



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

JUN 20 2012

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**Article Number: 7005 3110 0000 5954 5270**

Mr. Vincent Herring, Operator  
Village of Walden Wastewater Treatment Plant  
One Municipal Square  
Walden, New York 12586

Re: Notice of Proposed Assessment of a Civil Penalty  
In the Matter of Village of Walden Wastewater Treatment Plant  
Docket No. CWA-02-2012-3306

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG.11  
2012 JUN 27 A 11:44  
REGIONAL HEARING  
CLERK

Dear Mr. Herring:

Enclosed is an Administrative Complaint ("Complaint") which the U.S. Environmental Protection Agency ("EPA") is issuing to you as a result of our determination that the Village of Walden Wastewater Treatment Plant, located at Bradley Lane, Walden, New York, has failed to comply with the reporting requirements imposed by EPA, in violation of Section 405(d) of the Clean Water Act, 33 U.S.C. §1345(d). This Complaint is filed pursuant to the authority of §309(g) of the Act, 33 U.S.C. §1319(g). The Complaint proposes that a penalty of \$5,500 be assessed against the Village of Walden Wastewater Treatment Plant for these violations.

You have the right to a hearing to contest the factual allegations in the Complaint. If you admit the allegations, or they are found to be true after you have had an opportunity for a hearing on them, you have the right to contest the penalty proposed in the Complaint. Enclosed is a copy of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits" ("CROP"), 40 Code of Federal Regulations (C.F.R.) Part 22, which the Agency follows in cases of this kind. Please note the requirements for an Answer at 40 C.F.R. §22.15. **If you wish to contest the allegations in the Complaint or the penalty proposed in the Complaint, you must file an Answer within thirty (30) days of your receipt of the enclosed Complaint to the EPA Regional Hearing Clerk at the following address:**

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
290 Broadway, 16th Floor (Room 1631)  
New York, New York 10007-1866

If you do not file an Answer within thirty (30) days of receipt of this Complaint, you may be judged to have defaulted (See, §22.17 of the CROP). If a default order is entered, the entire proposed penalty may be assessed without further proceedings.

Whether or not you request a formal hearing, you may informally confer with EPA concerning the alleged violations and the amount of the proposed penalty. EPA encourages all parties against whom it files a Complaint to pursue the possibility of settlement as a result of such informal conference with the Agency. You may represent yourself or be represented by an attorney at any stage of the proceedings, including any informal discussions, whether in person or by telephone.

Please note that a request for an informal conference does not substitute for a written Answer or effect what you may choose to say in an Answer, nor does it extend the thirty (30) days by which you must file an Answer requesting a hearing. Any hearing held in this matter will be conducted in accordance with the Proposed CROP, including Subpart I thereof.

If you have any questions or wish to discuss a settlement of this matter with the EPA by an informal conference, please immediately contact:

Melva J. Hayden, Esq.  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
290 Broadway - 16th Floor  
New York, New York 10007-1866  
(212) 637-3230

#### Offer of Settlement

In an effort to promptly settle this matter, we are enclosing, for your consideration, a proposed Consent Agreement and Final Order ("CA/FO"). If, at the close of the public comment period on the Complaint, no adverse public comments are received and no information contrary to the information set forth in the Complaint comes to our attention in any other fashion, we would be prepared to enter into a CA/FO on the terms enclosed. Under the terms of the CA/FO you would be obligated to pay a penalty of \$1,100 in accordance with the terms of the CA/FO. **If you wish to resolve this matter without further proceedings, please sign the enclosed CA/FO and return it to EPA within twenty-five (25) days of your receipt of this letter. Do not submit payment to EPA until after you receive an executed CA/FO.** If we do not receive the Consent Agreement, signed by you or your authorized representative, within this twenty-five (25) day period, our offer of settlement is withdrawn and we will thereafter seek the full amount of the penalty proposed in the Complaint.

If you have any questions on the enclosed Consent Agreement and Consent Order, please contact Ms. Melva J. Hayden. We urge your prompt attention to this matter.

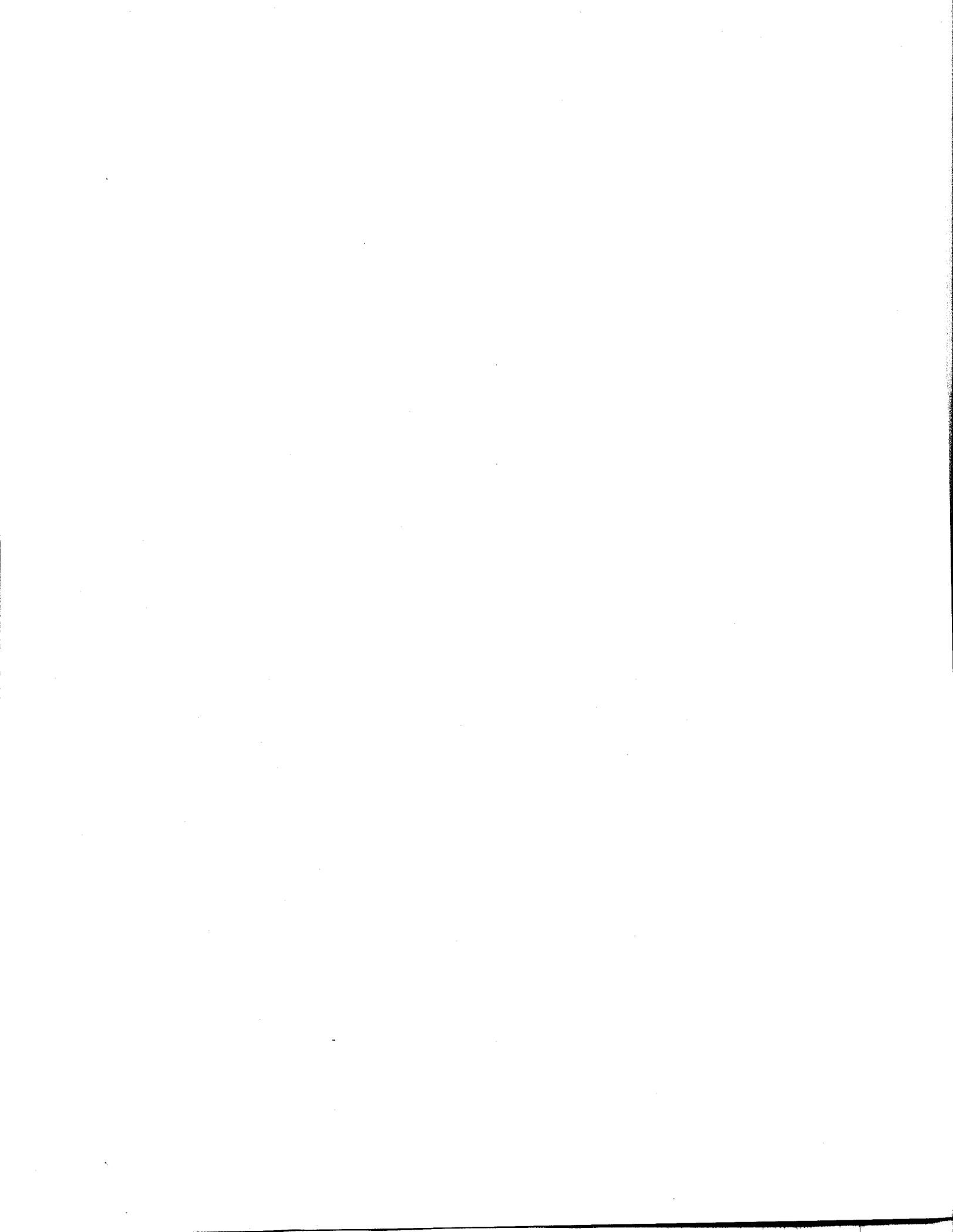
Sincerely,

  
Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance

Enclosures

1. Complaint
2. Consolidated Rules of Practice
3. Proposed Consent Agreement and Final Order

cc: Karen Maples, Regional Hearing Clerk  
Mark Klotz, NYSDEC  
Sally Rowland, NYSDEC



JUN 20 2012

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**Article Number: 7005 3110 0000 5954 5263**

Mr. Mark Klotz, Director  
Division of Water  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233-3506

Re: Notice of Proposed Assessment of a Civil Penalty  
In The Matter of Village of Walden Wastewater Treatment Plant  
Docket No. CWA-02-2012-3306

Dear Mr. Klotz:

Enclosed is a copy of the Administrative Complaint and notice of proposed assessment of a civil penalty, and an offer of settlement which the United States Environmental Protection Agency (EPA) has issued to the Village of Walden Wastewater Treatment Plant ("Respondent", or "STP"), pursuant to Section 309(g) of the Clean Water Act ("Act"), 33 U.S.C. §1319(g). The EPA is issuing this Complaint to begin the process to assess administratively a Class I civil penalty of \$5,500 against the Village of Walden Wastewater Treatment Plant for violations of the Act. The EPA is offering an opportunity for you to confer with us regarding the proposed assessment because the violations have occurred in New York.

Given the nature of the violations, the number of violators and the need for prompt resolution of this matter, an offer of settlement for reduced penalty was offered to Respondent. This offer is contingent upon receipt of no adverse public comments in this matter.

Sincerely,

**Original signed by  
Patrick Durack**

Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance

Enclosures

bcc: K. Maples, Regional Hearing Clerk  
M. Hayden, ORC  
A. Roufaeal, DECA-WCB



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

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG.11  
2012 JUN 27 A 11:44  
REGIONAL HEARING  
CLERK

**IN THE MATTER OF**

Village of Walden Wastewater Treatment Plant  
One Municipal Square  
Walden, New York 12586

Respondent

NPDES Permit No. NY0030490

Proceeding to Assess Class I  
Civil Penalty Under Section  
309(g) of the Clean Water Act

Docket No. CWA-02-2012-3306

**COMPLAINT  
FINDINGS OF VIOLATION, NOTICE OF PROPOSED  
ASSESSMENT OF A CIVIL PENALTY, AND  
NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

**I. Statutory Authority**

1. This Findings of Violation, Notice of Proposed Assessment of a Civil Penalty, and Notice of Opportunity to Request a Hearing ("Complaint") 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"), 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 ("DECA") of EPA, Region 2 ("Complainant").
2. Pursuant to Section 309(g)(2)(A) of the Act, and 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, a copy of which is attached, Complainant hereby requests that the Regional Administrator assess a civil penalty against the Village of Walden Wastewater Treatment Plant ("Respondent") for failure to comply with the reporting requirements imposed by EPA in violation of Section 405(d) of the Act, 33 U.S.C. §1345(d), at its Village of Walden Wastewater Treatment Plant (STP).

**II. Findings of Violation**

1. Respondent is a duly organized Municipality and is a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. §1362(5).

2. Respondent owns and operates the Village of Walden Wastewater Treatment Plant, located in Walden, New York ("the facility"), which is and was at all relevant times a "point source" within the meaning of Section 502(14) of the Act, 33 U.S.C. §1362(14).
3. Respondent holds a National Pollutant Discharge Elimination System ("NPDES") permit, issued pursuant to Section 402 of the Act, 33 U.S.C. §1342, for its Walden facility.
4. Under the authority of Section 405(d) and the Standards for the Use and/or Disposal of Sewage Sludge (40 CFR Part 503), the Respondent was required to comply with the reporting requirements in §503.18 for land application, §503.28 for surface disposal, and §503.48 for incineration by reporting annually on February 19, 1994 and every year thereafter, to EPA the information and data collected during the previous calendar year (the "Annual Sludge Report"). The sixteenth Annual Sludge Report was due by February 19, 2009 and was to include the information and data collected from January 1, 2008 to December 31, 2008.
5. On April 7, 2009, the Respondent was issued an Administrative ORDER Docket CWA-02-2009-3055 for failure to have submitted the sixteenth Annual Sludge Report by February 19, 2009 for its Sewage Treatment Plant. The ORDER stated that "the Respondent shall fully comply with all subsequent 40 CFR Part 503 requirements by reporting annually, on February 19, 2010 and every year thereafter to EPA the information and data collected during the previous calendar year (the "Annual Sludge Report")."
6. On April 10, 2012, the Respondent, Village of Walden Wastewater Treatment Plant, was issued an Administrative ORDER Docket CWA-02-2012-3037 for failure to have submitted the nineteenth Annual Sludge Report by February 19, 2012 for its Sewage Treatment Plant. The ORDER stated that "the Respondent shall fully comply with all subsequent 40 CFR Part 503 requirements by reporting annually, on February 19, 2013 and every year thereafter to EPA the information and data collected during the previous calendar year (the "Annual Sludge Report")."
7. The Respondent stated, in a letter dated April 27, 2012, "Please find enclosed the annual sludge report for the Village of Walden WWTP Reporting was late due to a misunderstanding of the requirements of this report [sic] Steps have been made to keep this from happening in the future." Therefore, the Respondent failed to submit the nineteenth Annual Sludge Report for its STP by February 19, 2012.
8. The Respondent's failure to have submitted the Annual Sludge Report due on February 19, 2012 as described above constitutes a violation of Section 405(d) of the Act. Since this is the Respondent's second failure to submit a required report, EPA has determined that, under Section 309(g)(2)(A) of the Act, 33 U.S.C. §1319(g)(2)(A), the Respondent is liable for the administrative assessment of civil penalties in an amount not to exceed \$16,000 per violation, up to a maximum of \$37,500.

### **III. Notice of Proposed Order Assessing a Civil Penalty**

Based on the foregoing Findings of Violation, and pursuant to the authority of Section 309(g) of the Act, 33 U.S.C. §1319(g), and the Debt Collection Improvement Act of 1996, EPA, Region 2 hereby proposes to issue a Final Order Assessing Administrative Penalties ("Final Order") to Respondent assessing penalty of \$5,500. EPA determined the proposed penalty after taking into

account the applicable factors identified at Section 309(g)(3) of the Act, 33 U.S.C. §1319(g)(3). EPA has taken account of the nature, circumstances, extent and gravity of the violation (or violations), and Respondent's prior compliance history, degree of culpability, economic benefit or savings accruing to Respondent by virtue of the violations, and Respondent's ability to pay the proposed penalty. Based on the Findings set forth above, the Respondent has been found to have violated the Act in two (2) instances.

#### **IV. Notice of Opportunity to Request a Hearing**

1. Respondent may, within thirty (30) days of receipt of this Complaint and as part of any Answer filed in this matter, request a Hearing on the proposed civil penalty assessment and at the Hearing may contest the factual allegations set forth in the Findings of Violation contained in Section II above, and the appropriateness of any penalty amount. The procedures for the Hearing, if one is requested, are set out in the CROP, including Subpart I thereof.
2. Be aware that should Respondent request a hearing on this proposed penalty assessment, members of the public, to whom EPA is obligated to give notice of this proposed action, will have a right under Section 309(g)(4)(B) of the Act, 33 U.S.C. §1319(g)(4)(B), to be heard and to present evidence on the appropriateness of the penalty assessment. Should Respondent not request a hearing, EPA will issue a Final Order, and only members of the public who submit timely comment on this proposal will have an additional thirty (30) days to petition EPA to set aside the Final Order and to hold a hearing thereon. EPA will grant the petition and will hold a hearing only if the petitioner's evidence is material and was not considered by EPA in the issuance of the Final Order.

#### **V. Filing an Answer**

1. If Respondent wishes to avoid being found in default, it must file a written Answer to this Complaint with the Regional Hearing Clerk no later than thirty (30) days from the date of receipt of this Complaint. EPA may make a motion pursuant to §22.17 of the proposed CROP seeking a default order thirty (30) days after Respondent's receipt of the Complaint unless Respondent files an Answer within that time. If a default order is entered, the entire proposed penalty may be assessed without further proceedings.
2. The Answer must clearly and directly admit, deny or explain each of the factual allegations contained in the Complaint with respect to which Respondent has knowledge or clearly state that Respondent has no knowledge as to particular factual allegations in the Complaint. The Answer also shall state:
  - a) The circumstances or arguments which are alleged to constitute grounds of any defense;
  - b) The facts which Respondent disputes;
  - c) The basis for opposing the proposed relief;
  - d) Whether a Hearing is requested.
3. Failure of Respondent to admit, deny, or explain any material factual allegations in this Complaint shall constitute admission of the allegation.

## **VI. Filing of Documents**

1. The Answer and any Hearing Request and all subsequent documents filed in this action should be sent to:

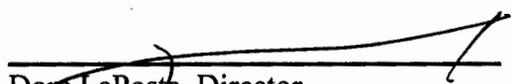
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
290 Broadway - 16th Floor (Room 1631)  
New York, New York 10007-1866

2. A copy of the Answer, any Hearing Request and all subsequent documents filed in this action shall be sent to Melva J. Hayden, Esq., Assistant Regional Counsel, Office of Regional Counsel, U.S. Environmental Protection Agency, 290 Broadway - 16<sup>th</sup> Floor, New York, New York 10007, (212) 637-3230.

## **VII. General Provisions**

1. Respondent has a right to be represented by an attorney at any stage of these proceedings.
2. This Complaint does not constitute a waiver, suspension or modification of the requirements of the Act, regulations promulgated thereunder, or any applicable permit.
3. Neither assessment nor payment of an administrative civil penalty pursuant to Section 309(g) of the Act will affect Respondent's continuing obligation to comply with the Act, and with any separate Compliance Order issued under Section 309(a) of the Act, 33 U.S.C. §1319(a), for the violations alleged herein.

ISSUED THIS 20<sup>th</sup> DAY OF JUNE, 2012.

  
\_\_\_\_\_  
Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance  
U.S. EPA - Region 2  
290 Broadway  
New York, New York 10007-1866

To: Vincent Herring  
Village of Walden Wastewater Treatment Plant  
One Municipal Square  
Walden, New York 12586  
CWA-02-2012-3306

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 2**

-----X		
IN THE MATTER OF	:	
	:	
Village of Walden WWTP	:	
One Municipal Square	:	Proceeding to Assess Class I
Walden, New York 12586	:	Administrative Penalty Under Section 309(g)
	:	of the Clean Water Act
Respondent	:	
	:	
Proceeding Pursuant to §309(g) of the	:	Docket No.
Clean Water Act, 33 U.S.C. §1319(g)	:	CWA-02-2012-3306
-----X		

**CERTIFICATE OF SERVICE**

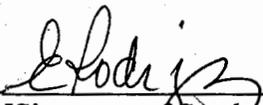
I certify that, on the date noted below, I caused to be mailed, by certified mail, return receipt requested, a copy of the foregoing "ADMINISTRATIVE COMPLAINT" and a copy of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits," 40 Code of Federal Regulations Part 22 (July 1, 2000)) to the following persons at the addresses listed below:

Mr. Vincent Herring, Operator  
Village of Walden Wastewater Treatment Plant  
One Municipal Square  
Walden, New York 12586

Mr. Mark Klotz, Director  
Division of Water  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233-3506

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: JUN 27 2012  
New York, New York

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

**ATTACHMENT A**  
**[WHO MUST BE SERVED - CROP §22.05(b)(1)]**

**If Respondent is domestic or foreign corporation, partnership or unincorporated association:**

**Corporate Officer, e.g. President, Vice President, Secretary**  
**Partner Managing or General Agent**

**Any other person authorized by appointment or by Federal or State law to receive service of process (there is usually "agent for service of process" registered with Secretary of State's office in each state in which corporation is authorized to do business).**

**If Respondent is State or local unit of government, agency, department, corporation or other instrumentality:**

**Chief Executive Officer, e.g. Commissioner, Executive Director**  
**As otherwise permitted by law.**

**If Respondent is officer or Agency of the United States**

**Agency head, e.g. Secretary, Administrator**  
**As otherwise permitted by law.**

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

IN THE MATTER OF

Village of Walden Wastewater Treatment Plant  
One Municipal Square  
Walden, New York 12586

Respondent

NPDES Permit No. NY0030490

**CONSENT AGREEMENT AND  
FINAL ORDER**  
Docket No. CWA-02-2012-3306

**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 EPA issued an Administrative Complaint, Docket No. CWA-02-2012-3306, 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 \$5,500. In the Administrative Complaint, EPA alleged that the Respondent in two (2) instances failed to submit to EPA the Annual Sludge Reports which were due on February 19, 2009, and February 19, 2012, respectively.

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 \$1,100 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 \$1,100 payable to the "Treasurer of the United States of America". The check 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.

**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. Payment must be received at the above address on or before forty five (45) calendar days after the effective date hereof, set out below (the date by which payment must be received shall hereafter be referred to as the "due date").

- 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 will be assessed 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 which are 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 Sections 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 (30) calendar days from the date it is signed by the Division of Enforcement and Compliance Assistance Director, shown below.

Village of Walden Wastewater Treatment Plant

Date: \_\_\_\_\_

U.S. Environmental Protection Agency  
Region 2

Date: \_\_\_\_\_

\_\_\_\_\_  
Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance

ISSUED AND ORDER THIS \_\_\_ DAY OF \_\_\_\_\_, 2012

\_\_\_\_\_  
Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance

Re: Vincent Herring, Operator  
Village of Walden Wastewater Treatment Plant  
One Municipal Square  
Walden, New York 12586

**CWA-02-2012-3306**