



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II

290 BROADWAY

NEW YORK, NEW YORK 10007-1866

NOV 16 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Article Number: 7005 3110 0000 5949 1355

Lawrence Longway
Town Supervisor
Pamelia Water District #2
25859 NYS Route 37
Watertown, NY 13601

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2011 NOV 16 P 1:36
REGIONAL HEARING
CLERK

Re: In the Matter of: Pamelia Water District #2 (PWS ID: NY2230075)
Docket No. SDWA-02-2011-8403

Dear Mr. Longway:

Enclosed you will find a fully executed Consent Agreement and Final Order ("CA/FO") which settles the above referenced action. The original and one copy of the CA/FO are being filed with the Regional Hearing Clerk with a copy of this letter.

Please do not hesitate to contact me at (212) 637-3231 should you have any questions. Thank you for your efforts to resolve this matter.

Sincerely,

Lauren Fischer
Assistant Regional Counsel

Enclosures

cc: Karen Maples, Regional Hearing Clerk w/ original and copy

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.11
2011 NOV 16 P 1:36
REGIONAL HEARING
CLERK

IN THE MATTER OF:

Pamelia Water District #2
25859 NYS Route 37
Watertown, NY 13601

PWS ID: NY2230075

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-02-2011-8403

I. Preliminary Statement

1. 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).
2. 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 Pamelia Water District #2 ("Respondent"), on August 31, 2011.
3. 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 (Pamelia Water District #2 public water system) in Watertown, New York.

II. Findings of Fact and Conclusions of Law

1. Respondent owns and/or operates the Pamelia Water District #2 "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 Watertown, New York.

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 pursuant to Section 1414(g)(1) of the SDWA, 42 U.S.C. § 300g-3(g)(1).
4. Respondent's public water system provides piped water for human consumption and regularly serves at least 25 individuals, and is therefore a "community water system" as defined by Section 1401(15) of the SDWA, 42 U.S.C. § 300(f)(15) and 40 C.F.R. § 141.2.
5. On January 4, 2006, EPA promulgated the Stage 2 Disinfectants and Disinfection Byproducts Rule ("Stage 2 DBPR"), 40 C.F.R. Part 141, Subparts U and V, to provide for increased public health protection against the potential risks for cancer and reproductive and developmental health effects associated with disinfection byproducts ("DBPs"). The Stage 2 DBPR requires community water systems that use a primary or residual disinfectant other than ultraviolet light, or deliver water that has been treated with a primary or residual disinfectant other than ultraviolet light, to conduct an Initial Distribution System Evaluation ("IDSE") to identify the locations with high disinfection byproduct concentrations. The locations identified in the IDSE are then to be used as sampling sites for Stage 2 DBPR compliance monitoring. The Stage 2 DBPR introduces a new method for calculating compliance with the maximum contaminant levels for total trihalomethanes and haloacetic acids, referred to as the locational running annual average ("LRAA").
6. The New York State Department of Health ("NYSDOH") administers the Public Water Supply Supervision Program in New York pursuant to Section 1413 of the SDWA. The approval and delegation of primary enforcement responsibility from EPA to NYSDOH was effective as of September 9, 1977. However, the NYSDOH has not yet obtained primary enforcement responsibility for the Stage 2 DBPR. Therefore, as of the date of this Consent Agreement and Final Order, EPA has primary responsibility for enforcement of the Stage 2 DBPR.
7. Pursuant to 40 C.F.R. § 141.600(b), community water systems that use a primary or residual disinfectant other than ultraviolet light, or deliver water that has been treated with a primary or residual disinfectant other than ultraviolet light, are required to comply with 40 C.F.R. Part 141 Subparts U and V (Stage 2 DBPR).
8. Respondent's public water system adds a disinfectant other than ultraviolet light, or delivers water that has been treated with a disinfectant other than ultraviolet light. Therefore, it is subject to the requirements of 40 C.F.R. Part 141 Subparts U and V (Stage 2 DBPR).
9. Pursuant to 40 C.F.R. § 141.600(c), community water systems serving between 10,000 and 49,999 people were required to submit a standard monitoring plan in accordance with 40 C.F.R. § 141.601, a system specific study plan in accordance with 40 C.F.R.

§ 141.602, or 40/30 certification in accordance with 40 C.F.R. § 141.603 by October 1, 2007. Wholesale and consecutive systems that are part of a combined distribution system, as defined by 40 C.F.R. § 141.2, are required to comply at the same time as the largest system within their combined distribution system.

10. Respondent's public water system is a community water system that serves between 10,000 and 49,999 people, or a consecutive community water system that is part of a combined distribution system that serves between 10,000 and 49,999 people. Therefore, it was required to submit a standard monitoring plan in accordance with 40 C.F.R. § 141.601, a system specific study plan in accordance with 40 C.F.R. § 141.602, or 40/30 certification in accordance with 40 C.F.R. § 141.603, by October 1, 2007.
11. Based on information available to EPA, Respondent submitted a standard monitoring plan on January 16, 2008.
12. Pursuant to 40 C.F.R. § 141.600 and § 141.601, Respondent was required to complete sampling in accordance with the standard monitoring plan by September 30, 2009.
13. Based on information provided by NYSDOH, Respondent failed to complete sampling pursuant to 40 C.F.R. § 141.601 during the first week of August 2009, as outlined in their IDSE Standard Monitoring Plan dated January 16, 2008.
14. On January 12, 2010, EPA issued an Administrative Order, Docket Number SDWA-02-2010-8007 ("AO"), requiring Respondent to collect samples and submit an IDSE report of compliance by January 1, 2011.
15. On June 9, 2011, EPA issued a letter to the Respondent (certified mail article number 7005-3110-0000-5970-7012) requesting that Respondent confirm its status of compliance with the AO because EPA had not yet received the IDSE report.
16. On June 28, 2011, EPA received correspondence from Respondent, dated June 22, 2011, stating that, due to a failure to collect a sample at the maximum residence time location required by the January 16, 2008 Standard Monitoring Plan, the Respondent had an incomplete IDSE report.
17. Based on information available to EPA, Respondent violated of 40 C.F.R. § 41.600(c)(1) and 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:

Terms of Settlement

1. This Consent Agreement and Final Order ("CA/FO") shall apply to and be binding upon Respondent, its officers, directors, employees, successors and assigns.
2. Respondent shall provide a copy of this CA/FO to all officers, employees, and agents whose duties might reasonably include compliance with any provision of this CA/FO.
3. In any action to enforce this CA/FO, Respondent shall not raise as a defense the failure by any of its officers, directors, employees, agents, or contractors to take any actions necessary to comply with the provisions of this CA/FO.
4. For the purpose of this proceeding, Respondent stipulates that:
 - a. EPA has jurisdiction over the subject matter alleged herein and that this Consent Agreement states a claim upon which relief can be granted against Respondent;
 - b. Respondent waives any defenses they might have as to jurisdiction and venue;
 - c. Respondent hereby consents to the terms of this CA/FO; but neither admits nor denies the factual and legal allegations contained herein;
 - d. Respondent hereby waives its right to a judicial or administrative hearing or appeal on any issue of law or fact set forth herein; and,
 - e. Respondent consents to the payment of the civil penalty cited in Paragraph 7 below.
5. Respondent agrees to complete sampling in accordance with the standard monitoring plan pursuant to 40 C.F.R. § 141.600 and § 141.601.
6. Complainant and Respondent agree that an appropriate civil penalty to settle this proceeding is in the amount of **three hundred dollar (\$300)**.

Payment of Civil Penalty

1. Respondent shall pay a civil penalty to EPA in the amount of **three hundred dollars (\$300.00)**. Such payment shall be made by cashier's or certified check or by Electronic Fund Transfer (EFT). If the payment is made by check, then the check shall be payable to the "**Treasurer, United States of America**", and shall be mailed to:

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

The check shall be identified with a notation thereon listing the following: **IN THE MATTER OF Pamela Water District #2**, and shall bear thereon the **Docket Number SDWA-02-2011-8403**. Payment of the penalty must be received at the above address on or before thirty (30) calendar days after the Effective Date of this CA/FO (the "due date").

If Respondent chooses to make the payment by EFT, then Respondent shall provide the following information to its remitter bank:

- a. Amount of Payment
- b. SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045
- c. Account Code for Federal Reserve Bank of New York receiving payment: 68010727
- d. Federal Reserve Bank of New York ABA routing number: 021030004
- e. Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"
- f. Name of Respondent: Pamela Water District #2
- g. Case Number: SDWA-02-2011-8403

Such EFT must be received on or before 30 calendar days after the Effective Date of this CA/FO.

Whether the payment is made by check or by EFT, the Respondent shall promptly thereafter furnish reasonable proof that such payment has been made, to both:

Lauren Fischer, Esq.
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866

and

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

- h. Failure to pay the amount in full within the time period set forth above may result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection.
- i. 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. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.

- j. The civil penalty constitutes a penalty within the meaning of 26 U.S.C. § 162(f).
- k. 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.

IV. General Provisions

1. 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.
2. 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. 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.
3. 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.
4. Issuance of the CA/FO 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 CA/FO 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.
5. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and lawfully authorized to enter into and ratify this Consent Agreement and all the terms and

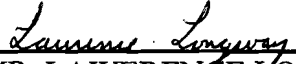
7. Respondent consents to service upon Respondent by a copy of this CA/FO by an EPA employee other than the Regional Hearing Clerk.

FOR THE RESPONDENT:

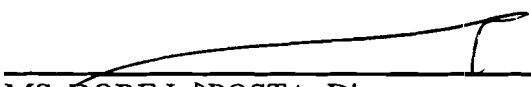
FOR THE COMPLAINANT:

Dated this 7 day of: September, 2011

Dated this 3rd day of: November, 2011



MR. LAWRENCE LONWAY
Pamelia Water District #2
25859 NYS Route 37
Watertown, NY 13601



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

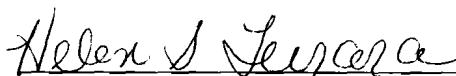
In The Matter of:

Pamelia Water District #2
25859 NYS Route 37
Watertown, NY 13601
Docket Number: SDWA-02-2011-8403

IV. Final Order

The Regional Judicial Officer 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: November 9, 2011



HELEN S. FERRARA
Regional Judicial Officer
United States Environmental Protection Agency
Region 2
290 Broadway
New York, NY 10007-1866

In The Matter of:

Pamelia Water District #2
25859 NYS Route 37
Watertown, NY 13601
Docket Number: SDWA-02-2011-8403

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

Pamelia Water District #2
25859 NYS Route 37
Watertown, NY 13601

PWS ID: NY2230075

Respondent

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

DOCKET NO. SDWA-02-2011-8403


CERTIFICATE OF SERVICE

I certify that, on the date noted below, I served the foregoing fully executed Consent Agreement and Final Order, bearing the above-referenced docket number, in the following manner.

Copy by Certified Mail Lawrence Longway
Return Receipt Requested: Town Supervisor
Pamelia Water District #2
25859 NYS Route 37
Watertown, NY 13601

Original and One Copy Regional Hearing Clerk
By Hand Delivery: U.S. Environmental Protection Agency
290 Broadway, 16th floor
New York, New York 10007-1866

Date: Nov. 16, 2011



Ana Madera
Secretary