

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

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2012 OCT 19 A 10:55
REGIONAL HEARING
CLERK

IN THE MATTER OF: :
: :
United States Department of the Interior : Proceeding to Assess a Civil Penalty
Fish and Wildlife Service : Under Section 1447(b) of the Safe
Edwin B. Forsythe National Wildlife Refuge : Drinking Water Act
Visitor Contact Station Public Water System : :
Oceanville, New Jersey 08231 : :
: Docket No.
: SDWA-02-2012-8403
PWS ID. No. NJ0111454 : :

ANSWER OF RESPONDENT U.S. DEPARTMENT OF THE INTERIOR, FISH AND WILDLIFE SERVICE

I. STATUTORY AUTHORITY

1. Jurisdiction allegation to which no answer is required, but to the extent that an answer may be required, admitted.
2. Respondent hereby requests that a civil penalty not be assessed.

II. GENERAL ALLEGATIONS

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Respondent admits that the Visitor Contact Station PWS in the Edwin B. Forsythe National Wildlife Refuge started operation on April 17, 2011, but denies that it serves a transient population of 160/day. Respondent states that the said PWS serves a population of 10 to 70/day.
8. Respondent admits that the State administers the Public Water Supply Supervision Program in New Jersey pursuant to Section 1413 of the SDWA but is without information sufficient to form a belief as to all other allegations contained herein.
9. Jurisdiction allegation to which no answer is required, but to the extent that an answer may be required, admitted.
10. Jurisdiction allegation to which no answer is required, but to the extent that an answer may be required, admitted.
11. Jurisdiction allegation to which no answer is required, but to the extent that an answer may be required, admitted.
12. Admitted.

13. Admitted.

14. Respondent admits that an inspection was conducted by NJDEP on November 10, 2011 which found the Visitor Contact Station PWS in operation, without appropriate operational endorsement from NJDEP, required monitoring results, pursuant to N.J.A.C. 7:10-12.30, or notification to NJDEP of the operational status of the Visitor Contact Station PWS. However, Respondent submits that its contract specifications obligated Respondent's general contractor to prepare and submit a well record to the State which the contractor failed to submit.

15. Admitted.

16. Respondent admits that by letter dated March 22, 2012 it informed EPA that the Visitor Contact Station PWS would not be used, that an alternative source of drinking water would be provided until an official permit and notification of compliance was received, and that on June 27, 2012 a NJDEP inspection revealed that Respondent's Visitor Contact Station PWS continued to provide water without an operation permit and notification of compliance from NJDEP. However, Respondent states that signs notifying the public not to use Visitor Contact Station PWS had been inadvertently removed and that bottled water as an alternative was being provided at the Visitor Contact Station.

17. Admitted.

Count 1: Failure to Notify NJDEP of PWS Operational Status

18. Calls for a legal conclusion to which no answer is required.

19. Respondent admits that an inspection was conducted by NJDEP on November 10, 2011 which found the Visitor Contact Station PWS in operation, that Respondent failed to notify NJDEP of the change in operational status, and that the Visitor Contact Station PWS did not have certification from NJDEP to operate as a drinking water source. However, Respondent submits that its contract specifications obligated Respondent's general contractor to prepare and submit a well record to the State which the contractor failed to submit.

20. Admitted.

21. Admitted.

22. Calls for a legal conclusion to which no answer is required.

Count 2: Failure to Submit Copies of Monitoring Results to NJDEP

23. Calls for a legal conclusion to which no answer is required.

24. Admitted.

25. Admitted.

26. Admitted.

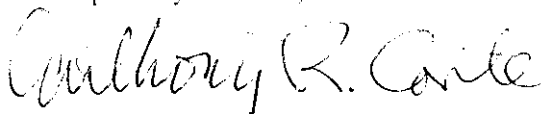
27. Calls for a legal conclusion to which no answer is required.

III. PROPOSED PENALTY

1. Respondent admits that Section 1447(b) of the Act, 42 U.S.C. § 300j-6(b) authorizes the Complainant to seek an administrative penalty in an amount not to exceed \$25,000 per day per violation.

2. Respondent respectfully requests that the proposed \$6,300.00 civil penalty be waived or mitigated for the reasons stated hereinbefore, and as the Respondent relied upon its general construction contractor to provide the required notifications to NJDEP as set forth in its contract a relevant portion of which is attached hereto as Exhibits I and II which the contractor failed to submit as required.

Respectfully submitted,



Anthony R. Conte
Regional Solicitor
U.S. Department of the Interior

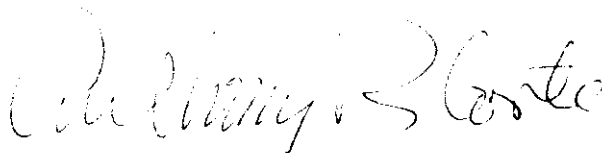
CERTIFICATE OF SERVICE

I hereby certify that I have this 18th day of October 2012, caused the foregoing Answer and one copy to be filed by Federal Express Standard Overnight Delivery with:

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

I hereby certify that I have this 18th day of October 2012, caused a copy of the foregoing Answer to be filed by Federal Express Standard Overnight Delivery with:

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



Anthony R. Conte
Regional Solicitor

SOLICITATION , OFFER, AND AWARD <i>(Construction, Alteration, or Repair)</i>	1 SOLICITATION NUMBER	2. TYPE OF SOLICITATION	3. DATE ISSUED	PAGE OF PAGES
	501818R029	<input type="checkbox"/> Sealed Bid <input checked="" type="checkbox"/> Negotiated	08/18/2008	Page 1 of 69

IMPORTANT - The "offer" section on the reverse must be fully completed by offeror.

Exhibit I

4 CONTRACT NO	5 REQUISITION/PURCHASE REQUEST NO.	6 PROJECT NO.
501818C101	RWPJ8031 /EFWR8041	

7 ISSUED BY	CODE	8. ADDRESS OFFER TO	CODE
U.S. Fish and Wildlife Service - R5 Contracting & General Services,300 Westgate Center Drive Hadley,MA 01035-9589	00005	U.S. Fish and Wildlife Service - R5 Contracting & General Services,300 Westgate Center Drive Hadley,MA 01035-9589	50181

9 FOR INFORMATION CALL	A. NAME	B TELEPHONE NO. (Include area code) (NO COLLECT CALLS)
	Dale Aubin	(413) 253-8230 ext.

SOLICITATION

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder"

10 THE GOVERNMENT REQUIRES PERFORMANCE OF THE WORK DESCRIBED IN THESE DOCUMENTS (Title, identifying no., date).

THE CONTRACTOR SHALL PROVIDE ALL PLANT, OPERATIONS, LABOR, EQUIPMENT, MATERIALS AND SUPERVISION NECESSARY FOR THE CONSTRUCTION OF A VISITOR CONTACT STATION (VCS) AT THE E B FORSYTHE NATIONAL WILDLIFE REFUGE, ATLANTIC COUNTY, OCEANVILLE, NJ AS SPECIFIED IN THE ATTACHED TECHNICAL SPECIFICATIONS, CONSTRUCTION DRAWINGS, AND CONTRACT DOCUMENTS.

ESTIMATED PRICE RANGE BETWEEN \$500,000 AND \$1,000,000

DEPARTMENT OF LABOR WAGE DETERMINATION: NO. NJ20080002

CONTRACT PERFORMANCE PERIOD: 270 CALENDAR DAYS

A BID BOND IN THE AMOUNT OF 20% OF OFFER PRICE IS REQUIRED AT TIME OF PROPOSAL SUBMISSION

PERFORMANCE BOND: 100% OF PROPOSAL OFFER

PAYMENT BOND: 100% OF PROPOSAL OFFER

NOTE: USE PACKAGE ENTITLED "PROPOSAL DOCUMENTS" TO PREPARE AND SUBMIT OFFER

OBLIGATED THROUGH
PROCUREMENT DESKTOP

11 The Contractor shall begin performance within 15 calendar days and complete it within 270 calendar days after receiving <input type="checkbox"/> award <input checked="" type="checkbox"/> notice to proceed This performance period is <input checked="" type="checkbox"/> mandatory <input type="checkbox"/> negotiable (See FAR 52.211-10, F.1, Page F-1)
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12A. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE AND PAYMENT BONDS? (If "YES", indicate within how many calendar days after award in Item 12B.)	12B. CALENDAR DAYS
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO 100% Performance 100% Payment	15

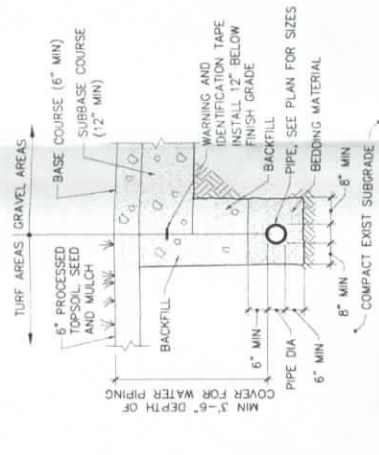
13 ADDITIONAL SOLICITATION REQUIREMENTS:

A. Sealed offers in original and _____ copies to perform the work required are due at the place specified in Item 8 by 4:00 pm (hour) local time 09/05/2008 (date) If this is a sealed bid solicitation, offers will be publicly opened at that time. Sealed envelopes containing offers shall be marked to show the offeror's name and address, the solicitation number, and the date and time offers are due

B. An offer guarantee is, is not required.

C. All offers are subject to the (1) work requirements, and (2) other provisions and clauses incorporated in the solicitation in full text or by reference

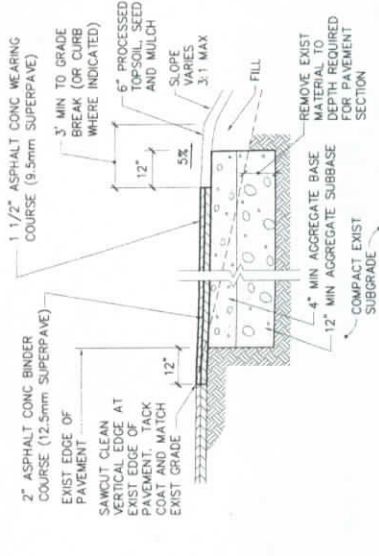
D. Offers providing less than 60 calendar days for government acceptance after the date offers are due will not be considered and will be rejected.



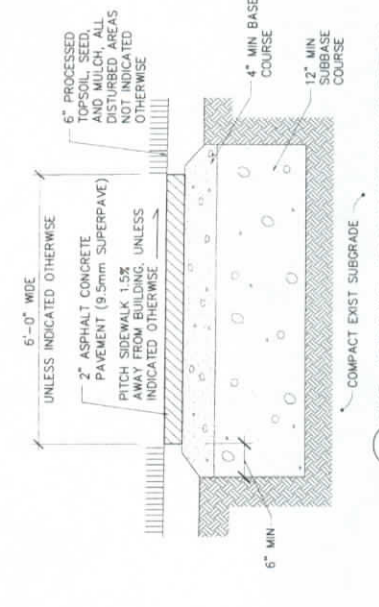
1 TYP PIPE TRENCH DETAIL
 C502 / NOT TO SCALE
 CUI101.C501.C502.C503

PIPE TRENCH NOTES:

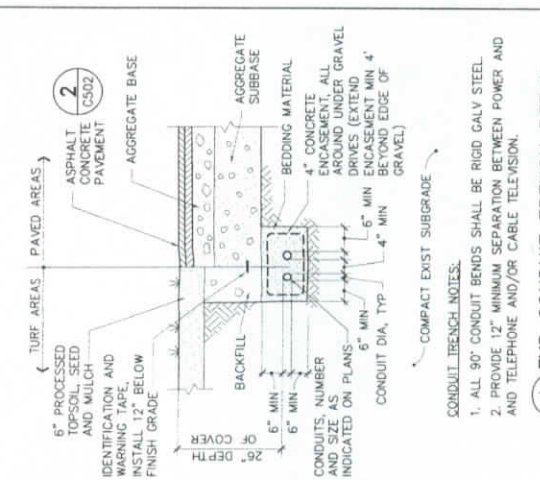
1. INSTALL THERMOPLASTIC (HOPE AND PVC) PRESSURE PIPING IN ACCORDANCE WITH ASTM D 2774. INSTALL THERMOPLASTIC GRAVITY PIPING IN ACCORDANCE WITH ASTM D 2321.
2. ALL EXCAVATION WORK SHALL COMPLY WITH OSHA STANDARDS TO 12" ABOVE TOP OF PIPE.



2 TYP ASPHALT CONCRETE PAVEMENT DETAIL
 C502 / NOT TO SCALE
 C5101.C502



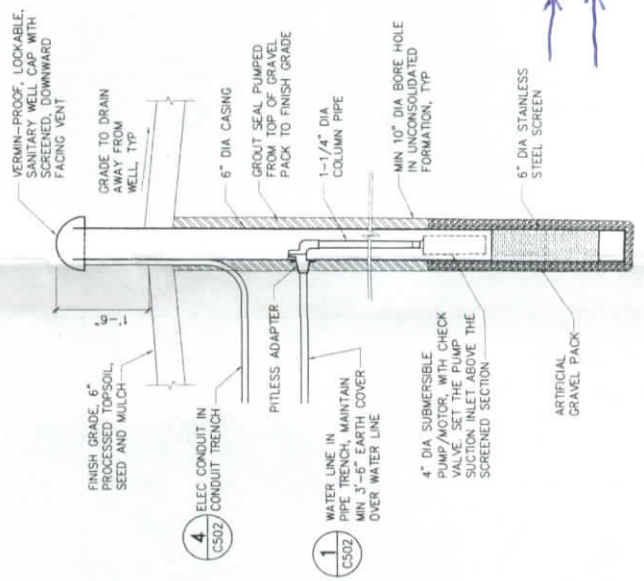
3 TYP ASPHALT CONCRETE WALK DETAIL
 C502 / NOT TO SCALE
 C5101



4 TYP CONDUIT TRENCH DETAIL
 C502 / NOT TO SCALE
 CUI101.C502

CONDUIT TRENCH NOTES:

1. ALL 90° CONDUIT BENDS SHALL BE RIGID GALV STEEL
2. PROVIDE 12" MINIMUM SEPARATION BETWEEN POWER AND TELEPHONE AND/OR CABLE TELEVISION.



5 TYPICAL WATER WELL DETAIL
 C502 / NOT TO SCALE
 CUI101

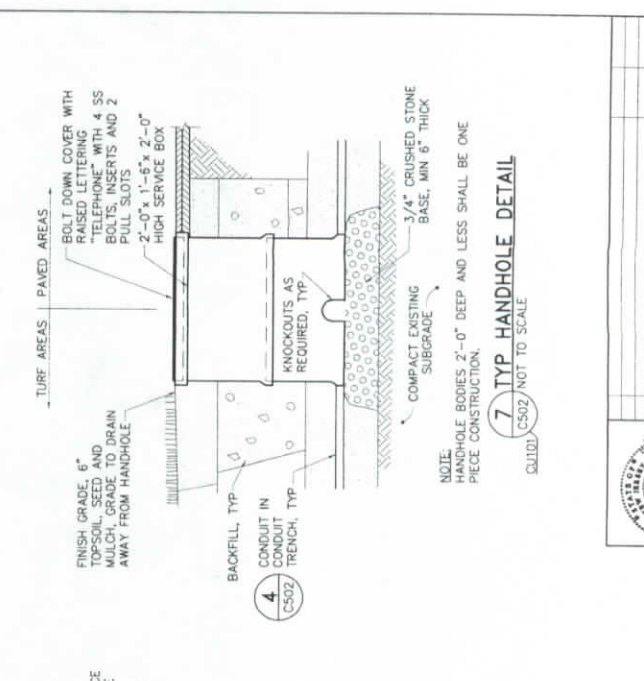


6 TYP DISPOSAL FIELD CROSS SECTION
 C502 / NOT TO SCALE

SELECT FILL NOTE:
 EXISTING ON-SITE SOIL MAY BE USED FOR SELECT FILL PROVIDED IT CONFORMS TO THE REQUIREMENTS OF N.J.A.C. 7:9A-10(F)4 AND CERTIFICATION OF SUCH IS PROVIDED BY THE NEW JERSEY LICENSED PROFESSIONAL ENGINEER. EXISTING IN-SITU SOIL APPROVED FOR USE AS SELECT FILL SHALL BE EXCAVATED WITHIN THE ZONE OF TREATMENT (TO BREAK UP ANY CLAY LENSES) AND PLACED IN CONFORMANCE WITH N.J.A.C. 7:9A-10.4. BASE BIDS ON USING EXISTING ON-SITE SOIL.

WATER WELL NOTES:

1. THE WATER WELL SHALL BE DRILLED, PUMP INSTALLED, AND EXISTING WELL SEALED BY A STATE OF NEW JERSEY LICENSED WELL DRILLER OF CLASS REQUIRED FOR A CATEGORY 1 (PUBLIC, NON-COMMUNITY) WATER SUPPLY WELL.
2. WELL SEALING AND WELL CONSTRUCTION MATERIALS AND INSTALLATION SHALL BE IN ACCORDANCE WITH N.J.A.C. 7:90 (WELL CONSTRUCTION, MAINTENANCE AND SEALING OF ABANDONED WELLS), AND THE APPLICABLE REQUIREMENTS OF N.J.A.C. 7:10 (SUBCHAPTER 12 (STANDARDS FOR THE CONSTRUCTION OF PUBLIC NON-COMMUNITY WATER SYSTEMS AND NON-PUBLIC WATER SYSTEMS)). A PUMP TEST IN ACCORDANCE WITH N.J.A.C. 7:10, SUBCHAPTER 11, IS REQUIRED.
3. THE LICENSED WELL DRILLER SHALL APPLY FOR AND OBTAIN A VALID STATE WELL PERMIT AND PAY THE STATE WELL PERMIT FEE FOR THE NEW WELL.
4. FOLLOWING COMPLETION OF THE WELL, THE CONTRACTOR SHALL PREPARE AND SUBMIT A WELL RECORD FOR THE WELL IN ACCORDANCE WITH N.J.A.C. 7:90 (MOST RECENT EDITION), SUBCHAPTER 1, PARAGRAPH 1.15, AND TO THE STATE BUREAU OF WATER ALLOCATION WITH THREE COPIES TO THE GOVERNMENT.
5. THE LICENSED WELL DRILLER SHALL APPLY FOR AND OBTAIN A VALID STATE LETTER OF APPROVAL FOR SEALING THE EXISTING WELL. THE CONTRACTOR SHALL PAY ALL FEES REQUIRED FOR ABANDONING THE EXISTING WELL. THE CONTRACTOR SHALL PROVIDE THREE COPIES OF THE STATE LETTER OF APPROVAL TO THE GOVERNMENT.
6. FOLLOWING COMPLETION OF SEALING THE EXISTING WELL, THE CONTRACTOR SHALL PREPARE AND SUBMIT A STATE WELL ABANDONMENT REPORT TO THE STATE BUREAU OF WATER ALLOCATION WITH THREE COPIES TO THE GOVERNMENT.



7 TYP HANDHOLE DETAIL
 C502 / NOT TO SCALE
 CUI101

NOTE:
 HANDHOLE BODIES 2'-0" DEEP AND LESS SHALL BE ONE PIECE CONSTRUCTION.

SITE DETAILS

NO.	DATE	BY

DISCIPLINE: C502
 SHEET NO: 5R-NJ-52510-1
 SHEET 10 OF 41

SPECIFICATIONS

VISITOR CONTACT STATION

E.B. FORSYTHE NATIONAL WILDLIFE REFUGE, OCEANVILLE, NEW JERSEY

Project Control No. 5R-NJ-52510-1

Prepared For:

U.S. Fish and Wildlife Service

300 Westgate Center Drive
Hadley, Massachusetts 01035-9589

July 23, 2008

Prepared By:

OAK POINT
ASSOCIATES



- C. Measurement Units for Water Supply Wells, Including Casings, Grout and Column Pipe: Per linear foot of well depth.

1.6 SUBMITTALS

- A. Submittals shall comply with the requirements of the Construction Contract Clauses, Division 1 Section "Submittal Procedures" and the individual sections specifying the work.

- B. Product Data for the Following:

1. Casing.
2. Pitless adapter.
3. Column pipe.
4. Sealing material.
5. Screen.
6. Gravel pack.
7. Well pump.

- a. Submit certified performance curves and rated capacities of selected well pumps and furnished specialties and accessories for the well pump.

- C. Shop Drawings: Show layout and connections for well pumps.

1. Wiring Diagrams: Power, signal, and control wiring.
2. Project Record Documents: Record the following data for each water supply well:
 - a. Casings: Material, diameter, thickness, weight per foot of length, and depth below grade.
 - b. Screen: Material, construction, diameter and opening size.
 - c. Grouting materials and procedures.
 - d. Pumping Test: Static water level, maximum safe yield, and drawdown at maximum yield.
 - e. Log: Formation log indicating strata encountered.
 - f. Alignment: Certification that well is aligned and plumb within specified tolerances.

- D. Well Record: Submit on a form provided by the Department of Environmental Protection. Submit to the Bureau of Water Allocation in the Department at P.O. Box 426, Trenton, New Jersey 08625-0426, in accordance with N.J.S.A. 58:4A-14 et seq. and N.J.A.C. 7:9D, with three copies to Government. The well record shall include the following information: well permit number, well owner, name and address, well location address, well use, date constructed, well construction details (that is, depth, borehole diameter, casing(s), grouting, screen(s), and gravel pack), pumping test records, permanent pumping equipment, geologic log, and certification by the well driller.

- E. Field quality-control reports, as specified in Subsection 3.4, "Field Quality Control."

- F. Operation and Maintenance Data: For each well pump to include in emergency, operation, and maintenance manuals.

SPECIFICATIONS

Project Control No. 5R-NJ-52510-1

Prepared For:

U.S. Fish and Wildlife Service
300 Westgate Center Drive
Hadley, Massachusetts 01035-9589

July 23, 2008

Prepared By:

OAK POINT
ASSOCIATES



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