



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

290 BROADWAY

NEW YORK, NEW YORK 10007-1866

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Article Number 7005 3110 0000 5933 5222

October 28, 2011

Sarah E. Breiner, Esq.
Scolaro, Shulman, Cohen, Fetter & Burstein, P.C.
Franklin Square
507 Plum Street, Suite 300
Syracuse, New York 13204

Re: In the Matter of R.B. Robinson Contracting, Inc.
Docket No. SDWA-02-2011-8901

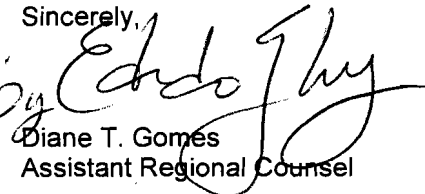
Dear Sarah:

Enclosed please find a fully executed Consent Agreement and Final Order ("CAFO") which settles the above referenced action. The original and one copy of the CAFO are being filed with the Regional Hearing Clerk with a copy of this letter.

In addition to complying with the requirements of the enclosed CAFO, your client has assured us that a Well Remediation/Closure Report summarizing and certifying to the fact that the necessary work was done in accordance with the approved Well Remediation/Closure Plan will be submitted to Nicole Foley Kraft no later than 180 days after your client's receipt of the fully executed CAFO.

Please do not hesitate to contact me should you have any questions. Thank for your efforts to resolve this matter.

Sincerely,

for Diane T. Gomes

Diane T. Gomes
Assistant Regional Counsel

Enclosures

cc: Karen Maples, Regional Hearing Clerk w/ original of enclosure and copy

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.11
2011 NOV - 1 A 8:48
REGIONAL HEARING
CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

R.B. Robinson Contracting, Inc.
535 Ithaca Road
Willseyville, NY 13827

Respondent.

Proceedings under Section 1423(c)
of the Safe Drinking Water Act,
42 U.S.C. §300h-2(c)

DOCKET NO. SDWA-02-2011-8901

CONSENT AGREEMENT
AND
FINAL ORDER

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.11
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CLERK

CONSENT AGREEMENT

Complainant, the United States Environmental Protection Agency ("EPA"), having issued the Complaint, Notice of Violation and Proposed Administrative Order herein on October 28, 2010, against Respondent, R.B. Robinson Contracting, Inc.

Complainant and Respondent, having agreed that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order without further litigation is the most appropriate means of resolving this matter;

NOW, THEREFORE, before the taking of any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby Ordered as follows:

I. PRELIMINARY STATEMENT

1. EPA initiated this proceeding for compliance with the Safe Drinking Water Act pursuant to Section 1423(c) of the Safe Drinking Water Act, 42 U.S.C. §300h-2(c).
2. The Complaint alleges violations of the Safe Drinking Water Act Part C – Underground Injection Control as they pertain to a Class V injection well located at 535 Ithaca Road,

In the Matter of R.B. Robinson Contracting, Inc
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Willseyville, New York 13827. The Complaint alleges that the Class V well is owned and operated by Respondent, R.B. Robinson Contracting, Inc.

3. This action was public noticed between November 19, 2010 and December 20, 2010. No public comment was received.
4. This Consent Agreement and Final Order shall apply to and be binding on Respondent, the business officers, directors, employees, successors and assigns, including but not limited to, subsequent purchasers.
5. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint. Respondent waives any defenses Respondent might have as to jurisdiction and venue, and, without admitting or denying the allegations contained in the Complaint, consents to the terms of this Consent Agreement and Final Order.
6. Respondent hereby waives Respondent's rights to a judicial or administrative hearing or appeal on any issue of law or fact set forth in the Complaint or on any terms of this Consent Agreement and Final Order.

II. TERMS OF SETTLEMENT

A. Payment of Civil Penalty

1. Pursuant to Section 1423(c) of the Safe Drinking Water Act, EPA has considered statutory factors, including the seriousness of the violation(s), the economic benefit resulting from the violation(s), the history of such violation(s), the good-faith efforts to comply with the applicable requirements, and other matters as justice may require.
2. EPA has determined that an appropriate civil penalty to settle this action is in the amount of **Six Thousand (\$6,000) Dollars**.
3. For the purpose of settlement, Respondent consents to the issuance of this Consent Agreement, and consents to the payment of the civil penalty cited in Paragraph 2 of this section.
4. Not more than forty five (45) days after the date of issuance of the executed Final Order signed by the Regional Administrator, EPA, Region 2, Respondent shall pay the penalty of **Six Thousand Dollars (\$6,000)** by cashier's or certified check or by Electronic Fund Transfer ("EFT"). If the payment is paid by check, then the check shall be payable to the "Treasurer, United States of America".

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The check shall be identified with a notation thereon listing the following: **IN THE MATTER OF R.B. Robinson Contracting, Inc.**, and shall bear thereon **Docket Number SDWA-02-2011-8901**. This check shall be mailed to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

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 "D68010727 Environmental Protection Agency"
- f. Name of Respondent: R. B. Robinson Contracting, Inc..
- g. Case Number: SDWA-02-2011-8901

Such EFT must be received on or before 45 days after the Effective Date of this CA/FO.

Whether the payment is made by check or by EFT, Respondent shall promptly thereafter furnish reasonable proof that such payment has been made, to both:

Diane Gomes, Esq.
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3235
and

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

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5. Payment must be received on or before forty five (45) 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 a referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection.
 - b. Further, if 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. A 6% per annum penalty will be applied on any principal amount not paid within 90 days of the due date.
 - c. In addition, pursuant to Section 1423(c)(7) of the Safe Drinking Water Act, 42 U.S.C. §300h-2(c)(7), if payment is not received by the due date, a civil action may be commenced in Federal District Court to recover the amount assessed, plus costs, attorneys' fees and interest at currently prevailing rates from the date the order is effective. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.
 - d. Respondent also may be required to pay attorneys fees and costs for collection proceedings in connection with nonpayment.
6. The penalty to be paid is a civil penalty assessed by the EPA and shall not be deductible from the Respondent's federal or state taxes.

B. General Provisions

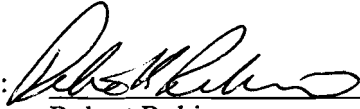
6. Respondent shall transmit all notices, reports and submissions required by this Consent Agreement and Final Order to:

Nicole Foley Kraft, Chief
Ground Water Compliance Section
Water Compliance Branch
U.S. EPA, Region 2
290 Broadway, 20th Floor
New York, NY 10007

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7. Respondent waives any right Respondent may have pursuant to 40 CFR §22.8 or statute to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that the Regional Administrator accept this Consent Agreement and issue the accompanying Final Order.
8. Violations of the terms of the Final Order after its effective date or date of final judgment as described in Section 1423(c)(6) of the Act, 42 U.S.C. §300h-2(c)(6), may subject Respondent to further enforcement action, including a civil action for enforcement of the Final Order under Section 1423(b) of the Act, 42 U.S.C. §300h-2(b), and civil and criminal penalties for violations of the compliance terms of the Final Order under Section 1423(b)(1) and (2) of the Act, 42 U.S.C. §300h-2(b)(1) and (2).
9. This Consent Agreement and Final Order shall not relieve Respondent of Respondent's obligations to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.
10. This Consent Agreement and Final Order constitute a settlement by EPA of all claims for civil penalties pursuant to the Safe Drinking Water Act for the violations alleged in the Complaint. Nothing in this Consent Agreement and Final Order is intended to nor shall be construed to operate in any way to resolve any criminal liability of the Respondent. Compliance with this Consent Agreement and Final Order shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, except those for the civil penalties which were agreed to pursuant to this Consent Decree and Final Order, and it is the responsibility of Respondent to comply with such laws and regulations.
11. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and to execute and legally bind that party to it.
12. Each party shall bear its own costs and attorney's fees in connection with the action resolved by this Consent Agreement and Order.

RESPONDENT R.B. Robinson Contracting, Inc.:

BY: 
Robert Robinson
R.B. Robinson Contracting, Inc.
535 Ithaca Road
Willseyville, New York 13827

DATE: 9-28-11

COMPLAINANT: EPA Region 2:

BY: 
Dore LaPosta, Director
Division of Enforcement and Compliance Assistant
U.S. EPA, Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866

DATE: OCTOBER 19, 2011

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III. FINAL ORDER:

The Regional Judicial Officer 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 a Final Order. The effective date of this Final Order shall be 30 days after the date of signature.

DATE: Oct 18, 2011



HELEN S. FERRARA
Regional Judicial Officer
United States Environmental Protection Agency - Region 2
290 Broadway
New York, New York

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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
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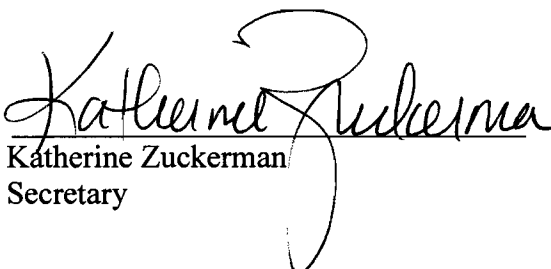
CERTIFICATE OF SERVICE

I certify that, on the date noted below, I served the foregoing fully executed Consent Agreement and Final Order, bearing the above-referenced docket number, in the following manner.

Copy by Certified Mail Sarah E. Breiner, Esq.
Return Receipt Requested: Scolaro, Shulman, Cohen, Fetter & Burstein, P.C.
Franklin Square
507 Plum Street, Suite 300
Syracuse, New York 13204

Original and One Copy Regional Hearing Clerk
By Hand Delivery: U.S. Environmental Protection Agency
290 Broadway, 16th floor
New York, New York 10007-1866

Date: 10/28/11


Katherine Zuckerman
Secretary