

amount of time, the Department intends to take additional enforcement action in order to bring about compliance with N.J.A.C. 7:10-5.1 and 40 CFR 141.714.

36. If PVWC is not able to achieve compliance by taking the above actions, PVWC is responsible for taking whatever additional actions are necessary in order to comply with all applicable federal, state and local permits as well as all applicable statutes, codes, rules, regulations and orders, including but not limited to the statutes and regulations cited herein.

B. PROGRESS REPORTS

37. PVWC shall continue to submit quarterly progress reports to the Department, at the addresses listed in paragraph fifty-two (52). The quarters shall be January to March, April to June, July to September, and October to December of each calendar year. Each progress report shall be submitted no later than the last day of the month following the end of the quarter being reported, except when such day falls on a holiday or a weekend, in which case the progress report shall be submitted on the next available business day. Each progress report shall explain the status of PVWC's compliance with this Third Amended ACO and shall include, but not be limited to, the following:

- a. identification of site and reference to this Third Amended ACO;
- b. status of permitting and planning approvals and any work at the site and progress to date;
- c. difficulties or problems encountered during reporting period and actions taken to rectify;
- d. activities planned for the next reporting period;
- e. required and actual completion date for each item required by this Third Amended ACO;
- f. an explanation of any non-compliance with the compliance schedule; and
- g. evaluation of all corrective measures implemented to date.

C. STIPULATED PENALTIES

38. PVWC shall pay stipulated penalties to the Department, as set forth below, upon the Department's written demand, for PVWC's failure to comply with the Enforcement Compliance Schedule provisions of this Third Amended ACO and/or the progress report submission deadlines of this Third Amended ACO unless the Department has notified PVWC in writing that a stipulated penalty will not be assessed for violations of the Enforcement Compliance Schedule pursuant to the force majeure provisions of this Third Amended ACO.

- a. For all violations of the Enforcement Compliance Schedule set forth in paragraph thirty-two (32) of this Third Amended ACO:

<u>Calendar Days After Due Date</u>	<u>Stipulated Penalties</u>
1 st through 7 th calendar day of failure to comply with the schedule	\$100 per calendar day
8 th through 14 th day	\$200 per calendar day

15th day and beyond \$500 per calendar day

b. For all violations of the progress report submission deadlines:

Days Past Compliance Date

Stipulated Penalties

Each calendar day that
PVWC fails to submit a report

\$50 per calendar day

39. Within sixty (60) calendar days after PVWC's receipt of written demands from the Department for stipulated penalties, PVWC shall submit payment by suitable financial instrument, made payable to "Treasurer, State of New Jersey" in the amount of the stipulated penalties demanded by the Department pursuant to paragraph thirty-eight (38) above. Payment shall be mailed with the bottom portion of the Penalty Invoice Form supplied with the written demand. Payment shall be made to the following address:

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

40. If PVWC fails to pay stipulated penalties pursuant to the preceding paragraphs, the Department may take action to collect same, including, but not limited to, instituting civil proceedings to collect such penalties pursuant to R. 4:67 and R. 4:70, or assess civil administrative penalties for violations of this ACO.

41. The payment of stipulated penalties does not alter PVWC's responsibility to complete all requirements of this Third Amended ACO.

D. FORCE MAJEURE

42. If any event occurs which PVWC believes will or may cause delay in the achievement of the compliance schedule provisions of this Third Amended ACO, PVWC shall notify the Department in writing or by email sent to the addresses indicated in paragraph fifty-two (52) below, within 7 calendar days of becoming aware of the delay or anticipated delay, as appropriate. In the notification, PVWC shall reference this paragraph, describe the anticipated length of the delay, the precise cause or causes of the delay, and any measures taken or to be taken to minimize the delay. PVWC shall take all necessary action to prevent or minimize any such delay.

43. The Department may adjust the deadlines in the Enforcement Compliance Schedule of this Third Amended ACO for a period no longer than the delay if the Department finds that:

a. PVWC has complied with the notice requirements of the preceding paragraph;

- b. any delay or anticipated delay has been or will be caused by fire, flood, riot, strike, or other circumstances beyond the control of PVWC; and
- c. PVWC has taken all necessary actions to prevent or minimize the delay.

44. If the Department denies PVWC's force majeure request, PVWC may be subject to stipulated penalties and other civil and/or administrative enforcement actions. The burden of proving that it complied with the preceding paragraphs shall rest with PVWC. The burden of proving that any delay is caused by circumstances beyond the control of PVWC and the length of any such delay attributable to those circumstances shall rest with PVWC. Increases in the cost or expenses incurred by PVWC in fulfilling the requirements of this Third Amended ACO shall not be a basis for an extension of time. Delay in an interim requirement shall not automatically justify or excuse delay in the attainment of subsequent requirements. Contractor's breach shall not automatically constitute force majeure. No force majeure adjustments will be granted for failure to timely submit progress reports.

E. GENERAL PROVISIONS

45. Nothing contained in this Third Amended ACO restricts the ability of the Department to raise the above Findings in any other proceeding, specifically including, but not limited to, proceedings pursuant to N.J.S.A. 13:1E-126 et seq., (commonly referred to as A-901).

46. This Third Amended ACO settles and resolves only the violation noted above and is not a settlement of any other action rising from those violations. Nothing in this Third Amended ACO shall resolve or preclude prosecution of criminal actions against PVWC, if any.

47. This Third Amended ACO shall be binding on PVWC, its agents, successors, assigns, and any trustee in bankruptcy or receiver appointed pursuant to a proceeding in law or equity. Additionally, this Third Amended ACO shall be binding on any PVWC officials, employees, principals, directors, and officers to the extent that any such individual is a responsible corporate official within the meaning of N.J.S.A. 58:10A-31.

48. This Third Amended ACO shall be fully enforceable as a final Administrative Order in the New Jersey Superior Court.

49. PVWC agrees not to contest the terms or conditions of this Third Amended ACO except that PVWC may contest the Department's interpretation or application of such terms or conditions in any action brought by the Department to enforce this Third Amended ACO's provisions.

50. This Third Amended ACO shall not relieve PVWC from obtaining and complying with all applicable federal, state and local permits as well as all applicable statutes, codes, rule, regulations and orders, including but not limited to the statutes and regulations cited herein. Any mandated change to the approved project concept, as described in the conceptual design document, will be considered beyond the control of PVWC and will be cause for amending this Third Amended ACO.

51. The obligations and penalties of this Third Amended ACO are imposed pursuant to the police powers of the State of New Jersey for the enforcement of the law and the protection of public health, safety, welfare and the environment and are not intended to constitute debt(s) which may be limited or discharged in a bankruptcy proceeding.

52. Unless otherwise specifically provided herein, PVWC shall submit all documents required by this Third Amended ACO, except penalty payments, to the Department by certified mail or express mail service, return receipt requested, or by hand delivery with an acknowledgment of receipt form for the Department's signature, or by email with a request for acknowledgement of receipt, to:

Donald Hirsch, Chief
Northern Bureau of Water
Compliance and Enforcement
7 Ridgedale Avenue
Cedar Knolls, N. J. 07927

E-mail: don.hirsch@dep.nj.gov

and

Patricia Gardner, Director
Water Supply and Geoscience
Mail Code: 401-04Q
P. O. Box 420
401 East State Street
Trenton, N. J. 08625

E-Mail: patricia.gardner@dep.nj.gov

The date the Northern Bureau of Water Compliance and Enforcement receives the documents or executes the acknowledgment will be the date the Department uses to determine PVWC's compliance with this Third Amended ACO.

53. Unless otherwise specifically provided herein, any communication made by the Department to PVWC pursuant to this Third Amended ACO shall be sent to:

Joseph Bella, Executive Director
Passaic Valley Water Commission
1525 Main Avenue
Clifton, N. J. 07011

with a copy to

George T. Hanley, Esq.
Law Department
Passaic Valley Water Commission
1525 Main Avenue
Clifton, N. J. 07011

54. PVWC shall not construe any unwritten or informal advice, guidance, suggestions, or comments by the Department, or by persons acting on behalf of the Department, as relieving PVWC of its obligations under this Third Amended ACO, the New Jersey Safe Drinking Water regulations, and/or the New Jersey Safe Drinking Water Act.

55. In addition to the Department's statutory and regulatory rights to enter and inspect, PVWC shall allow the Department and its authorized representatives access to the site at all times for the purpose of determining compliance with this Third Amended ACO.

56. Nothing in this ACO shall preclude the Department from taking enforcement action against PVWC for matters not set forth in the findings of this Third Amended ACO.

57. No obligations or penalties imposed by this Third Amended ACO are intended to constitute debt(s) which may be limited or discharged in a bankruptcy proceeding. All obligations and penalties are imposed pursuant to the police powers of the State of New Jersey for the enforcement of the law and the protection of public health, safety, welfare and the environment.

58. PVWC shall give written notice of this Third Amended ACO to any successor in interest thirty (30) calendar days prior to transfer of ownership or control of the facility or facilities which are the subject of this Third Amended ACO and shall simultaneously notify the Department that such notice has been given. This requirement shall be in addition to any other statutory or regulatory requirements arising from the transfer of ownership or control of PVWC's facility. In addition, the parties agree that any contract, lease, deed or any other agreement that PVWC enters into to convey the property/facility that is the subject of this Third Amended ACO shall include a provision which states that the successor, assignee, tenant or purchaser has agreed to assume the obligations imposed by this Third Amended ACO.

59. The Department reserves all statutory and common law rights to require PVWC to take additional action(s) if the Department determines that such actions are necessary to protect public health, safety, welfare and the environment. Nothing in this Third Amended ACO shall constitute a waiver of any statutory or common law right of the Department to require such additional measures should the Department determine that such measures are necessary.

60. Performance of the terms of this Third Amended ACO by PVWC is not conditioned in any way on the receipt by PVWC of any federal or state funds, except as it may impact the schedule for Phase 1.

61. PVWC shall perform all work required by this Third Amended ACO in accordance with prevailing professional standards.

62. This Third Amended ACO shall be governed and interpreted under the laws of the State of New Jersey.

63. If any provision of this Third Amended ACO is found invalid or unenforceable, the remainder of this Third Amended ACO shall not be affected thereby and each provision shall be valid and enforced to the fullest extent permitted by law. The Department does, however, retain the right to terminate the remainder of this Third Amended ACO if, after such finding, it determines that the remaining Third Amended ACO does not serve the purpose for which it was intended.

64. This Third Amended ACO represents the entire integrated agreement between the Department and PVWC on the matters contained herein.


65. The Department reserves the right to unilaterally terminate this Third Amended ACO in the event PVWC violates its terms and to take any additional enforcement action it deems necessary.

66. This Third Amended ACO shall terminate upon receipt by PVWC of written notice from the Department that all the requirements of this Third Amended ACO have been satisfied. Termination of this Third Amended ACO shall not relieve PVWC of any liabilities for unpaid penalties as previously demanded by the Department pursuant to the terms and conditions of this Third Amended ACO, nor shall it affect in any way the Department's rights and abilities to collect said unpaid penalties.

67. This Third Amended ACO shall become effective upon the execution hereof by all parties.

**New Jersey Department of
Environmental Protection**

DATE: 4/29/2019

BY: 
Donald Hirsch, Chief
Northern Bureau of Water
Compliance and Enforcement

Passaic Valley Water Commission

DATE: _____

BY: _____

NAME: _____

TITLE: _____

By this signature, I certify that I have full authority to execute this document on behalf of the Passaic Valley Water Commission

Second Amended Administrative Consent Order



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

PHIL MURPHY

Governor

SHEILA OLIVER

Lt. Governor

Northern Bureau of Water Compliance and Enforcement

7 Ridgedale Ave. Ste. 202

Cedar Knolls, New Jersey 07927-1112

Telephone (973) 656-4099 Fax (973) 656-4400

CATHERINE R. McCABE

Commissioner

Certified Mail

Return Receipt Requested

7016 3010 0000 7666 4197

9590 9402 2592 6336 7643 31

October 29, 2018

Joseph Bella, Executive Director
Passaic Valley Water Commission
1525 Main Avenue
Clifton, New Jersey 07011

Dear Mr. Bella:

Re: Schedule Extension Request
Second Amended Administrative Consent Order
Passaic Valley Water Commission
PWSID No.: 1605002
Compliance Activity No.: NEA 150001

The New Jersey Department of Environmental Protection (Department) received correspondence from Passaic Valley Water Commission (PVWC), dated December 22, 2017, requesting a schedule extension for the New Street Reservoir project. Specifically, the Second Amended Administrative Consent Order (SAACO) executed on July 23, 2015 between the Department and PVWC requires PVWC to submit design documents and all required permit applications on or before January 1, 2019 for the New Street Reservoir project.

However, delays beyond what PVWC anticipated have occurred with PVWC's Levine Reservoir SAACO project, which remains under review pursuant to the Environmental Assessment Requirements for State Assisted Environmental Infrastructure Facilities (N.J.A.C. 7:22-10) and pursuant to Section 106 of the National Historic Preservation Act. PVWC reports that, although not specifically noted in the SAACO, the schedule for the New Street Reservoir project has always been intrinsically tied to the schedule for the Levine Reservoir project. This assertion is because PVWC cannot have both the New Street and Levine Reservoirs out of service simultaneously.

Based upon the above assertion, PVWC has requested that the Department delete paragraph 17.C.iii.1.a of the SAACO, which contains the January 1, 2019 deadline for submission of all required permit applications and design documents for PVWC's New Street Reservoir project. Please be advised that the Department has reviewed this request in accordance with the Force Majeure provisions of paragraphs twenty-seven (27) and twenty-eight (28) of the SAACO and finds that the protracted process of complying with the Environmental Assessment Requirements for State Assisted Environmental Infrastructure Facilities (N.J.A.C. 7:22-10) and Section 106 of the National Historic Preservation Act is beyond PVWC's control. The Department agrees with PVWC's request to delete existing paragraph 17.C.iii.1.a of the SAACO, which contains the January 1, 2019 deadline for submission of all required permit applications and design documents for PVWC's New Street Reservoir project.

The SAACO is hereby amended and existing paragraph 17.C.iii.1.a is hereby replaced with the following new paragraph 17.C.iii.1.a, which takes into consideration PVWC's assertion that PVWC cannot have both the New Street and Levine Reservoirs out of service simultaneously:

17.C.iii.1.a. Within one hundred eighty (180) calendar days of PVWC's awarding of a construction contract for the Levine Reservoir portion of the Project, but not before January 1, 2019, PVWC shall submit design documents and all required permit applications for the New Street Reservoir portion of the Project.

All other paragraphs in the SAACO remain unchanged and fully effective. Should you have any questions about this matter, please contact Lisa Tracy of my staff. Ms. Tracy may be reached at lisa.tracy@dep.nj.gov or by telephone at 973-656-4099.

Very truly yours,



Donald Hirsch, Chief
Northern Bureau of Water
Compliance and Enforcement

- c: George T. Hanley, Esq., Law Department, PVWC
Kevin Galland, Administrator/Clerk, Woodland Park Borough (by email)
Sonia Gordon, Clerk, Paterson City (by email)
Walter J. Davison, Acting Passaic County Clerk (by email)
Maria Mazziotti Gillan, Passaic County Cultural and Heritage Commission (by email)
Heather Garside, Passaic County Historical Society (by email)
Darryl Sparta, Director, Passaic County Department of Parks and Recreation (by email)
Stephen Ferreira, USEPA (by email)
Michael Lowy, USEPA Region II (by email)
Nicole Foley Kraft, USEPA Region II (by email)
Patricia Gardner, Director, Division of Water Supply and Geoscience (by email)
Richard T. Paull, Water and Land Use Compliance and Enforcement (by email)



PASSAIC VALLEY WATER COMMISSION

1525 MAIN AVENUE • P.O. BOX 230
CLIFTON, NEW JERSEY 07011 • (973) 340-4300
CLIFTON FAX # (973) 340-4321

7/23/15 exec

COMMISSIONERS

Chrystal A. Cleaves, President, Paterson
Rigo Sanchez, Vice President, Passaic
Menachem Bazian, Treasurer, Passaic
Thomas P. DeVita, Secretary, Clifton
Gloria Kolodziej, Commissioner, Clifton
Russell Graddy, Commissioner, Paterson
Jeffrey Levine, Commissioner, Paterson

July 27, 2015

Mr. Richard T. Paull, Chief
Northern Bureau of Water
Compliance and Enforcement
7 Ridgedale Avenue
Cedar Knolls, NJ 07927-1112

Re: **EA ID# NEA080001-1605002**
Storage Improvement Project
Amended Administrative Consent Order (AACO)
Extension Request – Public Outreach for Levine Reservoir

Dear Mr. Paull:

In accordance with your July 9, 2015 letter, we have enclosed one signed original of the Amended Administrative Consent Order

If you have any questions, feel free to call me at (973) 340-4307 or Jim Duprey at (973) 340-4306.

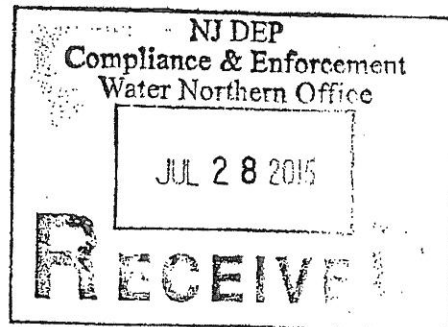
Very truly yours,

Joseph A. Bella
Executive Director

Enclosures

cc: Hon. Board of Commissioners
L. Amodio, w/encl.
K. Byrne, w/encl.
J. Duprey
G. Hanley, w/encl.

File: NJDEP.AACO.7.27.2015



Administrative Secretary
Louis Amodio

Executive Director
Joseph A. Bella

General Counsel
George T. Hanley



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

CHRIS CHRISTIE
Governor
KIM GUADAGNO
Lt. Governor

Northern Bureau of Water Compliance and Enforcement
7 Ridgedale Ave. Ste. 202
Cedar Knolls, New Jersey 07927-1112
Telephone (973) 656-4099 Fax (973) 656-4400

BOB MARTIN
Commissioner

IN THE MATTER OF
PASSAIC VALLEY WATER COMMISSION

SECOND AMENDED
ADMINISTRATIVE CONSENT ORDER

EA ID # NEA150001 – 1605002

This Second Amended Administrative Consent Order (Second ACO) is entered into pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection (Department or DEP) by N.J.S.A. 13:1D-1 et seq., and the New Jersey Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., and duly delegated to the Chief of the Northern Bureau of Water Compliance and Enforcement pursuant to N.J.S.A. 13:1B-4.

FINDINGS

1. The Passaic Valley Water Commission (PVWC) owns and operates a public community water system (system), as defined by N.J.A.C. 7:10-1.3, Public Water System Identification No. 1605002, located in the Cities of Paterson, Passaic and Clifton and the Borough of Prospect Park, Passaic County, New Jersey.
2. The New Jersey Safe Drinking Water Act regulations, specifically N.J.A.C. 7:10-5.1, adopt in total, with specific limited exceptions, the most current National Primary Drinking Water Regulations at 40 CFR 141. Subpart W of the National Primary Drinking Water Regulations, Enhanced Treatment for Cryptosporidium, 40 CFR 141.714, requires that systems must meet the conditions of paragraph (c)(1) or (c)(2) of this section for each uncovered finished water storage facility or be in compliance with a State-approved schedule to meet these conditions no later than April 1, 2009. CFR 141.714(c)(1) requires that systems must cover any uncovered finished water storage facility. 40 CFR 141.714(c)(2) requires that systems must treat the discharge from the uncovered finished water storage facility to the distribution system to achieve inactivation and/or removal of at least 4-log virus, 3-log *Giardia lamblia*, and 2-log *Cryptosporidium* using a protocol approved by the State, such as a combination of ultraviolet disinfection and chlorination.
3. PVWC owns and operates three (3) uncovered finished water storage facilities within its system.

4. PVWC could not meet the requirements of 40 CFR 141.714 (c)(1) and (c)(2) on or before April 1, 2009 and executed an Administrative Consent Order (ACO) with the Department on March 30, 2009 in order to be in compliance with a State-approved schedule to meet the conditions of paragraph (c)(1) or (c)(2) of 40 CFR 141.714 for each uncovered finished water storage facility.

5. The ACO required PVWC to execute a contract with a consultant to conduct a feasibility study examining, at a minimum, elimination of the existing uncovered finished water storage facilities and/or covering of the existing uncovered finished water storage facilities, and submit a final report detailing the results of the feasibility study. The feasibility study report (Report) was required to include at least one recommendation to achieve compliance for each of the existing uncovered finished water storage facilities. If more than one recommendation was presented, a preferred recommendation was required to be identified for each option presented. Each recommendation was to identify the benefits and potential limitations of that recommendation and include an estimated cost.

6. On September 10, 2009, PVWC submitted its Report, entitled "Passaic Valley Water Commission Water Storage Improvements Feasibility Study." The Report proposed that PVWC would implement Alternative 7C; specifically PVWC would eliminate the existing three (3) uncovered finished water reservoirs (Reservoirs) and replace them with storage tanks of sufficient capacity to support operational needs and PVWC would also provide improved auxiliary power capabilities to establish an improved and resilient infrastructure. After making revisions required by the Department, PVWC submitted its Final Report.

7. On August 24, 2012, the Department conditionally approved PVWC's Final Report.

8. The approved portions of the Final Report include the following major components (Project):

a. Installation of two (2) 2.5 million gallon (MG) prestressed concrete storage tanks for a total of 5 MG of storage at the site of the Levine Reservoir, piping modifications, construction of a parking area and access drive and appropriate stormwater facilities.

b. Installation of two (2) 15 MG prestressed concrete tanks for a total of 30 million gallons of storage at the site of the New Street Reservoir, demolition of the existing dam, construction of an access road, piping modifications and appropriate stormwater facilities.

c. Expansion of pumping capacity of the Great Notch Pump Station by six (6) million gallons per day (MGD) by adding a third pump, to a total firm capacity of 12 MGD.

d. Installation of a new pump station in the area of the New Street Reservoir site to enable conveyance of 8 MGD of finished water to the (proposed, but not yet approved) Great Notch Tanks.

e. Installation of an additional 2 MG of storage tank at the existing Verona Storage Tank (Verona Tank) site in Verona Township, Essex County.

f. Installation of auxiliary backup power involving four 2,500 kW generators, enabling 81 MGD of production, and construction of a new generator and switchgear building at PVWC's Little Falls Water Treatment Plant (LFWTP).

9. On July 3, 2013, PVWC and the Department executed an Amended Administrative Consent Order (AAO), a copy of which is attached to and made a part hereof, requiring PVWC to permit and construct the authorized improvements in the Final Report for the LFWTP, Verona Tank and Levine Reservoir portions of the Project. After Levine Reservoir improvements were completed, PVWC was required to start permitting and construction of New Street Reservoir improvements. Four phases of corrosion control treatment improvements were also required.

10. PVWC submitted required permitting and funding documents for the LFWTP and Verona Tank portions of the AAO on June 30, 2014.

11. PVWC completed the first phase of corrosion control treatment improvement required by the AAO on December 30, 2013 and the second phase of corrosion control treatment improvement required by the AAO on December 29, 2014. The third phase of corrosion control treatment improvement required by the AAO was tied to completion of Reservoir improvements.

12. By letters dated June 24, 2014 and October 1, 2014, PVWC received schedule extensions for the Levine Reservoir portions of the AAO.

13. PVWC hosted three public meetings on the Levine Reservoir portion of the Project in the Fall of 2014. PVWC and the Department have determined that additional public education and public participation is desirable at this time.

14. By letter dated March 3, 2015, PVWC submitted a schedule for public participation activities for the Levine Reservoir portion of the Project.

15. Based on the facts set forth in these FINDINGS, the Department has determined that PVWC will violate 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. 7:10-5.1 *et seq.*

16. In order to resolve this matter without trial or adjudication, PVWC has agreed to entry of this Second ACO and to be bound by its terms and conditions.

ORDER

A. ENFORCEMENT COMPLIANCE SCHEDULE

17. PVWC shall take whatever actions are necessary to achieve and maintain compliance with N.J.A.C. 7:10-5.1 and 40 CFR 141.714 and to optimize corrosion control treatment, including but not limited to the following:

A. Little Falls Water Treatment Plant (LFWTP) and Verona Tank improvements

i. Within one hundred-eighty (180) calendar days of PVWC's receipt of all required permits and funding approvals, PVWC shall advertise for bids for individual construction contracts for the LFWTP improvements and Verona Tank portions of the Project.

ii. Within two hundred-seventy (270) calendar days of PVWC's receipt of all required permits and funding approvals, PVWC shall award individual construction contracts for the LFWTP improvements and Verona Tank portions of the Project.

iii. Within sixty (60) calendar days of PVWC's awarding of individual construction contracts for the LFWTP improvements and Verona Tank portions of the Project, PVWC shall initiate construction.

iv. Within three hundred-sixty-five (365) calendar days of the start of construction, PVWC shall substantially complete construction of the Verona Tank portion of the Project.

v. Within seven hundred-thirty (730) calendar days of the start of construction, PVWC shall substantially complete construction of the LFWTP improvements.

B. Levine Reservoir improvements

The use of funding from the New Jersey Environmental Infrastructure Financing Program Drinking Water State Revolving Fund triggers the requirement for review under N.J.A.C. 7:22-10, Environmental Assessment Requirements For State Assisted Environmental Infrastructure Facilities, and Section 106 of the National Historic Preservation Act. Any PVWC undertakings that are funded through this program will require review under Section 106. Pursuant to the 1990 Programmatic Agreement between the Environmental Protection Agency (EPA), Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers for the EPA's State Water Pollution Control Revolving Fund Program, the New Jersey Department of Environmental Protection, Division of Water Quality, Municipal Finance and Construction Element will act as the lead agency for these Section 106 reviews.

The proposed work (Levine Reservoir improvements as approved in the July 3, 2013 AACO) at the Levine Reservoir will also require the submission of an Application for Project Authorization pursuant to the New Jersey Register of Historic Places as the reservoir is considered a contributing resource within the New Jersey Register of Historic Places listed Great Falls of Paterson/S.U.M. Historic District. Proposed work (Levine Reservoir improvements proposed to be made in a manner different from that approved in the July 3, 2013 AACO) may also require the submission of an Application for Project Authorization pursuant to the New Jersey Register of Historic Places. Any work proposed to be conducted at the Levine Reservoir site or inside of the Great Falls of Paterson/S.U.M. Historic District (historic district) will require the submission of an Application for Project Authorization (Application) pursuant to the New Jersey Register of Historic Places. If the Project is determined to be in conformance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties*, upon receipt of a technically and professionally complete and sufficient Application, the Application will be administratively approved and next be reviewed by the staff of the Historic Preservation Office (HPO). If the Project is determined by HPO staff to constitute an encroachment upon the historic district, the

Project must be reviewed by the New Jersey Historic Sites Council (HSC) at one of its regularly scheduled bi-monthly meetings. The HSC findings are then forwarded to the DEP Commissioner who takes the final action.

i. On or before July 31, 2015, PVWC shall award a consulting contract for public outreach and public participation services.

ii. On or before February 15, 2016, PVWC shall identify its proposal for making improvements to the Levine Reservoir as follows:

1. If PVWC determines that Levine Reservoir improvements will be made in the manner approved in the July 3, 2013 AACO:

a. On or before February 15, 2016, PVWC shall submit design documents and all required permit applications for the Levine Reservoir portion of the Project.

b. Within one hundred-eighty (180) calendar days of PVWC's receipt of all required permits and funding approvals, PVWC shall advertise for bids for the construction contract for the Levine Reservoir portion of the Project.

c. Within two hundred-seventy (270) calendar days of PVWC's receipt of all required permits and funding approvals, PVWC shall award a construction contract for the Levine Reservoir portion of the Project.

d. Within sixty (60) calendar days of PVWC's awarding of a construction contract for the Levine Reservoir portion of the Project, PVWC shall initiate construction.

e. Within seven hundred-thirty (730) calendar days of the start of construction, PVWC shall substantially complete construction of the Levine Reservoir portion of the Project.

2. If PVWC determines that Levine Reservoir improvements will be made in a manner different from that approved in the July 3, 2013 AACO:

a. On or before February 15, 2016, PVWC shall identify its new proposal for the Levine Reservoir portion of the Project (alternative(s)) and provide a proposed schedule of Project activities for the Department's review and approval. This schedule shall include additional corrosion control activities if practicable.

b. PVWC agrees to execute an amendment of this Second ACO which shall include the design and construction of the alternative(s) recommended in order for PVWC to achieve compliance with N.J.A.C. 7:10-5.1 and 40 CFR 141.714 for its Levine Reservoir, public outreach and public participation services related to the New Street Reservoir aspects of the Project, or other actions agreed to between the Department and PVWC. The amendment of this Second ACO shall be executed by all parties within a reasonable amount of time, as determined by the Department. If progress towards amending this Second ACO does not occur, or the Second ACO is not amended within a reasonable amount of time, the Department intends to take

additional enforcement action in order to bring about compliance with N.J.A.C. 7:10-5.1 and 40 CFR 141.714.

C. New Street Reservoir improvements

i. On or before June 1, 2016, PVWC shall award a consulting contract for public outreach and public participation services (New Street public outreach and participation consultant).

ii. On or before September 1, 2016, PVWC shall award a consulting contract for the design and permitting required for the New Street Reservoir portion of the Project (New Street design consultant). The New Street design consultant will provide technical assistance and support to the New Street public outreach and participation consultant.

iii. On or before January 1, 2018, PVWC shall identify its proposed improvements for the New Street Reservoir portion of the Project. If PVWC determines that New Street Reservoir improvements will be made in a manner different from that approved in the July 3, 2013 AACO, PVWC shall, with its submission, provide a proposed schedule of Project activities for the Department's review and approval. This schedule shall include additional corrosion control activities.

1. If PVWC determines that New Street Reservoir improvements will be made in the manner approved in the July 3, 2013 AACO:

a. On or before January 1, 2019, PVWC shall submit design documents and all required permit applications for the New Street Reservoir portion of the Project.

b. Within one hundred-eighty (180) calendar days of PVWC's receipt of all required permits, PVWC shall advertise for bids for a construction contract for the New Street Reservoir portion of the Project.

c. Within two hundred-seventy (270) calendar days of PVWC's receipt of all required permits, PVWC shall award a construction contract for the New Street Reservoir portion of the Project.

d. Within sixty (60) calendar days of PVWC's awarding of a construction contract for the New Street Reservoir portion of the Project, PVWC shall initiate construction.

e. Within nine hundred-ten (910) calendar days of the start of construction, PVWC shall substantially complete construction of the New Street Reservoir portion of the Project.

2. If PVWC determines that New Street Reservoir improvements will be made in a manner different from that approved in the July 3, 2013 AACO:

a. PVWC agrees to execute an amendment of this Second ACO which shall include the design and construction of the alternative(s) recommended in order for PVWC to

achieve compliance with N.J.A.C. 7:10-5.1 and 40 CFR 141.714 for its New Street Reservoirs, or other actions agreed to between the Department and PVWC. The amendment of this Second ACO shall be executed by all parties within a reasonable amount of time, as determined by the Department. If progress towards amending this Second ACO does not occur, or the Second ACO is not amended within a reasonable amount of time, the Department intends to take additional enforcement action in order to bring about compliance with N.J.A.C. 7:10-5.1 and 40 CFR 141.714.

D. Corrosion Control improvements if BOTH Levine Reservoir and New Street Reservoir improvements are made in the manner approved in the July 3, 2013 ACO:

1. PVWC's third phase of corrosion control will include the addition of corrosion inhibitor into the piping network that will include the newly constructed Levine Reservoir tanks. This corrosion control system will replace the system at the Botany Pumping Station constructed under the first phase and will increase the corrosion served area to portions of northern Paterson City, and the Boroughs of Fair Lawn and Elmwood Park. This third phase of corrosion control shall be designed, permitted, constructed and placed in service concurrently with the construction of the New Street Reservoir tanks' portion of the Project as indicated in Paragraph 17.C.1 of this Second ACO. Note that these corrosion control facilities cannot be placed into service until the New Street Reservoir is taken out of service because water is transferred on a regular basis into the New Street gradient. It is anticipated that the New Street Reservoir will be taken out of service, and the corrosion control facilities placed on line, about one-third of the way through the New Street construction period.

2. The fourth phase of corrosion control will include the addition of corrosion inhibitor into the piping network that will include the newly constructed New Street Reservoir tanks. This new corrosion control addition will effectively complete the corrosion inhibitor coverage throughout PVWC's system and specifically in Paterson City, Prospect Park Borough and sections of the Cities of Clifton and Passaic. This fourth phase of corrosion control shall be designed, permitted, constructed and placed in service concurrently with the construction of the New Street Reservoir tanks' portion of the Project as indicated in Paragraph 17.C.1 of this Second ACO.

Note that all of the aforementioned corrosion inhibitor feed stations will be eliminated and replaced with one central facility located at the Little Falls Water Treatment Plant once the Great Notch Reservoir portion of the Project is completed and all the open finished water reservoirs are eliminated.

18. Public education for lead (format below) must be continued within 60 days after the end of the monitoring period in which lead monitoring occurs in accordance with 40 CFR 141.85(b)(4). Public education information shall be delivered as follows:

1. Deliver printed educational materials to all bill paying customers;
2. Deliver educational material to local public health agencies even if they are not located within the water system's service area;
3. Contact the local public health agencies directly by phone or in person;

4. Deliver printed education material and an informational notice encouraging distribution to the following facilities located within the water system's service area:

- Public and private schools or school boards
- Women, Infants, and Children and Head Start Programs
- Public and private hospitals and medical clinics,
- Pediatricians
- Family planning clinics
- Local welfare agencies
- Licensed childcare centers
- Public and private preschools
- Obstetricians-Gynecologists and Midwives

5. Provide required message on or in each water bill (no less often than quarterly);
6. Post educational material on the water system's website;
7. Submit a press release to newspaper, television, and radio stations;
8. Implement at least three of the following activities:

- Public service announcements
- Public meetings
- Paid advertisements
- Household deliveries
- Public area information displays
- Targeted individual customer contact
- Emails to customers
- Direct material distribution to all multi-family homes and institutions

PVWC shall submit proof that public education materials, meeting the content requirements in 40 CFR 141.85(a) and the delivery requirements in 40 CFR 141.85(b), were provided to the persons served by your water system in accordance with 40 CFR 141.90(f). A public education certification form must also be completed and submitted upon implementation of the public education requirements.

19. PVWC shall continue to include the following statement in its annual Consumer Confidence Reports (CCR). The CCR is a brief annual water quality report required by 40 CFR 141 Subpart O which summarizes information regarding source, detected contaminants, compliance, and educational information:

"Water systems with uncovered finished water reservoirs are required to eliminate or cover these reservoirs, treat the discharge from these reservoirs, or be in compliance with a state-approved schedule to eliminate or cover the reservoirs or provide treatment by April 1, 2009. We have executed an Administrative Consent Order with the New Jersey Department of Environmental Protection wherein PVWC is required to implement a schedule to eliminate, cover or provide treatment for our uncovered reservoirs."

PVWC shall provide proof of provision and publication to the Department.

20. PVWC agrees to execute an amendment of this Second ACO which shall include the design and construction of the alternative(s) recommended in order for PVWC to achieve compliance

with N.J.A.C. 7:10-5.1 and 40 CFR 141.714 for its Great Notch Reservoir, or other actions agreed to between the Department and PVWC. The amendment of this Second ACO shall be executed by all parties within a reasonable amount of time, as determined by the Department. If progress towards amending this Second ACO does not occur, or the Second ACO is not amended within a reasonable amount of time, the Department intends to take additional enforcement action in order to bring about compliance with N.J.A.C. 7:10-5.1 and 40 CFR 141.714.

21. If PVWC is not able to achieve compliance by taking the above actions, PVWC is responsible for taking whatever additional actions are necessary in order to comply with all applicable federal, state and local permits as well as all applicable statutes, codes, rules, regulations and orders, including but not limited to the statutes and regulations cited herein.

B. PROGRESS REPORTS

22. PVWC shall continue to submit quarterly progress reports to the Department, at the addresses listed in paragraph thirty-seven (37). The quarters shall be January to March, April to June, July to September, and October to December of each calendar year. Each progress report shall be submitted no later than the last day of the month following the end of the quarter being reported, except when such day falls on a holiday or a weekend, in which case the progress report shall be submitted on the next available business day. Each progress report shall explain the status of PVWC's compliance with this Second ACO and shall include, but not be limited to, the following:

- a. identification of site and reference to this Second ACO;
- b. status of permitting and planning approvals and any work at the site and progress to date;
- c. difficulties or problems encountered during reporting period and actions taken to rectify;
- d. activities planned for the next reporting period;
- e. required and actual completion date for each item required by this Second ACO;
- f. an explanation of any non-compliance with the compliance schedule; and
- g. evaluation of all corrective measures implemented to date.

C. STIPULATED PENALTIES

23. PVWC shall pay stipulated penalties to the Department, as set forth below, upon the Department's written demand, for PVWC's failure to comply with the Enforcement Compliance Schedule provisions of this Second ACO and/or the progress report submission deadlines of this Second ACO unless the Department has notified PVWC in writing that a stipulated penalty will not be assessed for violations of the Enforcement Compliance Schedule pursuant to the force majeure provisions of this Second ACO.

- a. For all violations of the Enforcement Compliance Schedule set forth in paragraph seventeen (17) of this Second ACO:

Calendar Days After Due Date

Stipulated Penalties

1st through 7th calendar

\$100 per calendar day

day of failure to comply
with the schedule

8th through 14th day \$200 per calendar day

15th day and beyond \$500 per calendar day

b. For all violations of the progress report submission deadlines:

Days Past Compliance Date

Stipulated Penalties

Each calendar day that
PVWC fails to submit a report

\$50 per calendar day

24. Within sixty (60) calendar days after PVWC's receipt of written demands from the Department for stipulated penalties, PVWC shall submit payment by suitable financial instrument, made payable to "Treasurer, State of New Jersey" in the amount of the stipulated penalties demanded by the Department pursuant to paragraph twenty-three (23) above. Payment shall be mailed with the bottom portion of the Penalty Invoice Form supplied with the written demand. Payment shall be made to the following address:

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

25. If PVWC fails to pay stipulated penalties pursuant to the preceding paragraphs, the Department may take action to collect same, including, but not limited to, instituting civil proceedings to collect such penalties pursuant to R. 4:67 and R. 4:70, or assess civil administrative penalties for violations of this ACO.

26. The payment of stipulated penalties does not alter PVWC's responsibility to complete all requirements of this Second ACO.

D. FORCE MAJEURE

27. If any event occurs which PVWC believes will or may cause delay in the achievement of the compliance schedule provisions of this Second ACO, PVWC shall notify the Department in writing or by email sent to the addresses indicated in paragraph thirty-seven (37) below, within 7 calendar days of becoming aware of the delay or anticipated delay, as appropriate. In the notification, PVWC shall reference this paragraph, describe the anticipated length of the delay, the precise cause or causes of the delay, and any measures taken or to be taken to minimize the delay. PVWC shall take all necessary action to prevent or minimize any such delay.

28. The Department may adjust the deadlines in the Enforcement Compliance Schedule of this Second ACO for a period no longer than the delay if the Department finds that: