



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 6 • 1445 Ross Avenue, Suite 1200 • Dallas, TX 75202-2733

CONSENT AGREEMENT and FINAL ORDER

Docket Number: CWA-06-2012-1863, NPDES Facility Number: NMU001798

FILED

2013 APR 25 PM 1:42

PRELIMINARY STATEMENT

1. This Consent Agreement and Final Order (“CAFO”) is issued under the authority vested in the United States Environmental Protection Agency (“EPA”) pursuant to Section 309(g) of the Clean Water Act (“the Act”), 33 U.S.C. § 1319(g). This CAFO is issued in accordance with 40 C.F.R. § 22.18, as described in the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits.”

2. On November 15, 2012, EPA Region 6 issued to The Geo Group, Inc. (“Respondent”) an Administrative Complaint (“Complaint”) under Section 309(g) of the Act, 33 U.S.C. § 1319(g), which proposed to assess a civil penalty against Respondent, and gave notice of the Respondent’s opportunity to request a hearing on the proposed administrative penalty assessment.

3. Respondent and EPA (collectively, “Parties”) agree that settlement of the relevant matters contained herein without litigation will save time and resources, that it is in the public’s interest, and that the entry of this CAFO is the most appropriate means of resolving such matters. Compliance with all the terms and conditions of this CAFO resolves only those violations alleged herein.

4. Respondent admits the jurisdictional allegations of this CAFO; however, Respondent neither admits nor denies the specific Findings of Fact and Conclusions of Law contained in this CAFO.

5. Respondent expressly waives any right to contest the factual allegations or conclusions of law contained in this CAFO and waives its right to appeal the Final Order set forth herein.

6. Before the taking of any testimony, and without adjudication of any issue of law or fact, the Parties agree to the terms of this CAFO and to its issuance. Respondent consents to the assessment and payment of a civil penalty in the amount and by the method stated below.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

7. Respondent is a company incorporated under the laws of the State of Florida, and as such, Respondent is a “person,” as that term is defined at Section 502(5) of the Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

8. At all times relevant to this action, Respondent owned and operated a correctional facility located on the outskirts of Santa Rosa, New Mexico (“facility”), and was, therefore, an “owner or operator” within the meaning of 40 C.F.R. § 122.2.

9. At all times relevant to this action, the facility acted as a “point source” of a “discharge” of “pollutants” with its wastewater to the wastewater collection system of Santa Rosa, then to the receiving waters of the Pecos River, which is considered a “water of the United States” within the meaning of Section 502 of the Act, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2.

10. Because Respondent owned and operated a facility that acted as a satellite system to a point source of discharges of pollutants to waters of the United States, Respondent and the facility are subject to the Act and the National Pollutant Discharge Elimination System (“NPDES”) program.

11. Under Section 301 of the Act, 33 U.S.C. § 1311, it is unlawful for any person to discharge any pollutant from a point source to waters of the United States, except with the authorization of, and in compliance with, a NPDES permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342.

12. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States. Any such discharge is subject to the specific terms and conditions prescribed in the applicable permit.

13. Section 301 of the Act, 33 U.S.C. § 1311, was violated by discharging untreated sewage to waters of the United States. Each day of discharging without a permit was a violation of the regulations and Section 301 of the Act, 33 U.S.C. § 1311.

14. Under Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), Respondent is liable for a proposed civil penalty in an amount not to exceed sixteen thousand dollars (\$16,000.00) per day for each day during which a violation continues, up to maximum of thirty-seven thousand and five hundred dollars (\$37,500.00).

15. The State of New Mexico was notified and given an opportunity to consult with EPA regarding the proposed assessment of an administrative penalty against Respondent as required by Section 309(g)(1) of the Act, 33 U.S.C. § 1319(g)(1).

16. EPA notified the public of the Complaint via the internet at [www.epa.gov/region6/publicnotice](http://www.epa.gov/region6/publicnotice), and afforded the public thirty (30) days to comment on the Complaint and proposed penalty. At the expiration of the notice period, EPA received no comments from the public.

### TERMS OF SETTLEMENT

#### A. PENALTY PROVISIONS

17. Based on the foregoing Findings of Fact and Conclusions of Law, EPA Region 6, considering the relevant criteria pursuant to Section 309(g)(3) of the Act, 33 U.S.C. § 1319(g)(3), and acting pursuant to the authority of Section 309(g) of the Act, 33 U.S.C. § 1319(g), hereby orders that Respondent shall pay to the United States a civil penalty in the amount of twenty-seven thousand nine hundred dollars (\$27,900.00) to settle the violations as alleged herein, in accordance with 40 C.F.R. § 22.18(c).

18. Payment shall be made one of the following methods, within thirty (30) days of the effective date of this CAFO, to one of the following addresses:

- a. By mailing a bank check, cashier's check, or certified check, payable to "Treasurer of the United States," to the following address:

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

- b. By wire transfer to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 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"

- c. By overnight mail (Express, FedEx, DHL, etc.) to:

U.S. Bank  
Government Lockbox 979078  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101

- d. By credit card payments to <https://www.pay.gov>

(Enter sfo 1.1 in the search field)

"In the Matter of The Geo Group, Inc., Docket No. CWA-06-2012-1863" should be clearly marked on the check to ensure credit for payment.

19. Respondent shall send simultaneous notices of payment, including a copy of the check, to each of the following:

- (a) Regional Hearing Clerk (6RC-D)  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733
- (b) Chief, NPDES Compliance Section (6EN-WC)  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733
- (c) Chief, Water Enforcement Legal Branch (6RC-EW)  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

Respondent's adherence to these procedures will ensure proper credit when payment is received by EPA.

20. Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

21. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty (30) days after the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid by the respective due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. See 40 C.F.R. § 13.11(b).

GENERAL PROVISIONS

22. EPA will also assess a fifteen dollar (\$15.00) administrative handling charge for administrative costs on unpaid penalties for the first thirty (30)-day period after the payment is due and an additional fifteen dollars (\$15.00) for each subsequent thirty (30)-day period that the penalty remains unpaid. In addition, a penalty charge of up to six percent (6%) per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. See 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. See 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

23. Pursuant to Section 309(g)(9) of the Act, 33 U.S.C § 1319(g)(9), any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States' enforcement expenses including, but not limited to, attorneys' fees and costs incurred by the United States for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be twenty percent (20%) of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of each quarter.

24. Failure by Respondent to pay the penalty assessed, in full, according to the terms of this CAFO, by its due date, may subject Respondent to a civil action to collect the assessed penalty and any accrued interest and penalties.

25. In the event a collection action is necessary, Respondent shall pay, in addition to any applicable penalty, fees, and interest described herein, all reasonable costs and expenses, including legal expenses and court costs incurred by the United States for enforcement and collection proceedings for non-payment of the amounts agreed hereunder, pursuant to Section 309(g)(9) of the Act, 33 U.S.C. § 1319(g)(9). In any such collection action, the validity, amount, and appropriateness of the penalty, and terms of this CAFO shall not be subject to review.

26. To execute this Agreement, Respondent shall forward this copy of the CAFO, with original signature, to:

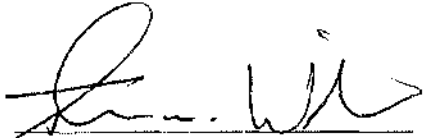
Mr. Russell Murdock (6RC-EW)  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

27. The provisions of this CAFO shall apply to and be binding upon the parties to this action, their officers, directors, agents, employees, successors, and assigns. The undersigned representative of each party to this CAFO certifies that he or she is fully authorized by the party whom he or she represents to enter into the terms and conditions of this CAFO and to execute and to legally bind that party to it.

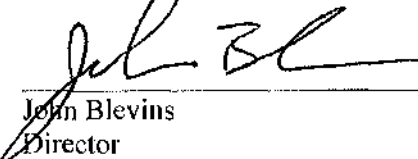
28. Issuance of this CAFO does not relieve Respondent from responsibility to comply with all the requirements of the Act and the requirements of any permits issued thereunder, as described in Section 309(g)(7) of the Act, 33 U.S.C. § 1319(g)(7), nor does it constitute a waiver by EPA of its right to enforce compliance with the requirements of Respondent's permits or other requirements of the Act by actions pursuant to Section 309 of the Act, 33 U.S.C. § 1319.

This CAFO, and any subsequent modifications, becomes effective upon filing with the Regional Hearing Clerk.

The undersigned parties consent to the entry of this Consent Agreement and Final Order:

  
\_\_\_\_\_  
For The Geo Group, Inc.  
THOMAS M. WIEROSMA

3/4/13  
Date

  
\_\_\_\_\_  
John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

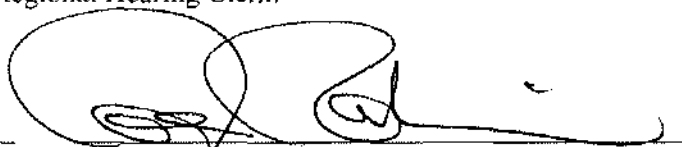
4.23.13  
Date

FINAL ORDER

Pursuant to the Consolidated Rules of practice governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case 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 shall resolve only those causes of action alleged in the Consent Agreement. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondent's (or its officers', agents', servants', employees', successors', or assigns') obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the Consent Agreement. Pursuant to 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Issuance Date:

4-25-13



Regional Judicial Officer  
EPA, Region 6

CERTIFICATE OF SERVICE

I hereby certify that on the 25 day of April, 2013, the original of the foregoing Consent Agreement and Final Order was hand-delivered to the Regional Hearing Clerk, U.S. EPA, Region 6 (6RC-D), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and that a true and correct copy was placed in the United States mail, by certified mail, return receipt requested, addressed to the following:

Mr. Thomas Wierdsma  
Sr. Vice-President, Project Development  
The Geo Group, Inc.  
One Park Place, Suite 700  
621 Northwest 53<sup>rd</sup> Street  
Boca Raton, FL 33487

Copy by Regular First Class Mail:

Mr. James Hogan  
Acting Bureau Chief  
Surface Water Quality Bureau  
New Mexico Environment Department  
P.O. Box 5469  
Santa Fe, NM 87502-5469

Copy hand-delivered:

Mr. Russell Murdock  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

*Jackie Allen*