



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

April 4, 2022

VIA E-MAIL
DELIVERY RECEIPT REQUESTED

Thomas W. Sigmund, P.E.
Executive Director
Green Bay Metropolitan Sewerage District
2231 North Quincy Street
Green Bay, WI 54302

Email: tsigmund@newwater.us

Dear Thomas Sigmund:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Green Bay Metropolitan Sewerage District, docket no. CAA-05-2022-0013. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on April 4, 2022.

Pursuant to paragraph 34 of the CAFO, Green Bay Metropolitan Sewerage District must pay the civil penalty within 30 days of the filing date. Your electronic funds transfer must display the case name and case docket number.

Please direct any questions regarding this case to Louise Gross, Associate Regional Counsel, (312) 886-6844.

Sincerely,

SARAH
MARSHALL

Digitally signed by
SARAH MARSHALL
Date: 2022.02.07
08:48:12 -06'00'

Sarah Marshall, Supervisor
Air Enforcement and Compliance Assurance Section (MI/WI)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/via electronic mail
coyle.ann@epa.gov

Regional Hearing Clerk/via electronic mail
r5hearingcleark@epa.gov

Louise Gross/via electronic mail
gross.louise@epa.gov

Maria Hill/via electronic mail
maria.hill@wisconsin.gov

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

| | | |
|---|---|---|
| In the Matter of: |) | Docket No. CAA-05-2022-0013 |
| |) | |
| Green Bay Metropolitan Sewerage District |) | Proceeding to Assess a Civil Penalty |
| Green Bay, Wisconsin |) | Under Section 113(d) of the Clean Air Act, |
| |) | 42 U.S.C. § 7413(d) |
| Respondent. |) | |
| <hr/> |) | |

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is the Green Bay Metropolitan Sewerage District (GBMSD), a water resource utility serving northeast Wisconsin.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

Statutory and Regulatory Background

9. On March 21, 2011, pursuant to Section 111(b) of the CAA, EPA promulgated the Standards of Performance for New Sewage Sludge Incineration (SSI) Units, codified at 40 C.F.R. Part 60, Subpart LLLL (Subpart LLLL). *76 Fed. Reg.* 15404.

10. Subpart LLLL, at 40 C.F.R. § 60.4770, states that an SSI unit is an “affected source” subject to the provisions of Subpart LLLL if it meets all the criteria specified in paragraphs (a) through (c) of this section.

11. Under 40 C.F.R. § 60.4770(a), a subject SSI unit must be an SSI unit “for which construction commenced after October 14, 2010 or for which modification commenced after September 21, 2011.”

12. Under 40 C.F.R. § 60.4770(b), a subject SSI must be “an SSI unit as defined in § 60.4930.”

13. Under 40 C.F.R. § 60.4930, an SSI unit is defined as “an incineration unit combusting sewage sludge for the purpose of reducing the volume of the sewage sludge by removing combustible matter....”

14. Under 40 C.F.R. § 60.4770(c), “the SSI unit [must not be] exempt under § 60.4780.”

15. Under 40 C.F.R. § 60.4770(c), combustion units that incinerate sewage sludge and are not located at a wastewater treatment facility designed to treat domestic sewage sludge are exempt.

16. Subpart LLLL, at 40 C.F.R. § 60.4845, states that an affected SSI “must meet the emission limits and standards specified in Table 1 or 2 to this subpart within 60 days after your SSI unit reaches the feed rate at which it will operate or within 180 days after its initial startup, whichever comes first. The emission limits and standards apply at all times the unit is operating, and during periods of malfunction. The emission limits and standards apply to emissions from a bypass stack or vent while sewage sludge is in the combustion chamber (*i.e.*, until the sewage sludge feed to the combustor has been cut off for a period of time not less than the sewage sludge incineration residence time).”

17. Table 1 to Subpart LLLL provides emission limits and standards for new fluidized bed SSI units. The emission limit provided for the pollutant mercury is 0.0010 milligrams per dry standard cubic meter (mg/dscm) on a three-run average.

18. On August 1, 2018, pursuant to 40 C.F.R. § 60.4855, EPA approved GBMSD’s May 4, 2018 request for site-specific alternative monitoring parameters, operating limits and averaging periods (the Alternative Monitoring Plan).

19. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$48,762 per day of violation up to a total of \$390,092 for violations that occurred after November 2, 2015 under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

20. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

21. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Alleged Violations

22. GBMSD owns and operates a wastewater treatment facility at 315 Leonard Street, De Pere, Wisconsin and 2231 North Quincy Street, Green Bay, Wisconsin (the Facility)

23. GBMSD is a "person," as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

24. At the Facility, GBMSD operates one fluidized bed SSI, constructed in 2018, with a rated capacity of 51 dry tons of sludge per day.

25. Since May 8, 2018, GBMSD has operated a granulated activated carbon (GAC) system to control emissions of mercury from the SSI exhaust gas.

26. In August 2019, GBMSD began observing a trend of increasing GAC system pressure drop measurements. The pressure drop increased from approximately 1.4 inches of water column (wc) on September 30, 2019 to approximately 7.6 inches wc on October 18, 2019. The pressure drop did not exceed the Alternative Monitoring Plan limit of 11 inches wc.

27. On October 19, 2019, GBMSD shut down the SSI unit to perform its annual inspection and maintenance on the unit. Additionally, while the SSI unit was offline, GBMSD

conducted an investigation into the reason for the rapid increase in pressure drop at the GAC unit. An accumulation of material was found on the GAC media.

28. According to GBMSD, the GAC manufacturer instructed GBMSD to rinse the GAC media with water to remove the material buildup. GBMSD dried the GAC media and attempted to return the unit to operation.

29. On November 7, 2019, GBMSD initiated startup of the GAC in preparation of restarting the SSI. According to GBMSD, the GAC system experienced a thermal excursion (high temperature event in the carbon) and failed, and GBMSD again took the GAC system offline. The SSI was not operating at the time of the thermal excursion.

30. Beginning on November 21, 2019, GBMSD intermittently operated the SSI while bypassing the GAC system

31. On December 12, 2019, GBMSD conducted a mercury emissions test of the SSI exhaust while not operating the GAC system. The results of the test showed that the three-run average mercury concentration was 0.0220 mg/dscm corrected to 7% oxygen (@ 7% O₂). This mercury concentration substantially exceeded the Subpart LLLL limit of 0.0010 mg/dscm @ 7% O₂. This exceedance of the Subpart LLLL limit constitutes a violation of 40 C.F.R. § 60.4845.

32. On March 19, 2020, GBMSD conducted another mercury emissions test of the SSI exhaust gas while operating the GAC system with new activated carbon media and after all repairs to the damaged unit were completed. The results indicated a three-run average mercury concentration of less than 0.0002 mg/dscm @ 7% O₂, which meets the Subpart LLLL limit.

Civil Penalty

33. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case and Respondent's cooperation, prompt return to

compliance, new facts made known to Complainant, Complainant has determined that an appropriate civil penalty to settle this action is \$260,000.

34. Within 30 days after the effective date of this CAFO, Respondent must pay a \$260,000 civil penalty by electronic funds transfer, payable to “Treasurer, United States of America,” and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, New York 10045

Field Tag 4200 of the Fedwire message should read:
“D68010727 Environmental Protection Agency”

In the comment or description field of the electronic funds transfer, state Respondent’s name and the docket number of this CAFO.

35. Respondent must send a notice of payment that states Respondent’s name and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
r5airenforcement@epa.gov

Louise Gross
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
Gross.louise@epa.gov

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
r5hearingclerk@epa.gov

36. This civil penalty is not deductible for federal tax purposes.

37. If Respondent does not pay timely the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the

penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

38. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorneys' fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

General Provisions

39. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: gross.louise@epa.gov (for Complainant), and ajharrin@gklaw.com and tsigmund@newwater.us (for Respondent).

40. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

41. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

42. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 40, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

43. Respondent certifies that it is complying fully with Subpart LLLL.

44. This CAFO constitutes an “enforcement response” as that term is used in EPA’s Clean Air Act Stationary Civil Penalty Policy to determine Respondent’s “full compliance history” under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

45. The terms of this CAFO bind Respondent, its successors and assigns.

46. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

47. Each party agrees to bear its own costs and attorney’s fees in this action.

48. This CAFO constitutes the entire agreement between the parties.

Green Bay Metropolitan Sewerage District, Respondent

Thomas W
Sigmund

Digitally signed by
Thomas W Sigmund
Date: 2022.03.23
11:55:23 -05'00'

Date

Thomas W. Sigmund, P.E.
Executive Director
Green Bay Metropolitan Sewerage District

United States Environmental Protection Agency, Complainant

**MICHAEL
HARRIS**

Digitally signed by
MICHAEL HARRIS
Date: 2022.03.28
14:01:13 -05'00'

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order
In the Matter of: Green Bay Metropolitan Sewerage District
Docket No. CAA-05-2022-0013

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Date

ANN COYLE Digitally signed by ANN
COYLE
Date: 2022.03.31
10:47:29 -05'00'

Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the matter of: Green Bay Metropolitan Sewerage District
Docket Number: **CAA-05-2022-0013**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number **CAA-05-2022-0013**, which was filed on April 4, 2022, in the following manner to the following addressees:

Copy by E-mail to Respondent: Thomas Sigmund
tsigmund@newwater.us

Copy by E-mail to
Attorney for Complainant: Louise Gross
gross.louise@epa.gov

Copy by E-mail to
Attorney for Respondent: Arthur Harrington
ajharrin@gklaw.com

Copy by E-mail to
Regional Judicial Officer: Ann Coyle
coyle.ann@epa.gov

Dated: _____
LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5