



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

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG.II  
2009 MAY 26 PM 3: 26  
REGIONAL HEARING  
CLERK

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

May 26, 2009

Mr. Benjamin Biddle  
Headmaster  
St. John School on Giff Hill  
PO Box 1657  
St. John, U.S. VI 00830

RE: In the Matter of St. John School on Giff Hill  
Docket No. SDWA-02-2008-8903

Dear Mr. Biddle:

Enclosed is a Consent Agreement and Final Order (CA/FO) in the above-referenced matter. This CA/FO was fully executed and issued on May 19, 2009.

Please note that the penalty of \$3,000 is required to be paid in full and received by EPA no later than July 18, 2009. In addition, certain compliance measures must be satisfied. Please see Section II. B. of the Consent Agreement for those specifics.

Sincerely,

A handwritten signature in cursive script that reads "Nina Dale".

Nina Dale, Esq.

Enclosure

cc: Karen Maples  
Regional Hearing Clerk (w/enclosures)

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

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG.II  
2009 MAY 26 PM 3:26  
REGIONAL HEARING  
CLERK

**IN THE MATTER OF**

St. John School on Giffit Hill  
9-1 Estate Bellevue  
Cruz Bay  
St. John, USVI 00831,

Respondent.

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

**DOCKET NO. SDWA-02-2008-8903**

**CONSENT AGREEMENT  
AND  
FINAL ORDER**

**CONSENT AGREEMENT**

Complainant, the United States Environmental Protection Agency ("EPA"), having issued the Complaint, Notice of Violation and Proposed Administrative Order herein on May 8, 2008, against Respondent St. John School on Giffit Hill, St. John, U.S. Virgin Islands, and;

Complainant and Respondent having agreed that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order without further litigation is the most appropriate means of resolving this matter;

NOW, THEREFORE, before the taking of any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby agreed as follows:

## **I. PRELIMINARY STATEMENT**

1. EPA initiated this proceeding for the assessment of a civil penalty and compliance with the Safe Drinking Water Act pursuant to Section 1423(c) of the Safe Drinking Water Act, 42 U.S.C. §300h-2(c).
2. The Complaint alleges violations of the Safe Drinking Water Act Part C – Underground Injection Control as they pertain to a Class V injection well located at 9-1 Estate Bellevue, Cruz Bay, St. John, U.S. Virgin Islands. The Complaint alleges that the Class V well is owned and operated by Respondent, St. John School on Giff Hill.
3. EPA notified the U.S. Virgin Islands regarding this action and offered an opportunity for the U.S. Virgin Islands to confer with EPA on the proposed penalty assessment.
4. This action was public noticed. No public comment was received.
5. On November 18, 2008, Respondent filed an Answer.
6. This Consent Agreement and Final Order shall apply to and be binding on Respondent, the business officers, directors, employees, successors and assigns, including but not limited to, subsequent purchasers.
7. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint. Respondent waives any defenses it might have as to jurisdiction and venue, and, without admitting or denying the allegations contained in the Complaint, consents to the terms of this Consent Agreement and Final Order.
8. Respondent hereby waives its rights to a judicial or administrative hearing or appeal on any issue of law or fact set forth in the Complaint or on any terms of this Consent Agreement and Final Order.

## **II. TERMS OF SETTLEMENT**

### **A. PENALTY**

9. Pursuant to Section 1423(c) of the Safe Drinking Water Act, 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.

10. EPA has determined that an appropriate civil penalty to settle this action is in the amount of THREE THOUSAND (\$3,000.00) DOLLARS (this penalty represents a capture of the economic benefit otherwise gained by the Respondent for noncompliance).
11. For the purpose of settlement, Respondent consents to the issuance of this Consent Agreement, consents to the payment of the civil penalty cited in the foregoing Paragraph.
12. Not more than **sixty (60) days** after the date of issuance of the executed Final Order signed by the Regional Administrator, EPA, Region 2, Respondent shall pay the penalty of **THREE THOUSAND (\$3,000.00) DOLLARS** by cashier's or certified check, payable to the "Treasurer of the United State of America", identified with the notation of the name and docket number of this case, set forth in the caption on the first page of this document. This check shall be mailed to:

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

Respondents shall also send copies of this payment to each of the following:

Nicole Kraft, Chief  
Groundwater Compliance Section  
Water Compliance Branch  
U.S. EPA, Region 2  
290 Broadway, 20<sup>th</sup> Floor  
New York, NY 10007

and

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, New York 10007

Payment must be received at the above address on or before sixty (60) calendar days after the date of signature of the Final Order (at the end of this document). 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 will result in a referral of this matter to the United States Department of Justice or the United

States Department of the Treasury for collection.

- b. 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.
  - c. In addition, pursuant to Section 1423(c)(7) of the Safe Drinking Water Act, 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 date the order is effective. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.
  - d. Respondent also may be required to pay attorneys fees and costs for collection proceedings in connection with nonpayment.
13. The penalty to be paid is a civil penalty assessed by the EPA and shall not be deductible from the Respondents' federal or state taxes.

**B. COMPLIANCE**

14. Respondent must submit a written request ("Request") to EPA within ninety (90) days of the effective date of this Final Order indicating your desire to obtain a permit for continued injection. This Request must include, at a minimum:
- a. The source(s) and type(s) of fluid(s) Respondent wishes to dispose of into the injection well or wells.
  - b. Any treatment of the wastes that will be performed prior to injection of the wastes.
  - c. Any available analytical data demonstrating the levels of contaminants in the fluid(s) Respondent wishes to dispose of into the injection well or wells.

Once EPA completes its review of the Request, EPA will send Respondent a written response detailing any additional information that may be necessary to evaluate the Request, and which may include additional requirements that must be met in order for the Request to be approved under either Authorization By Rule or Authorization By Permit.

15. **IF** EPA is precluded from issuing a permit (e.g., because of geologic

considerations, leachate concerns, inadequate capacity, inadequate design, etc.), EPA shall notify the Respondent in writing of this fact.

- a. IF such a notification is issued by EPA, Respondent shall submit to EPA within 30 days of receipt of that notification, a UIC Closure Plan for EPA approval.

The UIC Closure Plan shall be developed and written in accordance with EPA Guidance, Attachment A to this Consent Agreement and Final Order, and shall include, among other things:

- i. collect one end point sample for analysis, which sample shall be collected by trained personnel with appropriate laboratory sampling experience and equipment, and;
  - ii. if groundwater is encountered, a water sample must be collected, in addition to the end point soil sample, and;
  - iii. soil and water analysis (if necessary) is to be conducted by a certified laboratory, and;
  - iv. a Final Closure Report and the sample analysis must be provided to EPA.
- b. EPA shall provide comments, if any, within 10 days of receipt of the Final Closure Plan.
  - c. EPA shall provide verbal and written approval of the Final UIC Closure Plan within 10 business days of receiving an approvable UIC Closure Plan.
  - d. Respondent shall clean and close the Class V well in accordance with the EPA-approved closure plan no later than 30 days after receipt of EPA's written approval of the Final UIC Closure Plan.
  - e. Respondent shall submit to EPA a final closure report indicating sample results and analysis no later than 60 days after the closure of the well in accordance with the EPA-approved closure plan.

**C. GENERAL PROVISIONS**

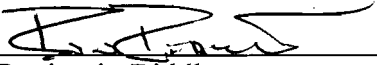
16. Respondent shall transmit all notices, reports and submissions required by this Consent Agreement and Final Order to:

Nicole Kraft, Chief  
Groundwater Compliance Section  
Water Compliance Branch  
U.S. EPA, Region 2  
290 Broadway, 20<sup>th</sup> Floor  
New York, NY 10007

17. The Respondent waives any right he may have pursuant to 40 CFR §22.8 or statute to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Administrator where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that the Administrator accept this Consent Agreement and issue the accompanying Final Order.
18. Violations of the terms of the Final Order after its effective date or date of final judgment as described in Section 1423(c)(6) of the Act, 42 U.S.C. §300h-2(c)(6), 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).
19. This Consent Agreement and Final Order shall not relieve Respondent of his 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.
20. Nothing in this Consent Agreement shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this Consent Agreement or of the statutes and regulations upon which this Consent Agreement is based, or for Respondent's violation of any applicable provision of law.
21. Issuance of the Final Order is not an election by EPA to forego any civil or criminal action otherwise authorized under the Act.
22. This Consent Agreement and Final Order constitutes a settlement by EPA of all claims for civil penalties pursuant to the Safe Drinking Water Act for the violations alleged in the Complaint. Nothing in this Consent Agreement and Final Order is intended to nor shall be construed to operate in any way to resolve any criminal liability of the Respondent. Compliance with this Consent Agreement and Final Order 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.


23. 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.
24. Each party shall bear its own costs and attorney's fees in connection with the action resolved by this Consent Agreement and Order.

RESPONDENT ST. JOHN SCHOOL ON GIFFT HILL:

BY:   
Benjamin Biddle  
Headmaster, St. John School on Giff Hill

DATE: 5/12/09

COMPLAINANT:

BY:   
Dore LaPosta, Director  
Division of Enforcement and Compliance Assistant  
U.S. EPA, Region 2  
290 Broadway, 21st Floor  
New York, New York 10007-1866

DATE: 5/19/09



**Attachment A**

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## Instructions for Underground Injection Control Class V Remediation Plans

THE CLASS V WELL WORK PLAN **MUST BE SUBMITTED TO EPA AND APPROVED BY EPA PRIOR** TO INITIATION OF WELL INITIAL SAMPLING AND/OR CLEAN-OUT ACTIVITIES. YOU SHALL BE NOTIFIED THAT EPA HAS APPROVED YOUR REMEDIATION WORKPLAN OR THAT YOU WILL BE REQUIRED TO MODIFY YOUR REMEDIATION WORKPLAN TO MEET THE REQUIREMENTS LISTED BELOW.

To ensure Underground Injection Control (UIC) Class V well remediation is conducted in an environmentally sound manner, the EPA's UIC Program requires the following information to be included in your Class-V well remediation plan

Please note that, for sanitary systems (with primary treatment) where a connection to the sewer is not possible, the sanitary system may remain in use as long as any contamination is cleaned out and any non sanitary discharge to the system is ceased.

- A. **Schematic diagram** displaying the injection well system; the diagram must include all drains, piping, processing units such as oil/water separators or septic tanks, and final discharge mechanisms such as drywells, leach fields or open underground pipe.
- B. **Description of all fluids** which enter or have been known to enter the Class V well.
- C. **Verification of the connection** between all drains of concern and the injection well (cesspool, drywell, open pipe or leachfield), verification includes dye tests, As-Built construction diagrams, etc.
- D. **Description of plug emplacements** (if applicable) or how you will otherwise permanently close the drain(s) and well(s).
- E. **Statement indicating that the septic** tank will be cleaned out, and documentation will be submitted to the EPA.

### *Recommended EPA methods are included below:*

- For large capacity cesspool and/or large capacity septic system wells (used by 20 or more people per day), which receive only sanitary waste, an end-point sample and analysis is not required. But the cesspool and/or the septic tank must be pumped out.
- Leachfields or overflow well which have received industrial chemical discharges. Collected 1 sample from within the septic tank which shall be analyzed for volatile organic compounds (EPA Test Method SW-846 8260), semi-volatile organic compounds (EPA Test Method SW-846 8270 base/neutral extraction), and arsenic, cadmium, chromium, and lead by a total metals analysis. Upon receipt and review of the septic

### III. FINAL ORDER

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 a Final Order. The effective date of this Final Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA Region 2, New York, New York.

DATE: \_\_\_\_\_

5/19/09



\_\_\_\_\_  
George Pavlou  
Acting Regional Administrator  
United States Environmental  
Protection Agency - Region 2  
290 Broadway  
New York, New York 10007-1866

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

**DOCKET NO. SDWA-02-2008-8903**

**CERTIFICATE OF SERVICE**

I certify that the foregoing Consent Agreement and Final Order was sent to the following persons, in the manner specified, on the date below:

Original and One Copy                      Regional Hearing Clerk  
By Hand:                                      U.S. Environmental Protection Agency, Region 2  
    290 Broadway, 16<sup>th</sup> floor  
    New York, New York 10007-1866

Copy By Hand:                              Hon. Helen S. Ferrara  
    Regional Judicial Officer  
    U.S. Environmental Protection Agency, Region 2  
    290 Broadway, 16th Floor  
    New York, NY 10007-1866

Copy By Certified Mail                      Mr. Benjamin Biddle  
Return Receipt Requested:              Headmaster  
    St. John School on Giffit Hill  
    PO Box 1657  
    St. John, U.S. VI 00831

Date:     MAY 26 2009    

Signed:     Ana Madera      
Ana Madera, Secretary