

# VILLAGE OF VOORHEESVILLE

ROBERT D. CONWAY  
MAYOR

RICHARD A. BERGER  
DEPUTY MAYOR

FLORENCE A. REDDY  
JOHN J. STEVENS, JR.  
RICHARD A. STRAUT



December 22, 2016

(Via Overnight Mail)

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

RE: **Answer to Administrative Complaint / Request for a Hearing**  
Docket No. CWA-02-2017-3301  
Village of Voorheesville Municipal Separate Storm Sewer System ("MS4")  
State Pollution Discharge Elimination System ("SPDES") Tracking No. NYR20A10

Dear Regional Hearing Clerk:

Enclosed for filing please find an original and one copy of the Village of Voorheesville's Answer to the Administrative Complaint in the above-referenced proceeding. Please also allow this correspondence to serve as the Village's request for a hearing in connection with this matter

Please do not hesitate to contact me if you need any additional information or clarification regarding this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Richard C. Reilly". The signature is written over a horizontal line.

Richard C. Reilly  
Village Attorney

(with enclosures)

cc: Tim Murphy, Esq. (with enclosures)  
Water and General Law Branch  
Office of Regional Counsel  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866

Glenn Hebert, Stormwater Office / Code Enforcement Officer (Hand Delivery)  
Village of Voorheesville

29 Voorheesville Ave. • Voorheesville, N.Y. 12186

VILLAGE HALL (518) 765-2692 • PUBLIC WORKS 765-4512 • CODES ENFORCEMENT 765-2698 • FAX 765-2967

U.S. Environmental Protection Agency  
2016 DEC 27 AM 7:59  
CLERK

U.S. Environmental  
Protection Agency-Region 2  
2016 DEC 27 AM 7:39  
REGIONAL PERMITS  
CLERK

IN THE MATTER OF.

Village of Voorheesville  
29 Voorheesville Avenue  
Voorheesville, New York 12186

**ANSWER**

SPDES Permit No. NYR20A210

**Hearing Requested**

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

Respondent, the Village of Voorheesville, by and through its attorney, Richard C. Reilly, Esq., Village Attorney, as and for an Answer, to the "Complaint," alleges as follows, upon information and belief:

**I. STATUTORY AND REGULATORY AUTHORITIES**

1. As to the allegations contained in paragraphs "1" and "2", Respondent, Village of Voorheesville, refers to the referenced statutory and regulatory provisions as the best evidence of the contents thereof, and denies sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in said paragraphs.

**II. DEFINITIONS AND STATUTORY PROVISIONS**

2. As to the allegations contained in paragraphs "1", "2", "3", "4", "5", "6", "7", "8", "9", "10", "11", "12", "13", "14" and "15", Respondent, Village of Voorheesville, refers to the referenced statutory and regulatory provisions as the best evidence of the contents thereof, and denies sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in said paragraphs.

### **III. FINDINGS OF VIOLATION**

3. As to the allegations contained in paragraph “1”, Respondent, Village of Voorheesville, admits that it is an incorporated village “under the laws of the State of New York,” refers to the referenced statutory and regulatory provisions as the best evidence of the contents thereof, and denies sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained in said paragraph.

4. As to the allegations contained in paragraphs “2”, “3” and “4”, Respondent, Village of Voorheesville, admits that it owns and operates a municipal separate storm sewer system, located within its municipal boundaries, refers to the referenced statutory and regulatory provisions as the best evidence of the contents thereof, and denies sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained in said paragraphs.

5. As to the allegations contained in paragraph “5”, Respondent, Village of Voorheesville, admits that its storm sewer system one or more “outflow(s)” to the Vly Creek, refers to the referenced statutory and regulatory provisions as the best evidence of the contents thereof, and denies sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained in said paragraph.

6. As to the allegations contained in paragraph “6”, Respondent, Village of Voorheesville, denies sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in said paragraph.

7. As to the allegations contained in paragraph “7”, Respondent, Village of Voorheesville, admits that a compliance “Audit” was conducted, and denies sufficient



knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained in said paragraph.

8. As to the allegations contained in paragraphs “8”, Respondent, Village of Voorheesville, refers to the referenced document as the best evidence of the contents thereof, and denies sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in said paragraphs.

9. As to the allegations contained in paragraphs “9”, “a”–“x”, Respondent, Village of Voorheesville, refers to the referenced “Audit” as the best evidence of the purported “violations” that are claimed to have been found, and denies sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in said paragraphs.

10. As to the allegations contained in paragraph “10”, Respondent, Village of Voorheesville, admits that an “Administrative Compliance Order” was issued, refers to said “Order” as the best evidence of the contents thereof, and denies sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained in said paragraphs.

11. Respondent, Village of Voorheesville, denies the allegations contained in paragraph “11”, and refers to the referenced statutory and regulatory provisions as the best evidence of the contents thereof.

12. Respondent, Village of Voorheesville, denies each and every allegation in the “Complaint” that is not specifically and expressly admitted herein.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

13. Respondent, Village of Voorheesville, contends that the “proposed penalty is inappropriate.”

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

14. At all times herein relevant, Respondent, Village of Voorheesville, acted in good faith and in accordance with its understanding of its obligations under applicable law and regulations.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

15. Respondent, Village of Voorheesville, fully and promptly complied to all corrective action required under the Administrative Compliance Order.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

16. The “Complaint” fails to state a claim for which relief can be granted.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

17. The “Complaint,” and the allegations contained therein, are barred by the applicable statute(s) of limitation.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

18. The doctrine of estoppel is a complete bar to any recovery against Respondent, Village of Voorheesville, on any allegation contained in the “Complaint.”

**DEMAND for a HEARING**

19. Respondent, Village of Voorheesville, hereby requests a hearing on the “issues raised by the Complaint” and the “proposed penalty assessment.”

**WHEREFORE**, Respondent, Village of Voorheesville, demands a decision as

follows:

- (a) Dismissing the "Complaint" and Proceeding as against Respondent, Village of Voorheesville, in its entirety;
- (b) Awarding Respondent, Village of Voorheesville, such other and further relief as shall be just and proper.

Dated: Voorheesville, New York  
December 22, 2016

Yours, etc.

**VILLAGE of VOORHEESVILLE**

By: 

Richard C. Reilly, Esq.

*Village Attorney*

29 Voorheesville Avenue

Voorheesville, New York 12186

Telephone: (518) 765-2692