

**Application of Pennsylvania-American Water Company for Acquisition of
the Water Assets of Valley Township
66 Pa. C.S. § 1329
Application Filing Checklist – Water/Wastewater
Docket No. A-2020-3019859**

20. Proof of Compliance. Provide proof of compliance with applicable design, construction and operation standards of DEP or of the county health department, or both, including:
- e. Provide documentation evidencing a 5-year compliance history with DEP with an explanation of each violation for the seller's utilities that have been providing service as well as provide a copy of any DEP-approved corrective action plans.

RESPONSE:

- e. See enclosed listing by Valley's Engineer of Valley and corresponding documents are attached as **Appendix A-20-e**. See enclosed the 5-year compliance history with DEP provided by Valley.

Information prepared by Valley Township's Engineer:

Following is a list of Notice of Violations (NOVs) from the last five years for each of Valley's Public Water Systems. These violations were compiled using the PADEP reporting website, as well as items from our own files. However, we do not have record of several of the violations listed on the DEP website. Items for which we have records of compliance measures are noted in sub-bullets. **All of the below violations are satisfied, and there are no known open violations for the three water systems.**

The first two violations listed under each of the water systems are included under the attached CO&A. These two violations are the only ones with a written Corrective Action Plan. Additionally, the required payment and plan submission as a part of that Corrective Action Plan for each of the three water systems has already been satisfied. The total required payment for all three water systems equaled \$3,000.

Valley Springs Water Company:

- April 2020: Valley did not submit a USSP certification to DEP
 - Corrective Action: Within 30 days of the execution of the Agreement, Valley shall submit a USSP to DEP
 - Corrective Action: Valley must pay a civil penalty totaling \$3,000 for both violations for all three water systems
- April 2020: Valley did not submit a Comprehensive Monitoring Plan to DEP
 - Corrective Action: Within 30 days of the execution of the Agreement, Valley shall submit a CMP to DEP
 - Corrective Action: Valley must pay a civil penalty totaling \$3,000 for both violations for all three water systems
- February 2020: Failure to distribute/submit a lead/copper consumer tap notice
 - Notices issued to applicable consumers
- January 2020: Failure to monitor or report HAA5 and TTHMs
- August 2019: Failure to properly collect/analyze RTCR routine samples
- July 2019: The certified lab failed to perform testing for total coliform presence
- April 2019: Failure to monitor/report EP disinfectant residual for groundwater
- August 2017: Failure to distribute/submit a lead/copper consumer tap notice
 - Notices issued to applicable consumers
- January 2017: Failure to monitor or report arsenic (IOC), nitrate, and nitrite
 - Public notice issued
- April 2016: Failure to develop/revise RTCR sample siting plan
 - Plan submitted and approved by the DEP

Valley Crossings:

- April 2020: Valley did not submit a USSP certification to DEP
 - Corrective Action: Within 30 days of the execution of the Agreement, Valley shall submit a USSP to DEP
 - Corrective Action: Valley must pay a civil penalty totaling \$3,000 for both violations for all three water systems
- April 2020: Valley did not submit a Comprehensive Monitoring Plan to DEP
 - Corrective Action: Within 30 days of the execution of the Agreement, Valley shall submit a CMP to DEP

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- Corrective Action: Valley must pay a civil penalty totaling \$3,000 for both violations for all three water systems
- February 2020: Failure to distribute/submit a lead/copper consumer tap notice
 - Notices issued to applicable consumers
- January 2019: Failure to meet surface water TMNT rule performance level
 - Public notice issued
- August 2017: Failure to distribute/submit a lead/copper consumer tap notice
 - Notices issued to applicable consumers
- September 2016: Failure to monitor/report chlorine
- September 2016: Failure to monitor/report CFE or disinfection residual results
- May 2016: Failure to issue Tier 3 public notification HAA5 and TTHMs
- April 2016: Failure to develop/revise RTCR sample siting plan
 - Plan submitted and approved by the DEP

Villages of Hillview:

- April 2020: Valley did not submit a USSP certification to DEP
 - Corrective Action: Within 30 days of the execution of the Agreement, Valley shall submit a USSP to DEP
 - Corrective Action: Valley must pay a civil penalty totaling \$3,000 for both violations for all three water systems
- April 2020: Valley did not submit a Comprehensive Monitoring Plan to DEP
 - Corrective Action: Within 30 days of the execution of the Agreement, Valley shall submit a CMP to DEP
 - Corrective Action: Valley must pay a civil penalty totaling \$3,000 for both violations for all three water systems
- February 2020: Failure to distribute/submit a lead/copper consumer tap notice
 - Notices issued to applicable consumers
- October 2018: Failure to meet surface water TMNT rule performance level
 - Public notice issued
- September 2018: The certified lab failed to collect an HPC (Heterotrophic Plate Count) sample for use as an Alternative Compliance Criteria (ACC) for a low chlorine reading
 - Corrective Action: Tier 2 Public Notice was issued for this violation in February 2019
- April 2018: Failure to monitor/report TTHMs
- August 2017: Failure to distribute/submit a lead/copper consumer tap notice
 - Notices issued to applicable consumers
- July 2017: Failure to monitor/report HAA5
 - Public notice issued
- September 2016: Failure to monitor/report chlorine
- September 2016: Failure to monitor/report distribution system residual samples
- July 2016: The certified lab did not collect the TTHM and HAA5 samples according to the monitoring plan. Samples were collected on June 13, 2016 instead of May 2016. Samples were found to have met water quality standards.
 - Public notice issued
- April 2016: Failure to develop/revise RTCR sample siting plan
 - Plan submitted and approved by the DEP



April 30, 2020

Ms. Janis Rambo
Valley Township
P.O. Box 467
Coatesville, PA 19320

Re: Consent Order and Agreement
Valley Springs Water Company, Valley Crossing, and Villages of Hillview
PWS ID No. 1150185, 1150197, and 1150225
Valley Township
Chester County

Dear Ms. Rambo:

Accompanying this letter is your fully executed copy of the Consent Order and Agreement between Valley Township and DEP. The execution date is April 28, 2020. If you have any additional questions about this document or the actions contain within, please feel free to contact me by e-mail at jcairnes@pa.gov or by telephone at 484.250.5106.

Sincerely,

A handwritten signature in cursive script that reads "John Cairnes".

John Cairnes
Compliance Specialist
Safe Drinking Water

cc: Mr. Woolston
Mr. Detweiler
Mr. Cairnes
Ms. Cichowic
File
Re (GJS20SDW)130-10

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In the Matter of:

Valley Township	:	Safe Drinking Water Act Violations
P.O. Box 467	:	Valley Springs Water Company, Valley Crossing,
Coatesville, PA 19320	:	Villages of Hillview
	:	PWS ID 1150185, 1150197, 1150225
	:	Valley Township, Chester County

CONSENT ORDER AND AGREEMENT

This Consent Order and Agreement is entered into this 28th day of April, 2020, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection (hereinafter “DEP”) and Valley Township.

Findings

DEP has found and determined the following:

A. DEP is the agency with the duty and authority to administer and enforce the Pennsylvania Safe Drinking Water Act, Act of May 1, 1984, P.L. 206, *as amended*, 35 P.S. §§ 721.1–721.17 (“Safe Drinking Water Act”); Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, *as amended*, 71 P.S. § 510-17 (“Administrative Code”); and the rules and regulations promulgated thereunder (“Regulations”).

B. Valley Township (hereinafter “Valley”) is a second-class Pennsylvania Township with a mailing address of P.O. Box 467, Coatesville, PA 19320.

C. Valley Township owns three community public water systems: the Valley Springs Water Company (PWSID No. 1150185), which serves a population of approximately 2,500 residents of Valley Township, Valley Crossing (PWSID No. 1150197), which serves a population of approximately 900 residents of Valley Township, and the Villages at Hillview (PWSID No. 1150225), which serves a population of approximately 850 residents of Valley Township. The Valley Springs Water Company uses a combination of ground water and purchased surface water and is therefore a community groundwater system. Valley Crossing and the Village at Hillview both use purchased surface water and are therefore community purchased water systems.

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D. Valley is, and all relevant times hereto has been, the operator of a public water system as defined by Section 3 of the Safe Drinking Water Act, 35 P.S. § 721.3, and Section 109.1 of DEP's Rules and Regulations, 25 Pa. Code § 109.1.

E. Valley is a public water supplier and a person as defined by Section 3 of the Safe Drinking Water Act, 35 P.S. § 721.3, and Section 109.1 of DEP's Rules and Regulations, 25 Pa. Code § 109.1.

F. As set forth in 25 Pa. Code § 109.708(a), a community water system shall submit certification, on a certification form provided by DEP, verifying completion of an Uninterrupted System Service Plan (USSP) to ensure operation of critical facilities necessary to ensure that safe and potable water is supplied continuously to the users. As set forth in 25 Pa. Code § 109.708(a)(1), community water systems serving a population of 3,300 or fewer persons shall submit the USSP certification form to DEP no later than August 19, 2019.

G. Valley did not submit a USSP certification to DEP for the Valley Springs Water Company, Valley Crossing or the Village at Hillview.

H. As set forth in 25 Pa. Code § 109.718(a), all community water systems and non-transient, noncommunity water systems shall develop a Comprehensive Monitoring Plan (CMP) to assure that all sources, purchased interconnections and entry points are included in compliance monitoring at the entry points and in the distribution system. A copy of the plan shall be submitted to DEP no later than August 19, 2019.

I. Valley did not submit a Comprehensive Monitoring Plan to DEP for the Valley Springs Water Company, Valley Crossing or the Villages at Hillview.

J. The conditions referenced in Paragraphs F through I, above, constitute violations of Sections 109.708(a) and 109.718(a) of the Safe Drinking Water Regulation 25 Pa. Code §§ 109.708(a) and 109.718(a).

K. The violations described in Paragraph J, above, constitute a public nuisance under Section 12(a) of the Safe Drinking Water Act, 35 P.S. § 721.12(a); and subject Valley to civil penalty liability under Section 13(g) of the Safe Drinking Water Act, 35 P.S. § 721.13(g).

Order

After full and complete negotiation of all matters set forth in this Consent Order and Agreement and upon mutual exchange of covenants contained herein, the parties desiring to avoid litigation and intending to be legally bound, it is hereby ORDERED by DEP and AGREED to by Valley as follows:

1. **Authority.** This Consent Order and Agreement is an Order of DEP authorized and issued pursuant to Section 5(c) of the Safe Drinking Water Act, 35 P.S. § 721.5(c), and Section 1917-A of the Administrative Code, 71 P.S. § 510-17.

2. **Findings.**
 - a. Valley agrees that the findings in Paragraphs A through K, above, are true and correct and, in any matter or proceeding involving Valley and DEP, Valley shall not challenge the accuracy or validity of these findings.
 - b. The parties do not authorize any other persons to use the findings in this Consent Order and Agreement in any matter or proceeding.

3. **Corrective Action.**
 - a. Within 30 days of the execution of this Agreement, Valley shall submit to DEP a Comprehensive Monitoring Plan, and all required attachments, for each of the three systems it owns.
 - b. Within 30 days of the execution of this Agreement, Valley shall develop an Uninterrupted System Service Plan for each of the three systems it owns, and shall submit to DEP, a certification form for each system certifying completion of the plans.
 - c. If, during the development of the Uninterrupted System Service Plans for any of the three systems it owns, Valley discovers deficiencies in its plan, Valley shall develop a USSP corrective action schedule for each deficient plan and shall submit it simultaneously with the USSP certification form.

4. **Civil Penalty Assessment.** Valley consents to a civil penalty of **Three Thousand Dollars (\$3,000.00), which it will pay in three installment payments. The first payment shall be paid on the date of its execution of this CO&A. The second and third payments shall be made on June 1 and July 1, 2020, respectively.** These civil penalty payments are a settlement for DEP's claims for civil penalties for the violations set forth in Paragraphs F through J, above. The penalty payments shall be made payable by corporate check or the like made payable to the **Commonwealth of Pennsylvania, Safe Drinking Water Fund** and sent to:

John Cairnes
Compliance Specialist
Safe Drinking Water
Department of Environmental Protection
2 East Main Street
Norristown, PA 19401-4915

5. Stipulated Civil Penalties

a. In the event Valley fails to comply in a timely manner with any terms or provisions of this Consent Order and Agreement, it shall be in violation of this Consent Order and Agreement and, in addition to other applicable remedies, shall pay a civil penalty in the amount of \$100.00 per day for each violation.

b. Stipulated civil penalty payments shall be payable monthly on or before the fifteenth day of each succeeding month. Payment shall be made by corporate check or the like, made payable to **Commonwealth of Pennsylvania, Safe Drinking Water Fund** and sent to

John Cairnes
Compliance Specialist
Safe Drinking Water Program
Department of Environmental Protection
2 East Main Street
Norristown, PA 19401-4915

c. Any payment under this paragraph shall neither waive Valley's duty to meet its obligations under this Consent Order and Agreement nor preclude DEP from commencing an action to compel Valley's compliance with the terms and conditions of this Consent Order and Agreement. The payment resolves only Valley's liability for civil penalties arising from the violations of this Consent Order and Agreement for which the payment is made.

d. Stipulated civil penalties shall be due automatically and without notice.

6. Additional Remedies.

a. In the event Valley fails to comply with any provision of this Consent Order and Agreement, DEP may, in addition to the remedies prescribed herein, pursue any remedy available for a violation of an order of DEP, including an action to enforce this Consent Order and Agreement.

b. The remedies provided by this paragraph and Paragraph 5 (Stipulated Civil Penalties), above, are cumulative and the exercise of one does not preclude the exercise of any other. The failure of DEP to pursue any remedy shall not be deemed to be a waiver of that remedy. The payment of a stipulated civil penalty, however, shall preclude any further assessment of civil penalties for the violation for which the stipulated penalty is paid.

7. **Reservation of Rights.** DEP reserves the right to require additional measures to achieve compliance with applicable law. Valley reserves the right to challenge any action which DEP may take to require those measures.

8. **Liability of Valley.** Valley shall be liable for any violations of the Consent Order and Agreement, including those caused by, contributed to, or allowed by its officers, agents, employees, or

contractors. Valley also shall be liable for any violation of this Consent Order and Agreement caused by, contributed to, or allowed by its successors and assigns.

9. Transfer of the Water System.

a. The duties and obligations under this Consent Order and Agreement shall not be modified, diminished, terminated or otherwise altered by the transfer of any legal or equitable interest in the Water System, or any part thereof.

b. If Valley intends to transfer any legal, or equitable interest in the System, or any part thereof, which is affected by this Consent Order and Agreement, Valley shall serve a copy of this Consent Order and Agreement upon the prospective transferee of the legal and equitable interest at least 30 days prior to the contemplated transfer and shall simultaneously inform DEP of such intent pursuant to Paragraph 10 (Correspondence with DEP), below.

c. DEP in its sole discretion may agree to modify or terminate Valley's duties and obligations under this Consent Order and Agreement upon transfer of the Water System. Valley waives any right that it may have to challenge DEP's decision in this regard.

10. Correspondence with DEP. All correspondence with DEP concerning this Consent Order and Agreement shall be addressed to:

Mr. John Cairnes
Environmental Protection Compliance Specialist
Safe Drinking Water
Department of Environmental Protection
2 East Main Street
Norristown, PA 19401-4915
Telephone: 484.250.5106
Fax: 484.250.5971

11. Correspondence with Valley. All correspondence with Valley concerning this Consent Order and Agreement shall be addressed to:

Ms. Janis Rambo
Valley Township
P.O. Box 467
Coatesville, PA 19320
Telephone: 610.384.5751

Valley shall notify DEP whenever there is a change in its address. Service of any notice or any legal process for any purpose under this Consent Order and Agreement, including its enforcement, may be made by mailing a copy by first class mail to the above address.

12. **Severability.** The paragraphs of this Consent Order and Agreement shall be severable and should any part hereof be declared invalid or unenforceable, the remainder shall continue in full force and effect between the Parties.

13. **Entire Agreement.** This Consent Order and Agreement shall constitute the entire integrated agreement of the parties. No prior or contemporaneous communications or prior drafts shall be relevant or admissible for purposes of determining the meaning or extent of any provisions herein in any litigation or any other proceeding.

14. **Attorney Fees.** The parties shall bear their respective attorney fees, expenses and other costs in the prosecution or defense of this matter or any related matters, arising prior to execution of this Consent Order and Agreement.

15. **Modifications.** No changes, additions, modifications, or amendments of this Consent Order and Agreement shall be effective unless they are set out in writing and signed by the parties hereto.

16. **Titles.** A title used at the beginning of any paragraph of this Consent Order and Agreement may be used to aid in the construction of that paragraph, but shall not be treated as controlling.

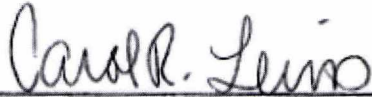
17. **Termination of Consent Order and Agreement.** Valley's obligations under Paragraphs 3, 4, 5, 8 and 9 of this Consent Order and Agreement shall terminate when it has: (1) completed all requirements of this Consent Order and Agreement; (2) achieved compliance with the Safe Drinking Water Act and with the Regulations as set forth herein; and (3) paid any outstanding penalties due under this Consent Order and Agreement. Valley's compliance with this Consent Order and Agreement shall be determined by DEP and shall not be appealable by Valley.

18. **Execution of Agreement.** This Consent Order and Agreement may be signed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

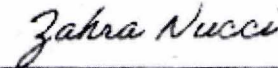
IN WITNESS WHEREOF, the parties hereto have caused this Consent Order and Agreement to be executed by their duly authorized representatives. The undersigned representatives of Valley certify, under penalty of law, as provided by 18 Pa. C.S. § 4904, that they are authorized to execute this Consent Order and Agreement on behalf of Valley, that Valley consents to the entry of this Consent Order and Agreement as a final Order of DEP; that Valley hereby knowingly waives its right to appeal this Consent Order and Agreement and to challenge its content and validity, which rights may be available under Section 4 of the Environmental Hearing Board Act, Act of July 13, 1988, P.L. 530, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A; or any other provision of law. Signature of Valley's attorney certifies only that the agreement been signed after consulting with counsel.

FOR VALLEY TOWNSHIP.:

**FOR THE COMMONWEALTH OF
PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION:**



Signature



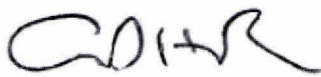
Zahra Nucci, P.E.
Regional Manager
Safe Drinking Water

CAROL LEWIS

Printed Name

TOWNSHIP MANAGER

Title



Attorney for Valley Township



Gina M. Thomas
Assistant Counsel
Southeast Regional Office

ANDREW D.H. RAU

Printed Name