

**FILED**

**January 7, 2025**

**1:57 P.M. PST**

**U.S. EPA REGION 10  
HEARING CLERK**

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

City of Boardman,

Respondent.

City of Boardman  
PWS # OR4100130

DOCKET NO. SDWA-10-2025-0022

**CONSENT AGREEMENT**

**I. STATUTORY AUTHORITY**

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 1414(g) of the Safe Drinking Water Act ("SDWA"), 42 U.S.C. § 300g-3(g).

1.2. Pursuant to SDWA Section 1414(g)(3)(B), 42 U.S.C. § 300g-3(g)(3)(B), EPA is authorized to assess a civil penalty against any person that has violated SDWA Section 1433, 42 U.S.C. § 300i-2.

1.3. SDWA Section 1414(g)(3)(B), 42 U.S.C. § 300g-3(g)(3)(B), authorizes the administrative assessment of civil penalties in an amount not to exceed \$25,000. Pursuant to 40 C.F.R. Part 19, the administrative assessment of civil penalties may not exceed \$48,586. *See also* 88 Fed. Reg. 247 (December 27, 2023) (2024 Civil Monetary Penalty Inflation Adjustment Rule).

1.4. Pursuant to Section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g), and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and the City of Boardman (“Respondent”) agrees to issuance of, the Final Order attached to this Consent Agreement (“Final Order”).

## **II. PRELIMINARY STATEMENT**

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18, execution of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Administrator has delegated the authority to sign consent agreements between EPA and the party against whom a penalty is proposed to be assessed pursuant to SDWA Section 1414(g), 42 U.S.C. § 300g-3(g), to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Director of the Enforcement and Compliance Assurance Division, EPA Region 10 (“Complainant”).

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of the SDWA together with the specific provisions of the SDWA and the implementing regulations that Respondent is alleged to have violated.

## **III. ALLEGATIONS**

3.1. “Respondent” owns and/or operates the City of Boardman’s “public water system,” 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 Boardman, Oregon.

3.2. 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.

3.3. Respondent is a “person” within the meaning of Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and is subject to an order issued under Section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g).

3.4. Respondent’s System provides piped water for human consumption and regularly serves a population of at least 25 individuals 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. Respondent is, therefore, subject to the requirements of the SDWA and its implementing regulations found at 40 C.F.R. Part 141.

3.5. Respondent’s CWS serves a population of approximately 4,490 people.

3.6. On October 23, 2018, the SDWA was amended in accordance with the America’s Water Infrastructure Act (“AWIA”) of 2018 (Public Law 115-270). Among other things, AWIA amended SDWA Section 1433’s CWS risk and resilience provisions, 42 U.S.C. § 300i-2.

3.7. Section 1433 of the SDWA is an “applicable requirement” as defined in Section 1414(i) of the SDWA, 42 U.S.C. § 300g-3(i).

3.8. The Oregon Health Authority administers the Public Water Supply Supervision Program in Oregon pursuant to Section 1413 of the SDWA, 42 U.S.C. § 300g-2. However, EPA has primary enforcement responsibility for Section 1433 of the SDWA.

3.9. SDWA Section 1433(a) requires a CWS serving more than 3,300 persons to conduct a Risk and Resilience Assessment (“RRA”) of its system, including an assessment of:

3.9.1. the risk to the system from malevolent acts and natural hazards;

3.9.2. the resilience of the pipes and constructed conveyances, physical barriers, source water, water collection and intake, pretreatment, treatment, storage and

distribution facilities, electronic, computer, or other automated systems (including the security of such systems) which are utilized by the system;

3.9.3. the monitoring practices of the system;

3.9.4. the financial infrastructure of the system;

3.9.5. the use, storage, or handling of various chemicals by the system; and

3.9.6. the operation and maintenance of the system.

3.10. Section 1433(a)(3)(A) of the SDWA required a CWS serving greater than 3,300 but less than 50,000 persons to submit its certification to the EPA Administrator that it has conducted its RRA on or before June 30, 2021.

3.11. Section 1433(b) of the SDWA required a CWS serving a population greater than 3,300 to prepare or revise, where necessary, an emergency response plan ("ERP") that incorporates the findings of the RRA no later than six months after completion of its RRA. The ERP shall include:

3.11.1. strategies and resources to improve the resilience of the system, including the physical security and cybersecurity of the system;

3.11.2. plans and procedures that can be implemented, and identification of equipment that can be utilized, in the event of a malevolent act or natural hazard that threatens the ability of the CWS to deliver safe drinking water;

3.11.3. actions, procedures, and equipment which can obviate or significantly lessen the impact of a malevolent act or natural hazard on the public health and the safety and supply of drinking water provided to communities and individuals, including the development of alternative source water options, relocation of water intakes, and

construction of flood protection barriers; and

3.11.4. strategies that can be used to aid in the detection of malevolent acts or natural hazards that threaten the security or resilience of the system.

3.12. Respondent's deadline for submitting certification to the EPA Administrator that the ERP has been completed and/or revised was December 31, 2021.

3.13. Based on information available to EPA, Respondent failed to certify that it had conducted the RRA on or before June 30, 2021, as specified in Section 1433(a) of the SDWA, 42 U.S.C. § 300i-2, for the City of Boardman Water System, in violation of Section 1433(a).

3.14. Based on information available to EPA, Respondent failed to certify that it had prepared and/or revised its ERP on or before December 31, 2021, as specified in Section 1433(b) of the SDWA, 42 U.S.C. § 300i-2, for the City of Boardman Water System, in violation of Section 1433(b).

3.15. EPA issued an Order to Respondent on April 15, 2022, Docket No. SDWA-10-2022-0076 ("2022 Order"), to address the violations enumerated above and to place the Respondent on an enforceable schedule to comply with the requirements of Section 1433 of the SDWA.

3.16. The 2022 Order required Respondent to submit its certification for the completion of their CWS's RRA, as required by Section 1433(a) of the SDWA, within 90 days of the effective date of the 2022 Order.

3.17. The 2022 Order required Respondent to submit its certification for the CWS's ERP, as required by Section 1433(b) of the SDWA, within 6 months of the effective date of the 2022 Order.

3.18. Based on information available to EPA, Respondent certified completion of its RRA and ERP on July 11, 2022.

3.19. On April 9, 2024, EPA performed an inspection of Respondent's System under SDWA Section 1445, 42 U.S.C. § 300j-4. The EPA inspector requested to review Respondent's RRA and observed the following:

3.19.1. The RRA did not assess the required elements of Section 1433(a).

3.19.2. The RRA that Respondent provided was an empty template.

3.20. During the inspection, the EPA inspector also reviewed Respondent's ERP and observed the following:

3.20.1. The ERP did not include all required elements of Section 1433(b) and did not include a cybersecurity section.

3.20.2. The ERP was from 2005.

### **Violations**

3.21. The statements in Paragraphs 1.1 – 3.20 are hereby incorporated by reference as if set forth in full.

3.22. Respondent failed to timely conduct a RRA in violation of Section 1433(a) of the SDWA.

3.23. Respondent failed to timely prepare or revise its ERP in violation of Section 1433(b) of the SDWA.

3.24. Respondent failed to comply with the terms of the 2022 Order in violation of Section 1414(g)(3)(A) of the SDWA.

#### **IV. TERMS OF SETTLEMENT**

4.1. Respondent admits the jurisdictional allegations contained in this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. Pursuant to Section 1414(g)(3)(B) of the SDWA, 42 U.S.C. § 300g-3(g)(3)(B), Respondent agrees to pay a civil penalty in the amount of **\$8,770** ("Assessed Penalty").

4.4. Respondent consents to the assessment of the Assessed Penalty set forth in Paragraph 4.3 and agrees to pay the total Assessed Penalty within 30 days after the date of the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date")

4.5. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

4.6. When making a payment, Respondent shall:

4.6.1. Identify every payment with Respondent's name and the docket number of this Agreement, SDWA-10-2025-0022,

4.6.2. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of payment electronically to the following person(s):

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 10  
1200 Sixth Avenue, Suite 155  
Seattle, Washington 98101  
[R10\\_RHC@epa.gov](mailto:R10_RHC@epa.gov)

Jessica Miller  
U.S. Environmental Protection Agency, Region 10  
1200 Sixth Avenue, Suite 155  
Seattle, Washington 98101  
[Miller.Jessica@epa.gov](mailto:Miller.Jessica@epa.gov)

and

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
Via electronic mail to:  
[CINWD\\_AcctsReceivable@epa.gov](mailto:CINWD_AcctsReceivable@epa.gov)

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

4.7. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty per this Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and EPA is authorized to recover the following amounts.

4.7.1. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. Interest will be assessed at prevailing rates. The rate of interest is the IRS standard underpayment rate.



4.7.2. Handling Charges. The United States' enforcement expenses including, but not limited to, attorneys' fees and costs of handling collection.

4.7.3. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days.

4.8. Late Penalty Actions. In addition to the amounts described in the prior paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty per this Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.

4.8.1. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.

4.8.2. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H.

4.8.3. Suspend or revoke Respondent's licenses or other privileges or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17.

4.8.4. Request that the Attorney General bring a civil action in the appropriate district court to recover the full remaining balance of the debt, in addition to costs,

attorney fees, and interest pursuant to 42 U.S.C. § 300g-3(g)(3)(D). In any such action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

4.9. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

4.10. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

4.11. The undersigned representative of Respondent certifies that they are fully authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.12. Except as described in Paragraph 4.7.2 of this Consent Agreement, each party shall bear its own costs in bringing or defending this action.

4.13. For the purposes of this proceeding, Respondent expressly waives any affirmative defenses and the right to contest the allegations contained in the Consent Agreement and to appeal the Final Order. By signing this Consent Agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the Consent Agreement.

4.14. The provisions of this Consent Agreement and the Final Order shall bind Respondent and their agents, servants, employees, successors, and assigns.

4.15. The above provisions are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

January 3, 2025

\_\_\_\_\_  
Date

FOR RESPONDENT:



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Brandon Hammond  
City Manager  
City of Boardman

FOR COMPLAINANT:

\_\_\_\_\_  
Edward J. Kowalski  
Director  
Enforcement and Compliance Assurance Division  
EPA Region 10