

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

IN THE MATTER OF:

JGJJG LLC
388 Broadhollow Rd.
Farmingdale, NY 11735

Respondent

Proceedings under Section 1423(c) of the
Safe Drinking Water Act,
42 U.S.C. §300h-2(c)

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Protection Agency/Region 2

**CONSENT AGREEMENT
AND
FINAL ORDER**

**DOCKET NO.
SDWA-02-2017-8902**

I. PRELIMINARY STATEMENT

1. This administrative proceeding for the assessment of a civil penalty was instituted pursuant to Section 1423(c) of the Safe Drinking Water Act (the "Act"), 42 U.S.C. §300h-2(c).
2. EPA is initiating and concluding this administrative proceeding for the assessment of a civil penalty pursuant to Section 1423(c) of the Act, 42 U.S.C. §300h-2(c) and 40 C.F.R. §22.13(b) of 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"), which sets forth procedures for simultaneous commencement and conclusion of administrative civil penalty assessment proceedings through issuance of a consent agreement and final order pursuant to 40 C.F.R. §§22.18(b)(2) and (3).
3. This Consent Agreement is entered into by the Director of the Division of Enforcement and Compliance Assistance ("Director"), Region 2, United States Environmental Protection Agency ("Complainant") and the JGJJG LLC ("Respondent"), pursuant to Section 1423(c) of the Act, 42 U.S.C. §300h-2(c), and in accordance with 40 C.F.R. Part 22. The authority to issue this Consent Agreement has been duly delegated by the Regional Administrator of Region 2 to the Director.
4. The Complainant has charged Respondent with violating requirements set forth under Part C of the Act – Underground Injection Control – as the requirements apply to Class V injection wells located at 77 Jersey Street, West Babylon, NY 11704 ("Facility"). The Complainant specifically alleges that Respondent failed to fully comply with the Act and the regulations promulgated pursuant thereto, in particular the requirement for owners to close their existing large-capacity cesspools no later than April 5, 2005, set forth at 40 C.F.R. §144.88, by failing to close the large-capacity cesspool located at the Facility no later than April 5, 2005.

5. This Consent Agreement and Final Order (collectively “CA/FO”) resolves the violation of 40 C.F.R. §144.88.

II. PROCEDURAL AND FACTUAL FINDINGS

1. Respondent is a “person” as defined in Section 1401(12) of the Act, 42 U.S.C. §300f (12) and 40 C.F.R. §144.3.
2. Respondent is an “owner or operator” as defined in 40 C.F.R §144.3, who owns and operates the Facility.
3. EPA is initiating and concluding this proceeding for the assessment of a civil penalty, pursuant to Section 1423(c) of the Act, 42 U.S.C. §300h-2(c), and 40 C.F.R. §§22.18(b)(2) and (3) of the CROP.
4. In response to Information Request Letter, Docket Number SDWA UIC IR 16-014, issued on January 26, 2016, EPA was given notice of the existence of a large-capacity cesspool located at the Facility that is not closed.
5. Regulations promulgated pursuant to Part C of the Act set forth additional requirements, at C.F.R. §144.88, that require owners of an existing large-capacity cesspool to close that well by April 5, 2005.
6. The large-capacity cesspool at the Facility is an “existing injection well” as well as “existing” as defined in 40 C.F.R. §144.3 and 40 C.F.R. §144.88, respectively. It is classified as a Class V injection well as defined in 40 C.F.R. §144.80. The cesspool is thus subject to the requirements set forth in 40 C.F.R. §144.88 pursuant to 40 C.F.R. §144.85.
7. Based on information available to EPA, Respondent has failed to demonstrate compliance with the requirements specified in 40 C.F.R. §144.88 and has violated Part C of the Act.
8. This CA/FO resolves violations of the specific requirements alleged above.

III. CONSENT AGREEMENT

1. Section II, Paragraphs 1-8 above are re-alleged and incorporated herein by reference.
2. EPA and Respondent agree that it is in the public interest to resolve the issues alleged in the Consent Agreement without further litigation and the expense and effort that litigation entails.

3. Based upon the foregoing and pursuant to Section 1423(c) of the SDWA, 42 U.S.C. §300h-2(c), and the CROP, it is hereby agreed by and between EPA and Respondent, and Respondent voluntarily and knowingly agrees as follows.

IV. TERMS OF SETTLEMENT

1. For the purposes of this proceeding, Respondent:
 - a. Admits the jurisdictional allegations of this CA/FO;
 - b. Admits the factual allegations contained herein;
 - c. Waives its right to contest the allegations, a judicial or administrative hearing, or to appeal this CA/FO; and
 - d. Consents to the payment of a civil penalty in the amount of **one thousand dollars (\$1,000.00)**, as stated in Section V below.

V. PAYMENT OF CIVIL PENALTY

Pursuant to Section 1423(c) of the SDWA, 42 U.S.C. §300h-2(c), EPA has considered statutory factors, including the seriousness of the violation(s), the economic benefit (if any) resulting from the violation(s), the history of such violation(s), the good faith efforts to comply with the applicable requirements, and other matters as justice may require.

1. EPA has determined that an appropriate civil penalty to settle this action is in the amount of **one thousand dollars (\$1,000.00)**.
2. Civil penalty payments shall be made to the “Treasurer of the United States of America.” Payments can be made by debit/credit card, 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:

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

The check shall be identified thereon listing the following: **IN THE MATTER OF JGJJG LLC**, and shall bear thereon the **Docket Number SDWA-02-2017-8902**. Payment of this penalty must be received at the above address on or before forty-five (45) calendar days after the Effective Date of this CA/FO.

EFT payments fall into two categories: wires and Automated Clearinghouse (“ACH”). Wires are same day and more costly. ACH is the next day or any future scheduled day

and is less expensive. Please note that wires and ACH payments must be conducted through the sender's bank. If Respondent elects to make the payment by EFT, then Respondent shall provide the following information to its remitter bank:

- a. Amount of payment: **\$1,000.00**
- 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: JGJJG LLC
- g. Case Number: SDWA-02-2017-8902

ON LINE PAYMENT:

There is now an On Line Payment Option, available through the Department of Treasury. This payment option can be accessed from the information below: WWW.PAY.GOV. Enter sfo 1.1 in the search field. Open form and complete required fields.

Payment of this penalty must be received on or before forty-five (45) calendar days after the Effective Date of this CA/FO. The date by which payment must be received shall hereafter be referred to as the "due date."

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

Lauren Fischer, Esq.
Assistant Regional Counsel
Water & General Law Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3231

and

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

3. Failure to pay the penalty in full according to the above provisions will result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for Collection.

4. 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.
5. In addition, pursuant to Section 1423(c)(7) of the SDWA, 42 U.S.C. §300h-2(c)(7), if payment is not received by the due date, a civil action may be commenced in Federal District Court to recover the amount assessed, plus costs, attorneys' fees and interest at currently prevailing rates from the Effective Date (*see* Final Order, Section VII below). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. You also may be required to pay attorneys' fees and costs for collection proceedings in connection with nonpayment.
6. The penalty to be paid is a civil penalty assessed by the EPA and shall not be deductible from Respondent's federal or State of New York taxes.

VI. GENERAL PROVISIONS

1. The provisions of this CA/FO shall apply to and be binding on Respondent, its officers, directors, agents, servants, authorized representatives and successors or assigns, including, but not limited to, subsequent purchasers. No transfer of ownership or operation shall relieve Respondent of its obligations to comply with the CA/FO.
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.
3. 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.
4. Respondent 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 the CA/FO.
5. 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

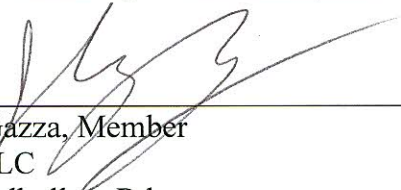
this Consent Agreement and issue the accompanying Final Order.

6. Violations of the terms of the Final Order after its Effective Date (*see* Final Order, Section VII below), may subject Respondent to further enforcement action, including a civil action for enforcement of the Final Order under Section 1423(b) of the Act, 42 U.S.C. §300h-2(b), and civil and criminal penalties for violations of the compliance terms of the Final Order under Section 1423(b)(1) and (2) of the Act, 42 U.S.C. §300h-2(b)(1) and (2).
7. This CA/FO shall not relieve Respondent of Respondent's obligations 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.
8. This CA/FO constitutes a final settlement by EPA of all claims for civil penalties pursuant to the SDWA for the violations alleged in the Complaint. Nothing in this CA/FO is intended to nor shall be construed to operate in any way to resolve any criminal liability of the Respondent. Compliance with this CA/FO shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.
9. 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 CROP. Further, EPA reserves any right and remedy 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 CA/FO, following its filing with the Regional Hearing Clerk.
10. 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 CA/FO are false or, in any material respect, inaccurate.
11. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and to execute and legally bind that party to it.
12. Respondent consents to service by a copy of this CA/FO by an EPA employee other than the Regional Hearing Clerk.
13. Each party shall bear its own costs and attorney's fees in connection with the action resolved by this CA/FO.

14. This Consent Agreement and the attached Final Order constitute the entire agreement and understanding of the parties concerning settlement of the above-captioned action there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CA/FO.
15. This action shall be considered closed upon EPA's receipt of payment by Respondent.

FOR THE RESPONDENT:


Dated this 29th day of: March, 2017



John J. Gazza, Member
JGJJG LLC
388 Broadhollow Rd.
Farmingdale, NY 11735

FOR THE COMPLAINANT:

Dated this ____ day of: MAY - 2, 2017



Kathleen Anderson, Acting Director
Division of Enforcement and Compliance Assistance
United States Environmental Protection Agency, Region 2
New York, New York 10007-1866

VII. FINAL ORDER

The Regional Administrator of the United States Environmental Protection Agency, Region 2, vested by authority delegated by the Administrator of the United States Environmental Protection Agency and having further re-delegated such authority to the Regional Judicial Officer, Region 2, ratifies the foregoing Consent Agreement. The Agreement entered into by the Parties is hereby approved, incorporated herein, and issued as a Final Order. The Effective Date of this Final Order shall be the date of filing with the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2, New York, New York.

DATE: May 4, 2017



HELEN S. FERRARA
Regional Judicial Officer
U.S. EPA, Region 2
290 Broadway
New York, NY 10007-1866

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Farmingdale, NY 11735
Docket Number: SDWA-02-2017-8902

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CERTIFICATE OF SERVICE

I certify that on JUN 14 2017, I served the above-cited Consent Agreement
And Final Order, bearing the above referenced docket number, on the persons listed below, in
the following manner:

Original and One Copy By Hand:

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

Copy by Certified Mail, Return Receipt

Requested:
John J. Gazza, Member
JGJJG LLC
388 Broadhollow Rd.
Farmingdale, NY 11735

One Copy By Hand:

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

Dated: 6/14/17

Signature:



Name and Title:

Marie St. Germain, Branch Secretary