

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 Broadway
New York, New York 10007-1866

REGIONAL HEARING
CLERK

2014 APR 10 PM 2: 54

U.S. Environmental
Protection Agency-Reg 2

IN THE MATTER OF:

City of Glens Falls Wastewater Treatment Plant
2 Shermantown Road
Glens Falls, New York 12801

NPDES Permit No. NY0029050

FINAL ORDER
Docket No. CWA-02-2013-3301

CONSENT AGREEMENT

A. STATUTORY AUTHORITY

1. This Consent Agreement and Final Order ("CA/FO") is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 309(g)(2)(A) of the Clean Water Act ("Act"), as amended, 33 U.S.C. §1319(g)(2)(A). The Administrator has delegated this authority to the Regional Administrator of EPA, Region 2, who in turn has delegated it to the Director, Division of Enforcement and Compliance Assistance of EPA, Region 2. 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" ("CROP"), 40 Code of Federal Regulations Part 22, the Director, Division of Enforcement and Compliance Assistance hereby issues this CA/FO.

B. STIPULATIONS AND FINDINGS

Upon Consent of the Parties by their attorneys or other authorized officials, the parties stipulate:

1. On December 28, 2012, EPA issued an Administrative Complaint, Docket No. CWA-02-2013-3301, pursuant to Section 309(g)(2)(A) of the Act, alleging that Respondent was in violation of Section 405(d) of the Act, 33 U.S.C. §1345(d), and proposing a penalty of \$24,500. In the Administrative Complaint, EPA alleged that the Respondent failed to continuously monitor for carbon monoxide ("CO") in the exit gas from the sewage sludge incinerator stack during the months of May 2008 through August 2008, May 2009 through December 2009, January 2010 through July 2010, January 2011 through December 2011, January 2012 through April 2012.

2. Respondent admits the jurisdictional allegations in the Administrative Complaint as set forth above and admits the specific violations alleged in the Administrative Complaint.

3. Respondent knowingly and explicitly waives its right to a hearing under Section 309(g)(2)(A) of the Act, and to appeal this order under Section 309(g)(8) of the Act, 33 U.S.C. §1319(g)(8).

C. SETTLEMENT TERMS

1. A Class I Civil Penalty of \$24,500 is hereby assessed against Respondent. Respondent shall pay such penalty as follows.

Payment Terms

2. Respondent shall pay, by cashier's or certified check, a civil penalty in the amount of twenty-four thousand five hundred dollars (\$24,500) to be paid in four equal installments payable to the "Treasurer of the United States of America". The checks shall be identified with a notation of the name and docket number of this case, set forth in the caption on the first page of this document. The payments are to be paid in accordance with the following schedule:

- a. Due and owing forty-five (45) days after the Final Order is signed by the Director of the Division of Enforcement and Compliance Assistance of EPA Region 2, Respondent shall submit a cashier's or certified check, payable to the "Treasurer of the United States of America," for six thousand one hundred twenty-five dollars (\$6,125);
- b. Due and owing ninety (90) days after the Final Order is signed by the Director of the Division of Enforcement and Compliance Assistance of EPA Region 2, Respondent shall submit a cashier's or certified check, payable to the "Treasurer of the United States of America," for six thousand one hundred twenty-five dollars (\$6,125);
- c. Due and owing one hundred eighty (180) days after the Final Order is signed by the Director of the Division of Enforcement and Compliance Assistance of EPA Region 2, Respondent shall submit a cashier's or certified check, payable to the "Treasurer of the United States of America," for six thousand one hundred twenty-five dollars (\$6,125); and
- d. Due and owing two hundred seventy (270) days after the Final Order is signed by the Director of the Division of Enforcement and Compliance Assistance of EPA Region 2, Respondent shall submit a cashier's or certified check, payable to the "Treasurer of the United States of America," for six thousand one hundred twenty-five dollars (\$6,125).

Such check shall be mailed to:

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

3. Respondent shall also send a copy of this payment to the Chief, Water Compliance Branch, U.S. Environmental Protection Agency, 290 Broadway - 20th Floor, New York, New York 10007-1866.

4. Payments must be received at the above address on or the effective dates hereof, set out in the payment schedule above (the dates by which payments must be received shall hereafter be referred to as the "due dates").

- a. Failure to pay the penalty in full according to the above provisions may result in the referral of this matter to the U.S. Department of Justice for collection.
- b. Further, if payment is not received on or before the due date, interest will be assessed, at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. §3717, on the overdue amount from the due payment handling charge of \$15.00 for each thirty (30) day period (or any portion thereof) following the due date in which the balance remains unpaid.
- c. In addition, pursuant to Section 309(g)(9) of the Clean Water Act, 33 U.S.C. §1319(g)(9), if payment is not received by the due date, a quarterly nonpayment penalty will be imposed for each calendar quarter during which such nonpayment persists. The quarterly nonpayment penalty is 20% of the aggregate amount of penalties and quarterly nonpayment penalties which are penalties and quarterly nonpayment penalties unpaid as of the beginning of such quarter. You may also be required to pay attorneys' fees and costs for collection proceedings in connection with nonpayment.

D. GENERAL PROVISIONS

1. Issuance of the CA/FO does not constitute a waiver by EPA of its right to enforce legal requirements underlying this penalty assessment, either administratively or judicially pursuant to Section 309(a), (b) and (c). Pursuant to Section 309(g)(7) of the Act, 33 U.S.C. §1319(g)(7), issuance or compliance with this CA/FO does not exempt Respondent from responsibility to comply with all requirements of the Act and of any legal order or permit issued thereunder.

2. Respondent's execution of this CA/FO and payment of the penalty assessed by this CA/FO shall constitute a complete and final release by EPA of the Respondent of any civil penalties under Section 309 of the Act, 33 U.S.C. §1319, for violations alleged in the Administrative Complaint.

3. Respondent knowingly and explicitly waives its rights under Sections 309(g)(2) and (8) of the Act, 33 U.S.C. §§1319(g)(2) and (8), to a hearing on this penalty assessment, and to judicial review of this penalty assessment.

4. Respondent waives any right it may have pursuant to 40 CFR §22.08 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 Deputy Regional Administrator, where the purpose of such discussion, memorandum or communication is to persuade such officials to accept and issue this CA/FO.

5. Each undersigned representative of the parties to this CA/FO certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CA/FO to execute and legally bind that party to it.


6. Each party shall bear its own costs and attorneys' fees in connection with the action resolved by this CA/FO.

Effective Date

7. The effective date of this order shall be thirty calendar days from the date it is signed by the Division of Enforcement and Compliance Assistance Director, shown below.

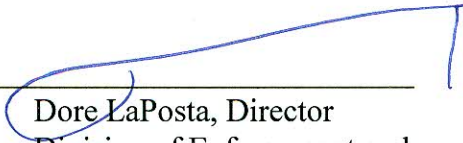
City of Glens Falls Wastewater Treatment Plant

Date: 3/11/14



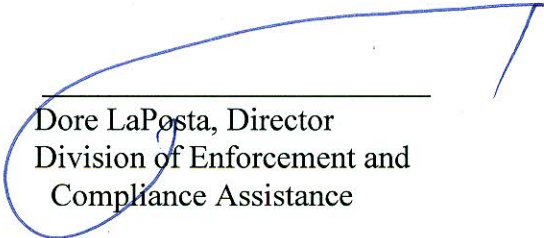
U.S. Environmental Protection Agency
Region 2

Date: MARCH 28, 2014



Dore LaPosta, Director
Division of Enforcement and
Compliance Assistance

ISSUED AND ORDER THIS 28th DAY OF MAR., 2014



Dore LaPosta, Director
Division of Enforcement and
Compliance Assistance

Re: City of Glens Falls Wastewater Treatment Plant
2 Shermantown Road
Glens Falls, New York 12801

Docket No. CWA-02-2013-3301

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

-----X
IN THE MATTER OF :
 :
City of Glens Falls WWTP :
2 Shermantown Road : **Consent Agreement and**
 : **Final Order**
 :
Glens Falls, New York 12801 :
 :
Respondent. : **Docket No.**
 : **CWA-02-2013-3301**
 :
Proceeding Pursuant to §309(g) of the :
Clean Water Act, 33 U.S.C. §1319(g) :
-----X

CERTIFICATE OF SERVICE

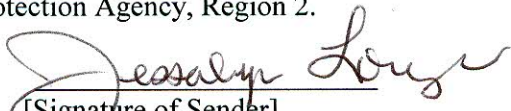
I certify that, on the date noted below, I caused to be mailed, by certified mail, return receipt requested, a copy of the foregoing "CONSENT AGREEMENT AND FINAL ORDER" and an "ADMINISTRATIVE ORDER ON CONSENT," Docket No. CWA-02-2014-3012, to the following persons at the addresses listed below:

John A. Diamond, Mayor
City of Glens Falls Wastewater Treatment Plant
2 Shermantown Road
Glens Falls, New York 12801

David C. Klingebiel, Esq.
Law Offices of Newell & Klingebiel
16 Maple Street
P.O. Box 2152
Glens Falls, NY 12801

I [hand carried / mailed] the original and a copy of the foregoing Complaint to the office of the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2.

Date: 4.8.14
New York, New York


[Signature of Sender]
[NOTE: must be over 18]