

STATE OF VERMONT

SUPERIOR COURT
Rutland Unit

CIVIL DIVISION
Docket No. 348-6-15

STATE OF VERMONT,)
)
PLAINTIFF,)
)
v.)
)
PICO VILLAGE WATER)
CORPORATION,)
)
DEFENDANT.)

**STIPULATION FOR THE ENTRY OF CONSENT ORDER AND
FINAL JUDGMENT ORDER**

In order to resolve the allegations of the Complaint filed in the above-captioned matter, Plaintiff, the State of Vermont (“the State”) by and through Vermont Attorney General William H. Sorrell, and Defendant Pico Village Water Corporation, hereby stipulate and agree as follows:

Background

1. Defendant Pico Village Water Corporation (“Pico Village”) is a Vermont not-for-profit corporation located in Killington, Vermont.
2. Pico Village owns and operates a public community water system located in Killington (“the Water System”). The Water System is a groundwater system that includes two well systems and a single pump station.
3. The Water System provides drinking water year-round to approximately 90 individuals via approximately 34 or so service connections.

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4. The Water System first began operating pursuant to a temporary operating permit issued on December 30, 2004.
5. In May 2007, the Agency of Natural Resources (“ANR”) determined that Pico Village was operating the Water System in violation of several provisions of the Vermont Water Supply Rule (“VWSR”).
6. On September 1, 2009, Pico Village and ANR entered into an Assurance of Discontinuance (“AOD”), filed with the Vermont Environmental Court (Docket # 174-8-09 Vtec). The AOD listed 16 violations of the Vermont Water Supply Rule and the temporary operating permit; required a penalty payment of \$12,000; and required Pico Village to take numerous and prompt actions to comply with the Vermont Water Supply Rule and all applicable permit conditions.
7. From 2012-2013, the Water System experienced: (i) an exceeded lead level; (ii) a fecal indicator positive result at one of its wells; and (iii) a chlorine leak in the distribution system.
8. On October 7, 2013, ANR issued a public water supply permit to Pico Village to operate the Water System (“Permit,” WSID # 5238).
9. The Permit identified that the Water System was in violation of the Vermont Water Supply Rule and included a compliance schedule requiring eight (8) specific actions that, if taken, would bring the Water System into compliance and thus allow continued operation. The compliance provisions required prompt submission of documents, reports, and plans to be

submitted on or before certain dates. The Permit also included other conditions and reporting requirements, including having a certified operator of the Water System.

10. From 2013-2015, the Water System did not comply with certain permit conditions, which led to the filing of this action.

11. Since the filing of this action, Defendant has substantially complied with its Permit and has submitted all items required by the Permit with the exception of the final lead and copper sampling plan, which will be submitted within thirty (30) days of the date of execution of this Stipulation.

Resolution of Claims

12. Defendant admits to liability for the following violations involving its Water System:

- a. violating its Permit under 10 V.S.A. § 8002(9) and VWSR § 7.1 for failure to submit an approved operation and maintenance manual by March 2014 (Count One of the Complaint);
- b. violating its Permit under 10 V.S.A. § 8002(9) and VWSR § 9.1.2 for failure to submit monthly operating reports between February 2013 and June 2015 (Count Two of the Complaint);
- c. violating its Permit under 10 V.S.A. § 8002(9) and VWSR § 6.5 for failure to submit a lead and copper sampling plan by November 2013 (Count Three of the Complaint);

- d. violating its Permit under 10 V.S.A. § 8002(9) and VWSR § 6.5 for failure to distribute lead education materials after an exceeded lead level by November 2013 (Count Four of the Complaint);
- e. violating its Permit under 10 V.S.A. § 8002(9) and VWSR § 16.3 for failure to submit an updated Source Protection Plan by February 2014 (Count Five of the Complaint);
- f. violating its Permit under 10 V.S.A. § 8002(9) and VWSR § 12.1 for failure to contract with an operator who is certified to operate the Water System as of November 2013 (Count Six of the Complaint);
- g. violating its Permit under 10 V.S.A. § 8002(9) for failure to submit a target pH range by December 2013 (Count Seven of the Complaint);
- h. violating its Permit under 10 V.S.A. § 8002(9) for failure to identify system improvements and upgrades, and submit a comprehensive water system improvement plan and schedule by March 2014 (Count Eight of the Complaint);
- i. violating its Permit under 10 V.S.A. § 8002(9) for failure to submit “as-built” Record Drawings (including maps) for the water treatment and distribution system by April 2014 (Count Nine of the Complaint);
- j. violating VWSR § 1.1 for failure to provide documentation of corrective actions taken in response to a fecal indicator positive result at one of the Water System’s wells in 2012 (Count Ten of the Complaint); and

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k. violating VWSR § 10.2.1 for failure to provide boil water notices and show corrective actions taken in response to a chlorine leak in 2013 (Count Eleven of the Complaint).

13. This Stipulation and the Consent Order and Final Judgment Order resolve all claims in the State's Complaint in this matter against Defendant, including its officers and directors, and the State hereby releases the Defendant and its officers and directors from any further liability associated with the violations described herein. This Stipulation and the Consent Order and Final Judgment Order do not affect any potential violations by Defendant at the Water System not alleged in the Complaint.

14. Under 10 V.S.A. § 8221, Defendant is potentially liable for civil penalties of up to \$85,000 for each violation and \$42,500 per violation for each day the violation continued.

15. Pursuant to 3 V.S.A., Chapter 5, the Attorney General has the general supervision of matters and actions in favor of the State and may settle such matters as the interests of the State require. The Attorney General believes that this settlement is in the State's interests as it upholds the statutory regime of Title 10 of the Vermont Statutes Annotated in which the violations occurred.

16. The State has considered the criteria in 10 V.S.A. § 8010(b) and (c) in arriving at the proposed penalty amount, including the degree of actual or potential impact on public health, safety, welfare and the environment

resulting from the violations, the length of time the violations existed and that Defendant knew or had reason to know the violations existed. For the violations described above, Defendant shall pay a civil penalty of thirty-seven thousand U.S. dollars (\$37,000.00) in the manner set forth in the Final Judgment Order attached hereto.

17. This Stipulation for the Entry of Consent Order and Final Judgment Order has been negotiated by and among the State and Defendant in good faith.

18. The attached Consent Order and Final Judgment Order may be entered as a final judgment in this matter by the Court.

DATED at Montpelier, Vermont this 2nd day of August, 2016.

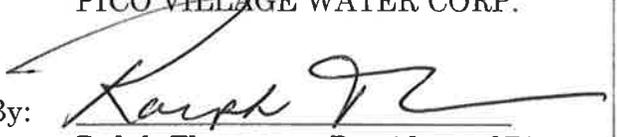
STATE OF VERMONT
WILLIAM H. SORRELL
ATTORNEY GENERAL

By: 

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DATED at Killington, Vermont this 2nd day of August, 2016.

PICO VILLAGE WATER CORP.

By: 

Ralph Thompson, President of Pico Village Water Corporation and authorized agent for Defendant

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