



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

U.S. ENVIRONMENTAL PROTECTION AGENCY
2011 JUN -8 P 12:05
REGIONAL HEARING CLERK

June 7, 2011

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Deric Prescott, Maj.
United States Air Force
Deputy Regional Environmental Counsel
60 Forsyth St.SW, STE 8M80
Atlanta, GA 30303-8810

Colonel Jim M. Grant
Chief, Litigation Division
Office of Judge Advocate General
Department of the Army
901 North Stuart Street, USA Room 400
Arlington, VA 22203

IAP World Services, Inc.
c/o: Eric Schweitzer, Esq.
Ogletree, Deakins P.C.
211 King Street, Suite 200
Charleston, SC 29402

RE: In the Matter of Department of the Air Force and the United States Army Joint Base McGuire-Dix Lakehurst, Docket No. CWA 02-2010-8402

Gentlemen:

Enclosed is a copy of the Consent Agreement and Final Order ("CA/FO") signed by EPA's Division Director for DECA and Regional Administrator, respectively. Payment is due within 45 days of the effective date of the CA/FO. The effective date is the date of filing with the Regional Hearing Clerk. The CA/FO was filed with the Regional Hearing Clerk on

JUN - 7 2011

If you have any questions, please feel free to call me. I may be reached at (212) 637-3244.

Sincerely,

Nadine Orrell

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

IN THE MATTER OF:

Department of the Air Force and the
United States Army
Joint Base McGuire-Dix-Lakehurst
Fort Dix, NJ 08640

IAP World Services, Inc.
Fort Dix, NJ 08640

Respondents

CONSENT AGREEMENT
AND
FINAL ORDER

**Docket No.
SDWA-02-2010-8402**

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") against the US Army on September 8, 2010, and an Amended Complaint against the Department of the Air Force, the US Army and IAP World Services, Inc. ("Respondents"), on November 22, 2010.

The Complaint charged Respondents with violating specific requirements under subchapter XII of 42 U.S.C. §§ 300f to 300j-26, Sections 1401 to 1465 of the Act as provided for in Section II below.

II. Findings of Fact and Conclusions of Law

1. Until October 1, 2009, the United States Army owned the Fort Dix "public water system," ("Dix PWS") and was a "supplier of water" within the meaning of Sections 1401(4) and (5) of the SDWA, 42 U.S.C. §300f(4) and (5) and 40 C.F.R. §141.2. The Dix PWS was located on Fort Dix, Burlington County, New Jersey.

2. On October 1, 2009, Joint Base McGuire-Dix-Lakehurst (JB MDL) was established by joining McGuire Air Force Base, Fort Dix and Lakehurst Naval Air Engineering Station into a single entity, with the Department of the Air Force as the lead entity. At that time JB MDL assumed ownership of the Dix PWS and became a supplier of water within the meaning of Sections 1401(4) and (5) of the SDWA, 42 U.S.C. §300f(4) and (5) and 40 C.F.R. §141.2. The Dix PWS is located on the Dix area of JB MDL, which spans both Burlington County and Ocean County, New Jersey.
3. From 2005 to 2010, IAP World Services, Inc. operated the Dix PWS, within the meaning of Section 1401(5) of the SDWA, 42 U.S.C. §300f(5), and 40 C.F.R. §141.2, pursuant to a contract with the United States Army. The Department of the Air Force assumed responsibility for oversight of that contract on October 1, 2009.
4. Respondents are “persons” within the meaning of Section 1401 of the SDWA, 42 U.S.C. 300f(12).
5. The United States Air Force and the United States Army are Federal agencies, as defined by Section 1401(11) of the SDWA , 42 U.S.C. §300f-11.
6. The Dix PWS provides water for human consumption and regularly serves at least 15 service connections used by year-round residents and/or serves a population of at least 25 individuals, and is therefore a “community water system” (“CWS”) as defined by Section 1401(15) of the SDWA, 42 U.S.C. §300g-3(g)(1). Respondents are therefore subject to the requirements of Part B of the SDWA, 42 U.S.C. §300g et seq., and its implementing regulations found at 40 C.F.R. Part 141.
7. The Dix PWS serves a population of 15,829 individuals, uses conventional filtration treatment, as defined in 40 C.F.R. §141.2, and utilizes both surface water and groundwater sources which are mixed at the distribution system after treatment.
8. The New Jersey Department of Environmental Protection (“NJDEP” or “State”) administers the Public Water Supply Supervision Program in New Jersey pursuant to Section 1413 of the SDWA. The approval of primary enforcement responsibility from EPA to NJDEP was effective as of July 13, 1979. NJDEP is the primacy agency, as that term is defined in 40 C.F.R. §142.2. However, on August 12, 2009, NJDEP referred the Dix PWS to EPA for further investigation and appropriate action.
9. On June 29, 1989, EPA promulgated the Surface Water Treatment Rule (“SWTR”), regulated by 40 C.F.R. Part 141, Subpart H. The SWTR is intended to reduce the risk of waterborne disease outbreaks in PWSs utilizing a surface water source or a ground water source under the direct influence (“GWUDI”) of surface water.
10. Pursuant to 40 C.F.R. §141.74(c)(1), combined filter effluent turbidity measurements must be performed on representative samples of the system’s filtered water every four (4) hours (or more frequently) that the system serves water to the public.

11. Pursuant to 40 C.F.R. §141.74(c)(2), the residual disinfectant concentration of the water entering the distribution system must be continuously monitored, and the lowest value must be recorded each day, except if there is a failure in the continuous monitoring equipment. In the case of failed continuous monitoring equipment, grab sampling (collected every four (4) hours) may be conducted in lieu of continuous monitoring, but for no more than 5 working days following the failure of the equipment.
12. On December 16, 1998, EPA promulgated the Interim Enhanced Surface Water Treatment Rule (“IESWTR”), regulated by 40 C.F.R. Part 141, Subpart P. The IESWTR builds on the SWTR by adding protection from microbial pathogens through strengthened combined filter effluent turbidity performance standards and individual filter turbidity monitoring provisions for filtered systems using conventional and direct filtration. The IESWTR applies to PWSs that use a surface water or GWUDI source and serve at least 10,000 people.
13. Pursuant to 40 C.F.R. §141.174, PWSs are required to conduct continuous monitoring of turbidity for each individual filter using an approved method in accordance with 40 C.F.R. §141.74(a), and record the results of individual filter monitoring every 15 minutes.
14. Pursuant to §141.175(b)(1)-(4), PWSs are required to report to the State that they have conducted individual filter turbidity monitoring under 40 C.F.R. §141.174 within 10 days after the end of each month the system serves water to the public. Data collected from individual filter monitoring must be evaluated monthly and PWSs must report instances of poor filter performance to the State as described in 40 C.F.R. §141.175(b)(1)-(4). Based on performance triggers, PWSs must take prescribed actions to remedy and correct the causes of filter deficiency.
15. On May 4, 2000, EPA promulgated the Public Notification Rule (“PNR”), regulated by 40 C.F.R. Part 141, Subpart Q. The PNR applies to all PWSs. The intent of the PNR is to alert consumers of potential health risks from violations of drinking water standards and to inform them how to avoid or minimize such risks.
16. Pursuant to 40 C.F.R. §141.201, PWSs must give notice to the consumer of the water supply for all violations of national primary drinking water regulations (“NPDWR”), including violations of the maximum contaminant level (“MCL”), maximum residual disinfection level (“MRDL”), treatment techniques and testing procedures established in 40 C.F.R. Part 141.
17. On August 19, 1998, EPA promulgated the Consumer Confidence Report Rule (“CCR”), regulated by 40 C.F.R. Part 141 Subpart O. The CCR applies to community water systems. The intent of the CCR is to provide customers information on the quality of the water delivered by their public water systems.
18. Pursuant to 40 C.F.R. §141.153, the Consumer Confidence Report (“CCR”) must include violations to the NPDWR that occurred during the year covered by the report, and must

include a clear and readily understandable explanation of the violation, any potential adverse health effects and the steps the system has taken to correct the violation.

19. Pursuant to Section 1414(i)(3) of the SDWA, the rules implementing New Jersey's Safe Drinking Water Program (N.J.A.C. 7:10) are applicable requirements of the SDWA.
20. Pursuant to N.J.A.C. 7:10A-1:12(a), a licensed operator shall have readily available written detailed operation and maintenance ("O & M") procedures. The O & M procedures shall be designed to maximize preventive maintenance and operating techniques to ensure satisfactory system operation, as defined in N.J.A.C. 7:10A-1:12(a)(1).
21. Pursuant to N.J.A.C. 7:10A-1:12(b)1, a licensed operator shall submit to the NJDEP a report summarizing any system deficiencies, breaks, breakdowns, problems, bypasses, pump failures, occurrences, emergencies, complaints and/or intervening factors that have the potential to affect public health, safety, welfare or the environment, or have the potential to violate any permits, regulations or laws related to PWSs. In addition, a licensed operator is required to submit information on the remedial action(s) taken.
22. On August 31 and September 2, 2009, EPA conducted a file review and on-site inspection (file review/inspection) to evaluate the compliance of the Fort Dix PWS with the requirements of the SDWA, the National Primary Drinking Water Regulations and applicable NJDEP regulations. EPA found that the Fort Dix PWS was in violation of the following regulations: Surface Water Treatment Rule, Interim Enhanced Surface Water Treatment Rule, Public Notification Rule, Consumer Confidence Report Rule and applicable State regulations N.J.A.C 7:10A-1:12(a)(1) and (b)(1).
23. On January 13, 2010, an Administrative Order, Docket No. SDWA-02-2010-8002 was issued to require Dix PWS to comply with the requirements of the SDWA and its implementing regulations.
24. Based on information available to EPA, as generally alleged in paragraphs 23 to 50 of the Complaint and in paragraphs 25 to 52 of the Amended Complaint, Respondents have failed to demonstrate compliance with 40 C.F.R. §141.74(c)(2), 40 C.F.R. §141.74(c)(1), 40 C.F.R. §141.74(a), 40 C.F.R. §141.201, 40 C.F.R. §141.153, as well as with N.J.A.C. 7:10A – 1:12(a) and N.J.A.C. 7:10A – 1:12(b)1.

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 Respondents voluntarily and knowingly agree as follows:

Jurisdiction

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

Payment of Civil Penalty

2. Respondents shall pay a civil penalty to EPA in the amount of **One Hundred and Forty Thousand Dollars (\$140,000.00)**. **Of the total civil penalty of \$140,000, IAP agrees to pay \$115,000 and Joint Base McGuire-Dix-Lakehurst shall pay \$25,000.** Such payment shall be made by cashier's or certified check, corporate 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
PO Box 979077
St. Louis, MO 63197-9000

The check shall be identified with a notation thereon listing the following: **IN THE MATTER OF DEPARTMENT OF THE AIR FORCE AND THE US ARMY, JOINT BASE MCGUIRE-DIX-LAKEHURST**, and shall bear thereon the **Docket Number SDWA-02-2010-8402**. 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 Respondents: Department of the Air Force, the United States Army and IAP World Services, Inc.
- g. Case Number: SDWA-02-2010-8402

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:

Nadine Orrell, Esq.
Assistant Regional Counsel
U.S. Environmental Protection Agency - Region 2
290 Broadway - 16th Floor
New York, NY 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. The civil penalty constitutes a penalty within the meaning of 26 U.S.C. §162(f).
- j. 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.
- k. Any requirement for the payment of obligation of funds by Joint Base McGuire-Dix-Lakehurst established under the terms of this Consent Agreement shall be subject to the availability of appropriated funds, and no provision herein shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. Section 1341.

General Provisions

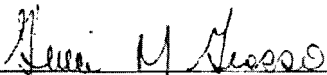
- 3. This Consent Agreement is being voluntarily and knowingly entered into by the parties in full and final settlement of the civil liabilities that might have attached as a result of the allegations contained in the Complaint. Respondents have read the Consent Agreement, understand its terms, find it to be reasonable and consent to its issuance and its terms. Respondents consent to the issuance of the accompanying Final Order. Respondents agree that all terms of settlement are set forth herein.
- 4. Respondents explicitly and knowingly consent to the assessment of the civil penalty as set forth in this Consent Agreement and agree to pay the penalty in accordance with the terms of this Consent Agreement.
- 5. Respondents knowingly and explicitly waive their rights 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.

6. Respondents waive 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.
7. 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 Respondents' obligation to comply with all applicable requirements of the Act, of regulations promulgated thereunder and of any legal order or permit issued thereunder.
8. 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.
9. The provisions of this Consent Agreement and Final Order shall be binding upon each Respondent, its officers, directors, agents, servants, authorized representatives and successors or assigns.
10. Each party hereto agrees to bear its own costs and fees in this matter.
11. This action shall be considered closed upon EPA's receipt of payment by Respondents.
12. Each Respondent consents to service upon that Respondent by a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

FOR RESPONDENTS:

DATE: 12 May 2011


GINA M. GROSSO
Brigadier General, USAF
Commander

DATE: _____

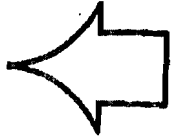
IAP WORLD SERVICES, INC.
c/o: Eric Schweitzer, Esq.

DATE: 26 April, 2011

[Handwritten Signature]

IAP World Services, Inc.
~~e/o: Eric Schweitzer, Esq.~~
~~Ogletree, Deakins P.C.~~
~~211 King Street, Suite 200~~
~~Charleston, SC 29402~~

Keneth M. Lipowitz
Associate General Counsel



FOR THE COMPLAINANT:

Dated this 27th day of: MAY, 2011



MS. DORE LAPOSTA

Director

Division of Enforcement and Compliance
Assistance

U.S. Environmental Protection Agency

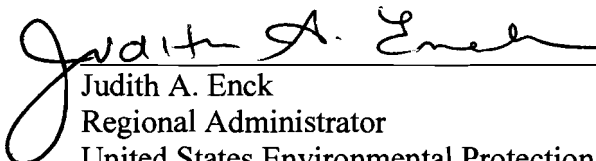
Region 2

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: 5/31/11



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

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

IN THE MATTER OF:

Department of the Air Force and the
United States Army
Joint Base McGuire-Dix-Lakehurst
Fort Dix, NJ 08640

IAP World Services, Inc.
Fort Dix, NJ 08640

Respondents

CONSENT AGREEMENT
AND
FINAL ORDER

**Docket No.
SDWA-02-2010-8402**

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" to the following person at the address listed below:

Deric Prescott, Maj.
United States Air Force
Deputy Regional Environmental Counsel
60 Forsyth St.SW, STE 8M80
Atlanta, GA 30303-8810

Colonel Jim M. Grant
Chief, Litigation Division
Office of Judge Advocate General
Department of the Army
901 North Stuart Street, USA Room 400
Arlington, VA 22203

IAP World Services, Inc.
c/o: Eric Schweitzer, Esq.
Ogletree, Deakins P.C.
211 King Street, Suite 200
Charleston, SC 29402

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.

JUN - 7 2011
DATE:

Ana Madera
SIGNATURE