

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

April 11, 2022 @ 12:19 pm  
USEPA – Region II  
Regional Hearing Clerk

**IN THE MATTER OF:**

United States Postal Service

Budd Lake Mt Olive Branch Post Office  
1 Mount Olive Rd Ste 102  
Budd Lake, NJ 07828

PWS ID No. NJ1427384

Respondent

Proceedings pursuant to Section 1447(b)  
of the Safe Drinking Water Act, 42 U.S.C.  
Section 300j-6(b)

CONSENT AGREEMENT  
AND  
FINAL ORDER

Docket No.  
SDWA-02-2022-8401

**PRELIMINARY STATEMENT**

This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency, Region 2 (“EPA” or “Complainant”) and the United States Postal Service (“Respondent”), pursuant to Section 1447(b) of the Safe Drinking Water Act (“SDWA”), as amended, 42 U.S.C. § 300j-6(b), and in accordance with 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 of Practice”), 40 C.F.R. Part 22. The authority to issue this order has been duly delegated to the Regional Administrator of U.S. EPA Region 2.

This Consent Agreement and the attached the Final Order (hereinafter jointly referred to as the “CAFO”), resolve Complainant’s civil penalty claims against Respondent under the SDWA for the violations alleged herein, with respect to the United States Postal Service Budd Lake Mt Olive Branch public water system (PWS ID NJ1427384) (“Facility”) located in Budd Lake, New Jersey.

**JURISDICTION**

1. The New Jersey Department of Environmental Protection (“NJDEP”) administers the Public Water Supply Supervision Program in New Jersey pursuant to Section 1413 of the SDWA. The approval of primary enforcement responsibility from EPA to NJDEP was effective as of July 13, 1979. NJDEP is the primacy agency, as that term is defined in 40 C.F.R. § 142.2. However, on June 22, 2021, NJDEP referred the USPS Budd Lake Mt Olive Branch public water system (“PWS”) to EPA for appropriate action.

2. Section 1447 of the SDWA, 42 U.S.C. § 300j-6, authorizes EPA to take an enforcement action whenever it determines that a Federal agency is in violation of any requirement of the SDWA, EPA's regulations thereunder, or any regulation of a state drinking water program which has been authorized by EPA. Pursuant to 42 U.S.C. § 300j-6(b), EPA may issue a penalty order assessing a penalty against any Federal agency that owns or operates any public water system which violates an applicable requirement of the statute. Violators are subject to, inter alia, the assessment of a civil penalty of not more than \$43,678 per day per violation pursuant to 42 U.S.C. § 300j-6 (b)(2).
3. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in the Preliminary Statement, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(9).
5. In accordance with 40 C.F.R. §§ 22.13(b), 22.18(b)(2) and (3), and 22.43 of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

#### **GENERAL PROVISIONS**

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
7. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CAFO.
8. Respondent hereby stipulates that EPA has jurisdiction over the subject matter alleged in this CAFO and agrees not to contest EPA's jurisdiction with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
9. For the purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing on any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
10. Respondent hereby expressly waives its right to confer with the Administrator under SDWA § 1447(b)(3), 42 U.S.C. § 300j-6(b)(3).
11. Respondent consents to the issuance, and terms of this CAFO as set out herein, including the assessment and payment of the stated civil penalties, and to any conditions specified herein.
12. Each party shall bear its own costs and attorney's fees.
13. The person signing this CAFO on behalf of the Respondent certifies to EPA by his or her signature herein that Respondent, as of the date of its execution of this CAFO, is in compliance with the provisions of the SDWA, its implementing regulations and the NJDEP's

federally authorized Public Water Supply Supervision Program at the USPS Budd Lake Post Office referenced herein. This certification is based on the personal knowledge of the signer or an inquiry of the person or persons responsible for the Facility's compliance with the SDWA.

14. The provisions of this CAFO shall be binding upon the Respondent and its successor agencies, departments, or instrumentalities.
15. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of Federal, state or local law, 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 40 C.F.R. part 141, the SDWA, or any other regulations promulgated thereunder.
16. Complainant shall have the right to institute further actions to recover appropriate relief if Complainant obtains evidence that the information provided and/or representations made by Respondent to EPA regarding matters at issue in the CAFO are false or, in any material respect, inaccurate.

#### **FACTUAL ALLEGATIONS AND CONCLUSIONS OF LAW**

17. Respondent is a "Federal agency" as that term is defined in SDWA § 1401(11), 42 U.S.C. § 300f(11) as any department, agency, or instrumentality of the United States.
18. Respondent is a "person" as that term is defined in SDWA § 1401(12), 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2.
19. Respondent owns or operates a "public water system" and is a "supplier of water" within the meaning of SDWA § 1401(5), 42 U.S.C. § 300f(5). Respondent is therefore subject to the requirements of Part B of the SDWA, 42 U.S.C. § 300g *et seq.*, and its implementing regulations found at 40 C.F.R. Part 141.
20. Respondent provides piped water for human consumption and does not regularly serve the same population of at least 25 individuals over six (6) months per year, and is therefore a "transient non-community water system" (TNCWS) as defined in Section 1401(16) of the SDWA, 42 U.S.C. § 300f(16), and 40 C.F.R. § 141.2.
21. Under SDWA § 1447(a), 42 U.S.C. § 300j-6(a), each department, agency, or instrumentality of the executive branch of the federal government that owns or operates any public water system is subject to and must comply with, all Federal, State, interstate, and local requirements, both substantive and procedural, to the same extent as any person is subject to such requirements.
22. Respondent owns or operates a public water system and is a department, agency, or instrumentality of the executive branch of the federal government. Respondent is therefore subject to and must comply with the requirements of Part B of the SDWA, 42 U.S.C. § 300g *et seq.*, and its implementing regulations found at 40 C.F.R. Part 141.

23. 40 C.F.R. Part 141, Subpart Y, the Revised Total Coliform Rule “RTCR” applies to all public water systems except those subject to the Aircraft Drinking Water Rule.
24. Pursuant to 40 C.F.R. § 141.853(a), Respondent is required to monitor for total coliforms at sites which are representative of water throughout the distribution system according to a written sample siting plan.
25. Pursuant to 40 C.F.R. §§ 141.854(b) and 141.854(c), Respondent is required to monitor quarterly for total coliforms.
26. Pursuant to 40 C.F.R. § 141.861(a)(4), systems failing to comply with a coliform monitoring requirement must report the monitoring violation to the State within ten (10) days after the system discovers the violation and notify the public in accordance with 40 C.F.R. § 141, Subpart Q (Public Notification of Drinking Water Violations).
27. Pursuant to 40 C.F.R. § 141.854(f), non-community water systems with two or more monitoring violations in a rolling 12-month period must increase monitoring to monthly for total coliforms. The system must continue monthly monitoring until it meets the reduced monitoring requirements outlined in § 141.854(g).
28. Pursuant to 40 C.F.R. § 141.23(d), Respondent is required to monitor annually for nitrate.
29. Pursuant to 40 C.F.R. § 141.31(a)(2), systems are required to report to the State within ten (10) days following the end of the monitoring period, in which monitoring is required, the results of any test measurement or analysis required by the monitoring.
30. Based on information in the Safe Drinking Water Information Systems (“SDWIS”) and that provided by NJDEP, Respondent failed to conduct monitoring and/or reporting for total coliforms and nitrate. Therefore, Respondent has failed to comply with the requirements under 40 C.F.R. Part 141 Subpart Y, 40 C.F.R. § 141.23(d), and/or 40 C.F.R. § 141.31(a)(2).

#### **COUNT # 1**

#### **FAILURE TO MONITOR AND/OR REPORT FOR TOTAL COLIFORMS**

The allegations in paragraphs 17-30 in this CAFO are incorporated by reference.

31. Under 40 C.F.R. Part 141 Subpart Y, an owner of a TNCWS is required to monitor quarterly for total coliforms pursuant to 40 C.F.R. § 141.853(a), 141.854(b)-(c).
32. Respondent failed to conduct and/or report the results of total coliforms during the following quarters:
  - FY20Q1 (October to December 2019);
  - FY20Q2 (January to March 2020);
  - FY20Q3 (April to June 2020); and
  - FY20Q4 (July to September 2020).

33. Therefore, Respondent violated requirements under 40 C.F.R. Part 141 Subpart Y, and/or 40 C.F.R. § 141.31(a)(2).

**COUNT #2**  
**FAILURE TO MONITOR AND/OR REPORT FOR NITRATE**

The allegations in paragraphs 17-30 in this CAFO are incorporated by reference.

34. Pursuant to 40 C.F.R. § 141.23(d), an owner of a TNCWS is required to monitor annually for nitrate.

35. Based on EPA's ongoing investigation, Respondent has failed to conduct and/or report the results of nitrate monitoring for calendar years 2018, 2019 and 2020.

36. Therefore, Respondent violated 40 C.F.R. § 141.23(d), and/or 40 C.F.R. § 141.31(a)(2).

**PAYMENT OF CIVIL PENALTY**

37. In settlement of Complainant's claims for civil penalties for the violation alleged in this CAFO, Respondent agrees to pay a civil penalty in the amount of **THREE THOUSAND NINE HUNDRED FOUR** dollars (**\$3,904.00**). Respondent shall be liable to pay in accordance with the terms set forth below. Respondent must pay the civil penalty no later than **THIRTY (30)** calendar days from the effective date of this CAFO.

38. Respondent may make the payment by either cashier's or certified check. If the payment is made by check, then the check shall be payable to the "**United States Treasury**", and shall be mailed to:

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

The check shall be identified with a notation thereon listing the following: **IN THE MATTER OF UNITED STATES POSTAL SERVICE BUDD LAKE MT OLIVE BRANCH** and shall bear thereon the **Docket Number SDWA-02-2022-8401**. Payment of the penalty must be received at the above address no later than thirty (30) calendar days after the effective date of this CAFO.

39. Respondent may make the payment by Electronic Fund Transfer (EFT). If Respondent chooses to make the payment by EFT, then Respondent shall provide the following information to its remitter bank:

- a. Amount of Payment (\$3,904.00)
- 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: United States Postal Service Budd Lake Mount Olive  
Branch
- g. Case Number: SDWA-02-2022-8401

Such EFT must be received no later than thirty (30) calendar days after the effective date of this CAFO.

- 40. Payment may be made using the Intra Governmental Payment and Collection (IPAC) application, Agency Location Code 68-01-0727. Please include the Docket Number of this action (Docket No. SDWA-02-2022-8401) in the description field of the IPAC.
- 41. For additional information concerning other acceptable methods of payment of the civil penalty amount see: <https://www.epa.gov/financial/makepayment>.
- 42. Upon payment, Respondent shall promptly thereafter furnish reasonable proof that such payment has been made, to both:

Matthew Carr  
Federal Facilities Enforcement Office  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington DC, 20460  
[carr.matt@epa.gov](mailto:carr.matt@epa.gov)

And

Karen Maples, Regional Hearing Clerk  
U.S. Environmental Protection Agency - Region 2  
290 Broadway – 16<sup>th</sup> Floor  
New York, NY 10007-1866  
[maples.karen@epa.gov](mailto:maples.karen@epa.gov)

- 43. Should Respondent fail to pay the civil penalty assessed by this CAFO in full by the date set forth above, then the entire unpaid balance of the assessed penalty and any unpaid, accrued interest shall become immediately due and owing. Should a failure to pay occur, Respondent may be subject to an administrative action to collect payment under the federal Debt Collection Act of 1982, as amended. In any collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

44. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator or the Deputy Regional Administrator where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the accompanying Final Order.
45. Issuance of the CAFO does not constitute a waiver by EPA of its right to enforce the substantive legal requirements underlying this penalty assessment pursuant to Section 1414 of the SDWA, 42 U.S.C. § 300g-3.

#### **AUTHORITY TO BIND THE PARTIES**

46. Each undersigned signatory to this CAFO certifies that they are duly and fully authorized to enter into the terms and conditions of this Consent Agreement and bind the Respondent thereto.

#### **FULL AND FINAL SATISFACTION**

47. Pursuant to 40 C.F.R. § 22.18(c), this CAFO constitutes a full and final resolution of Respondents' liability for Federal civil penalties pursuant to 1447(b) of SDWA, 42 U.S.C. § 300j-6(b) for the specific violations and matters alleged in this CAFO.

#### **RESERVATION OF RIGHTS**

48. EPA reserves the right to commence action against any person or persons, including Respondent, in response to any condition which EPA determines may present an 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 SDWA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO.

#### **ADEQUACY OF FUNDS; ANTI-DEFICIENCY ACT**

49. Failure to obtain adequate funds or appropriations from Congress does not release Respondent from their obligation to comply with the SDWA, the applicable regulations promulgated thereunder, or with this CAFO. Nothing in this CAFO shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341.

#### **OTHER APPLICABLE LAW**

50. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed on them by applicable Federal, state or local law and/or regulations.

**ENTIRE AGREEMENT**

51. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.

**EFFECTIVE DATE**

52. Respondent consents to service upon Respondent by e-copy of this CAFO by an EPA employee other than the Regional Hearing Clerk.

53. In accordance with 40 C.F.R. § 22.43(b), this CAFO shall become effective thirty (30) days after the Final Order is served on the parties.

FOR THE RESPONDENT:

Dated this 5 day of: April, 2022



Michael P. Deignan  
United States Postal Service  
District Manager, NJ District  
21 Kilmer Road  
Edison , NJ 08899

FOR THE COMPLAINANT:

Dated this 6th day of: April, 2022

**Anderson, K**  
**ate**  
Digitally signed by  
Anderson, Kate  
Date: 2022.04.06  
15:23:18 -04'00'

For Dore LaPosta, Director  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency Region 2  
New York, NY 10007-1866



**In the Matter of United States Postal Service.  
Docket Number SDWA-02-2022-8401**

**FINAL ORDER**

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 2, and Respondent the United States Postal Service have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidate Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. The terms on the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as fully set forth herein.

**NOW, THEREFORE, PURSUANT TO** Section 1447(b) of SDWA, 42 U.S.C. § 300j-6(b) and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **THREE THOUSAND NINE HUNDRED AND FOUR DOLLARS (\$3,904.00)** in accordance with the payment provisions set forth in the Consent Agreement and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final agency action in this proceeding. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall 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 Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of the SDWA and the regulations promulgated thereunder.

Pursuant to Section 1447(b)(4) of the Act, 42 U.S.C. § 300j-6(b)(4), and 40 C.F.R. § 22.43(c), EPA will provide public notice of the Consent Agreement and Final Order served on the parties, and provide public notice that any interested person may, within thirty (30) days of the final date of the final Order, obtain judicial review of the penalty order pursuant to Section 1447(b)(4) of the Act, 42 U.S.C. § 300j-6(b)(4). In accordance with 40 C.F.R. § 22.43(b), this Final Order shall become effective thirty (30) days after it is served on the parties.

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Helen Ferrara  
Regional Judicial Officer  
U.S. Environmental Protection Agency Region 2  
290 Broadway  
New York, NY 10007 - 1866

Date: \_\_\_\_\_