



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


2010 APR 20 AM 10:18
 FILED
 EPA REGION VIII
 HEARING CLERK

DOCKET NO.: SDWA-08-2010-0008

IN THE MATTER OF:)	
)	
CHARLES MURRAY, OWNER)	FINAL ORDER
WINSTON BAR WATER SYSTEM)	
Winston, MT)	
)	
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 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 20th DAY OF April, 2010.



 Elyana R. Sutin
 Regional Judicial Officer

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

2010 APR 16 AM 11:23

IN THE MATTER OF)
)
Charles Murray, owner)
Winston Bar Water System)
Winston, MT,)
)
Respondent.)
_____)

Docket No. SDWA-08-2010-0008

CONSENT AGREEMENT

FILED
EPA REGION VIII
HEARING CLERK

Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondent, Charles Murray, owner of the Winston Bar Water System (Respondent), by their undersigned representatives, hereby consent and agree as follows:

FACTUAL AND PROCEDURAL BACKGROUND

1. On December 14, 2009, 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 Respondent for failure to monitor for total coliform (TC) in March 2008, May 2008, April 2009, May 2009, June 2009, and July 2009, failure to report those TC monitoring violations to EPA, and failure to provide public notice for the March 2008 and May 2008 TC monitoring violations. The Complaint proposes a civil penalty for the violations alleged therein.

2. Respondent admits the factual and jurisdictional allegations of the Complaint.

3. Respondent waives his 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 Parties. Upon incorporation into a final order, this Consent Agreement applies to and is binding

upon Respondent, its officers, directors, employees, agents and all persons acting under or for Respondent, until such time as the civil penalty required under paragraph no. 5 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, the Respondent's 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 HUNDRED DOLLARS (\$100.00).

TERMS OF SETTLEMENT

6. Respondent consents to the issuance of the Consent Agreement and consents to the payment of the civil penalty cited in paragraph no. 5 above in the following manner:

- a. Payment is due within 30 calendar days from the date written on the Final Consent 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:

Marc Weiner, 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 1st 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 7(c) of this Agreement, a handling charge of fifteen dollars (\$15.00) shall be assessed on the 31st 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.

GENERAL PROVISIONS

7. This Consent Agreement shall not relieve Respondent of his obligation to comply with the Act and its implementing regulations.

8. 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 Respondent's failure to perform pursuant to the terms of the Consent Agreement.

9. Respondent certifies that he is fully authorized to enter into the terms and conditions for this Consent Agreement and to bind the Respondent to the terms and conditions of this Consent Agreement.

10. The parties agree to submit this Consent Agreement to the presiding officer with a request that it be incorporated into a final order.

11. Each party shall bear its own costs and attorney fees in connection with this matter.

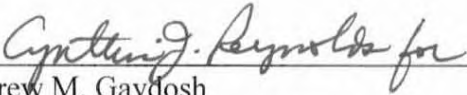
12. Failure by Respondent to comply with any of the terms of the Consent Agreement shall constitute a breach of the agreement and may result in referral of the matter to the Department of Justice for enforcement of the Consent Agreement and for such other relief as may be appropriate in federal district court.

13. 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.

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

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

Date: 4/16/10

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

Charles Murray, owner,
Winston Bar Water System,
Respondent.

Date: 4-9-10

By: 
Charles Murray

IN THE MATTER OF: Charles Murray, Owner
Winston Bar Water System
Winston, MT
DOCKET NUMBER: DOCKET No. SDWA-08-2010-0008

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date indicated below, the original and one true and correct copy of the foregoing Consent Agreement were both hand-carried to and filed with the Regional Hearing Clerk,

Tina Artemis, Region 8 Hearing Clerk
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

The undersigned also certifies that on the date indicated below, a true and correct copy of this document was hand delivered at the same time to:

Hon. Elyana R. Sutin
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

The undersigned also certifies that on the date indicated below, a correct copy of this same document sent via regular mail to:

Charles Murray, Owner
Winston Bar
P.O. Box 470-208
Winston, MT 59647-0208

Date: April 16, 2010

By: Dayle De Arvil
Dayle De Arvil

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT** in the matter of **CHARLES MURRAY, OWNER; WINSTON BAR WATER SYSTEM;** **DOCKET NO.: SDWA-08-2010-0008** was filed with the Regional Hearing Clerk on April 16, 2010, the **FINAL ORDER** was filed on April 20, 2010.

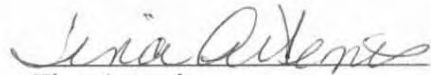
Further, the undersigned certifies that a true and correct copy of the documents were delivered to Marc Weiner, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt requested on April 20, 2010.

Mr. Charles Murray, Owner
Winston Bar
P. O. Box 406-208
Winston, MT 59647-0208

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 20, 2010



Tina Artemis
Paralegal/Regional Hearing Clerk

