



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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DENVER, CO 80202-1129
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2012 JUL 26 AM 9:57

FILED
EPA REGION VIII
DENVER CLERK

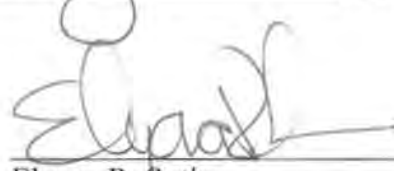
DOCKET NO.: CAA-08-2012-0010

IN THE MATTER OF:)	
)	
)	
ASHLEY VALLEY WATER)	FINAL ORDER
TREATMENT PLANT)	
Ashley, Utah)	
)	
Respondent)	

Pursuant to 40 C.F.R. §22.13(b) and 22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

The Parties are hereby **ORDERED** to comply with all of the terms of this **Order**, effective immediately upon receipt by Parties of this **Order**.

SO ORDERED THIS 26th Day of July, 2012



Elyana R. Sutin
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2012 JUL 26 AM 9:57

FILED
EPA REGION VIII
ADMINISTRATIVE OFFICE

IN THE MATTER OF:)

Ashley Valley Water Treatment Plant)
Ashley, UT)

Respondent)

EXPEDITED SETTLEMENT AGREEMENT

(COMBINED COMPLAINT AND
CONSENT AGREEMENT)

DOCKET NO. : CAA-08-2012-0010

This Expedited Settlement Agreement (also known as a Combined Complaint and Consent Agreement, hereafter ESA) is entered into by the parties for the purpose of simultaneously commencing and concluding this matter.

This ESA is being entered into by the United States Environmental Protection Agency (EPA), Region 8, by its duly delegated official, the Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, and by the Ashley Valley Water Treatment Plant (Respondent) pursuant to § 113(a)(3) and (d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(a)(3) and (d), and 40 C.F.R. § 22.13(b). The EPA and the U.S. Department of Justice have determined, pursuant to § 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), that the EPA may pursue this type of case through administrative enforcement action.

ALLEGED VIOLATIONS

On November 7, 2011, an authorized representative of the EPA conducted a compliance inspection of the Ashley Valley Water Treatment Plant facility located at 3550 North 2500 West in Ashley, Utah, to determine compliance with the Risk Management Plan (RMP) regulations promulgated at 40 C.F.R. part 68 under § 112(r) of the Act. The EPA found that the facility had violated regulations implementing § 112(r) of the Act by failing to comply with the specific requirements outlined in the attached *RMP Program Level 3 Process Checklist-Alleged Violations & Penalty Assessment* (Checklist and Penalty Assessment).

SETTLEMENT

In consideration of Respondent's facility service size, its full compliance history, its good faith effort to comply, and other factors as justice may require, and upon consideration of the entire record, the parties enter into this ESA in order to settle the violations for the total penalty amount of \$2,180. An explanation for the penalty calculation is found in the attached *Expedited Settlement Penalty Matrix*.

This settlement is subject to the following terms and conditions:

1. The Respondent by signing below waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained in the Checklist and Penalty Assessment and consents to the assessment of the penalty as stated above.
2. Respondent waives its rights to a hearing afforded by § 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A), and to appeal this ESA, and consents to the EPA's approval of the ESA without further notice.
3. Each party to this action shall bear its own costs and attorney's fees, if any.
4. Respondent also certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent will correct the violations listed in the Checklist and Penalty Assessment no later than 60 days from the date the ESA is signed by the Respondent.
5. Respondent waives any and all claims for relief, and otherwise available rights to judicial or administrative review or other remedies which the Respondent may have, with respect to any issue of fact or law or any terms and conditions set forth in this ESA, including any right of judicial review under the Administrative Procedure Act, 5 U.S.C. §§ 701-708.

After the Regional Judicial Officer issues the Final Order, the Respondent will receive a fully executed copy of this ESA and the Final Order. Within 20 days of receiving the signed Final Order, Respondent shall remit payment in the amount of \$2,180. **The payment shall reference the name and docket number of this case** and be made by remitting a cashier's or certified check, for this amount, payable to "Treasurer, United States of America," (or be paid by one of the other methods listed below) and sent as follows:

Regular Mail:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Federal Express, Airborne, or other commercial carrier:

U.S. Bank
US EPA Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Natalie Pearson
314-418-4087

Wire Transfers:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045
Field Tag 4200 of the Fedwire message should read " D 68010727
Environmental Protection Agency "

ACH Transactions (also known as REX or remittance express):

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact - Jesse White 301-887 6548
ABA = 051036706
Transaction Code 22 - checking
Environmental Protection Agency
Account Number: 310006
CTX Format.

There is now an On Line Payment Option, available through the US Department of Treasury. This payment option can be accessed from the information below:

www.PAY.GOV
(Enter sfo 1.1 in the search field
Open form and complete required fields)

A copy of the check, or notification that the payment has been made by one of the other methods listed above, shall be sent simultaneously to:

Tina Artemis, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street [8RC]
Denver, Colorado 80202-1129

and

David Cobb
EPCRA/RMP Enforcement Coordinator
US EPA, Region 8
1595 Wynkoop Street [8ENF-AT]
Denver, Colorado 80202-1129

The penalty specified in this ESA shall not be deductible for purposes of State or Federal taxes.

Once Respondent receives a copy of the completely signed ESA, a copy of the Final Order issued by the regional judicial Officer in this matter, and Respondent pays in full the penalty assessment described above, EPA agrees not to take any administrative action against the Respondent for any claims related solely to the alleged violations found in this ESA, including but not limited to, any claims pursuant to 40 C.F.R. part 68 under §112(r) of the Clean Air Act.

The EPA's covenants not to sue do not pertain to any matters other than those expressly specified herein. The EPA reserves and this Agreement is without prejudice to, all rights against the Respondent with respect to all other matters, including but not limited to, the following:

- a. claims based on a failure by the Respondent to meet a requirement of this Agreement including any claims for costs which are caused by the Respondent's failure to comply with this Agreement;
- b. claims based on criminal liability;
- c. claims based on any violations of the Clean Air Act or federal or state law which occur after the effective date of this Agreement

If Respondent fails to return the signed original ESA by the stated deadline, fails to timely submit the above-referenced payment, or fails to correct the violations no later than 60 days from the date the ESA is signed, a motion will be filed to withdraw the consent agreement and final order. EPA may then file an administrative or civil enforcement action against Respondent for the violations addressed herein.

This ESA is binding on the parties signing below.

Ashley Valley Water Treatment Plant Expedited Settlement Agreement

FOR RESPONDENT:

Brad Grammer

Date: 6-13-12

Name (print): Brad Grammer

Title (print): Plant Manager

FOR COMPLAINANT:

Andrew M. Gaydosh

Date: 7/16/12

Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance and
Environmental Justice

**RMP PROGRAM LEVEL 3 PROCESS CHECKLIST
ALLEGED VIOLATIONS & PENALTY ASSESSMENT**

Facility Name: Ashley Valley Water Treatment Plant (AVWTP) – Ashley, UT

INSPECTION DATE: 11/7/2011

SUBPART D: PREVENTION PROGRAM 68.65 – 68.87

PENALTY

Prevention Program – Safety Information [68.65]

Has the owner or operator documented safe upper and lower limits for such items as temperatures, pressures, flows, or compositions? [68.65(c)(1)(iv)] **No.**

- **Safe upper and lower limits have not been documented.**
- **AVWTP attempted to find these limits during the EPA inspection by searching its owner’s manuals and Original Design Specification Book. AVWTP was unable to find sufficient documentation of the limits.**

600

600

Has the owner or operator evaluated and documented the consequences of deviation? [68.65(c)(1)(iv)] **No.**

- **Consequences of deviation have not been evaluated and documented.**

600

Prevention Program – Operating Procedures [68.69]

Do the operating procedures address the consequences of deviations? [68.69(a)(2)(i)] **No.**

- **Operating Procedures do not address consequences of deviations. According to AVWTP, this requirement can only be satisfied with training.**

1200

Has the owner or operator certified annually that the operating procedures are current and accurate and that procedures have been reviewed as often as necessary? [68.69(c)] **No.**

- **AVWTP has not certified annually that the Operating Procedures are current and accurate.**

1200

Prevention Program – Mechanical Integrity [68.73]	
<p>Has the owner or operator followed recognized and generally accepted good engineering practices for inspections and testing procedures? [68.73(d)(2)] No.</p> <ul style="list-style-type: none"> • The crane in the chlorine storage room is not certified annually. • AVWTP reportedly performs visual inspections on the crane; the visual inspections are not documented. 	900
Prevention Program – Management of Change [68.75]	
<p>Has the owner or operator established and implemented written procedures to manage changes to process chemicals, technology, equipment, and procedures, and changes to stationary sources that affect a covered process? [68.75(a)] No.</p> <ul style="list-style-type: none"> • AVWTP did not initiate RMP-compliant MOC procedures before beginning an improvement project in 2009. This project is scheduled for completion in 2012. (According to AVWTP, MOC procedures were not required because the chlorine system will not be changed.) • The following changes are being made, or planned to be made: <ul style="list-style-type: none"> - A chlorine scrubber will be installed - The Chlorine Storage Room is being remodeled to accommodate scrubber ducts - The chlorine injection points may be changed - The six original filters are being demolished/reconstructed. New deep-bed filters are being installed. - Three of the original filters remain online while the remaining three are demolished/reconstructed. Temporary operating procedures may be required before, during, and after the demolition/reconstruction of the filters. - Additional, or new, chlorine piping will be installed at the filters, pre-injection point, and post-injection point - The SCADA/controls system must be updated - Multi-day shutdowns of the plant are scheduled to accommodate construction. Special operating procedures may be required before, during, and after the shutdowns. - A new entrance and Knox box will be installed at the SW corner of the facility. This entrance could affect emergency response, entry/exit, etc. 	1500

Prevention Program – Compliance Audits [68.79]	
<p>Has the owner or operator certified that the stationary source has evaluated compliance with the provisions of the prevention program at least every three years to verify that the developed procedures and practices are adequate and being followed? [68.79(a)] No.</p> <ul style="list-style-type: none"> • A 2003 Compliance Audit was available for review • A 2006 Compliance Audit was not available for review • A 2009 Compliance Audit was not available for review 	1200
Prevention Program – Contractors [68.87]	
<p>Has the owner or operator developed and implemented safe work practices consistent with § 68.69(d), to control the entrance, presence, and exit of the contract owner or operator and contract employees in the covered process areas? [68.87(b)(4)] No.</p> <p>A contractor has been awarded the construction contract for AVWTP’s improvement project. This project began in 2009 and is scheduled for completion in 2012.</p> <ul style="list-style-type: none"> • During its inspection, the EPA noticed the following: <ul style="list-style-type: none"> - Contractor/employees had propped open doors in the chlorine storage room and in the chlorinator room. (These doors are to remain closed and locked.) No contractors or employees were working in/near the rooms. - Contractors were preparing to cut rough openings into the masonry walls of the chlorine storage room so that scrubber vents could be installed. These openings were located near the chlorine cylinders and near the chlorinators. Damage to the chlorine system could occur when the masonry was knocked out of the openings. (i.e. chunks of masonry could impact the chlorine system if the masonry was not removed carefully. Masonry could also fall out of the wall above the openings if the masonry above the openings was not supported properly.) The chlorine system was not protected from potential damage. - A contract employee was standing on a pipe in the chlorine pump station building to access his work area. - A contract employee had inadvertently set off a process alarm as he worked. This alarm was sounding in the control room where the contract employee could not hear it. The alarm required that an AVWTP employee leave the control room to determine the cause of the alarm. 	600

SUBPART E: EMERGENCY RESPONSE [68.90 – 68.95]	
<p>Has the owner or operator developed and implemented procedures to review and update, as appropriate, the emergency response plan to reflect changes at the stationary source and ensure that employees are informed of the changes? [68.95(a)(4)] No.</p> <ul style="list-style-type: none"> • AVWTP has not updated its emergency response plan since 2006. • According to AVWTP, the facility has included a blanket statement into its Risk Management Plan that specifies that the plan should be updated whenever an update is needed. • AVWTP is in the middle of a major improvement project. The project began in 2009 and is scheduled for completion in 2012. The project is causing daily changes to the facility. These changes impact the emergency response plan. 	1500
SUBPART G: RISK MANAGEMENT PLAN [68.160 – 68.195]	
<p>Does the single registration form include the maximum quantity of each regulated substance or mixture in the process (in pounds) to two significant digits? [68.160(b)(7)] No.</p> <ul style="list-style-type: none"> • AVWTP has listed the maximum amount of chlorine on site as 2000 pounds. AVWTP was storing 4000 pounds of chlorine at the facility during the EPA inspection. 	1000
BASE PENALTY	\$10,900

RECOMMENDATIONS
<p>The EPA recommends that AVWTP establish a procedure for dealing with incident investigations. This procedure should comply with the requirements of 40 CFR 68.81.</p> <p>AVWTP has not experienced any incidents that resulted in, or could have resulted in, a catastrophic release of a regulated substance. However, AVWTP should be prepared to comply with 40 CFR 68.81 should such a release occur.</p>



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

EXPEDITED SETTLEMENT PENALTY MATRIX
Ashley Valley Water Treatment Plant – Ashley, Utah

MULTIPLIER FACTORS FOR CALCULATING PROPOSED PENALTIES FOR
VIOLATIONS FOUND DURING RMP INSPECTIONS

Governmental Entities

(Primarily public drinking water and waste water systems)

Total Population Served	1 – 5*	> 5 – 10*	>10*
1 – 10,000	0.2	0.4	0.6
10,001 – 100,000	0.4	0.6	0.8
> 100,000	0.6	0.8	1.0

* Largest Multiple of Threshold Quantity of any Regulated Chemical(s) on Site.

PENALTY WORKSHEET

Adjusted Penalty = Unadjusted Penalty X Size-Threshold Quantity Multiplier

The Unadjusted Penalty is calculated by adding up all the penalties listed on the Risk Management Program Inspections Findings, Alleged Violations and Proposed Penalty Sheet.

The Size-Threshold Quantity multiplier is a factor that considers the population served by the facility and the amount of regulated chemicals at the facility.

The Proposed Penalty is the amount of the non-negotiable penalty that is calculated by multiplying the Total Penalty and the Size/Threshold Quantity multiplier.

Example:

XYZ Facility is a private company which has 24 employees and 7 times the threshold amount for the particular chemical in question. After adding the penalty numbers in the Risk Management Program Inspection Findings, Alleged Violations and Proposed Penalty Sheet an unadjusted penalty of \$4700 is derived.

Calculation of Adjusted Penalty

1st Reference the Multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the column for 10-100 employees and the row for >5-10 times the threshold quantity amount gives a multiplier factor of 0.8.

2nd Use the Adjusted Penalty formula

$$\begin{aligned}\text{Adjusted Penalty} &= \$4700 (\text{Unadjusted Penalty}) \times 0.8 (\text{Size-Threshold Multiplier}) \\ \text{Adjusted Penalty} &= \$3760\end{aligned}$$

3rd An Adjusted Penalty of \$3760 would be assessed to XYZ Facility for Violations found during the RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement (ESA)

PENALTY CALCULATION

Unadjusted Penalty X Threshold Quantity Multiplier = Adjusted Penalty

$$\$10,900 \times .2 = \$2,180$$

Adjusted penalty = \$2,180

Ashley Water Treatment Plant has 1.6 times the Threshold Quantity of regulated chemical (chlorine) and serves a population of 9500.

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER** in the matter of **ASHLEY VALLEY WATER TREATMENT PLANT; DOCKET NO.: CAA-08-2012-0010**, was filed with the Regional Hearing Clerk on July 26, 2012.

Further, the undersigned certifies that a true and correct copy of the document was delivered to David Rochlin, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail on July 26, 2012, to:

Brad Grammer, Plant Manager
Ashley Valley Water Treatment Plant
3550 North 2500 West
Ashley, UT 84078

And emailed to:

Elizabeth Whitsel
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

July 26, 2012



Tina Artemis
Paralegal/Regional Hearing Clerk