

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

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG.11  
2012 APR -14 A 10:31  
REGIONAL HEARING  
CLERK

**IN THE MATTER OF:**

Great Gun Beach Public Water System  
Town of Brookhaven Parks Department  
1130 Old Town Road  
Coram, NY 11727

**PWS ID: NY5104105**

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-02-2012-8401

**I. Preliminary Statement**

This Consent Agreement (“CA”) is entered into by the Director of the Division of Enforcement and Compliance Assistance, Region 2, United States Environmental Protection Agency (“EPA” or “Complainant”) and the Town of Brookhaven Parks Department, located in Brookhaven, New York (“Respondent”), pursuant to Section 1414(g)(3)(B) of the Safe Drinking Water Act (“SDWA”), as amended, 42 U.S.C. §300g-3(g)(3)(B), 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,” 64 Fed. Reg. 40137-40190 (July 23, 1999) (Part 22). The authority to issue this order has been duly delegated to the Director of the Division of Enforcement and Compliance Assistance of EPA Region 2.

This CA and the Final Order (collectively “CA/FO”), resolve violations of the terms and conditions of an Administrative Order 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 (Great Gun Beach public water system) in Brookhaven, New York. Section 1414 of the SDWA authorizes EPA to take an enforcement action whenever it determines that a public water system is in violation of any requirement of the SDWA, EPA’s regulations thereunder, or any regulation of a state drinking water program which has been authorized by EPA. Pursuant to 42 U.S.C. §300g-3(g)(3)(B), EPA may issue a penalty order assessing a penalty against any public water system which violates an applicable requirement of the statute. Violators are subject to, inter alia, the assessment of a civil penalty of not more than \$32,500 per day per violation pursuant to 42 U.S.C. §300g-3(g)(3)(C).

**II. Findings of Fact and Conclusions of Law**

1. Respondent owns and/or operates the Great Gun Beach “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 Brookhaven, New York.

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 provides piped water for human consumption and does not regularly serve at least 25 of the same persons over six months per year, and is therefore a "transient non-community water system" as defined by Section 1401(16) of the SDWA, 42 U.S.C. §300f(16) and 40 C.F.R. §141.2.
5. On November 21, 2006, USEPA promulgated the Ground Water Rule ("GWR"), 40 C.F.R. Part 141, Subpart S, to provide for increased public health protection against microbial pathogens, specifically bacterial and viral pathogens, in public water systems that use ground water. The GWR requires systems with ground water sources at risk of microbial contamination to take corrective action to protect consumers from harmful bacteria and viruses. Monitoring is a key element of this approach.
6. The New York State Department of Health ("NYSDOH") administers the Public Water Supply Supervision Program in the state of New York pursuant to Section 1413 of the SDWA. The approval and delegation of primary enforcement responsibility from USEPA to NYSDOH was effective as of September 9, 1977. However, the NYSDOH has not yet obtained primary enforcement responsibility for the GWR. Therefore, as of the date of this Complaint, USEPA has primary responsibility for enforcement of the GWR.
7. Pursuant to 40 C.F.R. §141.400(b), public water systems that use a ground water source are required to comply with 40 C.F.R. Part 141 Subpart S (the "GWR").
8. Respondent's public water system uses a ground water source. Therefore, it is subject to the requirements of 40 C.F.R. Part 141 Subpart S, the GWR.
9. Pursuant to 40 C.F.R. §141.402(a)(1), a ground water system must conduct triggered source water monitoring under the GWR if the system does not provide at least 4-log treatment of viruses (inactivation and/or removal) before or at the first customer for each ground water source, and the system is notified that a sample collected under 40 C.F.R. §141.21(a) is total coliform-positive, and the sample is not invalidated under 40 C.F.R. §141.21(c).
10. According to information provided by the NYSDOH, Respondent's public water system does not provide 4-log treatment of viruses.
11. Pursuant to 40 C.F.R. §141.402(a)(2), a ground water system must collect, within 24 hours of notification of the total coliform-positive sample, at least one ground water source sample from each ground water source in use at the time the total coliform-positive sample was collected under 40 C.F.R. §141.21(a). The State may extend the 24-hour time limit on a case-by-case basis if the system cannot collect the ground water source sample within 24 hours due to circumstances beyond its control. Pursuant to 40 C.F.R. §141.402(c)(2), triggered source water samples taken under 40 C.F.R. §141.402(a)(2) must be analyzed for one of the following fecal indicators: E. Coli, enterococci, or coliphage.

12. On June 15, 2010, Respondent was notified of a total coliform-positive sample collected under 40 C.F.R. §141.21(a) on June 11, 2010.
13. On July 9, 2010, Respondent was notified of a total coliform-positive sample collected under 40 C.F.R. §141.21(a) on July 7, 2010.
14. According to information provided by NYSDOH, Respondent was unable to collect the required triggered source water monitoring samples due to its failure to install a raw water tap.
15. Pursuant to 40 C.F.R. §141.403(a), significant deficiencies include, but are not limited to, defects in design, operation or maintenance, or a failure or malfunction of the sources, treatment, storage or distribution system that the State determines to be causing, or have potential for causing, the introduction of contamination into the water delivered to consumers. A ground water system that is notified of a significant deficiency by the State has 120 days to either complete corrective action in accordance with applicable State plan review processes or other State guidance or direction, or be in compliance with a State-approved corrective action plan and schedule.
16. According to information provided by NYSDOH, Respondent received notification that its failure to install a raw water tap constituted a significant deficiency under the GWR during a sanitary survey conducted at the facility on July 7, 2010. Therefore, Respondent was required to complete corrective action or be in compliance with a State-approved corrective action plan no later than November 4, 2010.
17. On November 10, 2010, EPA issued an Administrative Order ("AO"), Docket Number SDWA-02-2011-8008, requiring Respondent to complete corrective action and submit certification of GWR compliance by December 15, 2010. According to EPA's records in the form of the certified mail return receipt (Article Number 7005 3110 0000 5939 4243), the AO was received by Respondent on November 18, 2010.
18. On December 6, 2010, EPA received correspondence from Respondent, dated November 30, 2010, detailing a corrective action plan and implementation schedule, with compliance projected for December 15, 2010, as required by the AO. The letter also stated that Great Gun Beach Public Water System would remain closed until Respondent achieved final compliance with the AO.
19. On March 22, 2011, EPA received correspondence from Respondent, dated March 18, 2011, stating that, due to discussions regarding permanently closing Great Gun Beach to the public, Respondent had not complied with the schedule submitted on November 30, 2010. The correspondence also included a revised corrective action plan and implementation schedule with final GWR compliance projected for May 6, 2011.
20. On April 8, 2011, EPA issued an AO, Docket Number SDWA-02-2011-8010, requiring Respondent to complete corrective action and submit certification of GWR compliance by May 6, 2011. The Certified Mail Return Receipt indicates that the AO was received by Respondent on April 13, 2011.
21. Based on information available to EPA, as of the date of this Consent Agreement, Respondent has neither completed corrective action nor is Respondent in compliance with a State-approved corrective action plan, in violation of 40 C.F.R. §141.403(a)(5).

## COUNT 1

22. Pursuant to 40 C.F.R. §141.403(a)(5), Respondent was required to complete corrective action or be in compliance with a State-approved corrective action plan within 120 days of being notified by the State of a significant deficiency.
23. Pursuant to Part III, Paragraph 1 of the AO, Docket Number SDWA-02-2011-8010, Respondent was required to complete corrective action and submit certification of GWR compliance to Suffolk County Department of Health Services, NYSDOH and EPA by May 6, 2011.
24. Respondent failed to demonstrate compliance with the requirements specified in 40 C.F.R. §141.403(a)(5) by the date specified in the AO, and is, therefore, in violation of Part III, Paragraph 1 of the AO.

### **III. Consent Agreement**

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 "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits" ("CROP") (40 C.F.R. §22.18), it is hereby agreed by and between the parties and Respondent voluntarily and knowingly agrees as follows:

#### **Terms of Settlement**

1. This Consent Agreement and Final Order ("CA/FO") shall apply to and be binding upon Respondent, its officers, directors, employees, successors and assigns.
2. Respondent shall provide a copy of this CA/FO to all officers, employees, and agents whose duties might reasonably include compliance with any provision of this CA/FO.
3. In any action to enforce this CA/FO, Respondent shall not raise as a defense the failure by any of its officers, directors, employees, agents, or contractors to take any actions necessary to comply with the provisions of this CA/FO.
4. For the purpose of this proceeding, Respondent stipulates that:
  - a. EPA has jurisdiction over the subject matter alleged herein and that this Consent Agreement states a claim upon which relief can be granted against Respondent;
  - b. Respondent waives any defenses they might have as to jurisdiction and venue;
  - c. Respondent hereby consents to the terms of this CA/FO; but neither admits nor denies the factual and legal allegations contained herein;
  - d. Respondent hereby waives its right to a judicial or administrative hearing or appeal on any issue of law or fact set forth herein; and,
  - e. Respondent consents to the payment of the civil penalty cited in Paragraph 7 below.
5. Respondent agrees to complete all corrective actions and submit certification of GWR compliance to Suffolk County Department of Health Services, NYSDOH and EPA.

6. Respondent agrees to expend not less than \$35,280 to complete a Solar Power Supplemental Environmental Project ("SEP") by June 1, 2012.
7. Complainant and Respondent agree that an appropriate civil penalty to settle this proceeding is in the amount of **One Thousand Nine Hundred and Ninety-Three Dollars (\$1993.00)**.

**Payment of Civil Penalty**

8. Respondent shall pay a civil penalty to EPA in the amount of **One Thousand Nine Hundred and Ninety-Three Dollars (\$1993.00)**. 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 GREAT GUN BEACH**, and shall bear thereon the **Docket Number SDWA-02-2012-8401**. 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
- 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: Town of Brookhaven Parks Department
- g. Case Number: SDWA-02-2012-8401

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:

Tim Murphy, Esq.  
Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866

and

Karen Maples, Regional Hearing Clerk  
U.S. Environmental Protection Agency - Region 2  
290 Broadway, 16<sup>th</sup> 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.

**Supplemental Environmental Project**

- 9. The Solar Power Supplemental Environmental Project ("Solar Power SEP") described below, shall be undertaken and completed by Respondent. The Parties agree that this SEP is intended to advance environmental restoration, pollution prevention and protection of human health.
- 10. The scope of Respondent's Solar Power SEP is set forth in accordance with the Scope of Work ("SOW" or "Exhibit A"), which is incorporated herein. Pursuant to the SEP Project Description, Respondent shall purchase and install a 4.41 KW photovoltaic system that will provide electricity to operate the public water system at Great Gun Beach.
- 11. The anticipated environmental benefits and protection to aquatic life and public health to be provided by carrying out the Respondent's Solar Power SEP include advancement of environmental restoration as a result of energy conservation and reducing the Town of Brookhaven's carbon footprint. The implementation of these actions will result in pollution prevention by eliminating the use of fossil fuels to power the water treatment facility at Great Gun Beach. Additionally, Respondent's Solar Power SEP will benefit human health by providing a reliable energy source to power the water treatment system at Great Gun Beach, ensuring a water supply that meets SDWA standards.
- 12. Although Respondent is not legally required by federal or local laws and regulations to implement a photovoltaic system, it agrees herein to do so.
- 13. The total expenditure for the SEP shall not be less than THIRTY-FIVE THOUSAND AND TWO HUNDRED EIGHTY DOLLARS (\$35,280.00), in accordance with the specifications set forth in detail in Paragraph 14 below and in Exhibit A.
- 14. The SEP shall include the following actions which shall be undertaken by Respondent:

- a) Purchase and installation of a 4.41 KW photovoltaic system that will provide electricity to operate the public water system at Great Gun Beach.

### **SEP Reports**

15. Respondent shall submit a SEP Completion Report to EPA by July 1, 2012. The SEP Completion Report shall contain the following information:
  - (a) A detailed description of the SEP as implemented;
  - (b) Itemized costs, as set forth in Paragraph 19, below;
  - (c) Certification that the SEP has been fully implemented pursuant to the provisions of this Consent Agreement and Final Order; and
  - (d) A description of the environmental and public health benefits resulting from implementation of the SEP.
16. Respondent shall submit any additional reports required by the Scope of Work to EPA in accordance with the schedule and requirements recited therein.
17. Respondent agrees that failure to submit the SEP Completion Report or any Periodic Report required by Paragraph 15, above, shall be deemed a violation of this Consent Agreement and Final Order and Respondent shall become liable for stipulated penalties pursuant to Paragraph 23, below.
18. Respondent shall submit all notices and reports required by this Consent Agreement and Order to:

Nicole Foley Kraft, Chief  
Ground Water Compliance Section  
Water Compliance Branch  
Division of Enforcement and Compliance Assistance  
U.S. Environmental Protection Agency – Region 2  
290 Broadway – 20<sup>th</sup> Floor  
New York, New York 10007-1866

and

Tim Murphy, Esq.  
Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
290 Broadway – 16<sup>th</sup> Floor  
New York, New York 10007-1866

19. In itemizing its costs in the SEP completion report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the SEP completion report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this Paragraph, “acceptable documentation” includes invoices, purchase orders, receipts, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment has been made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.
20. Under no circumstances shall Respondent use federal grants, low-interest federal loans, federal contracts or other forms of federal financial assistance or non-financial assistance to perform the SEP. Respondent agrees that use of prohibited assistance shall be deemed a violation

of this Consent Agreement and Order and Respondent shall become liable for stipulated penalties pursuant to Paragraph 23, below.

21. Respondent shall maintain legible copies of documentation for any and all documents or reports submitted to EPA pursuant to this Consent Agreement and shall provide the documentation to EPA not more than seven days after a request for such information. In all documents or reports, including, without limitation, any SEP reports, submitted to EPA pursuant to this Consent Agreement, Respondent shall, by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

22. EPA Acceptance of SEP Report

After receipt of the SEP Completion Report described in Paragraph 15, above, EPA will notify the Respondent, in writing, regarding:

- (i) any deficiencies in the SEP Report itself along with a grant of an additional thirty (30) days for Respondent to correct any deficiencies; or
- (ii) EPA conclusions that the project has been completed satisfactorily; or,
- (iii) EPA's determination that the project has not been completed satisfactorily and EPA's intent to seek stipulated penalties in accordance with Paragraph 23, below.

If EPA elects to exercise option (i), above, i.e., if the SEP Report is determined to be deficient but EPA has not yet made a final determination about the adequacy of the completion of the SEP itself, EPA shall permit Respondent the opportunity to object in writing to the notification of deficiency given pursuant to this paragraph within thirty (30) days of receipt of such notification. EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement on changes necessary to the SEP Report. If agreement cannot be reached on any such issue within this thirty (30) day period, EPA shall provide a written statement of its decision on adequacy of the completion of the SEP to Respondent, which decision shall be final and binding upon Respondent. Respondent agrees to comply with any requirements imposed by EPA as a result of any such deficiency or failure to comply with the terms of this Consent Agreement and Final Order. In the event the SEP is not completed as contemplated herein, as determined by EPA, stipulated penalties shall be due and payable by Respondent to EPA in accordance with Paragraph 23, below.

23. Stipulated Penalties for Failure to Complete SEP or Failure to Expend Sufficient Funds in Performance of the SEP

- a. In the event that Respondent fails to comply with any of the terms or provisions of this Agreement relating to the performance of the SEP described in Paragraph 10, above, and/or to the extent that the actual expenditures for the SEP do not equal or exceed the cost of the SEP described in Paragraph 13, above, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

- (i) For a SEP which has not been completed satisfactorily pursuant to this Consent Agreement and Final Order, Respondent shall pay a stipulated penalty to the United States in the amount of \$35,280.00.

- (ii) If the SEP is completed in accordance with Paragraph 10, but Respondent spent



less than 90 percent of the amount of money required to be spent for the project, Respondent shall pay a stipulated penalty to the United States equal to the difference between \$35,280.00 and the amount of money spent.

(iii) If the SEP is completed in accordance with Paragraph 10, and Respondent spent at least 90 percent of the amount of money required to be spent for the project, Respondent shall not be liable for any stipulated penalty.

(iv) For failure to submit the SEP Completion Report required by Paragraph 15, above, Respondent shall pay a stipulated penalty in the amount of \$100.00 for each day after the report due date as set forth in Paragraph 15, above, until the report is submitted.

(v) For failure to submit any other report required by Paragraph 16, above, Respondent shall pay a stipulated penalty in the amount of \$100.00 for each day after the report was originally due until the report is submitted.

- b. Determinations of whether Respondent has complied with the terms of this Consent Agreement and whether the SEP has been satisfactorily completed, and whether Respondent has made a good faith, timely effort to implement the SEP shall be in the sole discretion of EPA.
  - c. Stipulated penalties for Subparagraphs (iv) and (v), above, shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of the completion of the activity.
  - d. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions of Paragraph 8, above. Interest and late charges shall be paid as stated in Paragraph 8, above.
  - e. Nothing in this 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 agreement or of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any applicable provision of law.
24. Any public statement, oral or written, in print, film, or other media, made by Respondent making reference to the SEP shall include the following language, "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for violations of Section 1433 of the Safe Drinking Water Act, 42 U.S.C. §300g-3(g)(3)(B) and Section 1414(g)."
25. Unexpected Circumstances Which Delay the Performance of a SEP
- a. If any event occurs which causes or may cause delays in the completion of the SEP as required under this Agreement, Respondent shall notify EPA in writing not more than fifteen (15) days after the delay or Respondent's knowledge of the anticipated delay, whichever is earlier. The notice shall describe in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by Respondent to prevent or minimize the delay, and the timetable by which those measures will be implemented. Respondent shall adopt all reasonable measures to avoid or minimize any such delay. Failure by Respondent to comply with the notice requirements of this paragraph shall render this paragraph void and of no effect as to the particular incident involved and shall constitute a waiver of Respondent's right to request an extension of its obligation under this Agreement based on such incident.
  - b. If the parties agree that the delay or anticipated delay in compliance with this Agreement has been or will be caused by circumstances entirely beyond the control of Respondent, the

time for performance hereunder may be extended for a period no longer than the delay resulting from such circumstances. In such event, the parties shall stipulate to such extension of time.

- c. In the event that EPA does not agree that a delay in achieving compliance with the requirements of this Consent Agreement and Final Order has been or will be caused by circumstances beyond the control of Respondent, EPA will notify Respondent in writing of its decision and any delays in the completion of the SEP shall not be excused.
- d. The burden of proving that any delay is caused by circumstances entirely beyond the control of Respondent shall rest with Respondent. Increased costs or expenses associated with the implementation of actions called for by this Agreement shall not, in any event, be a basis for changes in this Agreement or extensions of time under section (b) of this paragraph. Delay in achievement of one interim step shall not necessarily justify or excuse delay in achievement of subsequent steps.

#### **IV. General Provisions**

1. This Consent Agreement is being voluntarily and knowingly entered into by the parties in full and final settlement of the civil liabilities that might have attached as a result of the allegations contained in the Findings of Fact and Conclusions of Law herein. 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.
2. 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.
3. Respondent knowingly and explicitly waives its right under §1414(g)(3)(B) of the Act, 42 U.S.C. §300g-3(g)(3)(B) to request or to seek any Hearing on or Judicial review of the Complaint or on any of the allegations therein asserted, on this Consent Agreement or the Findings of Fact and Conclusions of Law herein, or on the accompanying Final Order.
4. 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.
5. Issuance of the Consent Agreement and Final Order 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 Sections 1414 of the Act, 42 U.S.C. §300g-3. Issuance of or compliance with this Consent Agreement/Final Order 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.
6. 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.


7. 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.
8. Each party hereto agrees to bear its own costs and fees in this matter.
9. 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:

FOR THE COMPLAINANT:

Dated this 8 day of: March 2012

Dated this 29<sup>th</sup> day of: March, 2012

  
\_\_\_\_\_  
MR. MARK LESKO, Supervisor  
Town of Brookhaven  
One Independence Hill  
Farmingville, NY 11738

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

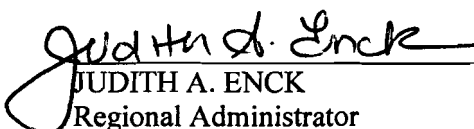
In The Matter of:

Great Gun Beach Public Water System  
Town of Brookhaven Parks Department  
1130 Old Town Road  
Coram, NY 11727  
Docket Number: SDWA-02-2012-8401

## V. 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 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: 3/29/12



JUDITH A. ENCK  
Regional Administrator  
United States Environmental Protection Agency  
Region 2  
290 Broadway  
New York, NY 10007-1866

In The Matter of:

Great Gun Beach Public Water System  
Town of Brookhaven Parks Department  
1130 Old Town Road  
Coram, NY 11727  
Docket Number: SDWA-02-2012-8401

ATTACHMENT A

SUPPLEMENTAL ENVIRONMENTAL PROJECT  
SCOPE OF WORK

Solar Power Project - \$35,280

Project Description: The Town shall implement an environmental project to purchase and install a 4.41 KW photovoltaic system that will provide electricity to operate the public water system at Great Gun Beach. The facilities required for this project include a photovoltaic array, inverter, photovoltaic array disconnect, and AC disconnect.

Amount to be spent: \$35,280

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

IN THE MATTER OF:

Great Gun Beach Public Water System  
Town of Brookhaven Parks Department  
1130 Old Town Road  
Coram, NY 11727

PWS ID: NY5104105

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-02-2012-8401

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" and a copy of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," (40 C.F.R. Part 22) to the following person at the address listed below:

MR. MARK LESKO, Supervisor  
Town of Brookhaven  
One Independence Hill  
Farmingville, NY 11738

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: 4/2/12

  
\_\_\_\_\_  
New York, New York