

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

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2012 JUL 24 P 3 08
REGIONAL HEARING
CLERK

IN THE MATTER OF:

National Park Water Department
7 Grove Road
National Park, NJ 08063

PWS ID: NJ0812001

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-02-2012-8402

I. Preliminary Statement

1. This administrative proceeding for the assessment of a civil penalty was instituted pursuant to Section 1414(g)(3)(B) of the Safe Drinking Water Act (the "Act"), 42 U.S.C. § 300g-3(g)(3)(B).
2. The Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, Region 2, United States Environmental Protection Agency ("EPA"), issued a "Complaint, Findings of Violation, Notice of Proposed Assessment of a Civil Penalty and Notice of Opportunity to Request a Hearing" ("Complaint") to the National Park Water Department ("Respondent"), on 7-12-12.
3. The Complaint charged Respondent with violating 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 (National Park Water Department) in National Park, New Jersey.

II. Findings of Fact and Conclusions of Law

1. Respondent owns and/or operates the National Park Water Department "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 National Park, New Jersey.

2. Respondent is a "supplier of water" within the meaning of Section 1401 (5) of the SDWA, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2.
3. Respondent is a "person" as defined in Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2, and is subject to an Administrative Order ("AO") 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 regularly serves at least twenty-five (25) individuals, and is therefore a "community water system" as defined by Section 1401(15) of the SDWA, 42 U.S.C. § 300(f)(15) and 40 C.F.R. § 141.2.
5. On January 4, 2006, EPA promulgated the Stage 2 Disinfectants and Disinfection Byproducts Rule ("Stage 2 DBPR"), 40 C.F.R. Part 141, Subparts U and V, to provide for increased public health protection against the potential risks for cancer and reproductive and developmental health effects associated with disinfection byproducts ("DBPs"). The Stage 2 DBPR requires community water systems that use a primary or residual disinfectant other than ultraviolet light, or deliver water that has been treated with a primary or residual disinfectant other than ultraviolet light, to conduct an Initial Distribution System Evaluation ("IDSE") to identify the locations with high disinfection byproduct concentrations. The locations identified in the IDSE are then to be used as sampling sites for Stage 2 DBPR compliance monitoring. The Stage 2 DBPR introduces a new method for calculating compliance with the maximum contaminant levels for total trihalomethanes and haloacetic acids, referred to as the locational running annual average ("LRAA").
6. The New Jersey Department of Environmental Protection ("NJDEP") administers the Public Water Supply Supervision Program in the state of New Jersey pursuant to Section 1413 of the SDWA. The approval and delegation of primary enforcement responsibility from USEPA to NJDEP was effective as of July 13, 1979. On October 6, 2010, NJDEP referred National Park Water Department to EPA for the issuance of a formal enforcement action.
7. Pursuant to 40 C.F.R. § 141.600(b), community water systems that use a primary or residual disinfectant other than ultraviolet light, or deliver water that has been treated with a primary or residual disinfectant other than ultraviolet light, are required to comply with 40 C.F.R. Part 141 Subparts U and V ("Stage 2 DBPR").
8. Respondent's public water system adds a disinfectant other than ultraviolet light, or delivers water that has been treated with a disinfectant other than ultraviolet light. Therefore, it is subject to the requirements of 40 C.F.R. Part 141 Subparts U and V ("Stage 2 DBPR").
9. Pursuant to 40 C.F.R. § 141.600(c), community water systems serving less than 10,000 people were required to submit a final IDSE Report in accordance with 40 C.F.R. § 141.601(c) by July 1, 2010. Wholesale and consecutive systems that are part of a

combined distribution system, as defined by 40 C.F.R. § 141.2, are required to comply at the same time as the largest system within their combined distribution system.

10. Respondent's public water system is a community water system that serves less than 10,000 people or is a consecutive community water system that is part of a combined distribution system that serves less than 10,000 people. Therefore, it was required to submit a final IDSE Report in accordance with 40 C.F.R. § 141.601(c) by July 1, 2010.
11. Based on information provided by NJDEP, Respondent failed to submit its IDSE Report by the July 1, 2010 deadline.
12. Based on information provided by NJDEP, Respondent failed to respond to a notice of noncompliance issued by NJDEP on July 20, 2010.
13. On October 22, 2010, USEPA issued an Administrative Order ("AO"), Docket No. SDWA-02-2011-8004 to Respondent, requiring Respondent to submit the IDSE report within thirty (30) days of receipt of the Order.
14. According to certified mail by the United States Postal Service, Respondent received the AO on October 23, 2010.
15. On November 22, 2010, USEPA received a request for an extension of the submittal of the IDSE report due to the monitoring not being conducted.
16. On July 8, 2011, the Licensed Operator for National Park, Mr. Ed Phelps, contacted USEPA stating that three consecutive samples have been taken in the fourth week of December 2010, the fourth week of March 2011, and the fourth week of June 2011.
17. On July 29, 2011, USEPA issued an AO, Docket No. SDWA-02-2011-8011, to Respondent to establish an enforceable schedule to comply with the requirements of the SDWA and 40 C.F.R. Part 141, Subparts U and V. Ordered provisions included submittal of the IDSE report by December 31, 2011.
18. On February 28, 2012, USEPA issued a reminder letter to the Respondent requesting a status of compliance with the AO issued on July 29, 2011.
19. Based on information provided by NJDEP, the Respondent submitted its IDSE report on April 10, 2012.
20. Based on information available to EPA, Respondent failed to comply with the requirements of 40 C.F.R. §§ 141.600 and 141.601 and 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 5 below.
5. Complainant and Respondent agree that an appropriate civil penalty to settle this proceeding is in the amount of **Six Hundred Dollars (\$600)**.

Payment of Civil Penalty

1. Respondent shall pay a civil penalty to EPA in the amount of **Six Hundred Dollars (\$600.00)**. 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 National Park Water Department**, and shall bear thereon the **Docket Number SDWA-02-2012-8402**. Payment of the penalty must be received at the above address on or before forty five (45) 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: National Park Water Department
- g. Case Number: SDWA-02-2012-8402

Such EFT must be received on or before 45 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:

Timothy C. Murphy, Esq.
Water and General Law Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, New York 10007-1866

and

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

- h. Failure to pay the amount in full within the time period set forth above may result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection.
- i. Further, if the payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15.00 will be assessed for each 30 day period (or any portion thereof) following the due date in which the balance remains unpaid. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.
- j. The civil penalty constitutes a penalty within the meaning of 26 U.S.C. § 162(f).
- k. The penalty to be paid is a civil penalty assessed by the EPA and shall not be deductible from Respondent's federal or state taxes.

IV. General Provisions

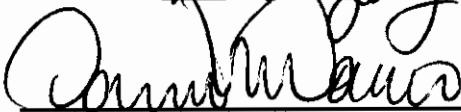
1. This Consent Agreement is being voluntarily and knowingly entered into by the parties in full and final settlement of the civil liabilities that might have attached as a result of the allegations contained in the Complaint.
2. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable and consents to its issuance and its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein. 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. Issuance of the CA/FO does not constitute a waiver by EPA of its right to enforce the substantive legal requirements underlying this penalty assessment, either administratively or judicially pursuant to Sections 1414 of the Act, 42 U.S.C. § 300g-3. Issuance of or compliance with this CA/FO does not waive, extinguish or otherwise affect Respondent's

obligation to comply with all applicable requirements of the Act, of regulations promulgated thereunder and of any legal order or permit issued thereunder.

5. 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.
6. Each party hereto agrees to bear its own costs and fees in this matter.
7. Respondent consents to service upon Respondent by a copy of this CA/FO by an EPA employee other than the Regional Hearing Clerk.

FOR THE RESPONDENT:

Dated this 12 day of: July, 2012



MS. DONNA D'AMICO
National Park Water Department
7 Grove Street
National Park, NJ 08063

FOR THE COMPLAINANT:

Dated this 22nd day of: July, 2012



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

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IV. Final Order

The Regional Judicial Officer 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: 7/24/12

Helen S. Ferrara
HELEN S. FERRARA
Regional Judicial Officer
United States Environmental Protection Agency
Region 2
290 Broadway
New York, NY 10007-1866

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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

**In The Matter of
National Park Water Department
7 Grove Road
National Park, NJ 08063**

DOCKET NO. SDWA-02-2012-8402

Respondent.

Proceeding pursuant to Section 309(g) of
the Clean Water Act, 33 U.S.C. §1319(g)

CERTIFICATE OF SERVICE

I certify that, on the date noted below, I served the foregoing fully executed Consent Agreement and Final Order, bearing the above-referenced docket number, in the following manner.

Copy by Certified Mail National Park Water Department
Return Receipt Requested: 7 Grove Road
 National Park, NJ 08063

Original and One Copy Regional Hearing Clerk
By Internal Mail (pouch): U.S. Environmental Protection Agency
 290 Broadway, 16th floor
 New York, New York 10007-1866

Date: JUL 24 2012

 Ana Modera
Secretary

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