

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY
2009 JUL 15 AM 10
REGIONAL HEARING
CLERK

DATE: JUL 14 2009

SUBJECT: Administrative Penalty Assessment - Class I
Western Monmouth UA, CWA-02-2009-3313

FROM: Alia Roufaeal, Regional Sludge Coordinator
NPDES Team, Water Compliance Branch

TO: File

We have determined an appropriate proposed penalty against all Permittees for which penalty orders are being issued for violations of 40 CFR Part 503 and Section 405(d) of the Clean Water Act related to the non-submittal of the sixteenth Annual Sludge Report through the following application of the statutory factors in §309(g) of the Act.

(A) Nature, Circumstances, Extent and Gravity of the Violation

Respondent has violated the Act by not submitting a complete and timely Annual Sludge Report due by February 19, 2009 and by not complying with our administrative orders to submit the Annual Sludge Reports on February 19, 1994, February 19, 2005 and every year thereafter. EPA noted deficiencies in the January - December 2008 reporting period.

(B) Prior History of Such Violations

EPA does not allege or rely upon prior violations in these cases.

(C) Degree of Culpability

Respondent is required to submit complete and timely reports, but lack of attention or misunderstanding of requirements has often resulted in respondent's failures. Respondent should be aware of its responsibility, since the Respondent was issued a warning letter on May 6, 1994 to submit the first Annual Sludge Report and was issued an Administrative Order on September 20, 1994 to submit the Annual Sludge Reports on February 19, 1995 and every year thereafter. Also, the Respondent was issued an Administrative Order on April 15, 2005 to submit the twelfth Annual Sludge Report and to submit future Annual Sludge Reports on February 19, 2006 and every year thereafter. Reminder letters were mailed to notify Permittees of their responsibility to submit the sixteenth Annual Sludge Report by February 19, 2009. The penalty assessment will help to prevent future violations of the 40 CFR Part 503 requirements.

(D) Economic Benefit

EPA has decided not to include an economic benefit component in the penalty since the benefit in all of these cases is negligible, generally less than \$1,000 in preparing Sludge Report costs.

(E) Ability to Pay

Due to the small penalty sought, it is unlikely that inability to pay arguments will be persuasive. At this time, no reduction has been made.