



## State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
COMPLIANCE AND ENFORCEMENT  
401 E State Street, PO Box 420  
Trenton, New Jersey 08625-0420  
TEL: # (609) 984-3285  
FAX # (609) 292-9938

CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

BOB MARTIN  
*Commissioner*

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**  
7007 0220 0002 1045 5359

February 27, 2013

Ms. Gwen Hargrett, President  
East Orange Water Commission  
99 South Grove Street  
East Orange, New Jersey 07018

RE: East Orange Water Commission  
Administrative Orders and Notices of Administrative Penalty (AONOCAPAs)  
EA ID #: PEA130001 - 0705001 (Water Supply)  
EA ID #: PEA130001 - 599529 (Water Quality)  
East Orange, Essex County

Dear Ms. Hargrett:

Enclosed for service upon the East Orange Water Commission are AONOCAPAs issued by the Department. Contained within the enclosed documents are notices and instructions for requesting Administrative Hearings. Failure to request the hearings within the specified time period as per the instructions will result in loss of your right to hearings.

If you have any questions concerning the enclosed AONOCAPAs you may contact Joseph Liccese of my staff at (973) 656-4099.

Sincerely,

Wolfgang Skacel  
Assistant Commissioner  
Compliance & Enforcement

Enclosures – (AONOCAPA) PEA130001 - 0705001  
(AONOCAPA) PEA130001 - 599529

c: Marcedius T. Jameson, Director, Water and Land Use Enforcement  
Robert Kinney, DAG



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Commissioner

IN THE MATTER OF : ADMINISTRATIVE ORDER
: AND
EAST ORANGE : NOTICE OF CIVIL ADMINISTRATIVE
WATER COMMISSION : PENALTY ASSESSMENT

EA ID # PEA130001 - 599529

This Administrative Order and Notice of Civil Administrative Penalty Assessment (hereinafter "AONOCAPA") is issued pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection (hereinafter "NJDEP" or the "Department") by N.J.S.A. 13:1D-1 et seq., and the New Jersey Water Pollution Control Act (hereinafter the "Act"), N.J.S.A. 58:10A-1 et seq. and the New Jersey Pollutant Discharge Elimination System regulations, N.J.A.C. 7:14A-1 et seq. and duly delegated to the Assistant Commissioner of Compliance and Enforcement, pursuant to N.J.S.A. 13:1B-4.

FINDINGS

- 1. The East Orange Water Commission (hereinafter, EOWC) owns and/or operates a facility whose offices are located at 99 Grove Street, East Orange City, Essex County, New Jersey.
2. The EOWC owns and operates municipal supply wells located in Millburn, Livingston, and Florham Park, New Jersey.
3. Between March 24, 2011 and April 20, 2011, the EOWC discharged water from Braidburn Well #2 in Florham Park to the Passaic River. Water analyses conducted by the EOWC on Braidburn Well #2 on April 14, 2011 showed a level of tetrachloroethylene of 24.5 ug/l.
4. Therefore, the EOWC discharged pollutants, as defined by N.J.A.C. 7:14A-1.2, into the waters of the State. Tetrachloroethylene is considered a toxic pollutant pursuant to N.J.A.C. 7:14A-12 et seq. and N.J.A.C. 7:9B.
5. No person shall discharge any pollutant except in conformity with a valid NJPDES Permit issued pursuant to the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.

6. Based on the facts set forth in these FINDINGS, the Department has determined the EOWC has violated the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and the regulations promulgated pursuant thereto, specifically N.J.A.C. 7:14 et seq.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

7. East Orange Water Commission shall cease all unpermitted discharges.
8. This Order shall be effective upon receipt by the EOWC or someone on the violator's behalf authorized to accept service.

NOTICE OF CIVIL ADMINISTRATIVE PENALTY ASSESSMENT  
AND  
NOTICE OF RIGHT TO A HEARING

9. Pursuant to N.J.S.A. 58:10A-10.d and N.J.A.C. 7:14-8.1 et seq., and based upon the above FINDINGS, the Department has determined that a civil administrative penalty is hereby assessed against the EOWC in the amount of \$70,000. The Department's rationale for the civil administrative penalty is set forth in Attachment A, and incorporated herein.
10. Pursuant to N.J.S.A. 58:10A-10.d and N.J.A.C. 7:14-8.13, the Department may amend the civil administrative penalty amount for any economic benefit which a violator has realized as a result of not complying with, or by delaying compliance with, the requirements of this Act.
11. Pursuant to N.J.S.A. 58:10A-10d(2) and N.J.A.C. 7:14-8.4 et seq., the EOWC is entitled to request a hearing. The EOWC shall, in its request for a hearing, complete and submit the herein ADMINISTRATIVE HEARING REQUEST AND CHECKLIST TRACKING FORM along with all required information. Submittal or granting of a hearing request does not stay the terms or effect of this ORDER.
12. If no request for a hearing is received within twenty (20) calendar days from receipt of this AONOCAPA, it shall become a Final Order upon the twenty-first (21st) calendar day following its receipt, and the penalty shall be due and payable.

13. If a timely request for a hearing is received, payment of the penalty is due when the EOWC receives a notice of the denial of the request, or, if the hearing request is granted, when the EOWC withdraws the request or abandons the hearing, or, if the hearing is conducted, when the EOWC receives a final decision from the Commissioner in this matter.
14. Payment shall be made by check payable to Treasurer, State of New Jersey and shall be submitted along with the enclosed Enforcement Invoice to:

Department of Treasury  
Division of Revenue  
P.O. Box 417  
Trenton, NJ 08646-0417

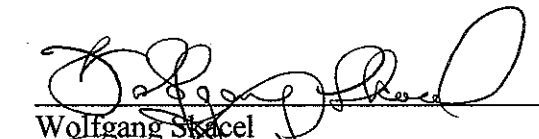
#### GENERAL PROVISIONS

15. This AONOCAPA is binding on the EOWC, their principals, directors, officers, agents, successors, assigns, employees, tenants, any trustee in bankruptcy or other trustee, and any receiver appointed pursuant to a proceeding in law or equity.
16. No obligations imposed by this AONOCAPA are intended to constitute a debt which should be limited or discharged in a bankruptcy proceeding. All obligations are imposed pursuant to the police powers of the State of New Jersey, intended to protect the public health, safety, welfare and the environment.
17. This AONOCAPA is issued only for the violations identified in the FINDINGS hereinabove and that violations of any statutes, rules or permits other than those herein cited may be cause for additional enforcement actions, either administrative or judicial, being instituted. By issuing this AONOCAPA, NJDEP does not waive its rights to initiate additional enforcement actions.
18. Neither the issuance of this AONOCAPA nor anything contained herein shall relieve the EOWC of the obligation to comply with all applicable laws, including but not limited to the statutes and regulations cited herein.
19. Pursuant to N.J.S.A. 58:10A-10.d, NJDEP is authorized to assess a civil administrative penalty of not more than \$50,000 for each violation, and each day during which the violation continues shall constitute an additional, separate and distinct offense.
20. Pursuant to N.J.S.A.58:10A-10.e, any person who violates the provisions of N.J.S.A. 58:10A-1 et seq., or any code, rule, or regulation promulgated pursuant thereto shall be liable to a penalty of not more than \$50,000 per day to be collected in a civil action, and

any person who violates an administrative order issued pursuant to N.J.S.A. 58:10A-10.b, including this Administrative Order, or a court order issued pursuant to N.J.S.A. 58:10A-10.c, or who fails to pay a civil administrative penalty assessed pursuant to N.J.S.A. 58:10A-10.d in full after it is due is subject upon order of a court to a civil penalty not to exceed \$50,000 per day of such violations. Each day during which the violation continues constitutes an additional, separate and distinct offense.

21. Pursuant to N.J.S.A. 58:10A-10.f, any person who purposely, knowingly, or recklessly violates this act, and the violation causes a significant adverse environmental effect, shall, upon conviction, be guilty of a crime of the second degree, and shall, notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, be subject to a fine of not less than \$25,000 nor more than \$250,000 per day of violation, or by imprisonment, or by both.

DATE: Feb. 26, 2013

  
Wolfgang Stachel  
Assistant Commissioner  
Compliance and Enforcement



**State of New Jersey**

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
COMPLIANCE AND ENFORCEMENT  
401 E State Street, PO Box 420  
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CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

BOB MARTIN  
*Commissioner*

**CERTIFIED MAIL/RRR**  
**7007 0220 0002 1045 5359**

February 27, 2013

Gwyn Hargrett, President  
East Orange Water Commission  
99 South Grove Street  
East Orange, New Jersey 07018

Re: Administrative Order and Notice of Civil Administrative Penalty Assessment  
East Orange Water Commission  
PROGRAM INTEREST ID # 0705001  
PROGRAM: Water Supply  
Compliance Activity # PEA130001  
East Orange, Essex County

Dear Ms. Hargrett:

There is enclosed for service upon you an Administrative Order and Notice of Civil Administrative Penalty Assessment issued by the Department pursuant to the provisions of the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq.

Notice is hereby given that East Orange Water Commission. ("EOWC") is entitled to request an administrative hearing. Any hearing request must include a complete Administrative Hearing request checklist and Tracking Form for Enforcement Documents (Tracking Form), with documentation and all information specified below and must be delivered within thirty-five (35) calendar days after receipt by EOWC of this Administrative Order and Notice of Civil Administrative Penalty Assessment to:

Office of Legal Affairs  
Attn.: Adjudicatory Hearing Requests  
New Jersey Department of Environmental Protection  
401 East State Street  
P.O. Box 402  
Trenton, New Jersey 08625-0402

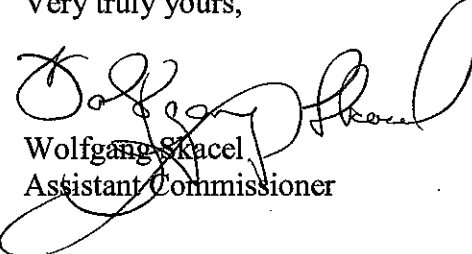
with a copy to be filed at the same time with:

Richard T. Paull, Acting Bureau Chief  
New Jersey Department of Environmental Protection  
Northern Bureau of Water Compliance and Enforcement  
7 Ridgedale Avenue  
Cedar Knolls, New Jersey 07927

If no request for a hearing is received within thirty-five (35) calendar days of EOWC's receipt of the Administrative Order and Notice of Civil Administrative Penalty Assessment, it shall become a final Order upon the thirty-sixth (36) calendar day following its receipt by EOWC and the penalty shall be due and payable. Please be advised that an untimely or incomplete hearing request will be denied and that the Department does not have the jurisdiction to extend the thirty-five (35) day deadline.

If you have any questions concerning this Administrative Order and Notice of Civil Administrative Penalty Assessment please contact Joseph Liccese, Northern Bureau of Water Compliance and Enforcement, 7 Ridgedale Avenue, Cedar Knolls, New Jersey 07927 or by telephoning (973) 656-4099.

Very truly yours,



Wolfgang Skacel  
Assistant Commissioner

Enclosure

c: Marcedius T. Jameson, Director  
Richard T. Paull, Acting Chief, NBWCE  
Bureau of Water System Engineering  
Mayor and Council, City of East Orange

bc: Region File  
Criminal Justice





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Lt. Governor

IN THE MATTER OF : ADMINISTRATIVE ORDER
EAST ORANGE WATER COMMISSION : AND
: NOTICE OF CIVIL ADMINISTRATIVE
: PENALTY ASSESSMENT

EA ID # PEA130001 - 0705001
Certified Mail No. 7011 0470 0002 1145 5729

This Administrative Order and Notice of Civil Administrative Penalty Assessment ("AONOCAPA") is issued pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection ("the Department") by N.J.S.A. 13:1D-1 et seq., the Water Supply Management Act (N.J.S.A. 58:1A-1 et seq.) and the Safe Drinking Water Act ("the Act"), N.J.S.A. 58:12A-1 et seq. and duly delegated to the Assistant Commissioner of Compliance and Enforcement, pursuant to N.J.S.A. 13:1B-4.

FINDINGS

- 1. The East Orange Water Commission ("EOWC"), a semi-autonomous body of the City of East Orange, owns and operates a public community water system as defined in N.J.A.C. 7:10-1.3, serving approximately 75,000 people, PW ID No. 0705001 ("the system"). EOWC supplies its water from eighteen wells which are divided into the West Well Field and the Canoe Brook Well Field. The West Well Field is comprised of eight wells in two separate well fields: the Braidburn and the Dickinson well fields. The Canoe Brook Well Field is comprised of ten wells in two separate well fields: the Canoe Brook and the Slough Brook wellfield. The only treatment process (TP001002) currently applied is disinfection using tablet chlorinators.
2. Pursuant to N.J.A.C. 7:10-5.1, the Department adopted and incorporated by reference the National Primary Drinking Water Regulations at 40 CFR 141 with certain modifications as the New Jersey Primary Drinking Water Regulations, applicable to all public water systems.
3. Pursuant to the National Primary Drinking Water Regulations at 40 CFR 141.24, public community water systems are required to conduct routine monitoring for Volatile Organic Chemicals (VOC) as specified therein.

4. Pursuant to 40 CFR 141.24 (f)(19), States may increase required monitoring for volatile organic compounds when necessary to detect variations within the system. By letter dated October 14, 2010, the Bureau of Safe Drinking Water Implementation required the EOWC to increase the monitoring frequency for VOCs at TP001002 from quarterly to monthly beginning in November 2010. Tetrachloroethylene concentrations were demonstrating an increasing trend during the prior three quarters of monitoring, with a concentration of 1.99 microgram per liter (ug/L) detected in a sample collected on August 7, 2010. Due to this increasing trend, monthly VOC monitoring became effective in November 2010.
5. Pursuant to N.J.A.C. 7:10-5.2 the Maximum Contaminant Level (MCL) for Tetrachloroethylene is 1 ug/L or 1 part per billion (ppb).
6. The EOWC has submitted monitoring data to the Department for Volatile Organics for the period of November 2010 through March 2011. The monitoring data indicates that the EOWC incurred a MCL violation for Tetrachloroethylene at sample point TP001002, the point of entry for all wells.

Violation Details: The RUNNING ANNUAL AVERAGE (RAA) concentration for TETRACHLOROETHYLENE exceeded the MCL of 1 µg/l (ppb) during the period **01-01-2011 to 03-31-2011** for the following sample point ID: **TP001002**. Specifically, the running annual average (RAA) of 1.54 µg/L (ppb) for Tetrachloroethylene exceeded the MCL based on the results of monitoring spanning calendar years 2010 and first quarter 2011 as indicated in the table below:

Date	Monthly Concentration µg/L(ppb)	Quarterly Concentration µg/L(ppb)	RAA µg/L(ppb)
05-14-2010		1.58	
08-17-2010		1.99	
11-18-2010	.749		
12-14-2010	1.38	1.06*	
01-14-2011	3.46		
02-15-2011	1.20		
03-09-2011	0.304**	1.55*	<b>1.54</b>

\* Average of monthly samples for quarter.

\*\* Zero (0) is used to calculate annual average when value <0.5 ppb.

ppb=parts per billion

7. A review of Department records show that the EOWC became aware of the MCL exceedance for Tetrachloroethylene on March 17, 2011. On March 25, 2011, the EOWC was issued a Notice of Non-Compliance (NONC) regarding the MCL violation for Tetrachloroethylene. The NONC was received by the EOWC on April 1, 2011.

### **Public Notification Violations**

8. Pursuant to N.J.A.C. 7:10-5.5(a), each supplier of water from a public community water system shall provide public notification of any violation of any MCL or monitoring requirement in accordance with the National Regulations.
9. Pursuant to 40 CFR 141.203(b), the EOWC was required to conduct Public Notification of the violations noted in Paragraph six (6) above within 30 calendar days of the EOWC's knowledge of the violation. Public Notification was required to be completed by May 1, 2011.
10. The EOWC did not conduct the required Public Notification for the violations noted in Paragraph six (6) above by May 1, 2011, in violation of 40 CFR 141.203(b). The EOWC did not conduct the Public Notification until July 12, 2011, as per a mail receipt showing that the public notices were mailed from a Charlotte, North Carolina post office on that date. The EOWC was sixty-six (66) days late in conducting Public Notification for the exceedance of the Maximum Contaminant Level for Tetrachloroethylene in March 2011.
11. Pursuant to N.J.A.C. 7:10-5.5 and the National Primary Drinking Water Regulations 40 CFR 141.205 (c)(1), the Public Notice must not be formatted in a way that defeats the purpose of the notice or contain language which nullifies the purpose of the notice.
12. The final Public Notification issued by the EOWC contained language and data which defeated and nullified the purpose of the Public Notice, in violation of 40 CFR 141.205 *et seq.* In the final Public Notification, the EOWC denied that a MCL violation took place and posted non-representative sample data for March and April that gave the appearance that the system was in compliance with the MCL when it was not.

### **Failure to Submit Remedial Measures Report**

13. Pursuant to 40 CFR 141.31(e), the water supply system shall submit to the State within the time stated in the request copies of any records required to be maintained under §141.33 hereof or copies of any documents then in existence which the State or the Administrator is entitled to inspect pursuant to the authority of Section 1445 of the Safe Drinking Water Act or the equivalent provisions of State law.
14. Pursuant to 40 CFR 141.33 (b), records of action taken by the system to correct violations of primary drinking water regulations shall be kept for a period not less than 3 years after the last action taken with respect to the particular violation involved. In addition, N.J.A.C. 7:10A-1.12 *et seq.* requires the keeping of a record of the remedial or follow up action and protocol taken to correct all breakdowns,

problems, bypasses, pump failures, occurrences, emergencies and/or intervening factors within the system that result in or necessitate deviation from the routine O&M procedures, and any situations that have the potential to affect public health, safety, welfare or the environment, or have the potential to violate any permits, regulations or laws relating to this chapter.

15. In a letter dated July 21, 2011, the Bureau of Safe Drinking Water Implementation requested that the EOWC submit a Remedial Measures Report detailing actions taken or projected to be completed for the purpose of providing an engineered solution to the Tetrachloroethylene MCL violation and submit such report by August 1, 2011.
16. The EOWC failed to submit a Remedial Measures Report as requested in the July 21, 2011 letter from the Department.

#### **Submission of Non-Representative Samples**

17. Pursuant to N.J.A.C. 7:10-5.1 and 40 CFR 141.24(f)(3) et seq., if the system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water representative of all sources is being used). These point of entry sample results are to be reported to the State.
18. Approximately 21.69 million gallons of contaminated well water from Canoe Brook Well #3 were pumped into the EOWC drinking water system from November 1, 2010 through November 15, 2010 and from November 19, 2010 through November 30, 2010. The EOWC reported VOC analytical results to the Department as being representative of the water from all of its sources delivered to its customers for the month of November 2010; however, the EOWC was not pumping from the Tetrachloroethylene contaminated wells Canoe Brook Well #3 and Braidburn Well #2 on November 18, 2010 when the reported compliance sample was obtained at TP001002.
19. Approximately 45.52 million gallons of contaminated well water from Canoe Brook Wells #2 and #3 were pumped into the EOWC drinking water system from March 1, 2011 to March 7, 2011 and from March 11, 2011 to March 31, 2011. The EOWC reported VOC analytical results to the Department as being representative of the water from all of its sources delivered to its customers for the month of March 2011; however, the EOWC was not pumping from the Tetrachloroethylene contaminated wells, Canoe Brook Well #2, Canoe Brook Well #3, and Braidburn Well #2 on March 9, 2011 when the reported compliance sample was obtained at TP001002.
20. Approximately 27.3 million gallons of contaminated well water from Canoe Brook Well #3 and Braidburn Well #2 were pumped into the EOWC drinking water system from April 1, 2011 to April 27, 2011. The EOWC reported VOC analytical

results to the Department as being representative of the water from all of its sources delivered to its customers for the month of April 2011; however, the EOWC was not pumping from the Tetrachloroethylene contaminated wells, Canoe Brook Well #3 and Braidburn Well #2 on April 29, 2011 when the reported compliance sample was obtained at TP001002.

21. Approximately 1.60 million gallons of contaminated well water from Canoe Brook Well #3 were pumped into the EOWC drinking water system from August 29, 2011 to August 31, 2011. The EOWC reported VOC analytical results to the Department as being representative of the water from all of its sources delivered to its customers for the month of August 2011; however, the EOWC was not pumping from the Tetrachloroethylene contaminated well Canoe Brook Well #3 on August 15, 2011 when the reported compliance sample was obtained at TP001002 in violation of N.J.A.C. 7:10-5.1 and 40 CFR 141.24(f)(3).
22. Approximately 1.0 million gallons of contaminated well water from Canoe Brook Well #3 was pumped into the EOWC drinking water system from September 1, 2011 to September 2, 2011. EOWC reported VOC analytical results to the Department as being representative of the water from all of its sources delivered to its customers for the month of September 2011; however, the EOWC was not pumping from the Tetrachloroethylene contaminated well Canoe Brook Well #3 on September 21, 2011 when the reported compliance sample was obtained at TP001002.
23. Approximately 6.45 million gallons of well water from Canoe Brook Well #3 were pumped into the EOWC drinking water system from November 1, 2012 to November 9, 2012. The EOWC reported VOC analytical results to the Department as being representative of the water from all of its sources delivered to its customers for the month of November; however, the EOWC was not pumping from the Canoe Brook Well #3 on November 21, 2012 when the reported compliance sample was obtained at TP001002 in violation of N.J.A.C. 7:10-5.1 and 40 CFR 141.24(f)(3).
24. Approximately 11.77 million gallons of contaminated well water from Canoe Brook Well #3 were pumped into the EOWC drinking water system from December 17, 2012 to December 31, 2012. The EOWC reported VOC analytical results to the Department as being representative of the water from all of its sources delivered to its customers for the month of December 2012; however, the EOWC was not pumping from the Tetrachloroethylene contaminated well Canoe Brook Well #3 on December 5, 2012 when the reported compliance sample was obtained at TP001002 in violation of N.J.A.C. 7:10-5.1 and 40 CFR 141.24(f)(3). Each of the reports submitted as described in Paragraphs 18 – 24 are in violation of N.J.A.C. 7:10-5.1 and 40 CFR 141.24(f)(3).

### **Recordkeeping and Reporting**

25. On August 23, 2011 representatives of the Department visited EOWC's Parsonage Hill Road pump station offices and conducted an inspection of EOWC's daily pumping runtime logs for the period October 2010 through July 2011.
26. A review of all volatile organic sampling conducted by the EOWC, including chains of custody and laboratory results during April 2011 at TP001002 (point of entry) shows that a compliance sample was taken on April 14, 2011 with an analytical result of 1.96 ppb for Tetrachloroethylene. Subsequent samples were taken at TP001002 on April 21, 26 and 29, with results for Tetrachloroethylene of 1.71, 1.58 and 0.72 ppb respectively. Records obtained by the Department indicate that contaminated well Braidburn #2 was turned off on April 20, 2011 and that contaminated well Canoe Brook #3 was turned off on April 28, 2011. However, only the result of 0.72 ppb obtained on April 29, 2011 was reported by the EOWC to the Department as a compliance sample. EOWC failed to report the only representative sample taken on April 14, 2011.
27. The April 14, 2011 Chain of Custody for Volatile Organic Chemicals analyses was originally sent to the APL Laboratories (APL) marked "April Compliance Sample, TP001002," which normally would be reported to the State. Samples labeled by the EOWC as non-compliance are not required to be reported by the laboratory to the State. The April 14, 2011 sample result was reported by APL to the EOWC on April 20, 2011.
28. On April 19, 2011 Licensed Operator William Mowell sent a memo and a revised Chain of Custody to APL Laboratories directing that the April 14, 2011 VOC sample be changed to "non-compliance."
29. The chains of custody for the April 21 and April 26, 2011 VOC samples taken at TP001002 were submitted by William Mowell to the laboratory as "non-compliance" even though they were Point of Entry samples required to be reported to the State. The EOWC failed to report the April 14, 2011, April 21, 2011 and April 26, 2011 VOC Point of Entry sample results for TP001002. Instead, the April 29, 2011 sample was reported as a representative compliance sample even though two of the contaminated wells that were operating that month had been turned off prior to the sampling event.

### **Falsification of Records**

30. Based on the facts contained in Paragraphs 25 - 29 above, the Department has determined that EOWC falsified and misrepresented the chain of custody and Tetrachloroethylene compliance sample results at TP001002 for the month of April 2011.

### **Failure to Notify in The Event of Emergencies**

31. Pursuant to N.J.A.C. 7:10-2.4, a supplier of water shall notify the Department by telephone at (609) 292-5550 during business hours, or (877) WARN-DEP during non-business hours, within six hours of the occurrence of any emergency that may tend to lessen the quality or pressure of delivered water, or increase the likelihood of delivery of water that does not meet the standards set forth in N.J.A.C. 7:10-5.
32. On August 29, 2011, during Hurricane Irene, several EOWC wells were flooded and electric power was lost. The EOWC failed to notify the NJDEP of an emergency that may tend to lessen the quality or pressure of delivered water, or increase the likelihood of delivery of water that does not meet the standards set forth in N.J.A.C. 7:10-5.
33. On October 30, 2011, during a snowstorm, electric power was lost, backup diesel and electric pumps at the White Oak Ridge Pump Station were not operating, and emergency interconnections needed to be operated to prevent a loss of pressure. The EOWC failed to notify the NJDEP of an emergency that may tend to lessen the quality or pressure of delivered water, or increase the likelihood of delivery of water that does not meet the standards set forth in N.J.A.C. 7:10-5.

### **Failure to Allow Entry and Inspection**

34. Pursuant to the Water Supply Allocation Permit rules, N.J.A.C. 7:19-2.14 et seq., the permittee shall allow the Department and/or its designated representative to enter and inspect any site, building or equipment, or any portion thereof, owned or operated by the permittee, at any time, in order to ascertain compliance or non-compliance with N.J.S.A 58:1A-1 et seq., 58:4A-4.1 et seq., 58:12A-1 et seq., these rules, or any other agreement or order issued or entered into pursuant thereto. Such right shall include, but not be limited to, the right to require testing of any equipment at the facility, to sketch or photograph any portion of the site, building or equipment, to copy or photograph any document or records necessary to determine such compliance or non-compliance, and to interview any employees or representatives of the owner, operator or applicant. Such right shall be absolute and shall not be conditioned upon any action by the Department, except the presentation of appropriate credentials as requested and compliance with appropriate standard safety procedures.
35. Pursuant to N.J.S.A. 58:21A-4(f), the Department shall have the right to enter any premises upon presentation of appropriate credentials during regular business hours, in order to test, inspect or sample any feature of a public water system, and in order to inspect, copy or photograph any monitoring equipment or records required to be kept under provisions of P.L.1977, c.224.
36. Pursuant to N.J.A.C. 7:10-1.4(a), procedures for inspections and sanitary surveys of water systems, an authorized Department representative(s) may conduct an on-site

inspection and/or sanitary survey of any water system, and any component part thereof, and may take samples, and inspect, copy or photograph any records required to be kept pursuant to this chapter.

37. On November 18, 2011 representatives of the Department attempted to inspect the daily runtime pumping records for August through November 2011 located at the Parsonage Hill Road pump station offices, during normal business hours. Pump station operators at the site were instructed by William Mowell, L.O. and Harry Mansmann, Director of the EOWC not to allow inspection and/or give any information verbally to Department representatives.
38. Based on the facts set forth in these FINDINGS, the Department has determined that EOWC has violated the Water Supply Allocation Permit rules, N.J.A.C. 7:19-2.14 et seq., including N.J.S.A. 58:1A-1 et seq., 58:4A-4.1 et seq., and 58:12A-1 et seq., the Safe Drinking Water Act, and the regulations promulgated pursuant thereto, specifically N.J.A.C. 7:10-5.1 et seq.

### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

39. EOWC shall immediately comply with the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq., the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., and the regulations promulgated pursuant thereto, specifically N.J.A.C. 7:19-2.2 et seq. and N.J.A.C. 7:10-5.1 et seq.
40. This Order shall be effective upon receipt.

### NOTICE OF CIVIL ADMINISTRATIVE PENALTY ASSESSMENT

41. Pursuant to N.J.S.A. 58:12A-10 et seq., and the rules promulgated thereto, specifically N.J.A.C. 7:10-3.6, and based upon the above FINDINGS, the Department has determined that a civil administrative penalty should be assessed against EOWC in the amount of \$332,000. The Department's rationale for the Civil Administrative Penalty is set forth in Appendix A which is enclosed and incorporated herein.
42. Payment of the penalty is due when a final order is issued by the Commissioner subsequent to a hearing if any, or when this Notice of Civil Administrative Penalty becomes a final order (see following paragraph). Payment shall be made by certified or cashier's check payable to "Treasurer, State of New Jersey" and shall be submitted along with the bottom portion of the Enforcement Invoice (copy enclosed) to:



Division of Revenue  
New Jersey Department of Treasury  
P.O. Box 417  
Trenton, NJ 08646-0417

43. If no request for a hearing is received within thirty-five (35) calendar days from receipt of this AONOCAPA by EOWC, it shall become a final order upon the thirty-sixth (36) calendar day following its receipt by EOWC and the penalty shall be due and payable.

NOTICE OF RIGHT TO A HEARING

44. EOWC is entitled to request an administrative hearing. EOWC shall, in its request for a hearing, furnish the Department with all of the information specified in the enclosed Administrative Hearing Request Checklist and Tracking Form. This information must be delivered to the Office of Legal Affairs at the address referenced in the cover letter to this document within thirty-five (35) calendar days from receipt of this AONOCAPA. A copy of the Administrative Hearing Request shall be filed at the same time to the address referenced in paragraph forty-six (46) below.

GENERAL PROVISIONS


45. This AONOCAPA is binding on EOWC, their principals, directors, officers, agents, successors, assigns, employees, tenants, any trustee in bankruptcy or other trustee, and any receiver appointed pursuant to a proceeding in law or equity.
46. EOWC shall submit all copies of documents required by this AONOCAPA by certified mail, return receipt requested or by hand delivery to:

Richard T. Paull, Acting Bureau Chief  
New Jersey Department of Environmental Protection  
Northern Bureau of Water Compliance and Enforcement  
7 Ridgedale Avenue  
Cedar Knolls, New Jersey 07927

47. No obligations imposed by this AONOCAPA are intended to constitute a debt, which should be limited or discharged in a bankruptcy proceeding. All obligations are imposed pursuant to the police powers of the State of New Jersey, intended to protect the public health, safety, welfare and the environment.

48. This AONOCAPA is issued only for the violations identified in the FINDINGS hereinabove and that violations of any statutes, rules or permits other than those herein cited may be cause for additional enforcement actions, either administrative or judicial, being instituted. By issuing this AONOCAPA, NJDEP does not waive its rights to initiate additional enforcement actions.
49. Neither the issuance of this AONOCAPA nor anything contained herein shall relieve EOWC of the obligation to comply with all applicable laws, including but not limited to the statutes and regulations cited herein.
50. Pursuant to N.J.A.C. 7:10-3.6, any person who violates the provisions of the State Act, any regulation, rule, permit, or order adopted or issued by the Department pursuant thereto, or an administrative order or court order issued pursuant to the State Act, or who fails to pay an administrative penalty in full pursuant to N.J.A.C. 7:10-3.4(b), or who fails to make a payment pursuant to a penalty payment schedule entered into with the Department, or who knowingly makes any false or misleading statement on any application, record, report, or other document required to be submitted to the Department, shall be subject, upon order of a court, to a civil penalty of not more than \$25,000 for each violation, and each day during which a violation continues shall constitute an additional, separate, and distinct violation.
51. Pursuant to N.J.A.C. 7:10-3.9, The Department may institute an action or proceeding in Superior Court for injunctive and other relief for any violation of the State Act, or any regulation, rule, permit, or order adopted or issued by the Department pursuant thereto, and the court may proceed in the action in a summary manner. In addition, pursuant to N.J.A.C. 7:10-3.10, to any civil penalty or civil administrative penalty imposed or assessed, the Department may assess the economic benefit (in dollars) that the violator has realized as a result of not complying, or by delaying compliance, with the requirements of the State Act or any rule, administrative order or permit issued pursuant thereto.

DATE: Feb. 26, 2013

BY:   
Wolfgang Skacel  
Assistant Commissioner  
Compliance and Enforcement

APPENDIX A  
PENALTY RATIONALE

EOWC has violated the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., and the regulations promulgated pursuant thereto, N.J.A.C. 7:10-1 et seq., as well as the Water Supply Allocation Permit rules, N.J.A.C. 7:19-2.14 et seq., including N.J.S.A 58:1A-1 et seq., 58:4A-4.1 et seq., as cited in the Findings of this Administrative Order and Notice of Civil Administrative Penalty Assessment.

Pursuant to N.J.A.C. 7:10-3.6(a), any person who violates the provisions of the Safe Drinking Water Act, or any regulation promulgated pursuant to the Safe Drinking Water Act, shall be liable to a civil administrative penalty of not more than \$5,000 for the first offense, not less than \$5,000 nor more than \$10,000 for the second offense and up to \$25,000 for the third offense and each subsequent offense.

CIVIL ADMINISTRATIVE PENALTY DETERMINATION

The penalty has been calculated from the penalty matrix in N.J.A.C. 7:10-3.6(f) as follows:

Pursuant to N.J.A.C. 7:10-3.6(e), the type of water system is "large". The first five violations are "first offense" violations as defined in N.J.A.C. 7:10-1.3. Pursuant to N.J.A.C. 7:10-3.6(d) and (f), the seriousness of the violations and the penalties assessed are as follows:

<b>Violation</b>	<b>Seriousness</b>	<b>Penalty</b>
Failure to provide a properly formatted Tier 2 Public Notification of MCL exceedance for Tetrachloroethylene between May 1 and July 12, 2011.	Moderate	\$4000
Falsifying a Public Notification by representing that EOWC was in compliance when it was not.	Major	\$5000
Failure to submit a remedial measures report by August 1, 2011.	Major	\$5000
Failure to take representative samples for November 2010, March 2011, April 2011, August 2011, and September 2011, November 2012, December 2012.	Major	\$5000
Falsification of the April 2011 VOC Chain of Custody and Sample Results.	Major	\$5000
Failure to Report Emergencies.	Moderate	\$4,000

Failure to allow inspection. Second offense.

Major

\$10,000

Failure to provide Public Notification	\$4,000 X 66 days	=	\$264,000.00
Falsifying a Public Notification	\$5,000 X 1	=	\$5,000.00
Failure to submit a Remedial Measures Report	\$5,000 X 1	=	\$5,000.00
Failure to take representative samples	\$5,000 X 7	=	\$35,000.00
Falsification of Records	\$5,000 X 1	=	\$5,000.00
Failure to Report Emergencies	\$4,000 X 2	=	\$8,000.00
Failure to allow inspection	\$10,000 X 1	=	\$10,000.00

**Total Penalty Assessed = \$332,000**