



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6

1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

OCT 14 2016

CERTIFIED MAIL-RETURN RECEIPT REQUESTED: 7005 1820 0003 7450 4484

Mr. Curtis Campbell, General Manager
Red River Authority of Texas
P.O. Box 240
Wichita Falls, TX 76307-0240

Re: Consent Agreement and Final Orders
Hinds Wildcat, PWS ID Number TX2440005, Docket Number: SDWA-06-2016-1202
Guthrie-Dumont, PWS ID Number TX1350001, Docket Number: SDWA-06-2016-1206
Truscott Gilliland, PWS ID Number TX1380006, Docket Number: SDWA-06-2016-1207

Dear Mr. Campbell:

This is to acknowledge receipt of the signed Consent Agreement and Final Orders (CAFOs). The Environmental Protection Agency hereby issues the enclosed CAFOs. The CAFOs are effective from the date of filing with the Regional Hearing Clerk. The penalty payments are due within thirty (30) days after the effective date.

If you have any questions regarding this matter, please contact Mehdi Taheri, of my staff, at (214) 665-2298.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Gilrein".

Stephen A. Gilrein, P.E.
Acting Director
Compliance Assurance and
Enforcement Division

Enclosure

RRA of Texas CAFOs

Page 2

cc: Mr. Bryan Sinclair
Director, Enforcement Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Ms. Cari-Michel La Caille
Director, Water Supply Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Ms. Emily W. Rogers
Bickerstaff Health Delgado Acosta LLP
3711 S. MoPac Expressway
Building One, Suite 300
Austin, TX 78746

2. Respondent and EPA (collectively, "Parties") agree that settlement of the relevant matters without litigation will save time and resources, that it is in the public's interest, and that the entry of this CAFO is the most appropriate means of resolving such matters. Compliance with all the terms and conditions of this CAFO resolves only those violations alleged in the Complaint.

3. Respondent expressly waives any right to contest the factual allegations or conclusions of law contained in the Complaint and this CAFO and waives its right to appeal the Final Order set forth herein.

4. Before the taking of any testimony, and without adjudication of any issue of law or fact, the Parties agree to the terms of this CAFO and to its issuance. Respondent consents to the assessment and payment of a civil penalty in the amount and by the method stated below.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

5. During the time period relevant to the violations alleged in the Complaint and herein, Respondent, Red River Authority of Texas, is a "person," as defined by Section 1401(12) of the Act, 42 U.S.C. § 300f(12).

6. During the relevant time period, Respondent owned or operated a public water system ("PWS"), also referred to as the ("facility"), as defined by Section 1401(4) of the Act, 42 U.S.C. § 300f(4). The PWS is located in King County, Texas, and designated as PWS number TX1350001.

7. During the relevant time period, Respondent's PWS was a "community water system" as defined by Section 1401(15) of the Act, 42 U.S.C. § 300f(15).

8. According to Section 1401(4) of the Act, 42 U.S.C. § 300f (4), a PWS provides water to the public for human consumption, if such system has at least fifteen (15) service connections or regularly serves at least twenty-five (25) individuals daily at least sixty (60) days out of the year.

9. According to Section 1401(15) of the Act, 42 U.S.C. § 300f (15), a "community water system" means a PWS that serves at least fifteen (15) service connections used by year-round residents served by the system or that regularly serves at least twenty-five (25) year-round residents.

10. The facility serves over 25 residents year-round and is therefore a community water system.

11. As an owner or operator of a PWS, Respondent is a supplier of water pursuant to Section 1401(5) of the Act, 42 U.S.C. § 300f(5).

12. Respondent, as a supplier of water, and the facility, as a community PWS, are subject to the regulations promulgated by EPA pursuant to Section 1412 of the Act, 42 U.S.C. § 300g-1, entitled National Primary Drinking Water Regulations ("NPDWR").

13. At all times relevant to the violations alleged herein, Respondent's facility was subject to the maximum contaminant level requirements for nitrate as described by 40 C.F.R. § 141.62(b)(7).

14. During the relevant time period, Respondent's facility was required to conduct monitoring to determine compliance regarding nitrate levels. Respondent is required to comply with a Maximum Contaminant Level ("MCL") of 10.0 mg/L for nitrate as specified in 40 C.F.R. § 141.62(b)(7).

15. Respondent monitored for nitrate in the last four quarters from the 1st quarter of 2011 through the 4th quarter of 2011, and reported values of 15.1 mg/L, 14.2 mg/L, 13.8 mg/L, and 14.3 mg/L for nitrate in violation of the MCL specified in 40 C.F.R. § 141.62(b)(7).

16. On September 10, 2012, EPA issued Administrative Order Docket Number SDWA-06-2012-1253 ("Order") (Attached and incorporated herein as Attachment A) to Respondent, pursuant to EPA's authority under Section 1414(g) of the Act, 42 U.S.C. § 300g-3(g), citing MCL violations, and ordered, among other requirements, the following:

"A. Respondent shall comply with 40 C.F.R. § 141.31(b) and notify both TCEQ and EPA within forty-eight (48) hours in the event of nitrate MCL violations."

"D. Within one hundred and twenty (120) days of the effective date of this Order, Respondent shall submit to EPA a detailed plan to bring the System into compliance with the MCL for nitrate. The plan shall include: 1) a system modification proposal; 2) a cost analysis of system modifications; and 3) a construction schedule for the project. The schedule shall include specific milestone dates and a final compliance date that is no later than eighteen (18) months from the effective date of this Order."

"F. Respondent must achieve and maintain compliance with 40 C.F.R. § 141.62(b)(7) by the date specified in the approved plan, or not later than eighteen (18) months after the effective date of this Order."

"G. Within sixty (60) days of this Order, Respondent shall submit to EPA an initial report on the progress made to bring the PWS into compliance with the nitrate MCL. Following the initial report, a quarterly progress report shall be submitted to EPA within ten (10) days after the end of each calendar quarter."

17. The effective date of the Order was June 19, 2012.

18. The Complaint specified Findings of Fact and Conclusions of Law that are hereby incorporated by reference and alleged, among other things, that the at the relevant times: Respondent exceeded the nitrate MCL on numerous occasions; Respondent failed to comply with the Order by failing to notify EPA and TCEQ in the event of nitrate MCL violations, by failing to submit a detailed plan to bring the facility into compliance with the nitrate MCL, by failing to achieve compliance with nitrate MCL within eighteen months after the effective date of

the Order, and by failing to submit certain quarterly progress reports; Respondent therefore violated the Order and is liable for a civil penalty pursuant to Section 1414(g) of the Act, 42 U.S.C. § 300g-3(g).

IV. PENALTY ORDER

19. Based on the foregoing stipulations, EPA Region 6, having taken into account the factors used for assessment of civil penalties found in Section 1414(b)(2)(c) of the Act, 42 U.S.C. § 300g-3(b)(2), hereby orders, and Respondent agrees, that Respondent shall pay to the United States a civil penalty in the amount of nineteen thousand dollars (\$19,000.00) to settle the violations alleged in the Complaint.

20. Payment shall be made by one of the following methods within thirty (30) days after the effective date of this CAFO:

- a. By mailing a bank check; cashier's check or certified check, payable to "Treasurer of the United States," to the following address:
U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000
- b. By wire transfer to:
Federal Reserve Bank of New York
ABA: 021030004
Account Number: 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"

- c. By overnight mail (Express, FedEx, DHL, etc.):

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
Phone: 314-418-1028

- d. By credit card payments to <https://www.pay.gov>
(Enter sfo1.1 in the search field)

“In Red River Authority of Texas, Docket No. SDWA-06-2016-1206” should be clearly marked on the check to ensure credit for payment.

21. Respondent shall send simultaneous notices of the payment, including a copy of the check, or other remittance, to each of the following:

- (a) Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733
- (b) Chief, Water Resources Section (6EN-WR)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733
- (c) Chief, Water Legal Branch (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Respondent's adherence to these procedures will ensure proper credit when payment is received by EPA.

22. Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

23. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States that are not paid by the due date and a charge to cover the cost of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty (30) days after the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid by the respective due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. See 40 C.F.R. § 13.11(b).

24. EPA will also assess a fifteen dollar (\$15.00) administrative handling charge for administrative costs on unpaid penalties for the first thirty (30)-day period after the payment is due and an additional fifteen dollars (\$15.00) for each subsequent thirty (30)-day period that the penalty remains unpaid. In addition, a penalty charge of up to six percent (6%) per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. See 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. See 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

25. Pursuant to 1414(g)(3)(D) of the Act, 42 U.S.C. § 300g-3(g)(3)(D), any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States' enforcement expenses including, but not limited to, attorneys' fees and costs incurred by the United States for collection proceedings, and a quarterly non-payment penalty for each quarter during which such failure to pay persists. Such non-payment penalty shall be twenty percent (20%) of the

aggregate amount of such person's outstanding penalties and non-payment penalties accrued as of the beginning of each quarter.

26. Failure by Respondent to pay the penalty assessed according to the terms of this CAFO, in full, by its due date, may subject Respondent to a civil action to collect the assessed penalty and any accrued interest and penalties.

27. In the event a collection action is necessary, Respondent shall pay in addition to any applicable penalty, fees, and interest described herein all reasonable costs and expenses, including legal expenses and court costs, incurred by the United States for enforcement and collection proceedings for non-payment of the amounts agreed hereunder, pursuant to Section 1414(g)(3)(D) of the Act, 42 U.S.C. § 300g-3(g)(3)(D). In any such collection action, the validity, amount, and appropriateness of the penalty, and the terms of this CAFO shall not be subject to review.

V. GENERAL PROVISIONS

28. To execute this Agreement, Respondent shall sign and forward a copy of this CAFO, with original signature, to:

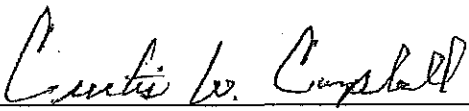
Mr. Efren Ordoñez
Office of Regional Counsel (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

29. Issuance of this CAFO does not relieve Respondent from responsibility to comply with all requirements of the Act and the requirements of any permits issued thereunder, nor does it constitute a waiver by EPA of its right to enforce compliance with the requirements of any applicable permits or other requirements of the Act by actions under the authority of the Act, except as to any requirement to pay any penalty or perform any corrective action not described herein for the violations alleged in the Complaint.

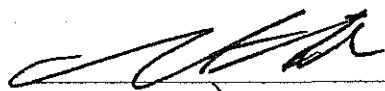
30. The provisions of this CAFO shall be binding upon Respondent, its officers, directors, managers, agents, representatives, employees, successors and assignees. Each party agrees to bear its own costs and attorneys' fees in this matter, except to the extent that Respondent may be responsible for reasonable costs and expenses of enforcement and collection proceedings for failure to comply with the terms of this CAFO.

31. Each undersigned representative of the Parties to this agreement certifies that he or she is fully authorized by the party represented to enter into the terms of this agreement and legally bind that party to it.

In recognition and acceptance of the foregoing:


For Red River Authority of Texas

Oct. 7, 2016
Date

 (Blevins)
John Blevins
Director
Compliance Assurance and
Enforcement Division

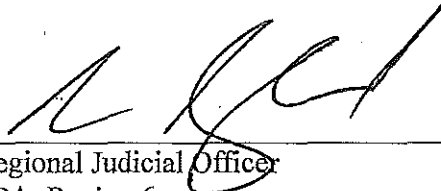
10-14-16
Date

VI. FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement and Final Order ("CAFO") is hereby ratified. This CAFO shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO shall resolve only those causes of action alleged in the Complaint. Nothing in this CAFO shall be construed to waive, extinguish, or otherwise affect Respondent's (or its officers', agents', servants', employees', successors', or assigns') obligation to comply with all applicable Federal, State, and local statutes and regulations, including the regulations subject to this action. The Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the CAFO. Pursuant to 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Issuance Date:

10/17/16



Regional Judicial Officer
EPA, Region 6

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of October, 2016, the original of the foregoing CAFO was hand-delivered to the Regional Hearing Clerk (6RC-D), EPA Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and that true and correct copies were placed in the United States mail, first class, postage prepaid, addressed to each of the following:

Copy by certified mail
Return receipt requested:

Ms. Emily Rogers
Bickerstaff Health Delgado Acosta LLP
3711 S. MoPac Expwy, Building One, Suite 300
Austin, TX 78746

Original hand-delivered:

Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Copy hand-delivered:

Mr. Efren Ordoñez
U.S. EPA, Region 6 (Mail Code 6RC-EW)
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Date: 10/18/16

Jackie Allen