



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
WASTEWATER ESA

IN THE MATTER OF:

Nashville International Airport,

Nashville Metro Airport Authority

) DOCKET NO.: CWA-04-2022-0301(b)
)
) Expedited Settlement Agreement and Final Order
) Pursuant to Clean Water Act Section 309(g)(2)(A)
)
) NPDES Permit No. TN0064041

The undersigned representative of the United States Environmental Protection Agency (EPA) and Nashville Metro Airport Authority (Respondent) enter into this Expedited Settlement Agreement (ESA or Agreement) to resolve Respondent's civil penalty liability for alleged violations of the National Pollutant Discharge Elimination System permit cited above (Permit).

On October 26, 2021, representatives of the EPA inspected Respondent's facility at One Terminal Drive, Nashville, Tennessee, 37214 (Site). The EPA finds that: (1) Respondent, who is an owner and operator of the Site, failed to comply with the Permit issued pursuant to Section 402 of the Clean Water Act (Act), 33 U.S.C. § 1342, in violation of Section 301 of the Act, 33 U.S.C. § 1311; (2) Respondent is a "person" as defined in Section 502(5) of the Act, 33 U.S.C. § 1362(5); and (3) Respondent is responsible for the alleged violations specified in the attached "Expedited Settlement Offer Violations Form for Wastewater (Alleged Violations Form)". The Alleged Violations Form is hereby incorporated into this Agreement by reference.

Respondent admits that the EPA has jurisdiction over the subject matter alleged in this ESA and neither admits nor denies the factual allegations alleged in the Alleged Violations Form.

The EPA is authorized to enter into this Agreement under the authority vested in the Administrator by Section 309(g) of the Act, 33 U.S.C. § 1319(g), and by 40 C.F.R. §§ 22.13(b) and 22.18.

Respondent consents to the assessment of a civil penalty and agrees to pay \$7,455. Respondent waives the right to: (1) contest the allegations in the Alleged Violations Form; (2) a hearing pursuant to Section 309(g)(2) of the Act, 33 U.S.C. § 1319(g)(2); (3) appeal the Final Order; and (4) judicial review pursuant to Section 309(g)(8) of the Act, 33 U.S.C. § 1319(g)(8). The civil penalty will be due within thirty (30) days of the Effective Date of this ESA and Final Order and shall be made in accordance with the attached ESA Payment Instructions (Payment Instructions), incorporated herein by reference. Respondent agrees to bear its own costs and

attorney's fees related to this ESA.

Failure by Respondent to pay the penalty assessed by this ESA and Final Order in full by its due date may subject Respondent to a civil action to collect the assessed penalty plus interest, attorney's fees, costs, and an additional quarterly nonpayment penalty pursuant to Section 309(g)(9)(B) of the Act, 33 U.S.C. § 1319(g)(9)(B). In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review. Pursuant to Section 309(g)(1) of the Act, 33 U.S.C. § 1319(g)(1), and 40 C.F.R. § 22.38(b), the State of Tennessee was provided a prior opportunity to consult with the EPA regarding this matter.

By signing this Agreement, Respondent certifies that: (1) the alleged violations listed in the Alleged Violations Form have been corrected; and (2) consistent with Section 162(f)(1) of the Internal Revenue Code, 26 U.S.C. § 162(f)(1), Respondent will not deduct penalties paid under this Agreement for federal tax purposes.

This Agreement, upon incorporation into the Final Order and full satisfaction by the parties, shall be a complete and full resolution of Respondent's liability for federal civil penalties for the violations of the Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a) alleged in the Alleged Violations Form. This Agreement does not affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law or to issue an administrative compliance order, e.g., for any uncorrected violations listed in the Alleged Violations Form. Nothing in this Agreement shall relieve Respondent of the duty to comply with the Act and any regulation, order, or permit issued pursuant to the Act.

The EPA will provide public notice of this Agreement and a reasonable opportunity for the public to comment on the proposed issuance of this Agreement prior to issuance of the Final Order pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45.

If Respondent does not sign and return this ESA as presented within 30 days of the date of its receipt, or within an extension timeframe approved by the EPA, this proposed ESA is withdrawn without prejudice to the EPA's ability to file any other enforcement action for the violations identified in the Alleged Violations Form.

FINAL ORDER

Having determined that this Agreement is authorized by law, the foregoing Expedited Settlement Agreement is hereby incorporated into the Final Order.


The parties consent to service of this ESA and Final Order by e-mail to the e-mail addresses provided by the parties in the Certificate of Service.

IT IS SO ORDERED:

This Agreement is binding on the parties signing below. Each person signing this Agreement certifies that he or she has the authority to sign for the party who he or she represents and to bind that party to its terms. The ESA and Final Order are effective the date of filing with the Regional Hearing Clerk. Once the ESA is signed by the Regional Judicial Officer, the original ESA will be filed with the Regional Hearing Clerk. A copy of the filed ESA will be emailed to Respondent.

Tanya Floyd
Regional Judicial Officer

APPROVED BY RESPONDENT:

Name (print): Robert L. Ramsey
Title (print): EVP & Chief Operating Officer
Signature:  Date: 4/21/22

APPROVED BY THE EPA:

Mary Jo Bragan
Chief, Water Enforcement Branch
Enforcement and Compliance Assurance Division

Attachments:

1. Alleged Violations Form
2. Payment Instructions

Attachment 1
Wastewater Alleged Violations Form
Nashville Metro Airport Authority

1. To accomplish the objective of the Clean Water Act (CWA), as defined in Section 101(a) of the CWA, 33 U.S.C. § 1251(a), to restore and maintain the chemical, physical, and biological integrity of the nation’s waters, Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the point source discharge of pollutants into navigable waters except as in compliance with a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

2. Section 402 of the CWA, 33 U.S.C. § 1342, establishes an NPDES Permit Program authorizing the EPA or authorized states to administer the NPDES Permit Program, including the issuance of NPDES permits allowing for the discharge of pollutants into navigable waters subject to specific terms and conditions. The EPA has granted the state of Tennessee through the Tennessee Department of Environment and Conservation (TDEC) approval to issue NPDES permits pursuant to Section 402(b) of the CWA.

3. The Nashville Metro Airport Authority (NMAA) is a “metropolitan airport authority” created under the metropolitan airport authority statute Tennessee Code 42-4-104 of the State of Tennessee and is a “person” within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

4. At all times relevant to this action, the NMAA owned and operated an Industrial Wastewater Treatment Plant (IWWTP) located on the Nashville International Airport at One Terminal Drive, Nashville, Tennessee. NMAA is also the responsible authority for industrial and non-industrial storm water outfalls identified in their NPDES Permit No. TN0064041 (Permit).

5. On July 27, 2020, TDEC issued the Permit to the NMAA. Under this Permit, the IWWTP is permitted to discharge “pollutants” from a “point source” into Sims Branch through Outfalls 002, 003, and 004. The Permit also allows for industrial and non-industrial discharge through various outfalls into McCrory Creek (Outfall SW1), Sims Branch (Outfalls SW2), an unnamed tributary to Sims Branch (Outfalls SW3, SW4), Elissa Branch (Outfalls SW5, SW6, SW7), Finley Branch (Outfalls SW8, SW9), and an unnamed tributary to Mill Creek (Outfalls S10, S11). All permitted outfalls discharge to “navigable water” as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7). The Permit became effective on August 1, 2020 and expires on July 31, 2025.

6. Pursuant to 40 C.F.R. Part 122.41(l)(4)(i), the NMAA is required to comply with the conditions of its Permit.

7. Pursuant to 40 C.F.R. Part 122.41(l)(4)(j)(1), samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

8. Part I.B.1 (Representative Sampling) of NMAA’s Permit states that “Samples and measurements taken in compliance with the monitoring requirements specified herein shall

be representative of the volume and nature of the monitored discharge and shall be taken after treatment and prior to mixing with uncontaminated storm water runoff or the receiving stream.”

9. On October 26, 2021, EPA inspectors noted that samples collected for analysis of pollutants identified in the Permit were being collected at the end of an open channel concrete conveyance ditch near Outfall 002 at approximately 150 yards from the Parshall flume discharge location. Inspectors also noted storm water runoff entering the conveyance ditch as noted in the inspection report. Samples reviewed from March 1, 2020, to October 26, 2021 are not “representative of the volume and nature of the monitored discharge” due to either mixing of active storm water runoff or through mixing of pollutants collected in the conveyance ditch while the ditch is used to collect storm water runoff prior to discharging to the receiving stream.

10. NMAA operates the IWWTS only during de-icing season starting November 1 through April 30, annually. Outfall 002, as located downstream of the IWWTS discharge, allows for storm water collection and discharge into Mills Creek whether the IWWTS is operational or not.

11. Part I.A. stipulates that “External Outfall 002, Effluent Gross...discharges shall be limited and monitored by the permittee” all year. Also, Part I.B.2 (Sampling Frequency) states, “If there is a discharge from a permitted outfall on any given day during the monitoring period, the permittee must sample and report the results of analyses accordingly, and the permittee should not mark the 'No Discharge' box on the Discharge Monitoring Report form.” NMAA failed to collect discharge samples at Outfall 002 during precipitation events during the periods where the IWWTS was not discharging in violation of Part 1.A and Part 1.B.2 of the Permit

12. Part I.A. stipulates that” these [parameters and conditions] shall be limited and monitored by the permittee as specified below.” NMAA exceeded Permit effluent limits, in violation of Part 1.A of the Permit, for the following pollutants and reporting periods between March 2020 and October 2021:

Pollutant	Reporting period
Solids, total suspended	12/31/2020
pH Effluent Gross Season	2/28/2021
Nitrogen, ammonia total [as N] Daily Maximum	2/28/2021
Nitrogen, ammonia total [as N] Monthly Average	2/28/2021
Nitrogen, ammonia total [as N] Daily Maximum	4/30/2021
Nitrogen, ammonia total [as N] Monthly Average	4/30/2021

Attachment 2

Expedited Settlement Agreement and Final Order Payment Instructions

Payment shall be in a single payment, due no later than 30 calendar days from the effective date of the Final Order. If the due date for the payment falls on a weekend or federal holiday, then the due date is the next business day. The date the payment is made is considered to be the date processed by U.S. Bank, as described below. Payment must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day.

The payment shall be made by remitting a check or making a wire transfer or on-line payment. The check or other payment shall:

- designate the name and docket number of this case, and
- be payable to "Treasurer, United States of America."

The payment shall be remitted as follows:

If remitted by regular U.S. mail:

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

If remitted by any overnight commercial carrier:

U.S. Bank
Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101

If remitted by wire transfer: Any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information:

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

If remitted through the Automated Clearing House (ACH) for receiving US currency:

U.S. Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737

If remitted on-line with a debit card or credit card: No user name, password, or account number is necessary for this option. On-line payment can be accessed via www.pay.gov, entering 1.1 in the form search box on the left side of the screen, opening the form, and following the directions on the screen.

At the time of payment, a copy of the check (or notification of other type of payment) shall also be sent by mail and/or email to:

Regional Hearing Clerk
U.S. EPA Region 4
Office of Regional Counsel
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960
Email: R4_Regional_Hearing_Clerk@epa.gov

and

Dennis Sayre
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960
Email: sayre.dennis@epa.gov

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Expedited Settlement Agreement and Final Order, in the Matter of the Nashville International Airport, Docket No. CWA-04-2022-0301(b), were filed and copies of the same were emailed to the parties as indicated below.

Via email to all parties at the following email addresses:

To Respondent: Jeremy Spires
 Manager, Environmental Compliance
 140 BNA Park Drive, Suite 520
 Nashville, Tennessee 37214
 Jeremy.Spires@flynashville.com

To EPA: Dennis Sayre
 Environmental Engineer
 Sayre.Dennis@epa.gov
 404-562-9756

 Bianca Jaikaran
 Associate Regional Counsel
 Jaikaran.Bianca@epa.gov
 404-562-9680

 U.S. EPA Region 4
 61 Forsyth Street, S.W.
 Atlanta, Georgia 30303-8960

Shannon L. Richardson
Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960