

TOWNSHIP OF VERONA
COUNTY OF ESSEX, STATE OF NEW JERSEY

RESOLUTION No. 2024-____

A motion was made by ; seconded by that the following resolution be adopted:

AUTHORIZING EXECUTION OF AN ADMINISTRATIVE CONSENT
ORDER WITH THE NEW JERSEY DEPARTMENT OF ENVIRONMENT
PROTECTION

WHEREAS, the Township is in the process of installing upgrades to its water treatment processes to remove PFAS at both the Linn Drive and Fairview Avenue Well Sites; and,

WHEREAS, currently the Township receives all of its water from Passaic Valley Water Commission; and

WHEREAS, based upon the finding of PFAS in the water at the Linn Drive and Fairview Avenue Well Sites, the New Jersey Department of Environmental Protection has requested that the Township execute the attached Administrative Consent Order while the water treatment facilities are being redesigned and before the wells are turned back on; and

WHEREAS, the Township Manager recommends that the Administrative Consent Order be executed.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Verona that the Township Manager, or his designee, is authorized to execute the attached Administrative Consent Order.

ROLL CALL:

AYES:

NAYS:

ABSTAIN:

ABSENT:

THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF A RESOLUTION ADOPTED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF VERONA AT THE REGULAR MEETING HELD ON FEBRURY 5, 2024.

JENNIFER KIERNAN
MUNICIPAL CLERK



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
WATER RESOURCE MANAGEMENT
DIVISION OF WATER ENFORCEMENT
CASE MANAGEMENT & SPECIAL SERVICES UNIT

401 East State Street
P.O. Box 402, Mail Code 401-07
Trenton, New Jersey 08625-0402
Tel. (609) 292-3010 Fax (609) 777-0432
www.nj.gov/dep

PHILIP D. MURPHY
Governor

SHAWN M. LATOURETTE
Commissioner

TAHESHA L. WAY
Lt. Governor

CERTIFIED MAIL/ RRR
7022 3330 0001 3409 2117

January 30, 2024

Honorable Christopher Tamburro, Mayor
Township of Verona
600 Bloomfield Avenue
Verona, NJ 07044

Re: Administrative Consent Order
Verona Water Department
Program Interest No.: 0720001
Compliance Activity No.: NEA 230001
Verona Township, Essex County

Dear Mr. Tamburro:

Enclosed are two originals of an Administrative Consent Order which was prepared by the New Jersey Department of Environmental Protection ("Department") to resolve violations by the Verona Water Department of the Safe Drinking Water Act (NJ.S.A. 58:12A-1 et seq.), and the Safe Drinking Water Act ("SDWA") regulations (N.J.A.C. 7:10-1 et seq.).

Both copies of the Administrative Consent Order **should be executed by a duly authorized representative** of the Verona Water Department **and returned** to the Department's Case Management and Special Services Unit **within 14 days of your receipt** of this letter. Once received, the Department will execute both originals and return to you one fully executed copy.

Should the Verona Water Department not execute and return this Administrative Consent Order within the time specified above then this offer shall be null and void.

Please contact Manuel Nolau of my staff at (609) 439-9592, manuel.nolau@dep.nj.gov or by letter through this office with any questions regarding this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read 'B. Callanan', written over a horizontal line.

Brett Callanan, Supervisor
Case Management and Special Services

Enclosures

c: Donald Hirsch, Chief, NJDEP-Division of Water Enforcement, Northern Region



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

WATER RESOURCE MANAGEMENT

DIVISION OF WATER ENFORCEMENT

NORTHERN REGION

7 Ridgedale Avenue

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PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lt. Governor

SHAWN M. LATOURETTE
Commissioner

**IN THE MATTER OF
VERONA WATER
DEPARTMENT**

:
:
:
:
:

**ADMINISTRATIVE
CONSENT ORDER**

EAID# 0720001- NEA 230001

This Administrative Consent Order ("ACO") is entered into pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection ("Department" or "NJDEP") by N.J.S.A. 13:1D-1 et seq., the Safe Drinking Water Act ("SDWA"), N.J.S.A. 58:12A-1 et seq., and the SDWA regulations, N.J.A.C. 7:10-1 et seq., and is duly delegated to the Assistant Commissioner of Water Resource Management and her assignees pursuant to N.J.S.A. 13:1B-4.

A. FINDINGS

1. The Verona Water Department ("Verona") owns and operates a public community water system ("system") as defined by N.J.A.C. 7:10-1.3, and is located at 10 Commerce Court, Verona Township, Essex County, New Jersey. The Verona system holds public water system identification ("PWSI") number 0720001 and serves approximately 13,641 people in Verona Township.
2. Verona has two (2) active treatment plant ("TP") points of entry into its drinking water distribution system. They are the Fairview Avenue Treatment Plant ("Fairview Ave"), designated as Point of Entry (POE) TP002001, and the Linn Drive Treatment Plant ("Linn Drive"), designated as POE TP003001. The Verona TPs are located in Verona Township, and they treat groundwater from two wells. Under Water Allocation Permit 5382, Verona is allowed to divert from those two (2) wells, 34.6 million gallons per month and 365 million gallons per year. Current treatment at Fairview Ave includes reduction of Volatile Organic Compounds with air strippers, sequestering for inorganics removal, corrosion control, and disinfection with sodium hypochlorite. Current treatment at Linn Drive includes corrosion control, and disinfection with sodium hypochlorite. Additionally, Verona has a contract with the Passaic Valley Water Commission, PWSI number 1605002, to purchase 2 million gallons per day ("MGD") of potable water, and a contract with the Borough of Essex Fells, PWSI number 0706001, to sell 0.25 MGD.

3. The SDWA 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 (“National Regulations”) at 40 CFR Parts 141 and 142, Subparts E, F, G, and K. N.J.A.C. 7:10-5.2 sets forth the Department’s discretionary changes to the National Primary Drinking Water Regulations.
4. The Department adopted amendments to the New Jersey SDWA Rules at N.J.A.C. 7:10-5.2 that became effective June 1, 2020. 52 N.J.R. 1165(b). The amendments include the establishment of a maximum contaminant levels (MCL) of 0.014 micrograms per liter (µg/l) for Perfluorooctanoic Acid (PFOA). Monitoring for PFOA is established under the National Regulations at 40 CFR 141.24(f) et seq. Specifically, PFOA MCL exceedances are to be calculated at the POE based on a running annual average (RAA) as required by N.J.A.C. 7:10-5.2(a)(5) and 40 CFR 141.24(f)(15)(i).
5. Per- and polyfluoroalkyl substances (PFAS) are a group of man-made chemicals, including PFOA, with unique and troubling combinations of characteristics that require an aggressive but feasible regulatory response to their widespread presence in public drinking water systems throughout New Jersey. PFAS do not break down in the environment. They remain in the human body for many years after exposure ends. PFAS cause multiple types of toxicity and demonstrate adverse human health effects at low exposures. When even low levels are present in drinking water, exposures to PFAS from drinking water can be greater than exposures from other common sources such as food and consumer products. This is in contrast to other persistent, bioaccumulative and toxic (PBT) contaminants (e.g., PCB’s and dioxins) that have low water solubility. See generally 50 N.J.R. 334(a), 50 N.J.R. 1939(a), 51 N.J.R. 437(a), and 52 N.J.R. 1165(b).
6. Verona has not diverted any water at the Linn Drive POE, TP003001, since January 2021. Verona conducted quarterly PFOA sampling at the Fairview Avenue TP, POE TP002001, beginning in 2021, as required by the SDWA. The analytical results for those samples indicated that the MCL of 0.014 µg/l for PFOA was exceeded on a RAA in the 2nd quarter of 2021, constituting an MCL violation, as listed below:

Reporting Period	Quarterly Value (µg/l)	Running Annual Average (µg/l)
1 st quarter 2021	0.035	
2 nd quarter 2021	0.033	0.017

**The RAA was calculated by dividing the sum of the above results by 4.*

7. Pursuant to N.J.A.C. 7:10-5.7(a) and N.J.S.A. 58:12A-15 et seq., Verona shall, within one year after receipt of the results of the tests conducted pursuant to the National Regulations and N.J.A.C. 7:10-5.2 that demonstrate an MCL exceedance that constitutes a violation, take any action necessary to bring the water into compliance with the applicable MCL.
8. The Department issued a PFOA MCL Notice of Noncompliance (“NONC”) letter to Verona dated July 22, 2021, that established the one-year deadline, as described above, to

take corrective action and come into compliance with the PFOA MCL at TP002001 as of July 22, 2022.

9. Verona submitted to the Department a revised Remedial Measures Report (“RMR”) dated March 18, 2022 for actions required to achieve compliance at TP002001 with the PFOA MCL. The RMR proposed a shut down of the Fairview Ave TP and subsequent installation of a PFOA treatment system by March 1, 2025. The RMR further proposed a PFOA treatment system at the Linn Drive TP, POE TP003001 (offline as noted above), by November 1, 2024. Verona was notified by the Department via letter dated April 7, 2022 that the RMR was approved with certain specific conditions, one such condition being that compliance with the PFOA MCL must be demonstrated by July 22, 2022.
10. In response to the above noted 2nd quarter 2021 PFOA MCL RAA exceedance, Verona temporarily took the Fairview Ave TP offline from Verona’s potable distribution system. According to the RMR, the Fairview Ave TP has been offline since July 28, 2021.
11. Verona submitted an application dated December 23, 2022, for a Treatment Plant Permit, permit number WCP230001, to Construct/Modify/Operate Public Water Works at Linn Drive. The permit WCP230001 was issued on May 16, 2023, became effective on May 16, 2023, and will expire on May 15, 2028. The permit is for the installation of two 5 micron pleated polyester cartridge filter vessels for particulate removal ahead of adsorption pressure vessels filled with anion resin (ion exchange) for the treatment of PFAS compounds and the installation of a second set of pressure vessels with granular ferric hydroxide adsorption media for Total Arsenic treatment (Arsenic 3+ & 5+). A sodium hypochlorite feed system will be utilized, as needed, as an oxidant upstream of the Arsenic treatment for efficient adsorption of Arsenic III (Arsenite), producing longer media bed life.
12. Verona submitted an application dated August 17, 2023, for a Treatment Plant Permit, permit number WCP230003, to Construct/Modify/Operate Public Water Works at Fairview Avenue. The permit WCP230003 was issued on November 16, 2023, became effective on November 16, 2023, and will expire on November 15, 2028. The permit is for modifications to the existing Fairview Avenue Well treatment facility comprised of the installation of two (2) 30-inch diameter cartridge filters for particulate removal and two (2) 8-foot diameter anion exchange (IX) vessels, configured in series (lead/lag) for the removal of PFAS.
13. Because Verona has taken the steps enumerated above, and because Verona is currently delivering water that is below the MCL for PFOA, the Department is exercising its enforcement discretion under 58:12A-9, and is not, at this time, issuing a violation to Verona for failing to meet the one year compliance deadline under N.J.A.C. 7:10-5.7(a).
14. Pursuant to N.J.A.C. 7:10-5.5(a), each supplier of water shall provide public notification (“PN”) of any violation of any MCL or monitoring requirement in accordance with the National Regulations pursuant to 40 CFR 141.32, which has subsequently been amended to 40 CFR 141.201, (“Subpart Q”). Pursuant to 40 CFR 141.203(a), all MCL violations require Tier 2 public notification when they are not determined to be Tier 1. Verona’s PFOA MCL violation has been determined to be a Tier 2 violation, therefore Verona is required to complete and distribute public notification within 30 days of learning of the

violation. Pursuant to 40 CFR 141.203(b), the Department may grant an extension to the public notification deadline via writing (see below for further details on Verona's public notification requirements).

15. Verona provided Tier 2 public notification of the MCL violation on September 7, 2021, January 21, 2022, April 8, 2022, and August 22, 2023. In a letter dated April 8, 2022, the Department approved Verona's request to reduce public notification frequency from every three months to every 12 months, provided Verona met certain conditions listed that letter; including that Verona shall temporarily no longer use the sources that exceed the PFOA MCL.
16. Based on the facts set forth in these FINDINGS, the Department and Verona have determined that Verona has violated 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., for the 2nd quarter 2021 PFOA MCL RAA exceedance noted above.
17. In order to resolve this matter without trial or adjudication, Verona has agreed to entry of this ACO and to be bound by its terms and conditions.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

B. COMPLIANCE SCHEDULE

18. Verona shall take whatever actions are necessary to achieve and maintain compliance with the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., and the Safe Drinking Water Act regulations N.J.A.C. 7:10-1 et seq., including applicable public notifications, in accordance with the schedule set forth in paragraphs nineteen (19) through twenty-four (24) below.
19. Verona must issue a Tier 2 public notice to its customers by April 31, 2024, and annually thereafter, as follows:
 - A. Mail a PN to its customers, notifying of the following:
 - i. Water from the source(s) is no longer being provided;
 - ii. Date this became effective;
 - iii. An update will be provided every three months on the website (with a link to the website);
 - iv. Contact information if a customer would like to request to continue to receive a direct mailing of the public notice.
 - B. Through direct delivery, provide the most recent public notice to any new customer within 30 days of activation/transfer of service.
 - C. Continuously post the mailed public notice in a location that is viewable to all on the water system's website.
 - D. In addition, the water system must provide updates on their website no less frequently than every three months. The updates must be in all applicable languages and including the following information:
 - i. "Drinking Water Warning";
 - ii. Most recent running annual average;

- iii. Health Effects;
 - iv. Steps the customer can take to reduce their exposure through drinking water;
 - v. An update on the permanent corrective measures and steps the water system is taking;
 - vi. Sources currently being used;
 - vii. Contact information for questions;
 - viii. Date the update was posted.
- E. Obtain state approval for all updates and repeat public notices prior to posting and/or distributing.
- F. Submit written confirmation (email or letter) to Verona's Compliance Assistance Section County Manager, quarterly demonstrating the updates have been posted on Verona's website as outlined in the above requirements.
- G. Submit the Public Notification Certification form, DEP_10-F_00008.1, by May 10, 2024 and annually thereafter, after distributing the public notice.
- H. If the source is placed back online, the customers must be notified directly in writing prior to any planned use of the source and within 24 hours of an emergency use of the source through the water system's website, social media, and other approved methods and will be notified via direct mail as soon as practical but no more than 30 days from its use.
20. For all public notifications required above, Verona must submit to the Department a representative copy(s) of each completed and distributed public notification within ten (10) days of completing the public notification requirements. In addition, Verona must submit a completed Public Notification Certification Form DEP_10-F_00008.1 (formerly BSDW-53) in accordance with 40 CFR 141.31(d).
21. On or before June 1, 2026, Verona shall place the expanded treatment facility at Fairview Avenue TP into operation, and all water at Fairview Avenue TP shall be treated to comply with the PFOA MCL.
22. Verona shall take one sample for PFOA per week for the first four weeks of operation of the newly installed treatment system at the Fairview Ave TP POE. Thereafter, pursuant to N.J.A.C. 7:10-5.2(a)13, Verona shall monitor for PFOA each calendar quarter at the Fairview Avenue TP point of entry. Should permit WCP230003 approving the construction of PFOA treatment noted in this ACO require additional sampling for PFOA after installation of treatment than this paragraph requires, Verona shall comply with the sampling frequency and sampling period established by the construction permit and submit the results to the Department in accordance with the permit conditions. All samples must be analyzed by a New Jersey certified laboratory and submitted to the Department. Notify the Department's Bureau of Safe Drinking Water prior to commencing the sampling noted in this paragraph if one or more of the samples wish to be designated by Verona as the required quarterly compliance POE sample.
23. On or before July 1, 2026, Verona shall submit to the Department a completed *Placed In Service Certification* form.

24. If Verona is not able to achieve compliance by taking the corrective action set forth in this ACO, Verona shall take 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.

C. PROGRESS REPORTS

25. Verona shall submit to the Department quarterly progress reports. The quarters shall be January through March, April through June, July through September, and October through December of each calendar year. Each progress report shall be submitted on or before the last day of the month following the quarter being reported. Verona shall submit the first progress report to the Department by April 30, 2024, for the first (1st) quarter of 2024. Each progress report shall detail the status of Verona's compliance with this ACO and shall include, but not be limited to, the following:
- A. Identification of site and reference to this ACO;
 - B. Status of permitting and planning approvals needed to complete the COMPLIANCE SCHEDULE SECTION of this ACO;
 - C. The status of any work at the site and progress to date;
 - D. Identification of any difficulties or problems encountered during the reporting period;
 - E. All actions taken to rectify any difficulties or problems;
 - F. Identification of the COMPLIANCE SCHEDULE SECTION activities planned for the next reporting period;
 - G. Required and actual completion date for each COMPLIANCE SCHEDULE SECTION activity required by this ACO;
 - H. An explanation of any noncompliance with the COMPLIANCE SCHEDULE SECTION provisions of this ACO; and performance evaluation of all corrective measures implemented to date.

Progress reports shall be submitted by email to don.hirsch@dep.nj.gov and manuel.nolau@dep.nj.gov.

D. RESERVATION OF RIGHT TO SEEK PENALTIES

26. The Department reserves the right to seek civil and /or administrative penalties for present and future violations committed by Verona.

E. STIPULATED PENALTIES

27. Verona shall pay stipulated penalties to the Department, as set forth below, for each failure to comply with the deadlines specified in the COMPLIANCE SCHEDULE SECTION and the PROGRESS REPORTS SECTION of this ACO. However, Verona shall not be liable for the following stipulated penalties for violations of the COMPLIANCE SCHEDULE SECTION if the Department has notified Verona in writing pursuant to the FORCE MAJEURE SECTION of this ACO that it has extended Verona's deadline for a particular period of time for specific violations of the COMPLIANCE SCHEDULE SECTION.

<u>Calendar Days Past Compliance Date</u>	<u>Per Calendar Day</u>
1-7	\$100
8-14	\$200
15 or more	\$500

For all violations of deadlines in the PROGRESS REPORT SECTION the stipulated penalty to be paid by Verona is \$50.00 for each calendar day that Verona is late on the submittal of the Progress Report.

Stipulated penalties for each violation of the COMPLIANCE SCHEDULE SECTION and the PROGRESS REPORT SECTION of this ACO shall begin to accrue daily until performance is satisfactorily completed.

Penalties for violations of the ACO that are not addressed by the preceding paragraphs may be sought civilly and/or assessed administratively under the Act noted above.

28. Nothing in this ACO shall preclude the simultaneous accrual of separate stipulated penalties for separate violations of this ACO.
29. All stipulated penalties shall be due and payable sixty (60) calendar days following Verona's receipt of a written demand from the Department. Payment of stipulated penalties shall be made by certified check payable to "Treasurer, State of New Jersey" in the amount of the stipulated penalties demanded by the Department. Payment shall be mailed with the bottom portion of an included invoice to the Division of Revenue at the address set forth in the invoice.
30. If Verona fails to pay stipulated penalties pursuant to the preceding paragraphs, the Department may institute civil proceedings to collect the stipulated penalties allowable under the Act and implementing regulations noted above for the violations of this ACO or take any other appropriate enforcement action.
31. The payment of stipulated penalties does not alter Verona's responsibility to complete all requirements of this ACO.

F. FORCE MAJEURE

32. If any event occurs which is beyond the control of Verona and which Verona believes will or may cause delay in the achievement of the COMPLIANCE SCHEDULE (paragraphs eighteen (18) through twenty-four (24) above) provisions of this ACO, Verona shall notify the Department in writing within seven (7) calendar days of becoming aware of the delay or anticipated delay, as appropriate. In the notification, Verona 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. Verona shall take all necessary action to prevent or minimize any such delay.

33. The Department may extend the deadlines in the COMPLIANCE SCHEDULE SECTION of this ACO for a period no longer than the delay if the Department finds that:
- A. Verona has complied with the notice requirements of paragraph thirty-two (32) above;
 - B. The delay or anticipated delay has been or will be caused by fire, flood, riot, strike, or other circumstances beyond the control of Verona; and
 - C. Verona has taken all necessary actions to prevent or minimize the delay.
34. If the Department denies Verona's force majeure request, Verona will be subject to stipulated penalties and/or other civil and/or administrative enforcement actions. The burden of proving that any delay is caused by circumstances beyond the control of Verona and the length of any such delay attributable to those circumstances shall rest with Verona. Neither contractor's breach nor increases in the cost or expenses incurred by Verona in fulfilling the requirements of this ACO shall 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. No extension of time shall be granted pursuant to this FORCE MAJEURE SECTION of this ACO for any other provisions of this ACO.

G. RESERVATION OF RIGHTS SECTION

35. Nothing in this ACO shall constitute a waiver of any statutory, regulatory or common law rights of the Department pertaining to any of the laws of the State of New Jersey.
36. Nothing in this ACO shall preclude the Department from taking enforcement or penalty action against Verona that the Department may deem appropriate for matters or violations not set forth in the FINDINGS of this ACO which the Department is entitled to bring under the laws of the State of New Jersey.
37. The Department reserves all statutory, regulatory, and common law rights to require Verona to take additional actions(s) should the Department determine that such actions are necessary to protect public health, safety, welfare and/or the environment. Nothing in this ACO shall constitute a waiver of any right of the Department to require such additional actions should the Department determine that such actions are necessary. .
38. Nothing in this ACO restricts or precludes the Department from raising the above FINDINGS in any other proceeding including, but not limited to, proceedings pursuant to N.J.S.A. 13:1E-126 et seq., (commonly referred to as A-901).

H. MODIFICATIONS SECTION

39. No modification or waiver of this ACO shall be valid except by written amendment duly executed by Verona and the Department or by the Department's written modification pursuant to the FORCE MAJEURE SECTION herein above.
40. Verona shall not construe any unwritten advice, unwritten guidance, unwritten suggestions, or other unwritten comments by the Department, or by person(s) acting on its behalf, as relieving Verona of its obligations under this ACO, the Safe Drinking Water Act (N.J.S.A. 58:12A-1 et seq.), and the Safe Drinking Water Act regulations (N.J.A.C. 7:10-1 et seq.).

I. RIGHT OF ENTRY AND INSPECTION SECTION

41. In addition to the Department's statutory and regulatory rights to enter and inspect, Verona shall allow the Department and any person(s) acting on its behalf, access to the site at all times for the purpose of monitoring compliance with this ACO.

J. TERMINATION SECTION

42. This ACO shall terminate upon receipt by Verona of written notice from the Department that all the requirements of this ACO have been satisfied. Termination of this ACO shall not relieve Verona of its liability for any unpaid penalties previously demanded by the Department pursuant to the terms and conditions of this ACO, nor shall it affect in any way the Department's right and ability to collect said unpaid penalties.
43. The Department reserves the right to unilaterally terminate this ACO and to take any lawful additional enforcement action it deems necessary, in the event Verona violates its terms and/or conditions.
44. The Department reserves the right to unilaterally terminate this ACO if the Department determines it no longer serves the purpose for which it was intended. In the event the Department invokes this provision, the Department shall provide written justification for its action and shall also set forth in writing the date of termination of the ACO.
45. If any provision of this ACO or the application thereof to any person or circumstance shall to any extent be found to be invalid or unenforceable, the remainder of this ACO (or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable) shall not be affected thereby and each provision of this ACO shall be valid and enforceable to the fullest extent permitted by law. The Department does, however, retain the right to terminate the remainder of this ACO if, after such finding, it determines that the remainder of this ACO does not serve the purpose for which it was intended.

K. GENERAL PROVISIONS SECTION

46. This ACO settles and resolves only the violations cited and is not a settlement of any other civil or administrative action arising from those violations; provided however that nothing in this ACO resolves or precludes criminal prosecution against Verona for criminal violations, if applicable.
47. Verona agrees that the PENALTY SECTION provisions set forth above do not constitute criminal punishment. Verona further waives any right it may have to claim that double jeopardy attaches to the penalty settlement set forth above (if applicable) or to the stipulated penalties set forth above.
48. This ACO shall be binding on Verona, its successors, assigns, agents, subsequent purchasers, and any trustee in bankruptcy or receiver appointed pursuant to a proceeding in law or equity. This ACO shall also be binding on Verona's principals, directors, officers, members, employees, and any other individuals who are responsible corporate officials within the meaning of the Acts set forth in this ACO.

49. This ACO shall not be construed to be a permit or to be in lieu of a permit for any activities which require permits. Verona shall obtain and comply with all applicable federal, state, and local permits as well as all applicable statutes, regulations, rules, codes, and orders while carrying out the obligations imposed by this ACO, including, but not limited to the statutes, regulations, and permits cited herein.
50. This ACO shall not preclude the Department from requiring Verona to apply for any permit or permit modification issued by the Department under its statutory or regulatory authority for the matters covered herein. When such a permit or permit modification becomes effective, the terms and conditions of any such permit or permit modification shall not be pre-empted by the terms and conditions of this ACO, even if the terms and conditions of any such permit or permit modification are more stringent than the terms and conditions of this ACO.
51. The obligations or penalties imposed by this 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. Compliance with the requirements of this ACO by Verona is not conditioned in any way on receipt by Verona of any federal, state, local, or public funding.
53. All appendices and/or attachments referenced in this ACO, if any, and all reports, work plans and other documents required under the terms of this ACO are, upon approval of the Department, incorporated into this ACO by reference and made a part hereof.
54. Verona shall perform all work required by this ACO in accordance with prevailing professional standards.
55. This ACO shall be governed and interpreted under the laws of the State of New Jersey.
56. This ACO shall be construed as if drafted by both parties.
57. Verona agrees not to contest the authority or jurisdiction of the Department to issue this ACO. Verona also agrees not to contest the terms or conditions of this ACO, except that Verona may contest the Department's interpretation or application of such terms or conditions in any action brought by the Department to enforce the terms and conditions of this ACO.
58. Verona hereby consents to and agrees that this ACO is a final agency order, may be docketed with the clerk of the Superior Court pursuant to N.J.S.A. 2A:58-10, N.J.S.A. 58:1A-1 et seq., and 58:12A-1 et seq., and is fully enforceable as a final order in the New Jersey Superior Court upon the filing of a summary action for compliance with the Safe Drinking Water Act.
59. Verona shall give written notice of this ACO to any successor in interest at least thirty (30) calendar days prior to transfer of ownership or control of the facility or facilities which are the subject of this ACO or the property on which such facility is/facilities are located or

where the violations occurred, and shall simultaneously notify the Department in writing that such notice has been given. This requirement shall be in addition to any other statutory or regulatory requirement(s) arising from the transfer of ownership or control of Verona's facility(ies) or property. In addition, the parties agree that any contract, lease, deed or any other agreement that Verona enters into to convey the property/facility that is/are the subject of this ACO shall include a provision which states that the successor, assignee, tenant or purchaser has agreed to assume the obligations imposed by this ACO and that the terms of this ACO shall be binding on such persons or entities. In the event that Verona fails to comply with this paragraph, Verona shall remain responsible for compliance with the terms and conditions of this ACO despite its transfer of ownership and/or control of the facility(ies) or property.

60. Verona shall provide written notice to the Department of Verona's filing of a petition in bankruptcy no later than the first business day after such filing. This requirement shall be in addition to any other statutory requirement arising from the filing of the bankruptcy petition.
61. Unless otherwise specifically provided herein, Verona shall submit all documents required by this ACO, except penalty payments, to the Department by electronic mail, certified mail, return receipt requested or by hand delivery with an acknowledgment of receipt form for the Department's signature to:

Donald Hirsch, Chief
New Jersey Department of Environmental Protection
Water Enforcement - Northern Region
7 Ridgedale Avenue
Cedar Knolls, New Jersey 07927
E-Mail: don.hirsch@dep.nj.gov

And

Patricia Ingelido, Director
New Jersey Department of Environmental Protection
Water Supply and Geoscience
Mail Code: 401-04Q, P.O. Box 420
401 East State Street
Trenton, New Jersey 08625
E-Mail: patricia.ingelido@dep.nj.gov

The date the Department receives the electronic mail, the certified mail, or executes the acknowledgment of receipt form will be the date the Department uses to determine Verona's compliance with this ACO.

62. Unless otherwise specifically provided herein, any communication made by the Department to Verona pursuant to this ACO shall be sent to:

Honorable Christopher Tamburro, Mayor
Township of Verona
600 Bloomfield Avenue

Verona, New Jersey 07044

63. Nothing in this ACO shall preclude the Department from taking enforcement action against Verona for matters not set forth in the findings of this ACO.
64. This ACO represents the entire integrated agreement between the Department and Verona on the matters contained herein. The terms and conditions of this ACO supersede all prior negotiations, representations, or agreements, either written or oral, regarding this ACO.
65. This ACO shall become effective upon the execution date by all parties.

VERONA WATER DEPARTMENT

DATED: _____

BY: _____

Honorable Christopher Tamburro, Mayor
Township of Verona

By this signature, I certify that I have full
authority to execute this document on behalf
of Verona.

**NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

DATED: _____

BY: _____

Donald Hirsch, Chief
Division of Water Enforcement,
Northern Region

By this signature, I certify that I have full
authority to execute this document on behalf
of NJDEP.