

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

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II
2007 AUG 27 PM 3:22
REGIONAL HEARING
CLERK

IN THE MATTER OF:

Lake Como (formerly South Belmar) Water
Department
Lake Como, NJ

PWS ID: NJ1347001

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-02-2007-8403

I. Preliminary Statement

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).

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 Lake Como (formerly South Belmar) Water Department (Lake Como, NJ), ("Respondent"), on April 5, 2007.

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 (Lake Como (formerly South Belmar) Water Department public water system) in Lake Como, NJ.

II. Findings of Fact and Conclusions of Law

1. Respondent owns and/or operates the Lake Como (formerly South Belmar) 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 Lake Como, NJ.

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 of the SDWA, 42 U.S.C. §300f(12), and is subject to an Administrative Order issued under Section 1414(g)(1) of the SDWA, 42 U.S.C. §300(g)-3(1).
4. The Lake Como (formerly South Belmar) Water Department public water system provides piped water for human consumption and regularly serves a population of at least 25 individuals, and is therefore a "community water system" as defined by Section 1401(15) of the SDWA, 42 U.S.C. §300f(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 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 to determine the sampling sites for Stage 2 DBPR compliance monitoring.
6. The New Jersey Department of Environmental Protection ("NJDEP") administers the Public Water Supply Supervision Program in New Jersey pursuant to Section 1413 of the SDWA. The approval and delegation of primary enforcement responsibility from EPA to NJDEP was effective as of July 13, 1979. However, the NJDEP has not yet obtained primary enforcement responsibility for the Stage 2 DBPR. Therefore, EPA has primary responsibility for enforcement of the Stage 2 DBPR.
7. Pursuant to 40 C.F.R. §141.600(b)-(c), 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 Subpart U at the same time as the largest system within their combined distribution system.
8. Lake Como (formerly South Belmar) Water Department 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. Lake Como (formerly South Belmar) Water Department public water system is a community water system that serves at least 100,000 people or consecutive community water system that is part of a combined distribution system that serves at least 100,000 people. Therefore, it was required to submit a standard monitoring plan in accordance with 40 C.F.R. §141.601, a system specific study plan in accordance with 40 C.F.R.

§141.602, or 40/30 certification in accordance with 40 C.F.R. §141.603 by October 1, 2006.

10. On November 28, 2006, EPA issued an Administrative Order ("AO"), Docket Number SDWA-02-2007-8017, requiring Respondent to submit a standard monitoring plan in accordance with 40 C.F.R. §141.601, a system specific study plan in accordance with 40 C.F.R. §141.602, or 40/30 certification in accordance with 40 C.F.R. §141.603 by December 28, 2006, for its Lake Como (formerly South Belmar) Water Department public water system.
11. According to EPA's records in the form of the certified mail return receipt (Article Number 7005 3110 0000 5972 6723, received the AO on December 4, 2006.
12. Based on information available to EPA, the Respondent has failed to demonstrate compliance with the requirements specified in 40 C.F.R. §141.600(c), 40 C.F.R. §141.601, 40 C.F.R. §141.602, and 40 C.F.R. §141.603 and violated Paragraphs 13, 14, and 15 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:

Jurisdiction

1. For the purpose of this proceeding, Respondent a) admits the jurisdictional allegations of the Complaint as applied to the facility; and b) neither admits nor denies the specific factual allegations and legal conclusions contained in the Complaint and Findings of Fact.

Payment of Civil Penalty

2. Respondent shall pay, by cashier's or certified check, a civil penalty in the amount of **Five Hundred Dollars (\$500.00)** 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:

Regional Hearing Clerk
U.S. Environmental Protection Agency - Region 2
P.O. Box 360188M
Pittsburgh, PA 15251

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

Melva J. Hayden, Esq.
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency - Region 2
290 Broadway - 16th Floor
New York, NY 10007 -1866

and

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

Payment must be received at the above address on or before 30 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 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.
 - c. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.
3. 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.

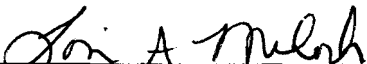
General Provisions

4. 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. 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.
5. 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.

6. 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.
7. 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.
8. 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.
9. 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.
10. 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.
11. Each party hereto agrees to bear its own costs and fees in this matter.
12. 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:


Dated this 2nd day of: May, 2007



 MS. LOUISE MEKOSH
 Borough of Lake Como (formerly South
 Belmar)
 P.O. Box 569
 Lake Como, NJ 07719

FOR THE COMPLAINANT:

Dated this 25th day of: JULY, 2007




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

IV. 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: 8-17-07


MR. ALAN J. STEINBERG

Regional Administrator

United States Environmental Protection Agency

Region 2

290 Broadway

New York, NY 10007-1866

To: Louise Mekosh
Borough of Lake Como (formerly South Belmar)
P.O. Box 569
Lake Como, NJ 07719
Docket No. SDWA-02-2007-8403

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II

2007 AUG 27 PM 3: 22

REGIONAL HEARING
CLERK

IN THE MATTER OF

Lake Como (formerly South Belmar) Water
Department
Lake Como, NJ

PWS ID. No. NJ 1347001

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-02-2007-8403

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing fully executed CONSENT AGREEMENT and FINAL ORDER, bearing the above-referenced docket number, in the following manner to the respective addressees below:

Original and One Copy

By Hand:

Office of Regional Hearing Clerk
U.S. Environmental Protection
Agency - Region 2
290 Broadway, 16th floor
New York, New York 10007-1866

Copy by Certified Mail,
Return Receipt Requested:

Louise Mekosh
Borough of Lake Como (formerly South Belmar)
P.O. Box 569
Lake Como, NJ 07719

Dated: 8/24/2007
New York, New York



[Signature of Sender]
[NOTE: must be 18 or older]