.
14 § 141.21(b), which must include at least four (4) repeat samples at specified locations for each
15 total coliform-positive sample found. The Order required that if any routine or repeat sample is
16 positive with coliform bacteria, Respondent must further analyze the sample for fecal coliforms
17 or E. coli in accordance with 40 C.F.R. § 141.21(e).

18 13. Respondent violated the Order by failing to take one (1) sample of total coliform
19 bacteria per month, and by failing to take total coliform bacteria samples at sites that are
20 representative of water throughout Indian Village Mobile Home Park's distribution system in
21 accordance with a written sample siting plan for the following months: September 2004,
22 October 2004, March 2005, and August 2005.

23 14. Respondent violated the requirements of the Order by failing to report monitoring
24 results for total coliform bacteria by the deadlines set forth in the Order for the following
25 months in 2005: January, February, April, July, and September. In each incident of late

1 reporting, Respondent conducted the required monitoring, but failed to report the monthly total
2 coliform analytical result to EPA by the tenth of the following month.

3 15. Respondent violated the Order by failing to submit the written sample siting plan to
4 EPA within thirty (30) days from the effective date of the Order. Respondent did not submit a
5 draft sample siting plan to EPA until April 2006, well beyond the thirty (30) day period
6 prescribed by the Order.

7 16. Respondent violated the Order by failing to conduct timely repeat sampling for total
8 coliform-positive samples that were collected on September 20, 2006 (and to therefore report
9 the results of that repeat sampling to EPA). These samples tested positive for total coliform;
10 however, Respondent failed to collect a set of repeat samples within twenty-four (24) hours of
11 being notified of the total coliform-positive result, as required under the Order.

12 17. 40 C.F.R. § 141.24(f) requires each community water system served by groundwater to
13 take four (4) consecutive quarterly samples at each Sampling Point for the volatile organic
14 compounds (VOCs) listed in 40 C.F.R. § 141.61(a)(2)-(21) during the initial three (3)-year
15 compliance period (beginning in May 2002 for Indian Village) and conduct follow-up
16 monitoring thereafter.

17 18. Except where a shorter period is required by 40 C.F.R. Part 141, 40 C.F.R. § 141.31(a)
18 requires suppliers of water to report to EPA the results of any test measurement or analysis
19 required by 40 C.F.R. Part 141 within: (1) the first ten (10) days following the month in which
20 the results are received; or (2) the first ten (10) days following the end of the required
21 monitoring period as stipulated by EPA, whichever of these is shortest.

22 19. The Order required Respondent to comply with the requirements of 40 C.F.R. §
23 141.24(f) by collecting the required four (4) consecutive quarterly samples of VOCs listed in §
24 141.61(a)(2)-(21) and submitting them for analysis to a certified laboratory within sixty (60)
25 days from the effective date of the Order. The Order required Respondent to comply with the

1 reporting requirements of 40 C.F.R. § 141.31(a). The Order further required that if Respondent
2 collected four (4) consecutive quarterly samples and did not detect any contaminant listed in §
3 141.61(a), Respondent was required to monitor for the VOCs listed in § 141.61(a)(2)-(21)
4 annually, starting in the calendar year following the fourth quarterly monitoring event, unless
5 Respondent applied for and was granted a waiver by EPA before completion of the next
6 sampling event was required.

7 20. Respondent violated the Order by failing to report quarterly VOC sampling results for
8 the fourth quarter of 2004 and the first two quarters of 2005. Respondent did monitor for VOCs
9 on October 25, 2004, February 16, 2005 and May 20, 2005. Respondent failed, however, to
10 report the quarterly VOCs to EPA by the tenth of the following month in which each sample
11 was taken. Respondent reported each of the three missing VOC quarterly monitoring results on
12 August 19, 2005.

13 21. 40 C.F.R. § 141.24(h) requires each community water system served by groundwater
14 and serving no more than 3,300 persons to take four (4) consecutive quarterly samples at each
15 Sampling Point for the pesticides/synthetic organic chemicals (SOCs) listed in 40 C.F.R. §
16 141.61 (c)(1) and (c)(5)-(33) during the initial three (3)-year compliance period (beginning in
17 May 2002 for Indian Village) and to conduct follow-up monitoring thereafter.

18 22. The Order required Respondent to comply with the requirements of 40 C.F.R.
19 §141.24(h)(4)(i) for the purpose of determining the maximum contaminant level by collecting
20 the required samples of pesticides/SOCs listed in 40 C.F.R. § 141.61(c)(1) and (c)(5)-(33) and
21 submitting them for analysis to a certified laboratory within sixty (60) days from the effective
22 date of the Order. The Order required Respondent to comply with the reporting requirements of
23 40 C.F.R. § 141.31(a). The Order further required that Respondent conduct quarterly
24 monitoring for at least one (1) year for the contaminants in 40 C.F.R. § 141.61(c)(1) and (c)(5)-
25 (33).

1 23. Respondent violated the Order by failing to report quarterly SOC and pesticide sampling
2 results for the fourth quarter of 2004 and the first two quarters of 2005. Respondent sampled for
3 SOCs and pesticides on October 25, 2004, February 16, 2005 and May 20, 2005, respectively.
4 Respondent failed, however, to report the quarterly SOCs and pesticides to EPA by the tenth of
5 the following month each sample was taken. Respondent reported each of the three missing
6 SOC quarterly monitoring results on August 19, 2005.

7 24. 40 C.F.R. § 141.26(a) requires community water systems to conduct four (4)
8 consecutive quarters of monitoring for gross alpha particle activity, radium-226, radium-228,
9 and uranium by December 31, 2007, and to conduct follow-up monitoring thereafter.

10 25. The Order required Respondent to comply with the requirements of 40 C.F.R. §
11 141.26(a) by collecting the required samples from each Sampling Point of gross alpha particle
12 activity, radium-226, and radium-228 and submitting them for analysis to a certified laboratory
13 within thirty (30) days from the effective date of the Order. The Order required Respondent to
14 comply with the reporting requirements of 40 C.F.R. § 141.31(a). The Order further required
15 that Respondent collect four (4) consecutive quarterly samples for at least one (1) year, and
16 comply with any applicable requirements for additional analysis or increased monitoring for
17 radionuclides in accordance with 40 C.F.R. § 141.26(a).

18 26. Respondent violated the Order by failing to report four (4) consecutive quarters of
19 radionuclide sampling results to EPA within the time frames set forth in the Order.

20 27. 40 C.F.R. § 141.86(d) requires small water systems to monitor tap water for lead and
21 copper twice a year once every six (6) months in accordance with all requirements of 40 C.F.R.
22 § 141.86, during the initial two six (6)-month compliance periods, and to conduct follow-up
23 monitoring thereafter.

24 28. 40 C.F.R. § 141.90(a) requires that, within the first ten (10) days following the end of an
25 applicable lead and copper monitoring period, public water systems report specified information

1 to EPA pertaining to lead and copper tap sampling, including, but not limited to: (i) the results
2 of all tap samples, the location of each sampling site, and information regarding the criteria
3 under which the site was selected for the system's sampling pool; and (ii) the 90th percentile
4 concentrations measured from all samples collected during each monitoring period.

5 29. The Order required Respondent to collect and have analyzed one (1) round of tap
6 samples for lead and copper in accordance with 40 C.F.R. § 141.86 by November 15, 2004. The
7 Order required Respondent to submit all specified monitoring information regarding sampling
8 procedures and results, collected in accordance with 40 C.F.R. § 141.86, to EPA by November
9 30, 2004 pursuant to 40 C.F.R. § 141.90. If the first round of lead and copper monitoring did
10 not exceed the applicable action levels for lead and/or copper, the Order required Respondent to
11 collect and have analyzed a second round of tap samples for lead and copper in accordance with
12 40 C.F.R. § 141.86 during the period between January 1, 2005 and June 30, 2005. The Order
13 required Respondent to submit to EPA all specified monitoring information for the second round
14 of tap samples for lead and copper by July 10, 2005 pursuant to 40 C.F.R. § 141.90. The Order
15 also specified that if the lead and/or copper results did not exceed the action levels set forth in
16 40 C.F.R. § 141.80(c) during each of the two (2) consecutive six (6)-month monitoring periods,
17 then Respondent was required to continue to sample for lead and copper on an annual basis
18 during the months of June, July, August, or September, in accordance with 40 C.F.R. §
19 141.86(d), and to report results to EPA in accordance with 40 C.F.R. § 141.90(a).

20 30. Respondent complied with the Order by monitoring for the first round of lead and
21 copper on October 25, 2004, and then reporting the results to EPA within the time frames set
22 forth by the Order.

23 31. Respondent violated the Order by failing to monitor for the second round of lead and
24 copper until February 9, 2006, and did not report the results to EPA until February 27, 2006.

25

1 32. 40 C.F.R. § 141.152(b) requires each community water system to have prepared and
2 distributed Consumer Confidence Reports (“CCRs”) to its customers by October 19, 1999
3 (“1998 CCR”), by July 1, 2000 (“1999 CCR”), and by July 1 annually thereafter. Pursuant to 40
4 C.F.R. § 141.155(c), each community water system for which EPA has primary enforcement
5 responsibility must mail a copy of the CCR to EPA no later than the date the community water
6 system is required to distribute the CCR to its customers under 40 C.F.R. §§ 141.152(b) and
7 141.155(a). 40 C.F.R. § 141.155(c) further requires each such community water system to mail
8 a certification to EPA within three (3) months of the date the community water system is
9 required to distribute the CCR to its customers. The certification must indicate that the CCR has
10 been distributed to customers and that the information is correct and consistent with the
11 compliance monitoring data previously submitted to EPA.

12 33. The Order required that Respondent comply with the requirements of 40 C.F.R.
13 §§141.151 through 141.155 by March 31, 2005, including the preparation of Consumer
14 Confidence Reports that summarized drinking water information from January through
15 December 2003 in accordance with 40 C.F.R. §§ 141.151 through 141.155, and distribution of
16 the reports to Indian Village’s customers and EPA in compliance with 40 C.F.R. § 141.155. In
17 addition, the Order required Respondent to provide EPA with a certification of the distribution
18 and content of the reports in accordance with 40 C.F.R. § 141.155(c) by June 30, 2005.

19 34. Respondent violated the Order by submitting the 2003 CCR report on May 24, 2006, 15
20 months after the deadline specified in the Order.

21 35. Pursuant to SDWA § 1414(g)(3)(A), 42 U.S.C. § 300g-3(g)(3)(A), and 40 C.F.R. §
22 19.4, any person who violates or refuses to comply with an administrative order shall be liable
23 to the United States for an administrative civil penalty of not more than twenty-seven thousand
24 five-hundred dollars (\$27,500.00) for each day in which such violation occurs.

25 36. Respondent has agreed to hire, within 2 weeks of the effective date of the Final Order,

1 a certified water operator for the Indian Village Mobile Home Park for a duration no less than
2 one year; alternatively, if, after reasonable effort by Mr. Lawson, a certified operator cannot be
3 secured, Respondent has agreed to provide proof, within that two week period, of enrollment of
4 a full-time employee in a water operator certification course.

5 6 **III. CONSENT AGREEMENT**

7 37. Based upon the foregoing, and pursuant to SDWA § 1414(g)(3), 42 U.S.C. § 300g-
8 3(g)(3), and the “Consolidated Rules of Practice Governing the Administrative Assessment of
9 Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation,
10 Termination or Suspension of Permits,” 40 C.F.R. Part 22, it is hereby agreed by and between
11 the parties, and Respondent voluntarily and knowingly agrees, as follows:

12 **A. Respondent’s Admissions**

13 38. In accordance with 40 C.F.R. § 22.18(b)(2), and for the purpose of this proceeding,
14 Respondent admits the jurisdictional allegations of this CA/FO; neither admits nor denies the
15 specific factual allegations contained in this CA/FO; consents to any and all conditions specified
16 in this CA/FO, including the assessment of a civil administrative penalty under this CA/FO;
17 waives its rights under SDWA § 1414(g)(3)(B), 42 U.S.C. § 300g-3(g)(3)(B), to contest the
18 allegations contained in Section II of this CA/FO; and waives the right to appeal the proposed
19 Final Order contained herein.

20 **B. Civil Administrative Penalty**

21 39. Pursuant to SDWA § 1414(g)(3)(B), 42 U.S.C. § 300g-3(g)(3)(B), Respondent agrees
22 to the assessment of a penalty in the amount of three thousand three hundred and twenty-five
23 dollars (\$3,325.00) as final settlement of the civil claims against Respondent arising under the
24 SDWA as alleged in Section II of this CA/FO.

25 40. Respondent shall pay the full penalty amount of \$3,325 within sixty (60) days of the

1 effective date of the Final Order. The date by which this payment must be received shall
2 hereafter be referred to as the “due date.”

3 41. Respondent shall make payment under this CA/FO in accordance with any of the
4 accepted methods of payment listed in Attachment A, “EPA Region 9 Collection Information.”
5 Concurrent with payment of the penalty, Respondent shall provide written notice of payment,
6 referencing the title and docket number of this case and attach a photocopy of the penalty
7 payment, via certified mail, to:

8 Janelle Kellman		Danielle Carr
9 Attorney		Regional Hearing Clerk
10 Office of Regional Counsel (ORC-2)	and	Office of Regional Counsel (ORC-1)
11 U.S. EPA, Region IX		U.S. EPA, Region IX
75 Hawthorne Street		75 Hawthorne Street
San Francisco, CA 94105		San Francisco, CA 94105

12 42. Failure to pay the penalty in full according to the above provisions may result in referral
13 of this matter to the United States Department of Justice or the United States Department of the
14 Treasury for collection.

15 43. If a payment is not received on or before the due date, interest will be assessed at the
16 annual rate established by the Secretary of the Treasury pursuant to the Debt Collection Act, 31
17 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In
18 addition, a late payment handling charge of fifteen dollars (\$15.00) will be assessed for each
19 thirty (30) day period (or any portion thereof) following the due date in which the balance
20 remains unpaid.

21 44. A six percent (6%) per annum penalty will also be applied on any principal amount not
22 paid within ninety (90) days of the due date.

23 **C. Retention of Rights**

24 45. Issuance of the CA/FO and full payment of the proposed penalty shall not affect the
25 rights of the EPA or the United States to pursue appropriate injunctive or other equitable relief

1 or criminal sanctions for any violations of law. Full payment of the penalty proposed in this
2 CA/FO shall only resolve Respondent's liability for Federal civil penalties for the violations and
3 facts alleged herein.

4 46. EPA's issuance of, or Respondent's compliance with, this CA/FO does not waive,
5 extinguish or otherwise affect Respondent's obligation to comply with all applicable
6 requirements of the SDWA, of any regulations promulgated thereunder, or of any legal order or
7 permit issued thereunder.

8 47. Respondent reserves any and all rights and defenses, whether of a legal or
9 equitable nature, that are not expressly waived in this Agreement.

10 **E. Attorneys' Fees and Costs**

11 48. EPA and Respondent hereto agree to bear their own costs and attorneys' fees in this
12 matter.

13 **F. Binding Effect**

14 49. Each undersigned signatory to this Consent Agreement certifies that the signatory is
15 duly and fully authorized to enter into and ratify this Consent Agreement and to bind the party
16 represented to all the terms and conditions set forth in this Consent Agreement.

17 50. The provisions of this Consent Agreement shall be binding upon Respondent, its
18 officers, directors, agents, servants, authorized representatives and successors or assigns.

19 RESPONDENT:

20 
21 BY: Scott Lawson DATE: 9-06-07

22
23 TITLE: owner owner
for Respondent Scott Lawson

24
25 COMPLAINANT:

BY: Alexis Strauss

DATE: 20 Sept. 2007

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Alexis Strauss
Director, Water Division
United States Environmental Protection Agency, Region IX


1 ENVIRONMENTAL PROTECTION AGENCY
2 REGION IX

3 In the Matter of:) Docket No.: SDWA⁰⁹-2007- 0063
4 Scott Lawson (Indian Village Mobile Home)
Park)) [PROPOSED] FINAL ORDER
5 (PWS ID No. CA0605129))
6)
7 Respondent.)
8 Proceeding under Section) Pursuant to 40 C.F.R. §§ 22.13 and 22.18
1414(g) of the Safe Drinking)
9 Water Act, 42 U.S.C. § 300g-3(g))

10
11 Whereas the U.S. Environmental Protection Agency ("EPA"), Region IX, and Respondent Mr.
12 Scott Lawson have entered into the foregoing Consent Agreement,

13
14 IT IS HEREBY ORDERED THAT:

- 15 1. The foregoing Consent Agreement and this Final Order be entered; and
16 2. Respondent shall pay a civil penalty of three thousand three hundred and twenty-five
17 dollars (\$3,325.00) to the Treasurer of the United States of America in accordance with the
18 terms set forth in the Consent Agreement; and
19 3. This Final Order shall become effective on the date that it is filed with the Regional
20 Hearing Clerk, EPA Region IX, San Francisco, California.

21
22 BY: 
23 Steven Jawgiel
Regional Judicial Officer
24 EPA - Region 9
75 Hawthorne Street
San Francisco, California 94105

DATE: 09/21/07

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the CONSENT AGREEMENT and FINAL ORDER was delivered as follows:

Via facsimile and certified mail delivery to:

Ms. Carla Hoke
Fredericks and Peebles LLP
1900 Plaza Drive
Louisville, CO 80027
FAX: (303) 673-9155

Date: 09-27-2007

By: Danielle E Carr
Danielle Carr, Regional Hearing Clerk
Office of Regional Counsel
EPA Region IX