

2007 DEC -6 AM 10:40

U.S. EPA, REGION IX
REGIONAL HEARING CLERK

IN THE MATTER OF:

DOCKET NO. UIC-09-2007-0002

PTP Inc.

Pineview Estates, Nevada

Respondent.

**CONSENT AGREEMENT
AND
PROPOSED FINAL ORDER**

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

CONSENT AGREEMENT

1. This Consent Agreement and Final Order (“CA/FO”) is issued under the authorities vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Sections 1423(c) and 1445(a) of the Safe Drinking Water Act (“SDWA”), 42 U.S.C. § 300h-2(c), 300j-4(a). The Administrator has delegated these authorities to the Regional Administrator of EPA Region IX. The Regional Administrator in turn has delegated these authorities to the Director of the Water Division for EPA Region IX. In accordance with these authorities, and with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits,” 40 C.F.R. Part 22 (“Part 22”), the Director of the Water Division, EPA Region IX, hereby issues, and PTP, Inc. (“Respondent”) hereby agrees to the issuance of this CA/FO.

2. Respondent and Complainant (the “Parties”) agree that settlement of the matters at issue in the attached “Findings and Proposed Administrative Order with Administrative Penalty” (“Proposed Order”), Docket No. UIC-09-2007-0002, without litigation will save time and resources, that it is in the public interest, that it is consistent with the provisions and objectives of

1 the SDWA and applicable regulations, and that entry of this CA/FO is the most appropriate
2 means of resolving such matters.

3 COMPLIANCE REQUIREMENTS

4 3. Pursuant to EPA's authority under Section 1423(c) of the SDWA, 42 U.S.C. § 300h-
5 2(c), Respondent shall submit a Plan, including schedules, to EPA for approval within thirty (30)
6 days of the effective date of the Final Order in this matter, which: 1) provides for properly
7 abandoning septic tanks, distribution boxes, pipes, and leach lines associated with the two
8 drainfields replaced by Drainfields A and B (the "Facilities") at Pineview Estates, which are not
9 currently functioning as part of the sanitary wastewater disposal system authorized by EPA via
10 its UIC Class V Permit (No. NV504000001), and 2) specifies how and when Respondent will
11 comply with Parts II.E.3 and II.G.1(a) and (b) of the subject Permit, related to annual
12 inspections, monitoring, and reporting associated with the Facilities.

13 4. Respondent shall make such revisions to the Plan as may be specified by EPA and,
14 upon receipt of EPA's written approval of the Plan, shall implement the Plan in accordance with
15 its schedules.

16 5. Respondent shall submit the Plan referred to in paragraph 3 above, to:

17 Aaron Setran
18 Ground Water Office
19 U.S. Environmental Protection Agency Region IX
75 Hawthorne Street (WTR-9)
San Francisco, CA 94105

20 6. Respondent shall also comply and maintain compliance with all other requirements of
21 its Class V UIC Permit, and maintain compliance with its Class V UIC Permit with regard to
22 injection activity at the Facilities and injection activity at any new, modified, or replacement
23 Class V UIC wells that Respondent constructs at Pineview Estates pursuant to its Class V UIC
24 Permit.
25

PENALTY

7. To account for the violations set forth in the attached Proposed Order, Respondent agrees to pay to the United States an administrative civil penalty of forty-three thousand dollars (\$43,000.00), no later than thirty (30) days following the effective date of the Final Order (hereinafter referred to as the "due date").

8. The civil administrative penalty referred to in paragraph 7 above shall be made payable in accordance with any acceptable method of payment listed in **Exhibit A** "EPA Region 9 Collection Information," which is incorporated by reference as part of this CA/FO.

9. Concurrent with payment of the civil administrative penalty made pursuant to paragraphs 7 and 8 above, Respondent shall provide written notice of payment, referencing the title and docket number of this case, via certified mail, to each of the following:

Rich Campbell
Office of Regional Counsel
U.S. EPA, Region IX
75 Hawthorne Street (ORC-2)
San Francisco, CA 94105

and

Danielle Carr
Regional Hearing Clerk
U.S. EPA, Region IX
75 Hawthorne Street (ORC-1)
San Francisco, CA 94105

10. Neither assessment nor payment of a civil administrative penalty pursuant to this CA/FO shall affect Respondent's continuing obligation to comply with the SDWA's UIC Program, and with the compliance requirements set forth in this CA/FO and made pursuant to EPA's authority under Section 1423(c) of the SDWA, 42 U.S.C. § 300h-2(c).

11. If Respondent's penalty payment is not received on or before the due date, interest shall accrue on any overdue amount from the first date after the due date through the date of payment, at the interest rate established by the Secretary of the Treasury under 31 U.S.C. § 3717. In addition, a late payment handling charge of fifteen dollars (\$15.00) will be assessed for each thirty-(30) day period (or any portion thereof) following the due date in which the balance remains unpaid. Payment of any interest and late handling charges shall be made in accordance with paragraph 9 above.

1 12. Pursuant to Section 1423(c)(7) of the SDWA, 42 U.S.C. § 300h-2(c)(7), if Respondent
2 fails to pay by the due date the administrative civil penalty assessed in paragraph 7 above of this
3 CA/FO, EPA shall bring a civil action in an appropriate district court to recover the amount
4 assessed (plus costs, attorneys' fees, and interest). In such action, the validity, amount, and
5 appropriateness of such penalty shall not be subject to review. 42 U.S.C. § 300h-2(c)(7).

6 **GENERAL PROVISIONS**

7 13. Respondent waives any right to a hearing under Section 1432(c)(3) of the SDWA, 42
8 U.S.C. § 300h-2(c)(3). Respondent waives any right to contest the allegations contained in this
9 Consent Agreement, or to appeal the CA/FO.

10 14. Respondent admits the factual allegations of the Consent Agreement and agrees not to
11 contest, in any administrative or judicial forum, EPA's jurisdiction to enter into this CA/FO.

12 15. Respondent neither admits nor denies the non-jurisdictional allegations set forth in the
13 attached Proposed Order.

14 16. Respondent consents to the issuance of this CA/FO and the conditions specified herein,
15 including payment of the administrative civil penalty in accordance with the terms of this
16 CA/FO.

17 17. This CA/FO, inclusive of all exhibits, appendices, and attachments, is the entire
18 agreement between the Parties to resolve EPA's civil penalty claim against Respondent for the
19 specific SDWA violations alleged in the attached Proposed Order. Full compliance with this
20 CA/FO shall constitute full settlement only of Respondent's federal civil penalty liability for the
21 SDWA violations specifically alleged in the attached Proposed Order.

22 18. In accordance with 40 C.F.R. § 22.18(c), this CA/FO only resolves Respondent's
23 liability for federal civil penalties for the violations and facts specifically alleged in the attached
24 Proposed Order. Nothing in this CA/FO is intended to or shall be construed to resolve (i) any
25 civil liability for violations of any provision of any federal, state, or local law, statute, regulation,

1 rule, ordinance, or permit not specifically alleged in the attached Proposed Order; or (ii) any
2 criminal liability. EPA specifically reserves any and all authorities, rights, and remedies
3 available to it (including, but not limited to, injunctive or other equitable relief or criminal
4 sanctions) to address any violation of this CA/FO or any violation not specifically alleged in the
5 attached Proposed Order.

6 19. This CA/FO is not a permit or modification of any permit. It shall not affect
7 Respondent's obligation to comply with all applicable federal, state, local laws, ordinances,
8 regulations, permits, and orders, including but not limited to any SDWA requirements, permits
9 or orders.

10 20. This CA/FO shall in no way affect the right of EPA or the United States against
11 any third party (person/entity not a party to this CA/FO) or the right of any third party against
12 Respondent.

13 21. The provisions of this CA/FO shall apply to and be binding upon Respondent,
14 its officers, directors, agents, successors, and assigns. Notice of this CA/FO shall be given to
15 any successors in interest prior to transfer of Respondent's Facilities at Pineview Estates. Action
16 or inaction of any persons, firms, contractors, employees, agents, or corporations acting under,
17 through, or for Respondent shall not excuse any failure of Respondent to fully perform its
18 obligations under this CA/FO.

19 22. EPA reserves any and all legal and equitable remedies available to enforce this CA/FO,
20 including the Compliance Requirements specified in paragraphs 3 through 6 above, as well as
21 the right to seek recovery of any costs and attorneys' fees incurred by EPA in any actions against
22 Respondent for noncompliance with this CA/FO. Violation of this CA/FO shall be deemed a
23 violation of the SDWA, and may result in additional enforcement action pursuant to SDWA §
24 1423(b), 42 U.S.C. § 300h-2(b) and/or SDWA § 1423(c)(7), 42 U.S.C. § 300h-2(c)(7).
25

XI. EFFECTIVE DATE

26. The effective date of the CA/FO shall be thirty (30) days from the date that the Final Order is signed.

FOR THE CONSENTING PARTIES:

For PTP Inc.

Date: 11-20-07

Joan May
Name

Vice president PTP Corp.
Position

For the United States Environmental Protection Agency:

Date: 4 Dec. 2007

Alexis Strauss
Alexis Strauss, Director
Water Division

FILED

U.S. EPA. REGION IX
REGIONAL HEARING CLERK

DOCKET NO. UIC-09-2007-0002

~~[PROPOSED]~~
FINAL ORDER

FINAL ORDER

The United States Environmental Protection Agency Region IX ("EPA"), and PTP Inc. ("Respondent"), having entered into the foregoing Consent Agreement, and EPA having duly publicly noticed the Findings and Proposed Administrative Order regarding the matters alleged therein,

1. The foregoing Consent Agreement and this Final Order be entered; and
2. Respondent shall pay an administrative civil penalty of forty-three thousand dollars (\$43,000.00) in accordance with the terms set forth in the Consent Agreement.

This Final Order shall become effective thirty (30) days from the date that it is signed.

This Final Order constitutes full adjudication of the September 27, 2007 Findings and Proposed Administrative Order issued by EPA in this proceeding.

DATE:

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