

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

CITY OF WAPATO, WASHINGTON

Respondent.

DOCKET NO. CWA-10-2021-0126

**CONSENT AGREEMENT**

Proceedings Under Section 309(g) of the Clean  
Water Act, 33 U.S.C. § 1319(g)

**I. STATUTORY AUTHORITY**

1.1. This Consent Agreement is entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 309(g) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g).

1.2. Pursuant to CWA Section 309(g)(1)(A), 33 U.S.C. § 1319(g)(1)(A), the EPA is authorized to assess a civil penalty against any person that has violated CWA Section 301, 33 U.S.C. § 1311, and/or any permit condition or limitation in a permit issued under CWA Section 402, 33 U.S.C. § 1342.

1.3. CWA Section 309(g)(2)(B), 33 U.S.C. § 1319(g)(2)(B), authorizes the administrative assessment of Class II civil penalties in an amount not to exceed \$10,000 per day for each day during which the violation continues, up to a maximum penalty of \$125,000. Pursuant to 40 C.F.R. Part 19, the administrative assessment of Class II civil penalties may not exceed \$22,584 per day for each day during which the violation continues, up to a maximum penalty of \$282,293. *See also* 85 Fed. Reg. 83820 (December 23, 2020) (2021 Civil Monetary Penalty Inflation Adjustment Rule).

1.4. Pursuant to CWA Section 309(g)(1)(A) and (g)(2)(B), 33 U.S.C. § 1319(g)(1)(A) and (g)(2)(B), and in accordance with Section 22.18 of the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and City of Wapato, Washington (Respondent) agrees to issuance of, the Final Order attached to this Consent Agreement.

## II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), execution of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Administrator has delegated the authority to sign consent agreements between EPA and the party against whom a penalty is proposed to be assessed pursuant to CWA Section 309(g), 33 U.S.C. § 1319(g), to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Director of the Enforcement and Compliance Assurance Division, EPA Region 10 (Complainant).

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of the CWA, together with the specific provisions of the CWA and implementing regulations that Respondent is alleged to have violated.

## III. ALLEGATIONS

### Statutory and Regulatory Framework

3.1. As provided in CWA Section 101(a), 33 U.S.C. § 1251(a), the objective of the CWA is “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”

3.2. CWA Section 301(a), 33 U.S.C. § 1311(a), prohibits the discharge of pollutants by any person from any point source into waters of the United States except, *inter alia*, as

authorized by a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to CWA Section 402, 33 U.S.C. § 1342.

3.3. CWA Section 502(12) defines “discharge of a pollutant” to include “any addition of any pollutant to navigable waters from any point source.” 33 U.S.C. § 1362(12).

3.4. CWA Section 502(6) defines “pollutant” to include, *inter alia*, “solid waste,” “biological materials,” “heat,” and industrial waste discharged into water. 33 U.S.C. § 1362(6).

3.5. CWA Section 502(5) defines “person” to include “an individual, corporation, partnership, [or] association . . . .” 33 U.S.C. § 1362(5).

3.6. CWA Section 502(14) defines “point source” to include, *inter alia*, “any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, [or] container . . . from which pollutants are or may be discharged.” 33 U.S.C. § 1362(14).

3.7. CWA Section 502(7) defines “navigable waters” as “the waters of the United States, including the territorial seas.” 33 U.S.C. § 1362(7). At the time of the violations, “waters of the United States” was defined to include, *inter alia*, all waters which were currently used, were used in the past, or were susceptible to use in interstate or foreign commerce, including all waters which were subject to the ebb and flow of the tide; tributaries to such waters; and wetlands adjacent to the foregoing waters. *See* 40 C.F.R. §§ 122.2 (1993).

### **General Allegations**

3.8. Respondent is a second class city duly organized and existing under Chapter 35.28 of the Revised Code of Washington (RCW). Respondent is thus a municipality and therefore a “person” under CWA Section 502(5), 33 U.S.C. § 1362(5).

3.9. At all times relevant to this action, Respondent owned and operated a wastewater treatment plant located at 68172 Highway 97 in Wapato, Washington (Facility).

3.10. The Facility provides secondary treatment and disinfection of wastewater from residential, commercial and industrial sources. It services a population of approximately 5,048 and transitioned from chlorine disinfection to UV disinfection in November 2015.

3.11. At all times relevant to this action, Respondent was authorized to discharge wastewater containing pollutants from the Facility pursuant to NPDES Permit WA0050229 (Permit).

3.12. EPA issued the Permit on September 12, 2011. The Permit became effective on November 1, 2011, and expired on October 31, 2016. Because Respondent timely applied for a new NPDES permit, the Permit was administratively extended.

3.13. Respondent discharges from Outfall 001 into Drainage Way No. 2. Outfall 001 is a “point source” within the meaning of CWA Section 502(14).

3.14. Drainage Way No. 2 flows into Wanity Slough, which flows into the Yakima River. The Yakima River flows into the Columbia River. The Columbia River is an interstate water that is susceptible to use in interstate and foreign commerce. As such, the Columbia River is a “water of the United States” as defined in 40 C.F.R. § 122.2 and a “navigable water” under Section 502(7) of the CWA, 33 U.S.C. § 1362(7). Accordingly, the Yakima River, Wanity Slough, and Drainage Way No. 2 are “waters of the United States” within the meaning of 40 C.F.R. § 122.2 and are “navigable waters” as defined by Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

3.15. Respondent discharged pollutants from a point source into waters of the United States at the Facility, within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).



## Violations

3.16. The Permit establishes, *inter alia*, discharge limits, as well as planning, reporting, and compliance requirements for the Facility.

3.17. On August 27, 2019, an authorized EPA representative conducted an announced inspection of the Facility to determine compliance with the Permit and the CWA.

3.18. As described below, between August 2015 and February 2020, Respondent violated CWA Section 301, 33 U.S.C. § 1311, and the conditions and/or limitations of its Permit.

3.19. The United States, on behalf of Complainant entered a tolling agreement with the City of Wapato, Washington to facilitate settlement negotiations without altering the claims or defenses available to any party. Pursuant to the tolling agreement, the period commencing on August 15, 2020 and ending on September 30, 2021 shall not be included in computing the running of any statute of limitations potentially applicable.

### Count 1 – Effluent Exceedance Violations

3.20. Part I.B of the Permit requires that Respondent limit and monitor discharges from Outfall 001 as specified in the Permit. Table 1 of Part I.B establishes effluent limits from Outfall 001 for, *inter alia*, Ammonia, Copper, and Zinc.

3.21. Table 1 of Part I.B of the Permit specifies the monthly average concentration limit of ammonia as N (Ammonia) between April 1 and October 31 is 1.2 mg/L. From August 2015 through February 2020, Respondent exceeded the monthly average concentration limit of Ammonia three times, constituting 92 violations of Part I.B of the Permit. The violations are as follows:

Month of Violation	Pollutant	Permit Limit	Value Reported	Unit
August 2015	Ammonia	1.2	1.71	mg/L
September 2015	Ammonia	1.2	1.70	mg/L
October 2015	Ammonia	1.2	1.90	mg/L

3.22. Part I.B of the Permit specifies the daily maximum loading limit of copper, total

recoverable (Copper) is 0.053 lb/d. From August 2015 through February 2020, Respondent exceeded the daily maximum loading limit of Copper one time, constituting one violation of Part I.B of the Permit. The violations are as follows:

Month of Violation	Pollutant	Permit Limit	Value Reported	Unit
June 2016	Copper	0.053	0.06	lb/d

3.23. Part I.B of the Permit specifies the daily maximum concentration limit of copper, total recoverable (Copper) is 5.50 ug/L. From August 2015 through February 2020, Respondent exceeded the daily maximum concentration limit of Copper three times, constituting three violations of Part I.B of the Permit. The violations are as follows:

Month of Violation	Pollutant	Permit Limit	Value Reported	Unit
June 2016	Copper	5.50	11.70	ug/L
October 2018	Copper	5.50	10.20	ug/L
May 2019	Copper	5.50	6.60	ug/L

3.24. Part I.B of the Permit specifies the monthly average concentration limit of copper, total recoverable (Copper) is 3.40 ug/L. From August 2015 through February 2020, Respondent exceeded the monthly average concentration limit of Copper eight times, constituting 245 violations of Part I.B of the Permit. The violations are as follows:

Month of Violation	Pollutant	Permit Limit	Value Reported	Unit
December 2015	Copper	3.40	3.90	ug/L
June 2016	Copper	3.40	5.43	ug/L
August 2016	Copper	3.40	4.38	ug/L
November 2016	Copper	3.40	3.60	ug/L
December 2016	Copper	3.40	4.60	ug/L
October 2018	Copper	3.40	6.43	ug/L
November 2018	Copper	3.40	4.75	ug/L
January 2019	Copper	3.40	3.44	ug/L

3.25. Part I.B of the Permit specifies the daily maximum loading limit of zinc, total recoverable (Zinc) is 0.50 lb/d. From August 2015 through February 2020, Respondent exceeded the daily maximum loading limit of Zinc 19 times, constituting 19 violations of Part I.B of the Permit. The violations are as follows:

Month of Violation	Pollutant	Permit Limit	Value Reported	Unit
December 2015	Zinc	0.50	0.60	lb/d
March 2016	Zinc	0.50	0.60	lb/d
June 2016	Zinc	0.50	0.70	lb/d
July 2016	Zinc	0.50	0.70	lb/d
August 2016	Zinc	0.50	0.60	lb/d
October 2016	Zinc	0.50	0.70	lb/d
November 2016	Zinc	0.50	1.00	lb/d
January 2017	Zinc	0.50	0.70	lb/d
April 2017	Zinc	0.50	0.60	lb/d
June 2017	Zinc	0.50	0.60	lb/d
May 2018	Zinc	0.50	0.70	lb/d
June 2018	Zinc	0.50	0.60	lb/d
November 2018	Zinc	0.50	0.80	lb/d
December 2018	Zinc	0.50	3.90	lb/d
January 2019	Zinc	0.50	3.96	lb/d
February 2019	Zinc	0.50	0.60	lb/d
March 2019	Zinc	0.50	4.80	lb/d
April 2019	Zinc	0.50	0.80	lb/d
May 2019	Zinc	0.50	3.20	lb/d

3.26. Part I.B of the Permit specifies the daily maximum concentration limit of zinc, total recoverable (Zinc) is 52 ug/L. From August 2015 through February 2020, Respondent exceeded the daily maximum concentration limit of Zinc 44 times, constituting 44 violations of Part I.B of the Permit. The violations are as follows:

Month of Violation	Pollutant	Permit Limit	Value Reported	Unit
December 2015	Zinc	52.00	108.00	ug/L
January 2016	Zinc	52.00	74.00	ug/L
February 2016	Zinc	52.00	120.00	ug/L
March 2016	Zinc	52.00	144.00	ug/L
April 2016	Zinc	52.00	83.50	ug/L
May 2016	Zinc	52.00	108.00	ug/L
June 2016	Zinc	52.00	125.00	ug/L
July 2016	Zinc	52.00	99.00	ug/L
August 2016	Zinc	52.00	82.00	ug/L
October 2016	Zinc	52.00	112.00	ug/L
November 2016	Zinc	52.00	234.00	ug/L
December 2016	Zinc	52.00	94.50	ug/L
January 2017	Zinc	52.00	145.00	ug/L
February 2017	Zinc	52.00	134.00	ug/L
April 2017	Zinc	52.00	126.00	ug/L

Month of Violation	Pollutant	Permit Limit	Value Reported	Unit
May 2017	Zinc	52.00	77.50	ug/L
June 2017	Zinc	52.00	94.50	ug/L
August 2017	Zinc	52.00	94.00	ug/L
September 2017	Zinc	52.00	58.00	ug/L
October 2017	Zinc	52.00	65.50	ug/L
November 2017	Zinc	52.00	78.50	ug/L
December 2017	Zinc	52.00	74.50	ug/L
February 2018	Zinc	52.00	76.50	ug/L
March 2018	Zinc	52.00	114.00	ug/L
April 2018	Zinc	52.00	73.00	ug/L
May 2018	Zinc	52.00	148.00	ug/L
June 2018	Zinc	52.00	126.00	ug/L
July 2018	Zinc	52.00	58.00	ug/L
August 2018	Zinc	52.00	63.50	ug/L
September 2018	Zinc	52.00	53.00	ug/L
October 2018	Zinc	52.00	61.50	ug/L
November 2018	Zinc	52.00	189.00	ug/L
December 2018	Zinc	52.00	105.00	ug/L
January 2019	Zinc	52.00	91.50	ug/L
February 2019	Zinc	52.00	154.00	ug/L
March 2019	Zinc	52.00	97.00	ug/L
April 2019	Zinc	52.00	168.00	ug/L
May 2019	Zinc	52.00	75.00	ug/L
June 2019	Zinc	52.00	62.00	ug/L
July 2019	Zinc	52.00	68.00	ug/L
October 2019	Zinc	52.00	63.50	ug/L
November 2019	Zinc	52.00	62.50	ug/L
December 2019	Zinc	52.00	87.00	ug/L
January 2020	Zinc	52.00	106.00	ug/L

3.27. Part I.B of the Permit specifies the monthly average loading limit of zinc, total recoverable (Zinc) is 0.24 lb/d. From August 2015 through February 2020, Respondent exceeded the monthly average loading limit of Zinc 43 times, constituting 1,307 violations of Part I.B of the Permit. The violations are as follows:

Month of Violation	Pollutant	Permit Limit	Value Reported	Unit
December 2015	Zinc	0.24	0.40	lb/d
January 2016	Zinc	0.24	0.35	lb/d
February 2016	Zinc	0.24	0.45	lb/d
March 2016	Zinc	0.24	0.40	lb/d
April 2016	Zinc	0.24	0.33	lb/d

Month of Violation	Pollutant	Permit Limit	Value Reported	Unit
May 2016	Zinc	0.24	0.40	lb/d
June 2016	Zinc	0.24	0.30	lb/d
July 2016	Zinc	0.24	0.40	lb/d
August 2016	Zinc	0.24	0.50	lb/d
September 2016	Zinc	0.24	0.30	lb/d
October 2016	Zinc	0.24	0.50	lb/d
November 2016	Zinc	0.24	0.50	lb/d
December 2016	Zinc	0.24	0.38	lb/d
January 2017	Zinc	0.24	0.40	lb/d
February 2017	Zinc	0.24	0.40	lb/d
April 2017	Zinc	0.24	0.40	lb/d
May 2017	Zinc	0.24	0.30	lb/d
June 2017	Zinc	0.24	0.40	lb/d
August 2017	Zinc	0.24	0.40	lb/d
September 2017	Zinc	0.24	0.40	lb/d
October 2017	Zinc	0.24	0.30	lb/d
November 2017	Zinc	0.24	0.30	lb/d
December 2017	Zinc	0.24	0.30	lb/d
February 2018	Zinc	0.24	0.30	lb/d
March 2018	Zinc	0.24	0.30	lb/d
April 2018	Zinc	0.24	0.33	lb/d
May 2018	Zinc	0.24	0.50	lb/d
June 2018	Zinc	0.24	0.30	lb/d
July 2018	Zinc	0.24	0.27	lb/d
August 2018	Zinc	0.24	0.30	lb/d
September 2018	Zinc	0.24	0.25	lb/d
October 2018	Zinc	0.24	0.25	lb/d
November 2018	Zinc	0.24	0.60	lb/d
December 2018	Zinc	0.24	2.88	lb/d
January 2019	Zinc	0.24	2.60	lb/d
February 2019	Zinc	0.24	0.44	lb/d
March 2019	Zinc	0.24	3.80	lb/d
April 2019	Zinc	0.24	0.42	lb/d
May 2019	Zinc	0.24	2.80	lb/d
June 2019	Zinc	0.24	0.31	lb/d
September 2019	Zinc	0.24	0.26	lb/d
October 2019	Zinc	0.24	0.26	lb/d
January 2020	Zinc	0.24	0.30	lb/d

3.28. Part I.B of the Permit specifies the monthly average concentration limit of zinc, total recoverable (Zinc) is 25 ug/L. From August 2015 through February 2020, Respondent

exceeded the monthly average concentration limit of Zinc 48 times, constituting 1,459 violations of Part I.B of the Permit. The violations are as follows:

Month of Violation	Pollutant	Permit Limit	Value Reported	Unit
December 2015	Zinc	25.00	89.00	ug/L
January 2016	Zinc	25.00	68.50	ug/L
February 2016	Zinc	25.00	98.00	ug/L
March 2016	Zinc	25.00	97.00	ug/L
April 2016	Zinc	25.00	76.50	ug/L
May 2016	Zinc	25.00	87.00	ug/L
June 2016	Zinc	25.00	65.10	ug/L
July 2016	Zinc	25.00	61.40	ug/L
August 2016	Zinc	25.00	68.80	ug/L
September 2016	Zinc	25.00	45.34	ug/L
October 2016	Zinc	25.00	93.73	ug/L
November 2016	Zinc	25.00	137.80	ug/L
December 2016	Zinc	25.00	93.80	ug/L
January 2017	Zinc	25.00	84.70	ug/L
February 2017	Zinc	25.00	105.13	ug/L
April 2017	Zinc	25.00	94.25	ug/L
May 2017	Zinc	25.00	69.88	ug/L
June 2017	Zinc	25.00	69.20	ug/L
August 2017	Zinc	25.00	67.90	ug/L
September 2017	Zinc	25.00	57.70	ug/L
October 2017	Zinc	25.00	61.63	ug/L
November 2017	Zinc	25.00	71.90	ug/L
December 2017	Zinc	25.00	65.00	ug/L
February 2018	Zinc	25.00	63.75	ug/L
March 2018	Zinc	25.00	72.10	ug/L
April 2018	Zinc	25.00	62.40	ug/L
May 2018	Zinc	25.00	117.60	ug/L
June 2018	Zinc	25.00	67.40	ug/L
July 2018	Zinc	25.00	56.00	ug/L
August 2018	Zinc	25.00	53.20	ug/L
September 2018	Zinc	25.00	45.10	ug/L
October 2018	Zinc	25.00	57.00	ug/L
November 2018	Zinc	25.00	136.50	ug/L
December 2018	Zinc	25.00	74.00	ug/L
January 2019	Zinc	25.00	63.16	ug/L
February 2019	Zinc	25.00	100.50	ug/L

Month of Violation	Pollutant	Permit Limit	Value Reported	Unit
March 2019	Zinc	25.00	77.30	ug/L
April 2019	Zinc	25.00	88.40	ug/L
May 2019	Zinc	25.00	63.00	ug/L
June 2019	Zinc	25.00	60.60	ug/L
July 2019	Zinc	25.00	51.75	ug/L
August 2019	Zinc	25.00	43.90	ug/L
September 2019	Zinc	25.00	39.53	ug/L
October 2019	Zinc	25.00	45.76	ug/L
November 2019	Zinc	25.00	55.25	ug/L
December 2019	Zinc	25.00	70.70	ug/L
January 2020	Zinc	25.00	61.90	ug/L
February 2020	Zinc	25.00	45.80	ug/L

Count 2 – Planning, Reporting, and Compliance Violations

3.23 Part II.B. of the Permit requires the Respondent to develop a Quality Assurance plan (QAP) for all monitoring required by the Permit. Part II.B.4 of the Permit requires that the Facility amend the QAP whenever there is a modification in sample collection, sample analysis, or other procedure addressed by the QAP. At the time of the inspection, Respondent had not updated the Facility’s QAP since 2005 and the QAP did not include information regarding the installation of the Membrane Bio-Reactor (MBR) system or the Facility’s upgrade from chlorine to UV disinfection, constituting one violation of Part II.B.4 of the Permit.

3.24 Part III.B.1 of the Permit requires the Respondent to summarize monitoring results each month on the Discharge Monitoring Report (DMR) form (EPA No. 3320-1) or equivalent. The Facility must submit such reports monthly, postmarked by the 20th day of the following month. A review of the Facility’s records indicates that Respondent submitted incomplete DMRs for the monitoring periods February 2018, June 2019, and October 2019, constituting three violations of Part III.B.1 of the Permit.



#### IV. TERMS OF SETTLEMENT

4.1. Respondent admits the jurisdictional allegations contained in this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. As required by CWA Section 309(g)(3), 33 U.S.C. § 1319(g)(3), EPA has taken into account “the nature, circumstances, extent and gravity of the violation, or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require.” After considering all of these factors as they apply to this case, EPA has determined that an appropriate penalty to settle this action is \$25,750.

4.4. Respondent consents to the assessment of the civil penalty set forth in Paragraph 4.3 and agrees to pay the total civil penalty within 30 days of the effective date of the Final Order.

4.5. Payment under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier’s check or certified check must be payable to the order of “Treasurer, United States of America” and delivered to the following address:

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

Respondent must note on the check the title and docket number of this action.



4.6. Respondent must serve photocopies of the check, or proof of other payment method described in Paragraph 4.5, on the Regional Hearing Clerk and EPA Region 10

Compliance Officer at the following addresses:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 10, Mail Stop 11-C07  
1200 Sixth Avenue, Suite 155  
Seattle, WA 98101  
[R10\\_RHC@epa.gov](mailto:R10_RHC@epa.gov)

Raymond Andrews  
U.S. Environmental Protection Agency  
Region 10, Mail Stop 20-C04  
1200 Sixth Avenue, Suite 155  
Seattle, WA 98101  
[andrews.raymond@epa.gov](mailto:andrews.raymond@epa.gov)

4.7. If Respondent fails to pay the penalty assessed by this Consent Agreement in full by its due date, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. Such failure may also subject Respondent to a civil action to collect the assessed penalty under the CWA, together with interest, fees, costs, and additional penalties described below. In any collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

a. Interest. Pursuant to CWA Section 309(g)(9), 33 U.S.C. § 1319(g)(9), any unpaid portion of the assessed penalty shall bear interest at a rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the effective date of the Final Order set forth in Part V, provided however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the effective date of the Final Order.

b. Attorneys Fees, Collection Costs, Nonpayment Penalty. Pursuant to CWA Section 309(g)(9), 33 U.S.C. § 1319(g)(9), if Respondent fails to pay on a timely basis the penalty set forth in Paragraph 4.3, Respondent shall pay (in addition to any assessed penalty and interest) attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20% of the aggregate amount of Respondent's penalties and nonpayment

penalties which are unpaid as of the beginning of such quarter.

4.8. The penalty described in Paragraph 4.3, including any additional costs incurred under Paragraph 4.7, above, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.9. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.10. Except as described in Subparagraph 4.7.b., above, each party shall bear its own costs in bringing or defending this action.

4.11. For the purposes of this proceeding, Respondent expressly waives any affirmative defenses and the right to contest the allegations contained in the Consent Agreement and to appeal the Final Order.

4.12. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.13. The above provisions are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

6/8/21

FOR RESPONDENT:

Margaret Estrada  
Mayor Pro Tem  
City of Wapato, Washington

DATED:

\_\_\_\_\_

FOR COMPLAINANT:

EDWARD  
KOWALSKI

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EDWARD J. KOWALSKI  
Director  
Enforcement and Compliance Assurance Division  
EPA Region 10

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

CITY OF WAPATO, WASHINGTON

Respondent.

DOCKET NO. CWA-10-2021-0126

**FINAL ORDER**

Proceedings Under Section 309(g) of the Clean  
Water Act, 33 U.S.C. § 1319(g)

1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of the U.S. Environmental Protection Agency (EPA) Region 10, who has in turn delegated this authority to the Regional Judicial Officer in EPA Region 10.

2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties pursuant to the Clean Water Act (CWA) for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the CWA and regulations promulgated or permits issued thereunder.

4. This Final Order shall become effective upon filing.

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

RICHARD  
MEDNICK

Digitally signed by  
RICHARD MEDNICK  
Date: 2021.07.21  
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RICHARD MEDNICK  
Regional Judicial Officer  
EPA Region 10

**CERTIFICATE OF SERVICE**

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER** in **In the Matter of: CITY OF WAPATO, WASHINGTON, DOCKET NO.: CWA-10-2021-0126** was filed and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered via email to:

Caitlin M. Soden  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 10  
1200 Sixth Avenue, Suite 155, M/S ORC-11-C07  
Seattle, Washington 98101  
soden.caitlin@epa.gov

Julie K. Norton  
Counsel for Respondent  
Ogden Murphy Wallace, PLLC  
One Fifth Street, Suite 200  
Wenatchee, Washington 98801  
jnorton@omwlaw.com

Further, the undersigned certifies that a true and correct copy of the aforementioned document was delivered via United States Postal Service to:

Mayor Pro Tem  
Wapato City Hall  
205 E 3<sup>rd</sup> Street  
Wapato, Washington 98951

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**TERESA  
YOUNG**

Digitally signed by  
TERESA YOUNG  
Date: 2021.07.22  
12:30:43 -07'00'

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Teresa Young  
Regional Hearing Clerk  
EPA Region 10