



Public Health
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Cattaraugus County
Health Department
Established 1923

CATTARAUGUS COUNTY HEALTH DEPARTMENT

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Kevin D. Watkins, MD, MPH, Public Health Director

Eric W. Wohlers, PE
Environmental Health Director

May 21, 2015

Katherine H. Burgess, Secretary
NYS Department of Public Service
Three Empire State Plaza, 20th Floor
Albany, NY 12223

RE: PSC Case No. 15-W-0256
Sale/Lease of Water Supply Assets
West Valley Crystal Water Co, Inc.
to Town of Ashford

Dear Ms. Burgess:

I am writing this letter in support of the proposed sale and lease of all the community water supply assets currently owned by the West Valley Crystal Water Company, Inc. (WVCWC), to the Town of Ashford, N.Y.

Please be advised that the Cattaraugus County Health Department (CCHD) is the authorized representative of the NYS Department of Health responsible for implementing the public water supply inspection program and enforcing state and federal drinking water regulations within Cattaraugus County. This includes inspection and oversight of the WVCWC.

In this capacity CCHD has worked with both the current and previous owners of the WVCWC for more than 10 years to bring the water system into compliance with the Surface Water Treatment Rule. The WVCWC has been on the EPA's Significant Non-Complier (SNC) list since 2008 for failure to provide filtration treatment for groundwater which was determined to be under the direct influence of surface water (reference October 2006 CCHD report). This then resulted in the preparation and execution of a Bilateral Compliance Agreement dated 8/10/10 (copy attached).

Since 2004 the CCHD: 1) facilitated the GIS mapping of the water company infrastructure, 2) commissioned an engineering study to fully evaluate the alternatives and costs for comprehensive rehabilitation of the water system, and 3) attended public information and town board meetings to promote the creation of a municipal water district and the application for loan funding to finance the necessary capital improvement project. When the WVCWC executed a financing agreement with the NYS Environmental Facilities Corporation in September 2013, and when the Ashford (T) Board voted to create the new Town of Ashford West Valley Water District on January 21, 2015, these both represented huge milestones for the community.

In summary, it has always been this department's belief that creation of a municipal water district and transfer of the private WVCWC assets into local government control was essential for the long-term viability and sustainability of this community's public water system. We therefore fully support the NYS Public Service Commission's approval of the current petition.

Should you or staff require any additional documentation or clarification in this matter, please feel free to contact me directly at (716) 701-3437.

Very truly yours,



Eric W. Wohlers, P.E.
Environmental Health Director

EWV/efd

cc: M. Horan, NYSDPS
B. Alch, NYSDPS
M. Montysko, NYSDOH- BWSP
R. Sokol, NYSDOH- BWSP
B. McAuliffe, NYSEFC
T. Boyd, NYSEFC

CATTARAUGUS COUNTY BOARD OF HEALTH

IN THE MATTER :
OF

THE PROVISION OF REQUIRED POTABLE : BILATERAL
WATER TREATMENT : COMPLIANCE
BY WEST VALLEY CRYSTAL : AGREEMENT
WATER COMPANY, INC. :

WHEREAS, the Cattaraugus County Board of Health ("BOH") is a duly established Board of Health in accordance with New York State Public Health Law; and

WHEREAS, the Cattaraugus County Board of Health has the duty of enforcing the State Sanitary Code in accordance with New York State Public Health Law; and

WHEREAS, the Cattaraugus County Director of Health (Director) has been duly appointed by the BOH to administer the aforementioned BOH duties; and

WHEREAS, the Director utilizes the expertise of the employees and contract service providers working in the Cattaraugus County Department of Health (Department) to aid in the execution of these duties; and

WHEREAS, Title 40 of the Code of Federal Regulations (CFR), § 141.71 and §141.72, constituting the Surface Water Treatment Rule (SWTR) promulgated by the United States Environmental Protection Agency (USEPA) under the provisions of the Federal Safe Drinking Water Act (SDWA), and §5-1.30 of the State Sanitary Code (SSC), its New York State counterpart promulgated by the New York State Department of Health pursuant to the New York Public Health Law (PHL), require that a public water system not in compliance with the filtration avoidance criteria specified in 40 CFR §141.72 and SSC §5-1.30(c), shall provide filtration and disinfection within 18 months after such a public water system is determined by the State as being directly influenced by surface water sources; and

WHEREAS, West Valley Crystal Water Company, Inc. (WVCWC) is a supplier of water through its public water system, as defined in SSC §5-1.1(bm), which uses as its only water source spring supplies, and which is subject to the provisions of SSC §5-1.30(b) and 40 CFR §141.71 and 141.72; and

WHEREAS, WVCWC spring sources were determined by the Department to be under the direct influence of surface water in October, 2006 with issuance of a formal report entitled "Determination of Ground Water Source Under the Influence of Surface Water"; and

WHEREAS, WVCWC has failed to comply with one or more of the filtration avoidance criteria listed in SSC §5-1.30(c); and

WHEREAS, the Department has provided a preliminary engineering report (Mark D. Alianello, P.E., 11/16/2006), the *preliminary report*, detailing significant improvements needed to come into full compliance and the costs associated with such improvements; and

WHEREAS, ownership of the WVCWC was transferred on November 19, 2009; and

WHEREAS, new ownership has met with the Department and indicated their intent to apply for NYS Drinking Water State Revolving Fund (DWSRF) financing to defer costs associated with coming into full compliance with all existing regulations; and

NOW, THEREFORE, in order to satisfy the SSC and SWTR, WVCWC and the Department agree as follows:

1. WVCWC shall continue to provide public and consumer notification each calendar quarter during which the unfiltered spring resources remain in use. Notification shall be in accordance with the SSC §5-1.51(c) and §5-1.52 Table 13. Each notification shall contain the mandatory health effects language in accordance with SSC §5-1.78. Proof of each notification must continue to be sent to the Department.
2. As long as the spring sources are in use and unfiltered, WVCWC shall consistently monitor the turbidity on a daily basis at the entry point to the distribution system. If any two consecutive day average turbidity readings at the entry point exceed 5 NTU, WVCWC shall collect total coliform samples in the distribution system in accordance with SSC §5-1.52, Table 4 note 3. If the monthly average daily turbidity reading exceeds 1.49 NTU, WVCWC shall collect a total coliform sample from the distribution system, in accordance with SSC §5-1.52, Table 11 note 2. The WVCWC shall also collect five distribution samples per week in accordance with SSC §5-1.52, Tables 10 and 5.
3. WVCWC shall ensure a disinfection capability that achieves 99.9 percent (i.e. 3-log) inactivation of *Giardia Lamblia* cysts for drinking water taken from the spring sources. WVCWC must monitor the chlorine residual, pH and temperature, at the entry point, each day it uses the spring sources.
4. WVCWC shall review the project scope and cost estimates in the preliminary report and submit a DWSRF Intended Use Plan update form to the NYS Department of Health by May 1, 2010.
5. WVCWC shall develop a strategy for long-term system financial viability including reasonable operation & maintenance costs. This shall be completed by July 1, 2010.
6. WVCWC shall submit an application for determination of hardship financing eligibility to the NYS Environmental Facilities Corporation and the NYS Department of Health by December 1, 2010.

7. WVCWC shall complete and submit to the Department for review and approval, engineering designs necessary to come into compliance with the SWTR (i.e. filtration requirement only) by December 1, 2010.

8. WVCWC shall commence work on the filtration equipment by May 31, 2011 and be completed by July 31, 2011.

9. WVCWC shall make every effort to secure short term financing for all other non-SWTR related system improvements by March 30, 2012.

10. Assuming the aforementioned financing is secured, WVCWC shall complete and submit to the Department for review and approval, engineering designs necessary for all other such non-SWTR related improvements, by September 30, 2012.

11. WVCWC shall commence work by May 31, 2013 and be completed by October 31, 2014.

12. Items 9-11 are contingent upon WVCWC obtaining grants and low interest funding for the Engineering, Legal Costs, and Construction/Inspection Costs.

13. In the event that WVCWC fails to meet any of the deadlines set forth in this Agreement, WVCWC agrees to pay the Department a stipulated penalty in the amount of One Hundred Dollars (\$100.00) for each day of noncompliance beyond the specified deadline. However, the Department shall not impose such penalties if (1) WVCWC has demonstrated a good faith and diligent effort to comply with the terms of the Agreement, and (2) circumstances beyond the control of WVCWC have caused such noncompliance. Under such circumstances, the Department may authorize an extension of a deadline based on the submittal of an extension request by the owners of WVCWC.

14. It is further stipulated and agreed by WVCWC and the Department that there exist valid and sufficient grounds as a matter of law for this Agreement, and WVCWC accepts its terms and conditions.

15. This Stipulation shall be effective when fully executed by both parties.

DATED:

10-AUG-2010

West Valley Crystal Water Company, Inc.

By:

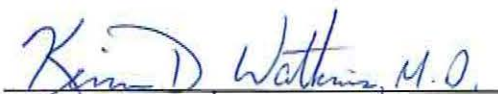

Robert J. Runge II, President

DATED:

10-Aug-2010

Cattaraugus County Board of Health

By:


Dr. Kevin D. Watkins, Secretary