COPY

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
http://www.epa.gov/region08

2004 DEC -3 AM 9:14

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: SDWA-08-2001-12

IN THE MATTER OF:	)	
	)	
Kelly School-Teton County	)	**FINAL ORDER**
School District	)	
Kelly, Wyoming	)	
PWS ID # WY5600904	)	
	)	
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.

December 1, 2004
DATE

Alfred C. Smith
Regional Judicial Officer

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2004 DEC -3 AM 9: 14

FILED
REGION VIII
HEARING CLERK

IN THE MATTER OF	)	Docket No. SDWA-8-2001-12
	)	
Kelly School-Teton County	)	**CONSENT AGREEMENT**
School District	)	
Kelly, Wyoming	)	
PWS ID # WY5600904,	)	
	)	
Respondent.	)	
	)	

AUTHORITY

1. This Consent Agreement is entered into between Complainant United States Environmental Protection Agency Region 8 ("EPA") and Respondent Teton County School District No. 1 ("Respondent") pursuant to section 1414(g)(3)(B) of the Safe Drinking Water Act ("SDWA"), 42 U.S.C. § 300g-(g)(3)(B), which authorizes the EPA Administrator to issue civil penalties for violations of section § 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g). This authority has been properly delegated to the undersigned EPA officials. Complainant and Respondent (hereafter referred to collectively as "the Parties"), by their undersigned representatives, hereby consent and agree as follows.

FACTUAL AND PROCEDURAL BACKGROUND

2. On July 1, 2004, Complainant issued Respondent an administrative Complaint and Notice of Opportunity for Hearing ("Complaint") in the above-captioned action pursuant to section 1414(g)(3) of the SDWA, 42 U.S.C. § 300g-3(g)(3), for alleged violations of the Administrative Order ("AO") Complainant issued to Respondent on March 20, 2001. The

Complaint proposed a civil penalty of $2,000.

3. Respondent admits the jurisdictional allegations of the Complaint and the Consent Agreement.

4. Respondent neither admits nor denies the specific factual allegations of the Complaint and the Consent Agreement.

5. Respondent waives its right to a hearing before any tribunal, to contest any issue of law or fact set forth in the Complaint or this Consent Agreement.

6. 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 Complainant and Respondent, Respondent's officers, directors, employees, agents and all persons acting under or for Respondent, until such time as the civil penalty required under paragraph no. 9 has been paid. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this agreement.

7. This Consent Agreement contains all terms of the settlement agreed to by the Parties.

8. Pursuant to section 1414(g)(3)(B) of the SDWA, 42 U.S.C. § 300g-(g)(3)(B), EPA determined that an appropriate civil penalty to settle all the above-captioned action is in the amount of One Thousand Sixteen Hundred Dollars ($1,600).

9. Respondent consents and agrees to pay the amount of One Thousand Sixteen Hundred Dollars ($1,600) to resolve the violations alleged in the Complaint.

TERMS OF SETTLEMENT

10. Respondent consents to the issuance of the Consent Agreement and for the purposes of settlement to the payment of the above-cited civil penalty.

11. Respondent shall pay the total civil penalty in the amount of One Thousand Sixteen Hundred Dollars ($1,600) by remitting a government, cashier's or certified check, payable to "Treasurer, United States of America," within thirty (30) days after Respondent's receipt of a signed final order in this matter, to:

Mellon Bank
EPA Region 8
(Regional Hearing Clerk)
P.O. Box 360859M
Pittsburgh, PA 15251-6859

The checks shall reference the name and address of Respondent's facility and the EPA docket number of this action.

12. Respondent agrees to mail a copy of the check simultaneously to the following:

Tina Artemis, Regional Hearing Clerk
U.S. EPA Region 8 (8RC)
999 18th Street, Suite 300
Denver, CO 80202-2466

and to:

Amy Swanson, Enforcement Attorney
U.S. EPA Region 8 (8ENF-L)
999 18th Street, Suite 300
Denver, CO 80202-2466

13. Respondent further agrees and consents that if Respondent fails to pay the penalty amount within thirty (30) days of receipt of the final order, the full penalty amount proposed in the Complaint shall become due and owing by Respondent. Furthermore, interest on the penalty

amount shall accrue from the date of the order at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. A late payment charge of fifteen dollars ($15.00) shall be imposed after the first 30 days that the payment, or any portion thereof, is overdue, with an additional charge of fifteen dollars ($15.00) imposed for each subsequent 30-day period until the payment due is made. In addition, a six percent (6%) per annum penalty shall be applied on any principal amount not paid within 90 days of the due date of the final order.

14. The penalty specified in paragraph 9 above shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.

GENERAL PROVISIONS

15. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with the SDWA and its implementing regulations.

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

17. Nothing in this Consent Agreement shall be construed as a waiver by EPA of its authority to seek costs or any appropriate penalty associated with any collection action instituted if Respondent fails to perform pursuant to the terms of this Consent Agreement.

18. Respondent's undersigned representative certifies that he or she is fully authorized to enter into the terms and conditions for this Consent Agreement and to bind the party he or she represents to the terms and conditions of this Consent Agreement.

19. The Parties agree to bear their own costs and attorneys fees in connection with this matter.

20. The Parties agree to forward this Consent Agreement to the Regional Judicial Officer with a request that it be incorporated into a Final Order.

21. This Consent Agreement, upon incorporation into a final order by the Regional Judicial Officer and upon full satisfaction by the parties, shall constitute a complete and full civil settlement of the specific violations alleged in the Complaint.

SO CONSENTED AND AGREED TO:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8
Complainant.

By: _____ Date: 11·28·04
Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

By: _____ Date: 11·29·04
Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

By: _____ Date: 11·23·04
Amy Swanson, Enforcement Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

TETON COUNTY SCHOOL DISTRICT NO. 1
Respondent.

By: Pam Shea Date: 11/11/04

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **KELLY SCHOOL-TETON COUNTY, DOCKET NO.: SDWA-8-2001-12** was filed with the Regional Hearing Clerk on December 3, 2004.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Amy Swanson, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on December 3, 2004, to:

Sandee M. Oehring, Superintendent of Schools
Teton County School District No. 1
P. O. Box 568
Jackson, WY 83001

Pam Shea, Principal
Kelly School
P. O. Box 128
Kelly, WY 83011

December 3, 2004

Tina Artemis
Regional Hearing Clerk

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