

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

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**In the Matter of:** :  
: **Proceeding to Assess**  
: **Administrative Penalty Under**  
: **Section 1414(g)(3) of the Safe Drinking**  
: **Water Act**  
:  
**Mr. David T. Mathews** : **Docket No. SDWA-03-2014-0015-DS**  
**Shenandoah Utility Services, Inc.** :  
**375 Woodland Drive** :  
**Luray, Virginia 22835** :  
: **CONSENT AGREEMENT**  
**Respondent** : **AND FINAL ORDER**  
:  
**PWS ID No. VA2139017** :  
:  
:

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**I. PRELIMINARY STATEMENT AND STATUTORY AUTHORITY**

1. This Consent Agreement is entered into by the Director, Water Protection Division, United States Environmental Protection Agency, Region III ("EPA", "Agency", or "Complainant") and Mr. David T. Mathews ("Mathews" or "Respondent") pursuant to Section 1414(g)(3)(B), of the Safe Drinking Water Act ("SDWA" or "Act"), 42 U.S.C. § 309g-3(g)(3)(B) and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits ("Consolidated Rules"), 40 C.F.R. Part 22. The parties have agreed to settlement of violations of the Safe Drinking Water Act by Respondent. This Consent Agreement and Final Order ("CAFO") concludes this action pursuant to 40 C.F.R. §§ 22.18 and 22.31.
2. Pursuant to Section 1414(g)(3) of SDWA, 42 U.S.C. § 300g-3(g)(3) the Administrator of the EPA is authorized to assess administrative penalties against persons who violate an order issued pursuant to Section 1414(g) of the Act, 42 U.S.C. §. 300g.
3. The Administrator of the EPA has delegated this authority to the Regional Administrator of EPA, Region III, who in turn has delegated this authority to the Water Protection Division Director.
4. Pursuant to Section 1414(g) of the SDWA, 42 U.S.C. §, 300g-3(g) and the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection

Improvement Act of 1996 (28 U.S.C. § 2461), and the subsequent Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, violations that are assessed penalties under Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), subject the violator to civil penalties in an amount not to exceed \$32,500 per proceeding for violations that occurred after December 6, 2013.

## **II. FINDINGS OF FACT**

5. The Complainant initiated this proceeding for assessment of an Administrative Penalty pursuant to Section 300g-3(g)(3)(B) of the Act, 42 U.S.C. § 1414(g)(3)(B), by issuing an Administrative Complaint to Respondent on June 30, 2014.
6. This Consent Agreement incorporates by reference the allegations contained in Paragraphs 3 through 25 of the Complaint, and adopts them as Findings of Fact herein.

## **III. FINDINGS OF VIOLATION**

7. EPA concludes that the Respondent has violated Section 300g of the SDWA, 42 U.S.C. § 1414(g), and is liable to the United States for a civil penalty in accordance with Section 300g-3(g)(3)(B) of the SDWA, 42 U.S.C. § 1414(g)(3)(B).

## **IV. GENERAL PROVISIONS**

8. For the purposes of this proceeding:
  - a. Respondent admits the jurisdictional allegations of the Complaint;
  - b. Respondent neither admits nor denies the specific factual allegations set forth in the Complaint;
  - c. Respondent consents to the assessment of the civil penalty (the "Civil Penalty") set forth herein;
  - d. Respondent agrees to undertake all actions required by this Consent Agreement;
  - e. Respondent hereby expressly waives its right to contest the allegations set forth in the Complaint at a hearing; and
  - f. Respondent waives its right to appeal the Final Order.
9. Each party to this action shall bear its own costs and attorney fees.
10. The provisions of this CAFO shall be binding upon the Respondent, its officers, principals, directors, successors and assigns.

11. The parties agree that settlement of this matter is in the public interest and that entry of this CAFO is the most appropriate means of resolving this matter.
12. EPA has consulted with the Commonwealth of Virginia regarding this action.
13. Based upon the foregoing and having taken into account all relevant factors including the seriousness of the violation; the population at risk; the economic benefit (if any) resulting from the violation; any history of such violations; any good faith efforts to comply with the applicable requirements; the economic impact of the penalty on the violator; and such other matters as justice may require, EPA HEREBY ORDERS AND Respondent HEREBY CONSENTS to pay a civil penalty in the amount of **five hundred dollars (\$500)** in full and final settlement of EPA's claims for civil penalties for the violations alleged herein.
14. Respondent shall pay the total administrative civil penalty of **five hundred dollars (\$500)** within thirty (30) days of the effective date of this CAFO pursuant to 40 C.F.R. § 22.31(c). Payment shall be made by one of the following methods set forth below.

All payments by Respondent shall reference Respondent's name and address and the Docket Number of this action, i.e., SDWA-03-2014-0015-DS.

Payment by check to "United States Treasury":

By regular mail:

U.S. EPA Region III  
Cincinnati Finance Center  
Box 979077  
St. Louis, MO 63197-9000  
Contact: 513-487-2091

By overnight delivery:

U.S. Environmental Protection Agency  
Government Lock Box 979077  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, MO 63101  
Contact: 314-418-1028

By Wire Transfer:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT Address = FRNYUS33  
33 Liberty Street  
New York, NY 10045  
(Field Tag 4200 of the wire transfer message should read:  
D 68010727 Environmental Protection Agency)

By Automated Clearinghouse (ACH) Transfers for receiving U. S. currency (also known as REX or remittance express):

US Treasury REX / Cashlink ACH Receiver  
ABA = 051036706  
Account No.: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737

Contacts for ACH:  
John Schmid (202-874-7026)  
Jesse White (301-887-6548)  
Remittance Express (REX): 1-866-234-5681

On-Line Payments:

WWW.PAY.GOV  
Enter sfo 1.1 in the search field  
Open form and complete required fields.

Additional payment guidance is available at:  
[http://www.epa.gov/ocfo/finservices/make\\_a\\_payment.htm](http://www.epa.gov/ocfo/finservices/make_a_payment.htm)

Respondent shall send notice of such payment, including a copy of the check if payment is made by check, to the Regional Hearing Clerk at the following address:

Regional Hearing Clerk (3RC00)  
U.S. EPA Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

-and-

Andrew Duchovnay  
Mail Code 3RC20  
Office of Regional Counsel  
U.S. EPA Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

15. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law and ordinance, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit. Nor does this CAFO constitute a waiver, suspension or modification of the requirements of the SDWA, 42 U.S.C. §§ 300f *et seq.*, or any regulations promulgated thereunder.
16. The following notice concerns interest and late penalty charges that will accrue in the event that any portion of the civil penalty is not paid as directed:
  - a. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payments as required herein or to comply with the conditions in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
  - b. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which it is due. 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).

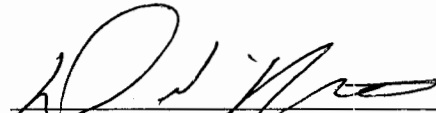
17. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
18. This CAFO resolves only the civil claims for the specific violations alleged herein. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present and imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under the Safe Drinking Water Act, 42 U.S.C. § 300f *et seq.*, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO.
19. The penalty specified in Paragraph 13 shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.
20. Entry of this CAFO is a final settlement of all violations alleged in this CAFO. EPA shall have the right to institute a new and separate action to recover additional civil penalties for the claims made in this CAFO if the EPA obtains evidence that the information and/or representations of the Respondent are false, or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action, civil or criminal, the EPA may have under law or equity in such event.
21. The undersigned representative of Respondent certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.
22. All of the terms and conditions of this CAFO together comprise one agreement, and each of the terms and conditions is in consideration of all of the other terms and conditions. In the event that this CAFO, or one or more of its terms and conditions, is held invalid, or is not executed by all of the signatories in identical form, or is not approved in such identical form by the Regional Administrator or his designee, then the entire CAFO shall be null and void.

#### **V. EFFECTIVE DATE**

23. This CAFO will become final and effective thirty (30) days after issuance. Payment of the civil penalty assessed in this CAFO is due thirty (30) days after the effective date.

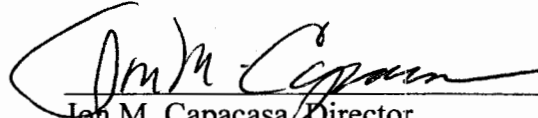
FOR RESPONDENT

Date: 9 NOV. 2015

  
Mr. David T. Mathews  
Shenandoah Utility Services, Inc.

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 12/17/15

  
Jen M. Capacasa, Director  
Water Protection Division

SO ORDERED, pursuant to 33 U.S.C. 1319(g), and 40 C.F.R. Part 22,

this 17<sup>th</sup> day of December, 2015

Cecil Rodriguez  
Shawn M. Garvin *SMG*  
Regional Administrator  
U.S. EPA Region III



In Re: Shenandoah Utility Services, Inc.  
Docket No. CWA-03-2015-0015-DS

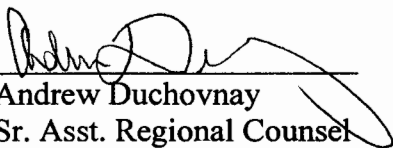
CERTIFICATE OF SERVICE

I certify that on this date I caused to be sent by certified mail, return receipt requested, a copy of this "Consent Agreement and Final Order," to the following persons:

Shenandoah Utility Services, Inc.  
Attn: David Mathews, Owner and operator  
375 Woodland Drive  
Luray, Virginia 22835

and a copy delivered by hand to:

Regional Hearing Clerk (3RC00)  
U.S. Environmental Protection Agency, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

  
Andrew Duchovnay  
Sr. Asst. Regional Counsel

Date: 12/17/15