



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

OCT 16 2015

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Article No.: 7015 0640 0007 6347 3502

Edward J. Carroll, Esq.
2733 Route 209
Kingston, New York 12401

Re: Consent Agreement and Final Order
Docket No. SDWA-02-2014-8902

Dear Mr. Carroll:

Enclosed is a fully executed Consent Agreement and Final Order (CA/FO) for the above-referenced matter. The Final Order was issued on October 6, 2015 and the effective date is October 16, 2015.

Please note that your client is required to make the initial penalty payment of \$1004.17 by no later than 30 days after the effective date of this Order, or by no later than November 15, 2015.

Should you have any questions, please contact me at (212) 637-3232 or feinmark.phyllis@epa.gov.

Sincerely,

Phyllis S. Feinmark
Chief
Water and General Law Branch

Enclosure

cc: Mark Klotz (w/enc.)
Director
Division of Water
New York State Dept. of Environmental Conservation
625 Broadway
Albany, NY 12233-3500

REGIONAL HEARING
CLERK

2015 OCT 16 PM 12: 47

U.S. Environmental
Protection Agency-Reg 2

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

U.S. Environmental
Protection Agency-Reg 2
2015 OCT 16 PM 12:47
REGIONAL HEARING
CLERK

IN THE MATTER OF:

FDD, Inc.
5261 Route 9W
Newburgh, NY 12550
Respondent

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

CONSENT AGREEMENT
AND
FINAL ORDER

DOCKET NO.
SDWA-02-2014-8902

I. PRELIMINARY STATEMENT

The Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, Region 2, United States Environmental Protection Agency (“EPA” or “Complainant”), issued, on April 16, 2014, a “Complaint, Findings of Violation, Notice of Proposed Assessment of a Civil Penalty and Notice of Opportunity to Request a Hearing” (“Complaint”) to Respondent, FDD, Inc.

Complainant and Respondent (collectively, “the Parties”), having agreed that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order (“CAFO”) 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 ordered as follows:

II. PROCEDURAL AND FACTUAL FINDINGS

1. EPA initiated this proceeding to achieve compliance with the Safe Drinking Water Act (“SDWA” or “Act”) pursuant to Section 1423(c) of the Act, 42 U.S.C. §300h-2(c).
2. EPA is concluding this proceeding for the assessment of a civil penalty, pursuant to Section 1423(c) of the Act, 42 U.S.C. §300h-2(c), and 40 C.F.R. 22.18(b)(2) and (3) of the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and Revocation,

Termination or Suspension of Permits” (“CROP”), which sets forth procedures for conclusion of administrative civil penalty assessment proceedings through issuance of a consent agreement and final order.

3. The Complaint alleges violations of the SDWA Part C requirements – Underground Injection Control, as the violations pertain to a Class V injection well located at 5265 Route 9W, Newburgh, NY 12550 (“Facility”). The Complaint specifically alleges that Respondent violated 40 C.F.R. §144.88(b)(1)(vi) by failing to close or obtain a permit for its motor vehicle waste disposal well (“MVWDW”) by no later than January 1, 2008; 40 C.F.R. §144.12(a) by injecting in a manner that allows the movement of fluid containing any contaminant into underground sources of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation under 40 CFR part 142 or may otherwise adversely affect the health of persons; and 40 C.F.R. §144.11 by continuing to inject into its MVWDW without a permit. The Complaint alleges that the Class V well is owned and/or operated by Respondent.
4. This action was public noticed between May 2, 2014 and June 1, 2014. No comments were received.
5. By letter dated May 8, 2014, Respondent filed an Answer to the Complaint and requested a hearing pursuant to 40 C.F.R. Part 22 (CROP).
6. By letter dated April 30, 2015, Respondent submitted a draft closure plan for EPA’s review.
7. By letter dated May 12, 2015, EPA approved Respondent’s closure plan.
8. On August 24, 2015, injection of motor vehicle waste ceased. An EPA inspector witnessed the service bay floor drain being sealed with concrete and the septic system being pumped out pursuant to Respondent’s approved closure plan.

III. CONSENT AGREEMENT

1. The Paragraphs above are re-alleged and incorporated herein by reference.
2. EPA and Respondent agree that it is in the public interest to resolve the issues alleged in the Consent Agreement without further litigation and the expense and effort that litigation entails.
3. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint.
4. Respondent waives any defenses Respondent might have as to jurisdiction and venue, and, without admitting or denying the allegations contained in the Complaint, consents to the terms of this CAFO.

