

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO, NORTHERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Civil Action No. [_____])
) CONSENT DECREE)
)
 EAST SHOSHONE COUNTY)
 WATER DISTRICT,)
)
 Defendant.)
 _____)

CONSENT DECREE

WHEREAS, Plaintiff United States of America, on behalf of the United States Environmental Protection Agency ("EPA"), filed a Complaint concurrently with this Consent Decree alleging that Defendant East Shoshone County Water District ("Defendant" or "ESCWD"), violated Section 1414 of the Safe Drinking Water Act ("SDWA" or "the Act"), 42 U.S.C. § 300g-3, at the ESCWD - Burke Public Water System ("PWS" or "System") owned and/or operated by ESCWD in Shoshone County, Idaho.

WHEREAS, the United States alleges that ESCWD failed to comply with the requirements of an Administrative Compliance Order ("ACO") issued by EPA on March 28,

2000, and amended on November 21, 2001, pursuant to Section 1414(g)(1) of the Act, 42 U.S.C. § 300g-3(g)(1). The ACO required ESCWD to perform corrective measures to protect the health of consumers served by the System. ESCWD's violations of the ACO are specified in the Complaint. ESCWD's violations include, but are not limited to, the Surface Water Treatment Rule ("SWTR").

WHEREAS, this Consent Decree does not constitute an admission of either any facts or liability by ESCWD;

WHEREAS, the parties have agreed that settlement of the civil judicial claims alleged in the Complaint is in the public interest and that entry of this Consent Decree without further litigation is the most appropriate way to resolve this action.

THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED as follows:

I. JURISDICTION AND PARTIES BOUND

1. This Court has jurisdiction over this action under Sections 1414 and 1450 of the Act, 42 U.S.C. §§ 300g-3 and 300j-9; and 28 U.S.C. §§ 1331, 1345, and 1355. ESCWD consents to and shall not challenge entry of this Consent Decree or this Court's jurisdiction to enter, enforce, modify, or terminate this Consent Decree.

2. Venue is proper in the District of Idaho pursuant to Sections 1414(b) of the Act, 42 U.S.C. §§ 300g-3(b) and 300i(b), and 28 U.S.C. §§ 1391(b) and 1395(a), because the violations alleged in the Complaint occurred in this district, ESCWD conducts business in this district, and ESCWD is located in this district.

3. ESCWD owns and/or operates a public water supply system in Burke Canyon, known as the "ESCWD - Burke Water System" that provides water to the public for human

consumption. The PWS Id # for the system is 1400016. The System is supplied by two surface water sources, primarily Sawmill Creek with Canyon Creek as a backup source. Water from these creeks serves the ESCWD - Burke Water System, consisting of approximately 21 service connections that regularly serve approximately 45 residents per day.

4. This Consent Decree shall apply to and be binding upon ESCWD and any successor, member, officer, director, employee, and agent acting on behalf of ESCWD, and on the United States.

5. ESCWD shall provide a copy of this Consent Decree to all members, officers, directors, employees, and agents whose duties might reasonably include compliance with any provision of this Consent Decree, as well as to any person or entity retained to perform work required under this Consent Decree. ESCWD shall ensure that any contract entered into to perform work required under this Consent Decree conforms with its terms and conditions.

6. In any action to enforce this Consent Decree, ESCWD shall not raise as a defense the failure by any of its members, officers, directors, employees, agents, or contractors to take any actions necessary to comply with the provisions of this Consent Decree.

7. Any transfer of ownership or operation of the System to any other person or entity must be conditioned upon a written agreement between ESCWD and the proposed transferee to undertake the obligations required by this Consent Decree, enforceable by the United States as third-party beneficiary of such agreement. ESCWD shall give notice of this Consent Decree to any proposed transferee or subsequent operator prior to such transfer. ESCWD shall provide a copy of such notice together with a copy of the proposed written agreement to those persons identified in Section XI (Notification) prior to such transfer of ownership or operational

responsibilities. Any attempt to transfer ownership or operation of the System without complying with this Paragraph constitutes a violation of this Consent Decree.

8. If ESCWD transfers or relinquishes its right or duty to operate the System during the effective period of this Consent Decree, the Consent Decree shall continue to be binding upon ESCWD as owner of the System until the Consent Decree is terminated.

II. OBJECTIVE

9. It is the express goal of the parties in entering into this Consent Decree to have ESCWD achieve and maintain continuous, long-term compliance with the Act through its operation of the ESCWD - Burke Public Water System. All obligations under this Consent Decree shall be interpreted in a manner consistent with this goal.

III. DEFINITIONS

10. Terms used in this Consent Decree that are defined in the Act or in regulations promulgated pursuant to the Act shall have the meanings assigned to them in the Act or such regulations, unless otherwise provided in this Consent Decree. Whenever the terms set forth below are used in this Consent Decree, the following definitions shall apply:

“Act” shall mean the Public Health Service Act (also known as the “Safe Drinking Water Act” or “SDWA”), 42 U.S.C. §§ 300f et. seq.

“Administrative Compliance Order” shall mean the EPA Administrative Compliance Order, Docket No. SDWA-10-2000-0067, issued to ESCWD on March 28, 2000, and amended on November 21, 2001;

“Complaint” shall mean the complaint filed by the United States in this action;

“Consent Decree” or “Decree” shall mean this Consent Decree;

“Day” shall mean a calendar day unless expressly stated to be a working day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day;

“DOJ” shall mean the United States Department of Justice and any successor departments, agencies or instrumentalities of the United States;

“EPA” shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States;

“ESCWD” shall mean the East Shoshone County Water District;

“NPDWR” shall mean the National Primary Drinking Water Regulations, 40 C.F.R. Part 141;

“Paragraph” shall mean a portion of this Consent Decree identified by an arabic numeral;

“Parties” shall mean the United States and the East Shoshone County Water District;

“Section” shall mean a portion of this Consent Decree identified by a roman numeral;

“System” shall mean the ESCWD - Burke Water System; and

“United States” shall mean the Plaintiff United States of America, acting on behalf of EPA.

IV. CIVIL PENALTY

11. In satisfaction of the United States’ civil claims specifically alleged in the Complaint for ESCWD’s violations of the Act, NPDWRs, and ACO, as of the date of lodging this Consent Decree, ESCWD shall pay to the United States a civil penalty of FIVE THOUSAND DOLLARS (\$5,000) within 30 days of the entry of this Consent Decree.

12. The payment shall be made by Fed Wire Electronic Funds Transfer ("EFT") in accordance with current electronic funds transfer procedures, referencing DOJ Case No. 90-5-1-1-08453. The payment shall be made in accordance with instructions provided to Defendant by the Financial Litigation Unit of the Office of the United States Attorney for the District of Idaho. Concurrently with payment, ESCWD shall provide notice to those persons identified in Section XI (Notification). That notice shall reference the case name, the DOJ Case No. 90-5-1-1-08453.

V. INJUNCTIVE RELIEF

13. ESCWD shall perform all compliance actions required under the ACO, NPDWRs, and Act. In addition to all other applicable federal monitoring requirements, ESCWD shall:

- a. Comply with the routine and repeat total coliform monitoring requirements set forth at 40 C.F.R. § 141.21, and report analytical results to EPA within the first 10 days following the month in which sample results are received, in accordance with 40 C.F.R. § 141.31(a).
- b. Report any failure to comply with coliform monitoring requirements to EPA within 10 days, in accordance with 40 C.F.R. § 141.21(g)(2).
- c. Comply with the total coliform maximum contaminant levels ("MCL") set forth at 40 C.F.R. § 141.63 and report any exceedance of the MCL to EPA, in accordance with 40 C.F.R. §§ 141.21(e) and 141.21(g)(1). If ESCWD experiences two additional MCL violations within a continuous 12-month period while this Consent Decree is in effect, but after implementation of the system modifications set forth in Sub-Paragraph g. below, ESCWD shall submit to EPA within 30 days of the second MCL violation detailed plans

for determining the source of the bacteriological contamination and bringing the System into compliance with the MCL for coliform bacteria, in accordance with 40 C.F.R. § 141.63. The plans shall include proposed system modifications necessary to comply with the MCL, estimated costs of modifications, and a schedule for construction of the project and compliance with the MCL for coliform bacteria. The proposed schedule shall include specific milestone dates, a final compliance date (that shall be within 120 days from the second MCL violation) and shall be submitted to EPA for approval. The plans must be approved by EPA before construction can commence.

d. Provide public notice to persons served by the System of violations of the NPDWRs in accordance with 40 C.F.R. § 141.201. Such notice shall contain all of the information required by the NPDWRs. ESCWD shall submit a copy of the public notice to EPA within 10 days of its completion, in accordance with 40 C.F.R. §§ 141.31(d) and 141.201.

e. Provide notice to the State of violations of the NPDWRs in accordance with 40 C.F.R. § 141.31. Such notice shall contain all of the information required by the NPDWRs. ESCWD shall submit to EPA a copy of the notice to the State to within 10 days of its completion.

f. Except where a different reporting period is specified above, report to EPA any failure to comply with any NPDWR set forth at 40 C.F.R. Part 141 within 48 hours, in accordance with 40 C.F.R. § 141.31(b).

g. By no later than December 31, 2009, construct and operate a public drinking water disinfection and filtration system for the consumers in Burke Canyon. The new

system shall comply with the requirements of 40 C.F.R. Part 141, Subpart H. The schedule for this work includes, but is not limited to, providing distribution improvements by no later than the summer of 2009, flow monitoring by no later than the fall of 2009, and construction of disinfection and filtration facilities by no later than the spring and summer of 2009 to meet a final construction completion date of December 31, 2009. ESCWD must obtain all required federal, state, and county permits or approvals necessary to complete the water disinfection and filtration system, and must submit timely applications for such permits or approvals in order to meet the above deadlines.

h. By no later than December 31, 2009, complete a project estimated to cost approximately \$20,000 or more to modify the discharge from an abandoned mine adit near Sawmill Creek. The adit is identified on Exhibit A. This project must be designed to prevent runoff from impacting ESCWD's public water intake, thereby reducing levels of turbidity and primary inorganic drinking water contaminants. In designing the project, ESCWD shall consider the recommendations of the Idaho Department of Environmental Quality (DEQ) as set forth in their letter dated September 3, 2008, Exhibit B. ESCWD must submit its project proposal to DEQ for review no later than August 31, 2009, and obtain DEQ's approval before beginning work. In addition, ESCWD must obtain all required federal, state, and county permits or approvals necessary to complete the project, and must submit timely applications for such permits or approvals in order to meet the above deadlines.

i. EPA may, in its sole discretion, extend in writing the completion deadlines in Paragraphs 13g and 13h, provided ESCWD submits a timely written request

demonstrating good cause for the requested extension.

VI. COMPLIANCE REPORTING AND RECORD KEEPING

14. ESCWD shall perform all reporting and record keeping required under the ACO, NPDWRs, and Act.

15. Monthly Reports. In addition to all other applicable federal reporting and record keeping requirements, ESCWD shall submit to EPA and DEQ monthly progress reports due on or before the 15th of each month detailing ESCWD's compliance with and progress towards completing the Injunctive Relief requirements set forth in the preceding Section V (Injunctive Relief). Such reports shall include the information required by Paragraphs 13a-13f and completion percentage updates for the activities required by Paragraphs 13g and 13h. The reports are required until the Consent Decree is terminated but may, upon written notice from EPA, be changed to quarterly submissions.

16. Record Keeping. In addition to all other applicable federal reporting and record keeping requirements, ESCWD shall preserve and retain, and instruct its contractors and agents to preserve and retain, all non-identical copies of notices, reports, submissions, records and documents (including those in electronic form) that relate in any manner to ESCWD's performance of its obligations under this Consent Decree until the Consent Decree is terminated. ESCWD shall provide any of these documents to EPA upon request.

17. Final Document Disposition. In addition to all other applicable federal reporting and record keeping requirements, ESCWD shall notify the United States at least 30 days prior to the destruction of any notices, reports, submissions, records or documents subject to this Section and, upon request by the United States, deliver any such records or documents to

EPA. ESCWD may assert that certain documents, records, or other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If ESCWD asserts such a privilege, it shall provide the following: (a) the title of the document, record, or information; (b) the date of the document, record, or information; (c) the name and title of the author of the document, record, or information; (d) the name and title of each addressee and recipient; (e) a description of the subject of the document, record, or information; and (f) the privilege asserted. However, no documents, reports, or other information created or generated pursuant to the requirements of this Consent Decree shall be withheld on the grounds that they are privileged.

VII. STIPULATED PENALTIES

18. In addition to the civil penalty, ESCWD shall be liable for stipulated penalties in the amounts set forth below to the United States for failure to comply with the requirements of this Consent Decree, the Act, the NPDWRs, and the ACO. A violation includes, but is not limited to, failing to perform an obligation in accordance with any approved work plan or time schedule required by this Consent Decree.

Violation	Stipulated Penalty
Late Payment of any Civil Penalty (Paragraph 11)	\$5,000 per each 30 day period after due date
Late Payment of any Stipulated Penalty (Paragraph 18)	\$500 per day per outstanding stipulated penalty from due date
Failure to Monitor as required by the Act, NPDWRs, ACO and/or Consent Decree (Paragraphs 13a & 13b)	\$500 per day per monitoring requirement from due date
Failure to Comply with Total Coliform MCL (Paragraph 13c)	\$500 per day per MCL exceedance

Failure to Provide Public Notice as required by the Act, NPDWRs, ACO and/or Consent Decree (Paragraph 13d)	\$500 per day per violation from due date
Failure to Report/Notify as required by the Act, NPDWRs, ACO and/or Consent Decree. (Paragraphs 13a - 13f)	\$500 per day per reporting/notification requirement from due date
Failure to Construct and Operate Disinfection and Filtration Unit (Paragraph 13g)	\$1,000 per day per action item from due date
Failure to Hire or Contract a Certified Operator (Paragraph 13g)	\$500 per day from due date
Failure to Complete Environmental Project (Paragraph 13h)	\$20,000
Late, Inaccurate, or Incomplete Reports (Paragraph 15)	\$500 per day from due date until satisfactory report submitted to EPA
Failure to Keep Records (Paragraph 16)	\$500
Final Document Disposition Noncompliance (Paragraph 17)	\$500

19. All stipulated penalties shall begin to accrue on the first day that performance is delinquent or a violation of this Consent Decree occurs, and continue to accrue through the final day of correction of the violation.

20. Upon entry of this Consent Decree, the stipulated penalty provisions set forth in this Section VII shall be retroactively enforceable with regard to any and all violations that have occurred between lodging and entry of the Consent Decree.

21. Stipulated penalties shall become owing upon written demand by the EPA and are due on or before the 15th (fifteenth) of the month following the month the written demand is received. ESCWD shall, as directed by the United States, pay stipulated penalties owing to the United States in accordance with Section IV (Civil Penalty), Paragraph 13, above, including

providing a copy of the payment concurrently to those persons identified in Section XI (Notification).

22. If ESCWD fails to pay stipulated penalties according to the terms of this Consent Decree, the United States shall be entitled to collect interest on such penalties, as provided for in 28 U.S.C. § 1961.

23. The United States may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this Consent Decree.

24. ESCWD shall be liable for stipulated penalties to the United States unless excused under Section IX (Force Majeure).

25. Stipulated penalties shall continue to accrue during any dispute resolution, with interest on accrued penalties payable and calculated at the rate established by the Secretary of the Treasury, pursuant to 28 U.S.C. § 1961, but need not be paid until the following:

a. If the dispute is resolved by agreement or by a decision of EPA that is not appealed to the Court, ESCWD shall pay accrued penalties determined to be owing, together with interest, to the United States within 30 days of the effective date of the agreement or the receipt of EPA's decision or order;

b. If the dispute is appealed to the Court and the United States prevails in whole or in part, ESCWD shall pay all accrued penalties determined by the Court to be owing, together with interest, within 60 days of receiving the Court's decision or order, except as provided in Subparagraph c, below;

c. If any party appeals the District Court's decision, ESCWD shall pay all accrued penalties determined to be owing, together with interest, within 15 days of

receiving the final appellate court decision.

26. Nothing in this Section shall be construed to limit the United States' ability to seek any remedy, including injunctive relief, civil and/or criminal penalties otherwise provided by law for any violation of this Consent Decree, the Act, NPDWRs, or ACO.

VIII. RIGHT OF ENTRY

27. EPA and its contractors, consultants, agents and attorneys shall have the authority until this Consent Decree is terminated to enter any property owned or operated by ESCWD at all times for the purpose of monitoring the progress of activities required under this Consent Decree, including but not limited to:

- a. verify any data or information submitted to the United States in accordance with the terms of this Consent Decree;
- b. obtain samples and, upon request, splits of any samples taken by ESCWD or its representatives, contractors, or consultants;
- c. obtain documentary evidence, including photographs and similar data;
- d. assess ESCWD's compliance with this Consent Decree.

28. Upon request, EPA shall provide ESCWD splits of any samples taken by EPA.

29. This provision in no way limits or otherwise affects any right of entry held by EPA pursuant to applicable federal, tribal, or local laws or regulations.

IX. FORCE MAJEURE

30. ESCWD shall satisfy the requirements of Section V (Injunctive Relief) except to the extent, and for the period of time, that such performance is prevented or delayed by events that constitute a force majeure.

31. For the purpose of this Consent Decree, a force majeure is defined as any event arising from circumstances beyond the control of ESCWD and that cannot be overcome by ESCWD's diligent and timely efforts. Economic hardship, normal inclement weather, and increased costs of performance shall not be considered events beyond the reasonable control of ESCWD for purposes of determining whether an event is a force majeure.

32. In the event of a force majeure, the time for performance of the activity delayed by the force majeure shall be extended for the time period of the delay attributable to the force majeure. The time for performance of any activity dependent on the delayed activity shall be similarly extended, except to the extent that the dependent activity can be reasonably implemented in a shorter time. EPA shall determine whether dependent activities will be delayed by the force majeure and whether the time period should be extended for performance of such activities. ESCWD shall adopt all reasonable measures to avoid or minimize any delay caused by a force majeure.

33. When an event occurs or has occurred that may delay or prevent the performance of any obligation under this Consent Decree and which ESCWD believes is a force majeure, ESCWD shall notify by telephone the EPA representative identified in Section XI (Notification) within 24 hours of ESCWD's knowledge of such event. Telephone notification shall be followed by written notification, made within seven (7) working days of ESCWD's knowledge of the event. The written notification shall fully describe: the event that may delay or prevent performance; reasons for the delay; the reasons the delay is beyond the reasonable control of ESCWD; the anticipated duration of the delay; actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to mitigate the

effect of the delay; and the time needed to implement any dependent activities.

34. ESCWD's failure to comply with the force majeure notice requirements provided in Paragraph 33 above will be deemed an automatic forfeiture of its right to assert that any prevention or delay of performance was caused by a force majeure.

X. DISPUTE RESOLUTION

35. If ESCWD disputes any determination made by EPA under this Consent Decree related to (a) stipulated penalties, (b) injunctive relief, (c) force majeure, or (d) the termination of the Consent Decree, it shall send written notice to EPA and DOJ outlining the nature of the dispute and requesting informal negotiations to resolve the dispute. Such period of informal negotiations shall not extend beyond 30 working days from the date when the notice was sent unless the parties agree otherwise.

36. If the informal negotiations are unsuccessful, the determination of EPA shall control, unless ESCWD files a motion with this Court for dispute resolution. Any such motion must be filed within 30 days after receipt by ESCWD of a notice in writing terminating informal negotiations, and such motion must be concurrently sent to DOJ and EPA in accordance with Section XI (Notification) of this Consent Decree. The United States shall then have 30 days to respond to ESCWD's motion.

37. The invocation of formal dispute resolution procedures under this Section shall not extend, postpone or affect in any way any obligation of ESCWD under this Consent Decree, unless the parties to the dispute so agree or the Court so orders. Stipulated penalties with respect to the disputed matter shall continue to accrue but payment to the United States shall be stayed pending resolution of the dispute, in accordance with Paragraph 25. In the event that ESCWD

does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section VII (Stipulated Penalties).

XI. NOTIFICATION

38. Notifications, certifications, reports, or other communications required pursuant to this Consent Decree shall be deemed submitted on the date (a) postmarked and sent by certified mail, return receipt requested, or by regular first-class mail; (b) sent by facsimile transmission, with confirmation of receipt; or (c) sent by overnight delivery service. Except as specified otherwise, when written notification to or communication with a party is required by the terms of this Consent Decree, it shall be addressed as follows:

As to the United States:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
Post Office Box 7611 - Ben Franklin Station
Washington, D.C. 20044-7611
Reference Case DOJ No. 90-5-1-1-08453

Paul Gormley
Trial Attorney
Environmental Enforcement Section
United States Department of Justice
PO Box 7611
Washington, D.C. 20044-7611
Telephone: (202) 514-0444
Facsimile: (202) 514-4180

Office of Water and Watersheds
U.S. EPA Region 10
1200 Sixth Avenue, Suite 900, Mail Stop OWW-136
Seattle, Washington 98101-3140
Attn: Richard Green
Telephone: (206) 553-8504
Facsimile: (206) 553-1280

As to ESCWD:

Carl Scheel, District Manager
East Shoshone County Water District
606 Cedar Street
Wallace, Idaho 83873
Telephone: (208) 752-1174
Facsimile: (208) 556-8511

39. All submissions made pursuant to Paragraphs 15, 17, 33 and 35 of this Consent Decree shall be signed and affirmed by a responsible official of ESCWD using the following certification statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on inquiry of those individuals immediately responsible for obtaining the information, I certify that the information is true, accurate, and complete to the best of my knowledge, information, and belief. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

XII. NON-WAIVER PROVISIONS

40. Entry of this Consent Decree and compliance with the requirements herein resolves the civil claims of the United States against ESCWD for the violations alleged in the Complaint filed in this action through the date of lodging.

41. Except as specifically provided herein, the United States does not waive any rights or remedies available to it for violation by ESCWD of federal laws or regulations. This Consent Decree shall in no way affect the United States' ability to bring future actions for any matters not specifically alleged in the Complaint filed in this action, through the date of entry of the Consent Decree. Nothing in this Consent Decree is intended to nor shall be construed to operate in any

way to resolve any criminal liability of ESCWD.

42. This Consent Decree in no way affects ESCWD's responsibilities to comply with all federal, tribal, or local laws or regulations. Nothing in this Consent Decree shall diminish EPA's ability to request information from ESCWD under applicable laws and regulations.

43. This Consent Decree does not limit or affect the rights of the Plaintiff or Defendant against any third parties (parties not specifically part of this Consent Decree), nor does it limit the rights of such third parties against ESCWD except as provided by law.

XIII. MISCELLANEOUS

44. Fees. Each party shall bear its own costs and attorney's fees in this action

45. Effective Date. This Consent Decree shall be effective upon the date that it is entered by the Court. As provided in Paragraph 20, Section VII (Stipulated Penalties), the stipulated penalty provisions of this Consent Decree shall be retroactively enforceable with regard to any and all violations that have occurred between lodging and entry of this Consent Decree.

46. Integration and Modifications. This Consent Decree (including any attachments) contains the entire agreement between the parties. The reporting requirements of this Consent Decree may be modified only if such modifications are made in writing and approved by all the parties. In all other respects, this Consent Decree may not be enlarged, modified, or altered unless such modifications are made in writing and approved by all the parties and the Court.

47. Termination. After ESCWD completes all corrective measures specified in this Consent Decree; pays all outstanding penalties; and has remained in compliance with all

requirements of this Consent Decree, the Act, the NPDWRs, and the ACO through conclusion of a 5-year period after entry of this Consent Decree, then the United States may move for termination of this Consent Decree. In the event that the United States has not moved to terminate the Consent Decree after the time period set forth above, ESCWD may make a written request to the United States to so move. Any such request by ESCWD shall be accompanied by a certification, consistent with Paragraph 40, that ESCWD has satisfied all obligations of the Consent Decree along with supporting documentation. After receiving notice from ESCWD, the United States shall provide ESCWD with a written determination whether it intends to terminate the Consent Decree. If the United States does not file a motion to terminate the Consent Decree within 30 days after receipt of ESCWD's written request, ESCWD may file a motion with the Court to terminate the Consent Decree. The United States reserves the right to object to any motion to terminate filed by ESCWD.

48. Retention of Jurisdiction. The Court shall retain jurisdiction over this case until the Consent Decree is terminated, for the purpose of resolving any disputes arising under this Consent Decree, entering orders modifying this Consent Decree, or effectuating or enforcing compliance with the terms of this Consent Decree.

49. Public Comment. ESCWD agrees and acknowledges that final approval of this Consent Decree by the United States and entry of this Consent Decree is subject to the requirements of 28 C.F.R. § 50.7, which provides for notice of the lodging of this Consent Decree in the Federal Register, opportunity for public comment for at least 30 days, and consideration of any comments prior to entry of the Consent Decree by the Court. The United States reserves its right to withdraw consent to this Consent Decree based on comments received

during the public notice period. ESCWD consents to entry of this Consent Decree without further notice.

50. Final Judgment. Upon entry by this Court, this Consent Decree shall constitute a final judgment for purposes of Federal Rules of Civil Procedure 52 and 56.

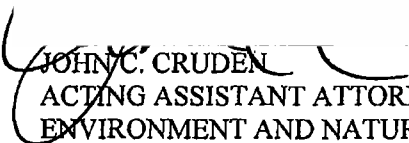
SO ORDERED THIS _____ DAY OF _____, 2009

UNITED STATES DISTRICT JUDGE


For the Plaintiff United States of America:

THOMAS E. MOSS, IDAHO BAR NO. 1058
UNITED STATES ATTORNEY
ROBERT C. GRISHAM, IDAHO BAR NO. 2623
ASSISTANT UNITED STATES ATTORNEY
DISTRICT OF IDAHO
800 PARK BLVD., SUITE 600
BOISE, IDAHO 83712
TELEPHONE: (208) 334-1211
FACSIMILE: (208) 334-1414

DATED: 10/1/2009


JOHN C. CRUDEN
ACTING ASSISTANT ATTORNEY GENERAL
ENVIRONMENT AND NATURAL RESOURCES DIV.
U.S. DEPARTMENT OF JUSTICE
Post Office Box 7611
Washington, D.C. 20044-7611

DATED: 9/29/2009


PAUL GORMLEY
TRIAL ATTORNEY
ENVIRONMENTAL ENFORCEMENT SECTION
UNITED STATES DEPARTMENT OF JUSTICE
1961 Stout Street
Denver CO 80294
Telephone: (303) 844-1379
Facsimile: (303) 844-1350

For the Plaintiff United States of America:

DATED: July 10, 2009 |

NANCY J. (TEDDY) KYERSON
Regional Counsel
U.S. EPA Region 10
1200 Sixth Avenue, Suite 900, ORC-158
Seattle, Washington 98101-3140

For the Defendant East Shoshone County Water District:

DATED: 6-23-2009

JEROME BUNDE
Chairman
East Shoshone County Water District
606 Cedar Street
Wallace, ID 83873