

STATE OF NEW YORK : DEPARTMENT OF HEALTH

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IN THE MATTER OF :  
OF :

STIPULATION

Filtration of the Croton Source :  
Village of Briarcliff Manor :  
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WHEREAS, Title 40 of the Code of Federal Regulations (CFR), Sections 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 Section 5-1.30 of the State Sanitary Code (SSC), its New York State counterpart promulgated by 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 by June 30, 1993 for surface sources; and

WHEREAS, the Village of Briarcliff Manor ("Village") is the owner and operator of a public water system as defined in SSC Section 5-1.1 (at), which supplies unfiltered water from the Croton Aqueduct ("Croton Source") subject to SSC Section 5-1.30(b) to its consumers; and

WHEREAS, in 1993 the New York State Department of Health ("Department") granted the Village an exemption from the filtration requirements of SSC Section 5-1.30(b) with a mandatory compliance strategy and schedule as required by the SSC Section 5-1.92 for use of the Croton Source until the Village constructed a filtration plant; and

WHEREAS, the Village has satisfied conditions 1, 2, 3, 4, 5 and 6 of the exemption and received an extension for conditions items 7 and 8 so that a regional solution could be pursued; and

WHEREAS, the location of a filtration plant for drinking water from New York City's Croton Watershed ("Croton Filtration Plant") had previously not been determined. If the location was upstream of the Village's connection to the Croton Supply, the Village's construction of a filtration plant would have been unnecessary; and

WHEREAS, on June 30, 2004, the New York City Department of Environmental Protection announced its selection of the Mosholu Site at Van Cortlandt Park in the Bronx as the proposed site for the Croton Water Treatment Plant. The Mosholu Site is a location south of the Village of Briarcliff Manor's connection to the Croton Source. Thus, even after the construction and operation of the City filtration plant at the Mosholu site, the Village's public water system will not receive filtered water; and

WHEREAS, the exemption from filtration requirements granted to the Village has expired and cannot be extended or renewed.

NOW, THEREFORE, in order to satisfy the requirements of the SSC's Surface Water Treatment Rule, the Village and the Department agree as follows:

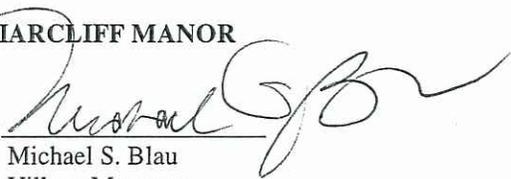
1. The Village shall continue to provide public and consumer notification each calendar quarter that water is taken from the unfiltered Croton Source, in accordance with the SSC Sections 5-1.51(c) and 5-1.52 Table 13. Such notification shall contain mandatory health effects language in accordance with SSC Section 5-1.78.
2. The Village of Briarcliff Manor shall monitor turbidity daily at the entry point to the Village's distribution system. Turbidity at the entry point shall not exceed 5 NTU in any daily reading. If the turbidity exceeds 1.49 NTU, the Village shall collect a total coliform sample from the distribution system, in accordance with SSC Section 1.52, Table 11 note 2.

3. The Village shall maintain a disinfection capability that achieves 99.9 percent inactivation of Giardia Lambia cysts. The Village must monitor the chlorine residual, pH and temperature daily, at the entry point.
- 4.1 The Village has identified its preferred course of action as interconnection with the Lower Catskill Aqueduct, a source operated by the New York City Department of Environmental Protection (NYC DEP). The Village shall complete the modification of its agreement with NYC DEP to relocate its source of supply off of the Croton Aqueduct and onto the Lower Catskill Aqueduct by May 1, 2005. Commencing May 2, 2005, the Village shall submit quarterly status reports to the Department identifying and describing its submittals to NYC DEP with respect to the modification of this agreement and the progress the Village and NYC DEP have achieved in negotiations concerning this agreement.
- 4.2 The Village shall submit a design report with drawings for improvements required to supply the Village from the Lower Catskill Aqueduct by March 1, 2006. This submittal must demonstrate to the Department that construction and operation of such improvements will achieve disinfection as required by the SSC.
- 4.3 The Village shall complete construction and commence operation of all improvements required for the Village of Briarcliff Manor to receive its water from the Lower Catskill Aqueduct by July 1, 2007.
5. If the Village determines that the preferred course of action identified in Item 4.1 above is not feasible, the Village will promptly advise the Department, in writing, and initiate the planning, design & construction of a filtration plant, or pursue purchasing drinking water from an acceptable source. The construction of the facility must be completed and the filtration plant or purchased water interconnection must be fully operational within 36 months (August 12, 2007) of the date that the Department informs the Village of New York City's recommended preferred site for the Croton Filtration Plant.
6. In the event that the Village fails to meet any of the deadlines set forth in this stipulation, the Village agrees to pay the Department stipulated penalties not to exceed the amount of two hundred and fifty dollars (\$250.00) for each day of noncompliance beyond the specified deadline. However, should the Department determine that (1) the Village has demonstrated a good faith and diligent effort to comply with the terms of this stipulation, and (2) that circumstances beyond the control of the Village have caused such noncompliance, the Department shall not impose such penalties.
7. It is further stipulated and agreed by the Village and the Department that there exist valid and sufficient grounds as a matter of law for this Stipulation and that the Village accepts its terms and conditions.
8. This stipulation shall be effective when fully executed by both parties.
9. In the event that the Village has demonstrated, to the Department, a good faith and diligent effort to meet a milestone set forth above, but nonetheless has failed to meet that milestone, any penalties that the Village would otherwise be subject to shall not be imposed, if the Department determines that circumstances beyond the control of the Village caused the Village's failure to meet the milestone.

DATED:

BRIARCLIFF MANOR

By:

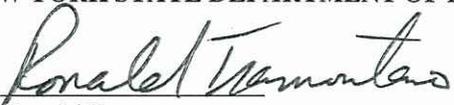
  
Michael S. Blau  
Village Manager  
Briarcliff Manor

DATED:

5/11/05

NEW YORK STATE DEPARTMENT OF HEALTH

By:

  
Ronald Tramontano  
Director  
Center for Environmental Health