

STATE OF VERMONT

SUPERIOR COURT
Rutland Unit

CIVIL DIVISION
Docket No. 348-6-15

Rdcv

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

FILED
AUG 04 2016
VERMONT SUPERIOR COURT
RUTLAND

CONSENT ORDER AND FINAL JUDGMENT ORDER

This action came before the Court pursuant to the parties' filing of a Stipulation for the Entry of Consent Order and Final Judgment Order. Based upon that Stipulation, and pursuant to 10 V.S.A. § 8221 and the Court's inherent equitable powers, it is hereby ADJUDGED, ORDERED and DECREED as follows:

ADJUDICATION FOR VIOLATIONS

1. Defendant Pico Village Water Corporation is adjudged liable for the following violations of Vermont's environmental laws and regulations in its operation of its public water system in Killington, Vermont:
 - 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);

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- 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);

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- 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
- 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).

2. This Consent Order and Final Judgment Order resolves 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 Consent Order and Final Judgment Order does not affect any potential violations by Defendant not alleged in the Complaint.

PENALTIES

3. For the violations described above, Defendant shall pay a civil penalty of thirty-seven thousand U.S. dollars (\$37,000.00).
4. Payment of the \$37,000.00 penalty shall be made as follows: \$15,000.00 shall be paid within fifteen (15) days after entry of this Consent Order and Final Judgment Order, and the remaining \$22,000.00 shall be paid within ninety (90) days after entry of this Consent Order and Final Judgment

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Order. All payments shall be by check payable to the "State of Vermont" and sent to: Office of the Attorney General, Attention: Justin E. Kolber, Assistant Attorney General, 109 State Street, Montpelier, VT 05609. In the event that payment is received by the State before the Court has approved the Consent Order and Final Judgment Order, the State shall hold the check(s) in trust until approval. Should the Court reject the Consent Order and Final Judgment Order, the State will return the check(s) to Defendant.

5. In the event that Defendant fails to pay timely the penalty described in paragraphs 3 and 4, such failure shall constitute a breach of this Consent Order and Final Judgment Order and interest shall accrue on the entire unpaid balance at twelve percent (12%) per annum. In such circumstances, the State may accelerate to be due immediately any unpaid amounts under this Consent Order and Final Judgment Order. Defendant shall also be liable for costs incurred by the State, including reasonable attorney's fees, to collect any unpaid penalty amount.

INJUNCTIVE RELIEF

6. Defendant shall provide to the Agency of Natural Resources, Drinking Water and Groundwater Protection Division the final lead and copper sampling plan within thirty (30) days of the date of execution of the Stipulation.

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OTHER PROVISIONS

7. Defendant waives: (a) all rights to contest or appeal this Consent Order and Final Judgment Order; and (b) all rights to contest the obligations imposed upon Defendant under this Consent Order and Final Judgment Order in this or any other administrative or judicial proceeding involving the State of Vermont.
8. This Consent Order and Final Judgment Order is binding upon the parties and all their successors and assigns.
9. Nothing in this Consent Order and Final Judgment Order shall be construed to create or deny any rights in, grant or deny any cause of action to, or release any claim from, any person not a party to this Consent Order and Final Judgment Order.
10. This Consent Order and Final Judgment Order shall become effective only after it is entered as an order of the Court. When so entered by the Court, the Consent Order and Final Judgment Order shall be final.
11. Any violation of this Consent Order and Final Judgment Order shall be deemed to be a violation of a judicial order, and may result in the imposition of injunctive relief and/or penalties, including penalties for contempt, as set forth in 10 V.S.A. Chapters 201 and 211.
12. Nothing in this Consent Order and Final Judgment Order shall be construed as having relieved, modified, or in any manner affected

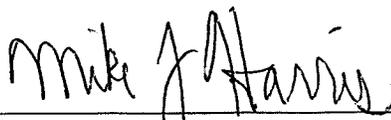
Defendant's obligations to comply with all other federal, state, or local statutes, regulations, permits or directives applicable to Defendant.

13. This Consent Order and Final Judgment Order may only be altered, amended, or otherwise modified only by subsequent written agreements signed by the parties hereto or their legal representatives and approved by this Court. Any representations not set forth in this Consent Order and Final Judgment Order, whether written or oral, shall not be binding upon any party hereto, and such alleged representations shall be of no legal force or effect.

14. The Vermont Superior Court, Civil Division, Rutland Unit, shall have jurisdiction over this Consent Order and Final Judgment Order and the parties hereto for the purpose of enabling any of the parties hereto to apply to this Court at any time for orders and directions as may be necessary or appropriate to carry out or construe the Orders, to modify or terminate any of its provisions, to enforce compliance, and to punish violations of its provisions. The laws of the State of Vermont shall govern the Orders.

SO ORDERED, and ENTERED as FINAL JUDGMENT.

DATED at Rutland, Vermont this 4th day of August, 2016.



Hon. Michael J. Harris
Rutland Superior Court Judge

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