

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

IN THE MATTER OF:

Ridgewood Water
Village of Ridgewood
131 N. Maple Avenue
Ridgewood, New Jersey 07450

PWS ID: NJ0251001

Respondent

Proceeding Pursuant to §1414(g)(3)(B) of the Safe
Drinking Water Act, 42 U.S.C. §300g-3(g)(3)(B)

CONSENT AGREEMENT
AND
FINAL ORDER

Docket No.
SDWA-02-2015-8402

REGIONAL HEARING
CLERK

2015 SEP 29 AM 7:56

U.S. Environmental
Protection Agency-Reg 2

I. Preliminary Statement

1. This administrative proceeding for the assessment of a civil penalty was instituted pursuant to Section 1414(g)(3)(B) of the Safe Drinking Water Act (the "Act"), 42 U.S.C. §300g-3(g)(3)(B).
2. EPA is initiating and concluding this administrative proceeding for the assessment of a civil penalty pursuant to Section 1414(g)(3)(B) of the Safe Drinking Water Act (the "Act"), 42 U.S.C. §300g-3(g)(3)(B) 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 Village of Ridgewood ("Respondent"), pursuant to Section 1414(g)(3)(B) of the Act, 42 U.S.C. §300g-3(g)(3)(B), 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 the terms and conditions of an Administrative Order ("AO") issued to Respondent pursuant to Section 1414(g) of the Act, 42 U.S.C. §300g-3(g), requiring compliance with an applicable requirement of the Act at Respondent's public water system ("Ridgewood Water") in Ridgewood, New Jersey.
5. This Consent Agreement and Final Order (collectively "CA/FO") resolves violations of specific requirements under EPA AO Docket Number SDWA 02-2015-8018.

II. Findings of Fact and Conclusions of Law

1. Respondent owns and/or operates the Ridgewood Water public water system ("Ridgewood Water PWS"), within the meaning of Section 1401(4) of the SDWA, 42 U.S.C. §300f(4), and 40 C.F.R. §141.2, located in Ridgewood, New Jersey.
2. Respondent is a "supplier of water" within the meaning of Section 1401 (5) of the SDWA, 42 U.S.C. §300f (5), and 40 C.F.R. §141.2.
3. Respondent is a "person" as defined in Section 1401(12) of SDWA, 42 U.S.C. §300f(12), and 40 C.F.R. §141.2, and is subject to an Administrative Order issued under Section 1414(g)(1) of the SDWA, 42 U.S.C. §300g-3(g)(1).
4. Respondent's public water system ("PWS") provides piped water for human consumption. Respondent's PWS has at least 15 service connections or serves an average of at least 25 people year-round and is therefore a "community water system" ("CWS") as defined by Section 1401(15) of the SDWA, 42 U.S.C. §300f(15) and 40 C.F.R. §141.2.
5. Respondent's PWS serves a population of approximately 61,700 individuals and its primary source is groundwater supplied by 49 active wells. In addition, Respondent purchases finished surface water from United Water New Jersey - Franklin Lakes PWS (NJ0220001) annually from March through December and finished groundwater from Hawthorne PWS (NJ1604001) from June through September. Surface and groundwater are mixed in the distribution system after treatment. Respondent is, therefore, also subject to the requirements for surface water sources ("Subpart H systems").
6. The New Jersey Department of Environmental Protection ("NJDEP" or "State") 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 February 1, 2013, NJDEP referred the Ridgewood Water PWS to EPA for further investigation and appropriate action as part of the EPA-NJDEP Inspection Workplan.
7. As set forth at 40 C.F.R. §141.723(a), a sanitary survey is an onsite review of the water source(s) (identifying sources of contamination by using results of source water assessments or other relevant information where available), facilities, equipment, operation, maintenance, and monitoring compliance of a PWS to evaluate the adequacy of the system, its sources, operations and the distribution of safe drinking water.

8. As set forth at 40 C.F.R. §141.723(b), a significant deficiency includes a defect in design, operation, maintenance, or a failure or malfunction of the sources, treatment, storage, or distribution system that is determined to be causing, or has the potential for causing the introduction of contamination into the water delivered to consumers.
9. Pursuant to 40 C.F.R. §141.723(c), for sanitary surveys performed by EPA, systems must respond in writing within 45 days of receiving the sanitary survey report, indicating how and on what schedule the system will address significant deficiencies. Pursuant to 40 C.F.R. §141.723(d), systems must correct significant deficiencies identified in sanitary survey reports according to a schedule approved by EPA, or if there is no approved schedule, according to the schedule submitted in accordance with 40 C.F.R. §141.723(c).
10. Beginning on March 11, 2014, and ending on April 3, 2014, EPA and NJDEP conducted a sanitary survey at the Ridgewood Water PWS. EPA reviewed inspection reports dated December 2009 prepared by Tank Industry Consultants Inc., for the Aqueduct storage tanks 1 and 2 (“Aqueduct tanks”). The 2009 reports outline sanitary deficiencies at each tank. During the 2014 sanitary survey Ridgewood Water could not provide evidence or documentation to EPA demonstrating that corrective actions were taken at Aqueduct tanks 1 and 2.
11. On May 20, 2014, EPA issued a sanitary survey report to Ridgewood Water. In the report, EPA cited significant deficiencies, including the failure to provide evidence that the sanitary deficiencies at the Aqueduct tanks had been corrected. Within forty-five (45) days of receipt of the sanitary survey report, Ridgewood Water was to submit to EPA a corrective action plan for the aqueduct storage tanks. According to EPA’s records in the form of a certified mail return receipt (Article Number: 7005 3110 0000 5966 1321), the sanitary survey report was received by Ridgewood Water on May 27, 2014.
12. By letter dated July 28, 2014, EPA notified Ridgewood Water that it was in violation of 40 C.F.R. §141.723 for failure to submit an action plan for the correction of significant deficiencies. By letter dated September 9, 2014, Ridgewood Water stated that the storage tank inspection reports cited in the May 20, 2014 sanitary survey report could not be located, and provided a schedule to EPA for conducting new inspections at the Aqueduct tanks.
13. On December 9, 2014, EPA issued Administrative Order (“AO”), Docket Number SDWA-02-2015-8018, to establish an enforceable schedule to ensure Respondent’s compliance with the requirements of the SDWA and applicable regulations. Based on the schedule provided by Ridgewood Water in the September 9, 2014 letter, SDWA-02-2015-8018 paragraphs 47 and 51 required Ridgewood Water to: a) inspect Aqueduct tanks 1 and 2 by December 31, 2014 and b) by July 15, 2015, submit to EPA and NJDEP for review and approval a corrective action plan to address all sanitary and significant deficiencies identified at each aqueduct tank. The corrective action plan was to include milestones and completion dates. According to EPA’s records in the form of the certified mail return receipt (Article Number 7005 3110 0000 5964 2917), the AO was received by Respondent on December 15, 2014.

14. On July 18, 2015, EPA received electronic correspondence submitted on behalf of Respondent by Agra Environmental and Laboratory Services, which included storage tank inspection reports for inspections conducted on April 29 and 30, 2015, at the Aqueduct tanks. The inspection reports describe sanitary deficiencies at each tank, including deficiencies identified in the 2009 reports. Information submitted by Respondent was limited to a copy of the inspection report for each tank, and failed to include a corrective action plan.
15. Based on information available to EPA, Respondent has failed to demonstrate compliance with the requirements specified in 40 C.F.R. §141.723 and has violated Section III, Paragraphs 47 and 51 of AO SDWA-02-2015-8018.

III. Consent Agreement

1. Section II, Paragraphs 1-15 are re-alleged and incorporated by reference.
2. EPA and Respondent agree that it is in the public interest to resolve the issues alleged in this Consent Agreement without further litigation and the expense and effort that litigation entails.
3. Based upon the foregoing and pursuant to Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), and the CROP 40 C.F.R. §§ 22.18, 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 purpose of this proceeding, Respondent:
 - a. Admits the jurisdictional allegations of this CA/FO;
 - b. Neither admits nor denies the factual allegations contained herein;
 - c. Waives its right to contest the allegations, request 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 **TEN THOUSAND DOLLARS (\$10,000.00)**, as stated in Section V below.

V. Payment of Civil Penalty

1. Respondent shall pay a civil penalty to EPA in the amount of **Ten Thousand Dollars (\$10,000)**. Such payment shall be made by 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:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center

P.O. Box 979077
St. Louis, MO 63197-9000

The check shall be identified with a notation thereon listing the following: **IN THE MATTER OF RIDGEWOOD WATER**, and shall bear thereon the **Docket Number SDWA-02-2015-8402**. Payment of the penalty must be received at the above address on or before thirty (30) calendar days after the Effective Date of this CA/FO (the "due date").

If Respondent chooses to make the payment by EFT, then Respondent shall provide the following information to its remitter bank:

- a. Amount of Payment: \$10,000
- 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: Village of Ridgewood
- g. Case Number: SDWA-02-2015-8402

Such EFT must be received on or before 30 calendar days after the Effective Date of this CA/FO.

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

Phyllis S. Feinmark, Esq., Chief
Water & General Law Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, NY 10007-1866

and

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

- h. Failure to pay the amount in full within the time period set forth above may result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection.
- i. 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.

- j. The civil penalty constitutes a penalty within the meaning of 26 U.S.C. §162(f).
- k. The penalty to be paid is a civil penalty assessed by the EPA and shall not be deductible from Respondent's federal or state taxes.

VI. General Provisions

1. The provisions of this CA/FO shall be binding upon 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 obligation to comply with this 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 CA, the issuance of the attached Final Order, or the enforcement of the CAFO.
5. Respondent knowingly and explicitly waives its rights under Section 1447(b)(3) of the Act, 42 U.S.C. § 300j-6(b)(3), to request or to seek any Hearing on or appeal of this Consent Agreement or the Findings of Fact and Conclusions of Law herein, or on the accompanying Final Order.
6. 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.
7. Issuance of the CA/FO does not constitute a waiver by EPA of its right to enforce the substantive legal requirements underlying this penalty assessment, either administratively or judicially pursuant to Section 1414 of the Act, 42 U.S.C. § 300g-3. Issuance of or compliance with this CA/FO does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable requirements of the Act, of regulations promulgated thereunder and of any legal order or permit issued thereunder.

8. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all the terms and conditions set forth in this Consent Agreement.
9. The provisions of this Consent Agreement and Final Order shall be binding upon the Respondent, its officers, directors, agents, servants, authorized representatives and successors or assigns.
10. Each party hereto agrees to bear its own costs and fees in this matter.
11. Respondent consents to service upon Respondent by a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

FOR THE RESPONDENT:

Dated this 21st day of: Sept., 2015



MS. ROBERTA SONENFELD

Village Manager
Village of Ridgewood
131 N. Maple Avenue
Ridgewood, NJ 07451

FOR THE COMPLAINANT:

Dated this 23rd day of: September, 2015



MS. DORE LAPOSTA

Director
Division of Enforcement and Compliance
Assistance
U.S. Environmental Protection Agency
Region 2
New York, NY 10007-1866

VII. Final Order

The Regional Judicial Officer for the U.S. Environmental Protection Agency, Region 2, as delegated by the Regional Administrator of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Agreement entered into by the parties is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA Region 2, New York, New York.

DATE: Sept 28, 2015

Helena Ferrara

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

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

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131 N. Maple Avenue
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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" to the following person at the address listed below:

MS. ROBERTA SONENFELD
Village of Ridgewood
131 N. Maple Avenue
Ridgewood, New Jersey 07450

I sent by inter-office mail the original and a copy of the foregoing Consent Agreement and Final Order to the office of the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2.

Date:

9/28/15



Marie St. Germain
New York, New York