

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II

290 BROADWAY

NEW YORK, NEW YORK 10007-1866

IN THE MATTER OF:

Belleville Water Department
Belleville, New Jersey 07109

PWS ID: NJ0701001

Respondent

Proceeding Pursuant to Section 1414
(g)(3)(B) of the Safe Drinking Water
Act, 42 U.S.C. §300g-3(g)(3)(B)

**CONSENT AGREEMENT
AND FINAL ORDER**

Docket No. SDWA-02-2024-8401

I. PRELIMINARY STATEMENT

1. This administrative proceeding for the assessment of a civil penalty was initiated pursuant to Section 1414(g)(3)(B) of the Safe Drinking Water Act (the "Act" or "SDWA"), 42 U.S.C. §300g-3(g)(3)(B).
2. The United States Environmental Protection Agency is both commencing and concluding this civil penalty action pursuant to 40 C.F.R. §22.13(b) of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" ("CROP"), which sets forth procedures for simultaneous commencement and conclusion of administrative civil penalty assessment proceedings through issuance of a consent agreement and final order pursuant to 40 C.F.R. §§22.18(b)(2) and (3).
3. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division ("Director"), Region 2, United States Environmental Protection Agency ("Complainant" or "EPA") and the Township of Belleville ("Respondent"). The authority to issue this Consent Agreement has been duly delegated by the Regional Administrator of Region 2 to the Director.
4. The Complainant alleges that Respondent has failed to comply with the terms and conditions of Administrative Order on Consent, Docket Number SDWA-02-2020-8010, issued on June 18, 2020 (hereinafter "the AOC"), pursuant to Section 1414(g) of the Act, 42 U.S.C. §300g-3(g), that required compliance with an applicable requirement of the

Act at Respondent's public water system (Belleville Water Department) located in Belleville, New Jersey.

5. This Consent Agreement and Final Order (collectively "CA/FO") resolves violations of specific requirements of AOC Docket Number SDWA-02-2020-8010.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

6. Respondent owns and/or operates the Belleville Water Department "public water system", within the meaning of Section 1401(4) of the SDWA, 42 U.S.C. §300f(4) and 40 C.F.R. §141.2, located in Belleville, New Jersey.
7. Respondent is a "supplier of water" within the meaning of Section 1401(5) of the SDWA, 42 U.S.C. §300f(5), and 40 C.F.R. §141.2.
8. Respondent is a "person" within the meaning of Section 1401(12) of the SDWA, 42 U.S.C. §300f(12) and 40 C.F.R. §141.2, and is subject to an AOC issued pursuant to Section 1414(g)(1) of the SDWA, 42 U.S.C. §300g-3(g)(1).
9. According to SDWA §1414(g)(3)(b), 42 U.S.C. §300g-3(g)(3)(B), each person that owns or operates any public water system is subject to and must comply with all federal, State, interstate, and local requirements, both substantive and procedural, to the same extent as any supplier of water is subject to such requirements.
10. Respondent's public water system ("PWS") provides piped water for human consumption. Respondent's PWS regularly serves at least 15 service connections used by year-round residents and/or regularly serves at least 25 year-round residents, and is therefore a community water system ("CWS") as defined by Section 1401(15) of the SDWA, 42 U.S.C. §300f(15) and 40 C.F.R. §141.2.
11. Respondent purchases water from the Newark Water Department (NJ0714001) PWS. The treated water from the Newark Water Department enters the Belleville Water Department PWS through four (4) interconnections. Respondent serves approximately 35,129 people, as per the New Jersey Department of Environmental Protection ("NJDEP" or "State") Drinking Water Watch Database.
12. The NJDEP administers the Public Water Supply Supervision Program in New Jersey pursuant to Section 1413 of the SDWA. The approval of primary enforcement authority ("primacy") from EPA to the NJDEP was effective as of July 13, 1979. NJDEP is the "approved State primacy program", as that term is defined in 40 C.F.R. §142.2. However, NJDEP referred the Belleville Water Department PWS to EPA for further investigation and appropriate action as part of the Fiscal Year (FY) 2018 EPA-NJDEP Inspection Workplan.

13. In 1991, EPA published the Lead and Copper Rule ("LCR") (40 C.F.R. Part 141 Subpart I) to minimize lead and copper in drinking water. The LCR establishes action levels of 0.015 mg/L for lead and 1.3 mg/L for copper; a maximum contaminant level goal ("MCLG") of 0 mg/L for lead and 1.3 mg/L for copper; and includes requirements to monitor at the tap, optimize corrosion control (and if appropriate, treat source water), deliver public education, and replace lead service lines ("LSLs").
14. On June 18, 2020, EPA issued the AOC to address violations of the SDWA and NJDEP applicable regulations. The AOC establishes an enforceable schedule to complete the replacement of LSLs and ensure that Respondent fully complies with the requirements of the SDWA and the LCR.
15. According to EPA records, the AOC was transmitted via electronic mail on June 19, 2020. Respondent replied to the email on June 19, 2020.
16. Pursuant to 40 C.F.R. §141.85(d), all PWSs must provide a notice of the individual tap results from lead tap water monitoring to the persons served by the water system at the specific sampling site from which the sample was taken (e.g., the occupants of the residence where the tap was tested). The consumer notice must be provided as soon as practical, but no later than 30 days after the system learns of the tap monitoring results. The consumer notice must meet the content and delivery requirements established in 40 C.F.R. §141.85(d)(3-4).
17. Pursuant to 40 C.F.R. §141.90(f)(4), no later than 3 months following the end of the monitoring period, each system must mail a sample copy of the consumer notification of tap results to the State along with a certification that the notification has been distributed in a manner consistent with the requirements of 40 C.F.R. §141.85(d).
18. Paragraph 41 of the AOC requires Respondent to notify customers of the monitoring results for lead tap monitoring required in paragraph 38 of the AOC within thirty (30) days after the system learns of the tap monitoring results. Consumer notice content must be in accordance with 40 C.F.R. §141.85(d)(3).
19. Paragraph 42 of the AOC requires Respondent to comply with the reporting and recordkeeping requirements of the LCR, pursuant to 40 C.F.R. §§141.90 and 141.91. All information was required to be submitted to EPA and NJDEP.
20. Based on information available to EPA, Respondent failed to submit a sample copy of the consumer notice and a certification that the notification was distributed in a manner consistent with the requirements of 40 C.F.R. §141.85(d). Respondent violated the AOC by failing to comply with the reporting requirements set forth in paragraph 42 of the AOC.

21. Based on the Findings of Fact and Conclusions of Law set forth above in Paragraphs 6-20, EPA hereby finds that Respondent has violated Section 1414 of the SDWA, 42 U.S.C. §330g *et seq.*, and its implementing regulations, by its failure to submit a sample copy of the consumer notice and a certification that the notification was distributed in a manner consistent with the requirements of 40 C.F.R. §141.85(d). Respondent violated the AOC by failing to comply with the reporting requirements set forth in paragraph 42 of the AOC.
22. EPA, concurrently with this filing, notified the State of New Jersey regarding this action and offered an opportunity to confer with EPA on the proposed penalty assessment, pursuant to SDWA §1414(g)(2), 42 U.S.C. §300g-3(g)(2).

III. CONSENT AGREEMENT

23. Section II, Paragraphs 6-22 are realleged and incorporated by reference.
24. EPA and Respondent agree that it is in the public interest to resolve the issues alleged in this Consent Agreement without further litigation and the expense and effort that litigation entails.
25. Based upon the foregoing and pursuant to Section 1414(g)(3)(B) of the SDWA, 42 U.S.C. §300g-3(g)(3)(B), and Section 22.13(b) of the CROP, 40 C.F.R. §22.13(b), it is hereby agreed by and between EPA and Respondent, and Respondent voluntarily and knowingly agrees as follows:

IV. TERMS OF SETTLEMENT

26. For the purpose of this proceeding, Respondent:
- a. Admits the jurisdictional allegations of the CA/FO;
 - b. Neither admits nor denies the factual allegations contained herein;
 - c. Waives its right to contest the allegations, a judicial or administrative hearing, or to appeal the CA/FO; and
 - d. Consents to the payment of a civil penalty in the amount of **ONE THOUSAND SEVEN HUNDRED DOLLARS (\$1,700.00)**, as stated in Section V below.

V. PAYMENT OF CIVIL PENALTY

27. Respondent shall pay to EPA a civil penalty in the amount of **ONE THOUSAND SEVEN HUNDRED DOLLARS (\$1,700.00)**.

28. Payments can be made by debit/credit card, check, or electronically. Electronic payments fall into two categories: wires and Automated Clearinghouse (ACH). Wires are same day and more costly. ACH is the next day or any future scheduled day and is less expensive. Please note that wires and ACH payments must be conducted through the sender's bank. The checks (cashier's or certified checks only) shall be identified with a notation of the name and docket number of this case, set forth in the caption on the first page of this document. Payment methods are described below:

Type of Payment	Payment Information	
Debit and Credit Card Payments	https://www.pay.gov/paygov/	
Checks from U.S. Banks Finance Center Contacts: Craig Steffen (513-487-2091)	U.S. Postal Service	UPS, Federal Express, or Overnight Mail
	US Environmental Protection Agency Fines and Penalties Cincinnati Finance Center PO Box 979077 St. Louis, MO 63197-9000	U.S. Bank Government Lockbox 979078 3180 Rider Trail S. Earth City, Mo. 63045 314-418-1028
Checks drawn on foreign banks with no USA branches (any currency)	Cincinnati Finance US EPA, MS-NWD 26 W ML King Drive Cincinnati, OH 45268-0001	
Wire Transfers (any currency) Details on format and content of wire transfer – www.epa.gov/ocfo/finservices/required_info.htm	Federal Reserve Bank of New York ABA: 021030004 Account Number: 68010727 SWIFT address: FRNYUS33 33 Liberty Street New York, NY 10045 Field Tag 4200 of the Fedwire message should read: "D 68010727 Environmental Protection Agency"	
ACH - Automated Clearinghouse for receiving US currency Finance Center Contacts: John Schmid (202-874-7026) REX (Remittance Express) 1-866-234-5681	US Treasury REX / Cashlink ACH Receiver ABA: 051036706 Account Number: 310006, Environmental Protection Agency CTX Format Transaction Code 22 – checking Physical location of US Treasury facility: 5700 Rivertech Court Riverdale, MD 20737	

ONLINE PAYMENT:

These are now an Online Payment Option, available through the Department of Treasury. This payment option can be accessed from the information below: WWW.PAY.GOV. Enter sfo 1.1 in the search field. Open form and complete required fields.

29. Payment of the penalty must be received at the above address on or before thirty (30) calendar days after the Effective Date of the CA/FO.

30. Respondent shall also send copies of this payment to each of the following:

Lauren Fischer
Assistant Regional Counsel
Water and General Law Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866
Fischer.Lauren@epa.gov

and

Karen Maples, Regional Hearing Clerk
U.S. Environmental Protection Agency – Region 2
290 Broadway, 16th floor
New York, NY 10007-1866
Maples.Karen@epa.gov.

- a. 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.
- b. Further, if the 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 also will be applied on any principal amount not paid within 90 days of the due date.
- c. The civil penalty constitutes a penalty within the meaning of 26 U.S.C. §162(f).
- d. 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.

VI. GENERAL PROVISIONS

31. The provisions of the CA/FO shall be binding upon Respondent, its officers, directors, agents, servants, authorized representatives and successors or assigns, including but not limited to, subsequent purchasers. No transfer of ownership or operation shall relieve Respondent of its obligation to comply with the CA/FO.
32. Respondent has read the Consent Agreement, understand its terms, finds it to be reasonable and consents to its issuance and its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein.
33. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement and agrees to pay the penalty in accordance with the terms of this Consent Agreement.
34. Respondent knowingly and explicitly waives its rights under Section 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 appeal of this Consent Agreement or the Findings of Fact and Conclusions of Law herein, or on the accompanying Final Order.
35. Respondent waives 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.
36. Respondent also hereby expressly waives its right to confer with the Administrator under Section 1414(g)(3)(B) of the Act, 42 U.S.C. §300g-3(g)(3)(B).
37. EPA reserves the right to commence action against any person or persons, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the CROP. Further, EPA reserves any right or remedy available to it under the SDWA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction to enforce the provisions of the CA/FOs, following its filing with the Regional Hearing Clerk. Respondent's full compliance with this Consent Agreement shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. Respondent's full compliance with this Consent Agreement shall only resolve

Respondent's liability for federal civil penalties for the violations and facts described in Section II of this Consent Agreement.

- 38. Issuance of the CA/FO 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 Section 1414 of the Act, 42 U.S.C. §300g-3. Issuance of or compliance with the CA/FO does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable requirements of the Act, of regulations promulgated thereunder and of any legal order or permit issued thereunder.
- 39. 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.
- 40. Respondent consents to service by a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.
- 41. Each party hereto agrees to bear its own costs and fees in this matter.

FOR RESPONDENT:



Brian Banda, Township Manager
Township of Belleville
152 Washington Ave.
Belleville, NJ 07109

Date: 8-21-24

FOR COMPLAINANT:

Kathleen Anderson, Director
Division of Enforcement and Compliance Assurance
US Environmental Protection Agency
Region 2
290 Broadway
New York, New York 10007-1866

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~~VII.~~ FINAL ORDER

The Regional Judicial Officer for the U.S. Environmental Protection Agency, Region 2, as delegated by 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.

HELEN S. FERRARA
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 2
New York, New York 10007-1866

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