

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NEW YORK 10007-1866

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II
MAR - 6 PM 4:16
REGIONAL HEARING
CLERK



MAR - 6 2008

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Johnnie Ferguson
Association of St. Croix
4200 Estate of St. John
Christiansted
St. Croix, VI 00820

Re: In the Matter of **Association of St. Croix**
Docket No. SDWA-02-2007-8405

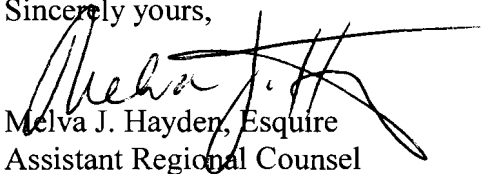
Dear Ms. Ferguson:

Enclosed is a copy of the fully executed Consent Agreement and Final Order (CA/FO) that resolves the above referenced matter.

EPA is in receipt of the payment of the penalty in the amount of \$464.00 remitted by the Respondent prior to the finalization of the CA/FO. However, the payment will be processed and posted as of the date that EPA's Financial Center receives the final fully executed CA/FO resolving this matter.

Should you have any questions, please do not hesitate to contact me at (212) 637-3230. I wish to thank you for your cooperation and assistance to bring this matter to a mutually satisfactory resolution.

Sincerely yours,


Melva J. Hayden, Esquire
Assistant Regional Counsel
Office of Regional Counsel
Water & General Law Branch

Enclosure

cc: Karen Maples, Regional Hearing Clerk

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2008 MAR -6 PM 4:16
REGIONAL HEARING
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IN THE MATTER OF:

Association of St. Croix
4200 Estate St. John
Christiansted
St. Croix, VI 00820
PWS ID: VI0000075

Respondent

Proceeding Pursuant to §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 No.
SDWA-02-2007-8405

I. Preliminary Statement

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).

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 Association of St. Croix ("Respondent") on June 22, 2007.

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 public water system (Association of St. Croix public water system) in St. Croix, United States Virgin Islands.

II. Findings of Fact and Conclusions of Law

1. Respondent owns and/or operates the Association of St. Croix "public water system," within the meaning of Section 1401(4) of the SDWA, 42 U.S.C. §300f(4), and 40 C.F.R. §141.2, located in St. Croix, United States Virgin Islands.

2. Respondent is a "supplier of water" within the meaning of Section 1401 (5) of the SDWA, 42 U.S.C. §300f(5), and 40 C.F.R. §141.2.
3. Respondent, is a "person" as defined in Section 1401(12) of SDWA, 42 U.S.C. §300f(12), and 40 C.F.R. §141.2, and is subject to an Administrative Order issued under Section 1414(g)(1) of the SDWA, 42 U.S.C. §300g-3(g)(1).
4. The Association of St. Croix public water system provides piped water for human consumption and regularly serves a population of at least 25 individuals for over 6 months per year, and is therefore a "nontransient noncommunity water system" as defined by Section 1401(15) of the SDWA, 42 U.S.C. §300f(15) and 40 C.F.R. §141.2.
5. The Association of St. Croix public water system adds a chemical disinfectant(s) to the water as part of the drinking water treatment process.
6. Pursuant to 40 C.F.R. §141.130(b), the Association of St. Croix public water system, a nontransient noncommunity water system that uses a groundwater source and serves fewer than 10,000 persons, is required to comply with Subpart L (or the Stage 1 DBPR) beginning January 1, 2004.
7. In January 2005, the VIDPNR provided EPA with information that indicated Respondent failed to report the results of Total Trihalomethanes ("TTHM") and Haloacetic Acids ("HAA5") monitoring for 2004, for its Association of St. Croix public water system.
8. On March 22, 2005, EPA issued an Administrative Order ("AO"), Docket Number SDWA-02-2005-8037, requiring Respondent to submit a copy of the monitoring plan for its Association of St. Croix public water system, as specified in 40 C.F.R. §141.132(f), to EPA and Virgin Islands Department of Planning and Natural Resources ("VIDPNR") within sixty (60) days after receipt of the AO. The AO also required Respondent to submit the 2004 TTHM/HAA5 monitoring results for its Association of St. Croix public water system within 30 days after receipt of the AO. If Respondent did not conduct the required sampling in 2004, the AO directed the Respondent to perform the required TTHM/HAA5 monitoring in 2005, and submit results by September 10, 2005. EPA has documented evidence in the form of the certified mail return receipt (Article Number 7002 2030 0006 5360 5609) indicating that the Respondent received the AO on April 13, 2005.
9. On April 5, 2007, EPA issued an information collection request letter requiring Respondent to provide an update on the status of its compliance with the AO and the Stage 1 DBPR by May 1, 2007. According to EPA's records in the form of the certified mail return receipt (Article Number 7005 3110 0000 5930 5836), the information collection request letter was received by the Respondent on April 10, 2007.
10. Based on information available to EPA, the Respondent has failed to demonstrate compliance with the requirements specified in 40 C.F.R. §141.132(b) and (f) and violated Paragraphs 13, 14, and 15 of the AO.

III. Consent Agreement

Based upon the foregoing, and pursuant to Section 1414(g)(3)(B) of the Act, 42 U.S.C. §300g-3(g)(3)(B), and the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits" ("CROP") (40 C.F.R. §22.18), it is hereby agreed by and between the parties and Respondent voluntarily and knowingly agrees as follows:

Jurisdiction

1. For the purpose of this proceeding, Respondent a) admits the jurisdictional allegations of the Complaint as applied to the facility; and b) neither admits nor denies the specific factual allegations and legal conclusions contained in the Complaint and Findings of Fact.

Payment of Civil Penalty

2. Respondent shall pay, by cashier's or certified check, a civil penalty in the amount of **Four Hundred Sixty-Four Dollars (\$464.00)** payable to the "Treasurer of the United States of America." The check shall be identified with a notation of the name and docket number of this case, set forth in the caption on the first page of this document. Such check shall be mailed to:

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

Respondent shall also send copies of this payment to each of the following:

Melva J. Hayden, Esq.
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency - Region 2
290 Broadway - 16th Floor
New York, NY 10007 -1866

and

Regional Hearing Clerk
U.S. Environmental Protection Agency - Region 2
290 Broadway - 16th Floor
New York, NY 10007-1866

Payment must be received at the above address on or before 30 calendar days after the date of signature of the Final Order at the end of this document (the date by which payment must be received shall hereafter be referred to as the "due date").

- a. Failure to pay the penalty in full according to the above provisions will result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection. Further, if the payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of Treasury pursuant to the Debt Collection Act, 31 U.S.C. §3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15.00 will be assessed for each 30 day period (or any portion thereof) following the due date in which the balance remains unpaid.
 - b. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.
3. The penalty to be paid is a civil penalty assessed by the EPA and shall not be deductible from Respondent's federal or state taxes.

General Provisions

4. This Consent Agreement is being voluntarily and knowingly entered into by the parties in full and final settlement of the civil liabilities that might have attached as a result of the allegations contained in the Complaint. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable and consents to its issuance and its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein.
5. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement and agrees to pay the penalty in accordance with the terms of this Consent Agreement.
6. Respondent knowingly and explicitly waives its right under §1414(g)(3)(B) of the Act, 42 U.S.C. §300g-3(g)(3)(B) to request or to seek any Hearing on or Judicial review of the Complaint or on any of the allegations therein asserted, on this Consent Agreement or the Findings of Fact and Conclusions of Law herein, or on the accompanying Final Order.
7. Respondent waives any right it may have pursuant to 40 C.F.R. §22.8 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator or the Deputy Regional Administrator where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the accompanying Final Order.
8. Issuance of the Consent Agreement and Final Order does not constitute a waiver by EPA of its right to enforce the substantive legal requirements underlying this penalty assessment, either administratively or judicially pursuant to Sections 1414 of the Act, 42

U.S.C. §300g-3. Issuance of or compliance with this Consent Agreement/Final Order does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable requirements of the Act, of regulations promulgated thereunder and of any legal order or permit issued thereunder.

9. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all the terms and conditions set forth in this Consent Agreement.
10. The provisions of this Consent Agreement and Final Order shall be binding upon the Respondent, its officers, directors, agents, servants, authorized representatives and successors or assigns.
11. Each party hereto agrees to bear its own costs and fees in this matter.
12. Respondent consents to service upon Respondent by a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

FOR THE RESPONDENT:


Dated this 21 day of: November, 2007



MS. JOHNNIE FERGUSON
Association of St. Croix
4200 Estate St. John
Christiansted
St. Croix, VI 00820

FOR THE COMPLAINANT:

Dated this 30th day of: January, 2008




MS. DORE LAPOSTA
Director
Division of Enforcement and Compliance
Assistance
U.S. Environmental Protection Agency
Region 2
New York, NY 10007-1866

IV. Final Order

The Regional Administrator of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Agreement entered into by the parties is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA Region 2, New York, New York.

DATE: 2-26-08



ALAN J. STEINBERG
Regional Administrator
United States Environmental Protection Agency
Region 2
290 Broadway
New York, NY 10007-1866

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

Association of St. Croix
4200 Estate St. John
Christiansted
St. Croix, VI 00820
PWS ID: VI0000075

Respondent

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

CONSENT AGREEMENT
& FINAL ORDER

Docket No.
SDWA-02-2007-8405

CERTIFICATE OF SERVICE

I certify that, on the date noted below, I caused to be mailed, by certified mail, return receipt requested, a copy of the foregoing "CONSENT AGREEMENT AND FINAL ORDER" to the following person at the address listed below:

MS. JOHNNIE FERGUSON
Association of St. Croix
4200 Estate St. John
Christiansted
St. Croix, VI 00820

I sent by inter-office mail the original and a copy of the foregoing Consent Agreement and Final Order to the office of the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2.

MAR - 6 2008

Date:


New York, New York