

1 ENVIRONMENTAL PROTECTION AGENCY
2 REGION 9



3 IN THE MATTER OF:) Docket No. SDWA-09-2023-0081
4)
5 Land Projects Mutual Water Company)
6 Public Water System,)
7 Respondent.)
8 California PWS ID No. CA1910246)
9 Proceedings pursuant to Section 1414(g) of the)
10 Safe Drinking Water Act, 42 U.S.C. § 300g-)
3(g).)

**CONSENT AGREEMENT
AND
FINAL ORDER**

11 **CONSENT AGREEMENT**

12 **I. AUTHORITY**

13 1. This Consent Agreement is entered into and the [Proposed] Final Order (“CA/FO”) is
14 issued under the authorities vested in the Administrator of the United States Environmental
15 Protection Agency (“EPA”) by Section 1414(g)(3)(B) of the Safe Drinking Water Act
16 (“SDWA”), 42 U.S.C. § 300g-3(g)(3)(B).
17

18 2. The Administrator has delegated the authority to enter into this CA/FO to EPA
19 Region 9’s Regional Administrator. The Regional Administrator in turn has delegated the
20 authority to enter into this Consent Agreement to the Director of the Enforcement and
21 Compliance Assurance Division.

22 3. In accordance with this authority, and with the “Consolidated Rules of Practice
23 Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or
24 Suspension of Permits,” 40 C.F.R. Part 22 (hereinafter “Consolidated Rules of Practice”), the
25 Director of the Enforcement and Compliance Assurance Division, EPA Region 9, and Land

1 Projects Mutual Water Company (“Respondent”), together referred to as “the Parties,” hereby
2 agree to this Consent Agreement’s terms and to the issuance of the proposed Final Order.

3 4. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), where the Parties here have
4 agreed to settlement before EPA Region 9’s filing of a complaint, this proceeding is
5 simultaneously commenced by the issuance of this Consent Agreement and concluded by the
6 Final Order that ratifies the Parties’ Consent Agreement.

7 5. Part II of this CA/FO contains a concise statement of the factual and legal basis for the
8 alleged violations of the SDWA, together with the specific provisions of the SDWA and
9 implementing regulations that Respondent is alleged to have violated, in accordance with
10 40 C.F.R. § 22.18(b)(2).

11 **II. STIPULATIONS AND FINDINGS**

12 EPA alleges the following:

13 6. Respondent is a California corporation and thus a “person” within the meaning of Section
14 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2.

15 7. Respondent owns and/or operates a system known to EPA as the “Land Projects Mutual
16 Water Company Public Water System” (hereinafter referred to as the “System”), California PWS
17 ID No. CA1910246, located at 8810 West Avenue E-8, in Lancaster, California, for the
18 provision to the public of piped water for human consumption.

19 8. The System sources its drinking water from three ground water wells referred to as Wells
20 Nos. 1, 3 and 8. The System serves an average of 1,500 year-round residents daily through
21 approximately 539 service connections.

22 9. Since the System has at least 15 service connections used by year-round residents or
23 regularly serves at least 25 year-round residents, it is a “public water system” as that term is
24 defined in Section 1401(4) of the SDWA, 42 U.S.C. § 300f(4), and a “community water system”
25

1 as that term is defined in Section 1401(15) of the SDWA, 42 U.S.C. § 300f(15), and 40 C.F.R. §
2 141.2.

3 10. As an owner and/or operator of a public water system, Respondent is a “supplier of
4 water” as that term is defined in Section 1401(5) of the SDWA, 42 U.S.C. § 300f(5), and 40
5 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the SDWA, 42
6 U.S.C. § 300g *et seq.*, and its implementing regulations at 40 C.F.R. Part 141.

7 11. On January 22, 2001, EPA lowered the arsenic MCL specified at 40 C.F.R. §
8 141.62(b)(16) from 50 micrograms per liter (“ug/L”) to the current arsenic MCL of 10 ug/L.

9 12. 40 C.F.R. § 141.6(j) provides that the current arsenic MCL of 10 ug/L specified at 40
10 C.F.R. § 141.62(b)(16) became effective for the purpose of compliance on January 23, 2006.

11 13. On March 23, 2017, EPA entered into an Administrative Order on Consent with
12 Respondent (Docket No. PWS-AOC-2017-6001) (“the 2017 Order”), pursuant to EPA’s
13 authority under SDWA § 1414(g), 42 U.S.C. § 300g-3(g), which required, among other things,
14 that Respondent provide drinking water that meets the arsenic MCL to all of its customers by
15 January 31, 2019.

16 14. On January 31, 2019, Respondent informed EPA that that System would not meet the
17 Order’s January 31, 2019 deadline for providing drinking water that meets the arsenic MCL of
18 10 ug/L to all of its customers.

19 15. On June 25, 2019, EPA and Respondent entered into a Consent Agreement and Final
20 Order (“2019 CA/FO”), which became effective on June 25, 2019, under which Respondent
21 agreed to pay to the United States an administrative civil penalty of four thousand, one-hundred
22 ninety-three dollars (\$4,193) to resolve the SDWA violations associated with Respondent’s
23 failure to meet the arsenic MCL by January 31, 2019 in accordance with the 2017 Order.

24 16. Since after June 25, 2019, the System has remained consistently out of compliance with
25 the arsenic MCL of 10 ug/L, with the latest analytical results of sampling performed at the

1 System in all four quarters of 2022 showing running annual average levels of arsenic of 12 ug/L,
2 17 ug/L, 17 ug/L, and 11 ug/L in Wells Nos. 1, 3, and 8, respectively.

3 17. Pursuant to Section 1414(g)(3)(A) of the SDWA, 42 U.S.C. § 300g-3(g)(3)(A), and 40
4 C.F.R. § 19.4, the EPA may assess a civil administrative penalty of up to \$47,061 against any
5 person who violates or refuses to comply with an administrative order issued pursuant to EPA's
6 authority under SDWA § 1414(g), 42 U.S.C. § 300g-3(g), that occurred after November 2, 2015,
7 where penalties are assessed on or after January 6, 2023.

8 **III. SETTLEMENT TERMS**

9 The Parties agree as follows:

10 **A. General Provisions**

11 18. Consistent with 40 C.F.R. § 22.18(b)(2), for the purpose of this proceeding, Respondent:
12 admits the jurisdictional allegations of the CA/FO; neither admits nor denies the specific factual
13 allegations contained in the CA/FO; consents to the assessment of the stated civil penalty, and to
14 all conditions specified in the Consent Agreement; and waives any right to contest the allegations
15 and its right to appeal the proposed Final Order accompanying the Consent Agreement.

16 19. Respondent further waives any and all remedies, claims for relief, and otherwise
17 available rights to judicial or administrative review that Respondent may have with respect to
18 any issue of fact or law set forth in this CA/FO including, but not limited to, its right to request a
19 hearing under 40 C.F.R. § 22.15(c) and Section 1414(g)(3)(B) of the SDWA, 42 U.S.C. § 300g-
20 3(g)(3)(b); its right to seek federal judicial review of the CA/FO under Chapter 7 of the
21 Administrative Procedure Act, 5 U.S.C. §§ 701-706; any right to contest the allegations in this
22 CA/FO; and its right to appeal this CA/FO under Section 1414(g)(3)(B) of the SDWA, 42 U.S.C.
23 § 300g-3(g)(3)(B). Respondent also consents to the issuance of this CA/FO without further
24 adjudication.
25

1 20. This CA/FO, inclusive of all exhibits, appendices, and attachments, is the entire
2 agreement between the Parties to resolve EPA’s civil penalty claim against Respondent for the
3 specific SDWA violations identified in this CA/FO. Full compliance with this CA/FO, which
4 includes payment of administrative civil penalties, shall constitute full settlement only of
5 Respondent’s liability for federal civil penalties for the SDWA violations specifically identified
6 in this CA/FO, but only up to the date that the Final Order is filed.

7 21. This CA/FO’s provisions shall apply to and be binding upon Respondent, and upon any
8 successor agencies or other entities or persons otherwise bound by law. Action or inaction of any
9 persons, firms, contractors, employees, agents, or corporations acting under, through, or for
10 Respondent shall not excuse any failure of Respondent to fully perform its obligations under this
11 CA/FO.

12 22. This CA/FO’s issuance does not in any case affect EPA’s right to pursue appropriate
13 injunctive or other equitable relief or criminal sanctions for any violations of law, including any
14 SDWA violations occurring after entry of the Final Order.

15 23. This CA/FO is not a permit or modification of a permit, and does not affect
16 Respondent’s obligation to comply with all federal, state, local laws, ordinances, regulations,
17 permits, and orders. Issuance of, or compliance with, this CA/FO does not waive, extinguish,
18 satisfy, or otherwise affect Respondent’s obligation to comply with all applicable requirements
19 of the SDWA, regulations promulgated thereunder, and any order or permit issued thereunder,
20 except as specifically set forth herein.

21 24. This CA/FO does not constitute a waiver, suspension, or modification of the requirements
22 of any federal, state, or local statute, regulation or condition of any permit issued thereunder,
23 including the requirements of the SDWA and accompanying regulations.

1 25. EPA reserves any and all legal and equitable remedies available to enforce this CA/FO,
2 as well as the right to seek recovery of any costs and attorneys' fees incurred by EPA in any
3 actions against Respondent for noncompliance with this CA/FO.

4 26. Unless otherwise specified, the Parties shall each bear their own costs and attorneys fees
5 incurred in this proceeding.

6 27. This Consent Agreement may be executed and transmitted by facsimile, email or other
7 electronic means, and in multiple counterparts, each of which shall be deemed an original, but all
8 of which shall constitute an instrument. If any portion of this Consent Agreement is determined
9 to be unenforceable by a competent court or tribunal, it is the Parties' intent that the remaining
10 portions shall remain in full force and effect.

11 28. The undersigned representative of each party certifies that he or she is duly and fully
12 authorized to enter into and ratify this Consent Agreement.

13 **B. Penalty**

14 29. Respondent agrees to pay to the United States an administrative civil penalty of ten
15 thousand, seven-hundred and ten dollars (**\$10,710**) no later than 30 days following the Effective
16 Date of the Final Order. The penalty payment date is hereafter referred to as the "Due Date."

17 30. Respondent may pay the penalty by check (mail or overnight delivery), wire transfer,
18 Automated Clearing House, or online payment. Payment instructions are available at:
19 <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified
20 check must be payable to the order of "Treasurer, United States of America" and delivered to the
21 following address:

22 U.S. Environmental Protection Agency
23 Fines and Penalties
24 Cincinnati Finance Center
25 P.O. Box 979078
St. Louis, Missouri 63197-9000

1 31. Respondent must provide a letter with evidence of the payment made pursuant to
2 Paragraphs 29 and 30 above, accompanied by this action's title and docket number, to the EPA
3 Region 9 Regional Hearing Clerk and the EPA Region 9 Enforcement and Compliance Division
4 Compliance Officer via United States mail, at the following addresses:

5 Regional Hearing Clerk
6 U.S. Environmental Protection Agency
7 Region 9 - Office of Regional Counsel
8 75 Hawthorne Street (ORC-1)
9 San Francisco, CA 94105
10 R9HearingClerk@epa.gov

Christopher Chen, Compliance Officer
U.S. Environmental Protection Agency
Region 9 - Enforcement Division
75 Hawthorne Street (ENF-3)
San Francisco, CA 94105
chen.christopher@epa.gov

9 32. If the full penalty payment is not received on or before the due date, interest shall accrue
10 on any overdue amount from the due date through the date of payment, at the annual rate
11 established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. In addition, a \$15.00
12 late payment handling charge will be assessed for each 30-day period (or any portion thereof)
13 following the due date in which the balance remains unpaid. A six percent per annum penalty
14 will also be applied on any principal amount not paid within ninety (90) days of the due date.
15 Respondent shall tender any interest, handling charges, or late penalty payments in the same
16 manner as described above.

17 33. Pursuant to Section 1414(g)(3)(D) of the SDWA, 42 U.S.C. § 300g-3(g)(3)(D), if
18 Respondent fails to pay the penalty, the Attorney General shall recover the amount for which
19 Respondent is liable in any appropriate district court of the United States. In any such action, the
20 validity and appropriateness of the final order imposing the civil penalty shall not be subject to
21 review.

22 34. Respondent shall not deduct the civil penalty, nor any interest, late penalty payments, or
23 administrative handling fees provided for in this CA/FO from Respondent's federal, state, or
24 local income taxes.
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1 **IV. EFFECTIVE DATE**

2 35. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), the Effective Date of this
3 CA/FO is the date that the Final Order, having been signed by the Regional Judicial Officer, is
4 filed with the Regional Hearing Clerk.

5
6
7 FOR THE CONSENTING PARTIES:

8 RESPONDENT LAND PROJECTS MUTUAL WATER COMPANY:
9

10 BY:  DATE: 8-16-23

11
12 NAME (printed): BIFF R. BAKER

13
14 TITLE: PRESIDENT

1 COMPLAINANT UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
2 REGION 9:

3 **AMY MILLER** Digitally signed by
4 **BOWEN** AMY MILLER-BOWEN
Date: 2023.08.28
11:02:11 -07'00'

BY: _____

DATE: _____

5 Amy C. Miller-Bowen, Director
6 Enforcement and Compliance Assurance Division
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10 Of counsel:

11 Rich Campbell
12 Attorney-Advisor
Office of Regional Counsel
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1 **FINAL ORDER**

2 It is Hereby Ordered that the foregoing Consent Agreement and this Final Order (U.S.
3 EPA Docket No. SDWA-09-2023-0081) be entered and that Respondent shall pay a civil penalty
4 in the amount of ten thousand seven hundred and ten dollars (\$10,710) in accordance with the
5 terms of this Consent Agreement and Final Order.
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8 _____
9 Beatrice Wong Date
10 Regional Judicial Officer
11 EPA - Region IX
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1 **CERTIFICATE OF SERVICE**

2 I certify that the original of the foregoing Complaint/Consent Agreement and Final Order in the
3 matter of Land Projects Mutual Water Company Public Water System, Dockets Number
4 SDWA-09-2023-0081 has been filed with the Regional Hearing Clerk, and a copy was served on
5 Counsel for Complainant and Counsel for Respondent by email, as indicated below:
6

7 **COMPLAINANT:** Rich Campbell
8 U.S. Environmental Protection Agency - Region IX
9 75 Hawthorne Street (ORC-2)
10 San Francisco, California 94105
11 Email: Campbell.Rich@epa.gov

12 **RESPONDENT:** James D. Ciampa
13 Lagerlof, Senecal, Gosney & Kruse LLP
14 301 North Lake Avenue, 11th Floor
15 Pasadena, CA 91101-5123
16 Email: Jciampa@lagerlof.com

17 _____
18 Ponly Tu Date
19 Regional Hearing Clerk
20 U.S. EPA - Region IX
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