



NOTICE

DEPARTMENT OF JUSTICE

NOTICE OF LODGING OF PROPOSED CONSENT JUDGMENT
UNDER THE SAFE DRINKING WATER ACT

On December 20, 2016, the Department of Justice lodged a proposed Consent Judgment with the United States District Court for the Eastern District of New York in the lawsuit entitled *United States v. State of New York, et al.*, Civil Action No. 2:16-cv-6989.

The United States filed a complaint in this action on the same day that the Consent Judgment was lodged with the Court. The Defendants are the State of New York; New York State Office of Parks, Recreation and Historic Preservation (“OPRHP”) (offices at 625 Broadway, Albany, New York 12238); and the Palisades Interstate Park Commission (“Commission”) (offices at Administration Building, Bear Mountain State Park, Bear Mountain, New York 10911-0427). The complaint arises out of Defendants’ operation of Large Capacity Cesspools (“LCCs”). The complaint alleges that Defendants owned and operated 54 LCCs at various OPRHP and Commission parks (“the Prohibited LCCs”) in violation of the Safe Drinking Water Act (“SDWA”), 42 U.S.C. 300h, EPA’s underground injection control (“UIC”) program, specifically the program’s Class V UIC regulations found at 40 CFR 144.80 to 144.89. Pursuant to 40 CFR 144.82(b) and 144.88(a), owners and operators of “existing” (*i.e.*, operational or under construction by April 5, 2000) large-capacity cesspools were required to close them by April 5, 2005 (“Class V Rule”).

The complaint alleges claims for relief based on the following violation: the Prohibited LCCs were not closed by April 5, 2005, as required by the Class V Rule, 40 CFR 144.82(b) and

144.88(a), and the Prohibited LCCs, primarily located at Defendants' comfort stations, continued to operate after April 5, 2005.

The Consent Judgment provides for Defendants to pay a \$150,000 civil penalty and to perform injunctive relief, including closing the Prohibited LCCs or otherwise converting them to lawful non-LCC uses by July 2019. Prohibited LCCs that are located on Long Island will be closed by September 2018, with most of the Long Island Prohibited LCCs being closed by September 2017.

The Defendants implemented some injunctive relief before the lodging of the Consent Judgment, including closing six of the Prohibited LCCs and submitting closure plans for 29 of the remaining Prohibited LCCs.

The Consent Judgment further requires Defendants to implement Supplemental Environmental Projects (SEPs) at seven of Defendants' Long Island parks. The SEPs have a total estimated value of \$1,020,000. All SEPs must be completed within three years after the Effective Date of the Consent Judgment. Each of the SEPs is intended to reduce the quantity of nutrients harmful to water quality, including nitrogen, from entering the local groundwater.

The Consent Judgment resolves the civil claims of the United States for the violations alleged in the complaint through the date of lodging of the Consent Judgment.

The publication of this notice opens a period for public comment on the Consent Judgment. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States v. State of New York*, D.J. Ref. No. 90-5-1-1-11400. All comments must be submitted no later than 30 days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov
By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611

During the public comment period, the Consent Judgment may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the Consent Judgment upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library
U.S. DOJ – ENRD
P.O. Box 7611
Washington, D.C. 20044-7611

Please enclose a check or money order for \$18.00 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is \$10.25.

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Environment and Natural Resources Division

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