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HEARINGS CLERK
EPA -- REGION 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	
)	DOCKET NO. CWA-10-2015-0002
South Fork Coeur d'Alene Sewer District)	
Page Wastewater Treatment Plant, Idaho)	CONSENT AGREEMENT AND
)	FINAL ORDER
)	
Respondent.)	

I. STATUTORY AUTHORITY

1.1. This Consent Agreement and Final Order ("CAFO") is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 309(g)(2)(B) of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1319(g)(2)(B).

1.2. The Administrator has delegated the authority to issue the Final Order contained in Part V of this CAFO to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.3. Pursuant to Section 309(g)(1) and (g)(2)(B) of the CWA, 33 U.S.C. §§ 1319(g)(1) and (g)(2)(B), and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA issues, and the South Fork Coeur d'Alene Sewer District, Page Wastewater Treatment Plant ("Respondent") agrees to issuance of, the Final Order contained in Part V of this CAFO.

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.45(b), issuance of this CAFO commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Director of the Office of Compliance and Enforcement, EPA Region 10 (“Complainant”) has been delegated the authority pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), to sign consent agreements between EPA and the party against whom a Class II penalty is proposed to be assessed.

2.3. Part III of this CAFO 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

3.1. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants into waters of the United States by any person, except, *inter alia*, as authorized by a National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342.

3.2. 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 any pollutant into the waters of the United States upon such specific terms and conditions as the Administrator may prescribe.

3.3. Section 502(12) of the Act, 33 U.S.C. § 1362(12), defines the term “discharge of a pollutant” to include “any addition of any pollutant to navigable waters from any point source.” The term “navigable waters” is defined as “waters of the United States.” 33 U.S.C. § 1362(7). 40 C.F.R. § 122.2 defines “waters of the United States” to include waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce; all interstate waters; and tributaries to those waters.

3.4. Respondent is a sewer district duly organized and existing under the laws of the State of Idaho. Respondent is thus a “person” under the Act Section 502(5), 33 U.S.C. § 1362(5).

3.5. Respondent owns and/or operates a wastewater treatment plant (“Facility”) located in Smelterville, Idaho.

3.6. At all times relevant to this action, Respondent was authorized to discharge wastewater containing pollutants from the Facility pursuant to NPDES permit No. ID-0021300 (“Permit”). The Permit became effective on October 1, 2013 and will expire on September 30, 2018. The Facility’s previous permit became effective on August 1, 2004 and expired on August 1, 2009. A permit application was received on January 26, 2009, and the Permit was administratively extended pursuant to 40 C.F.R. § 122.6.

3.7. The Facility discharges pollutants from Outfall 001 to the South Fork Coeur d’Alene River near Smelterville, Idaho. Outfall 001 is a “point source” as defined in 40 C.F.R. § 122.2.

3.8. The South Fork Coeur d’Alene River is currently used, was used in the past, or may be susceptible to use in interstate and foreign commerce. As such, the South Fork Coeur d’Alene River is a “navigable water” within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7), and a “water of the United States” as defined in 40 C.F.R. § 122.2.

3.9. Section I.B of the Permit establishes effluent limits for the discharge from Outfall 001. These effluent limits include, but are not limited to, biochemical oxygen demand (“BOD”), total suspended solids (“TSS”), *Escherichia coli* (“*E. coli*”), pH, total residual chlorine (“TRC”), total ammonia, cadmium, lead, and zinc. As provided in Section I.B of the Permit, a variance was issued for the effluent limits for cadmium, lead, and zinc and a compliance schedule established outlining interim and final effluent limits.

3.10. Section III.B of the Permit requires Respondent to summarize monitoring results for the Facility each month in a Discharge Monitoring Report (“DMR”).

3.11. Respondent’s DMRs from September 2012 to March 2014 indicate that the Facility had 216 violations of the effluent limits set forth in the Permit. When a permittee exceeds a monthly average effluent limit, the permittee is deemed to be in violation of the effluent limit for each day of the month in which the exceedance occurred. When a permittee exceeds a weekly average effluent limit, the permittee is deemed to be in violation of the effluent limit for each day of the week in which the exceedance occurred. When a permittee exceeds a daily maximum effluent limit, the exceedance is counted as one violation.

3.12. Section I.B of the Facility’s previous permit contained an average monthly concentration effluent limit of 12.4 milligrams per liter (“mg/L”) for total ammonia. Between September 2012 and March 2014, Respondent violated this limit 6 times, constituting 182 violations. The violations are as follows:

Month of Violation	Number of Violations
September 2012	30
November 2012	30
June 2013	30
July 2013	31
August 2013	31
September 2013	30

3.13. Section I.B of the Facility’s current Permit contains an average monthly concentration effluent limit of 13.3 mg/L for total ammonia for the low flow period (July – December). Between September 2012 and March 2014, Respondent violated this limit one time, constituting 30 violations. The violations are as follows:

Month of Violation	Number of Violations
November 2013	30

3.14. Section I.B of the Facility's current Permit contains a daily maximum mass effluent limit for TRC of 2.6 pounds per day ("lb/day"). Between September 2012 and March 2014, Respondent violated this limit one time, constituting one violation. The violation is as follows:

Month of Violation	Number of Violations
December 2013	1

3.15. Section I.B of the Facility's current Permit contains a daily maximum concentration effluent limit for TRC of 73 micrograms per liter ("µg/L"). Between September 2012 and March 2014, Respondent violated this limit one time, constituting one violation. The violation is as follows:

Month of Violation	Number of Violations
December 2013	1

3.16. Section I.B of the Facility's current Permit contains an instantaneous maximum limit for *E. coli* bacteria of 576 counts per 100 milliliters ("#/100 ml"). Between September 2012 and March 2014, Respondent violated this limit one time, constituting one violation. The violation is as follows:

Month of Violation	Number of Violations
March 2014	1

3.17. Section I.B of the Facility's current Permit contains a daily maximum mass effluent limit for TRC of 2.6 lb/day. Between September 2012 and March 2014, Respondent violated this limit one time, constituting one violation. The violation is as follows:

Month of Violation	Number of Violations
March 2014	1

3.18. During the violations period set forth above, Respondent made good-faith efforts to fund and develop construction upgrades to its wastewater treatment plant.

3.19. As of the submittal of the most recent DMRs for the Facility, the Facility is in compliance with the Permit.

IV. CONSENT AGREEMENT

4.1. Respondent admits the jurisdictional allegations contained in Part III of this CAFO.

4.2. Respondent neither admits nor denies the specific factual allegations contained in Part III of this CAFO.

4.3. As required by Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), EPA has taken into account the nature, circumstances, extent, and gravity of the alleged violations as well as Respondent's economic benefit of noncompliance, ability to pay, and other relevant factors. After considering all of these factors, EPA has determined, and Respondent agrees, that an appropriate penalty to settle this action is \$20,000.

4.4. Respondent agrees to pay the total civil penalty set forth in Paragraph 4.3 within thirty (30) days of the effective date of the Final Order.

4.5. Payment under this CAFO must be made by cashier's check or certified check payable to the order of "Treasurer, United States of America" and delivered via United States mail to one of the following addresses:

By U.S. Postal Mail:

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

By UPS, Federal Express or overnight mail:

U.S. Bank Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
St. Louis, MO 63101

Respondent must note on the check the title "In the Matter of South Fork Coeur d'Alene Sewer District" and docket number "CWA-10-2105-0002".

4.6. Respondent must deliver via United States mail a photocopy of the check described in Paragraph 4.5 to the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-158
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

Dustan Bott
U.S. Environmental Protection Agency
Region 10, Mail Stop OCE-133
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

4.7. If Respondent fails to pay the penalty assessed by this CAFO in full by the due date set forth in Paragraph 4.4, 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 as described below. In any collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

4.7.1. Interest. Pursuant to Section 309(g)(9) of the CWA, 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 thirty (30) days of the effective date of the Final Order.

4.7.2. Attorneys Fees, Collection Costs, Nonpayment Penalty. Pursuant to Section 309(g)(9) of the CWA, 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 twenty percent (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 is authorized to enter into the terms and conditions of this CAFO and to bind Respondent to this document.

4.10. Except as described in Subparagraph 4.7.2, each party shall bear its own fees and costs in bringing or defending this action.

4.11. Respondent expressly waives any right to contest the allegations and waives any right to appeal the Final Order set forth in Part V.

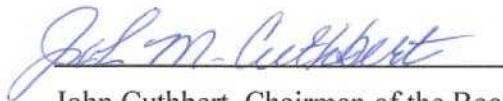
4.12. The provisions of this CAFO shall bind Respondent and its agents, servants, employees, successors, and assigns.

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

DATED:

FOR RESPONDENT:

12-16-14

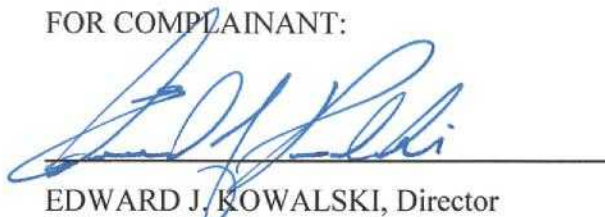


John Cuthbert, Chairman of the Board
South Fork Coeur d'Alene Sewer District
Page Wastewater Treatment Plant

DATED:

FOR COMPLAINANT:

1/14/2015



EDWARD J. ROWALSKI, Director
Office of Compliance and Enforcement

V. FINAL ORDER

5.1. The terms of the foregoing Parts I-IV are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

5.2. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to the CWA for the violations alleged in Part III. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO 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 CAFO 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.

5.3. In accordance with Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), and 40 C.F.R. § 22.38(b), the Idaho Department of Environmental Quality has been given the opportunity to consult with EPA regarding the assessment of the administrative civil penalty against Respondent.

5.4. Pursuant to Section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b), EPA has issued public notice of, and provided reasonable opportunity to comment on, its intent to assess an administrative penalty against Respondent. More than forty (40) days have elapsed since issuance of this public notice, and EPA has received no petition to set aside the Consent Agreement contained herein.

5.5. This Final Order shall become effective upon filing.

SO ORDERED this 5th day of February, 2015.



M. SOCORRO RODRIGUEZ
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: South Fork Coeur d'Alene Sewer District, Page Wastewater Treatment Plant, ID, Docket No.: CWA-10-2015-0002**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

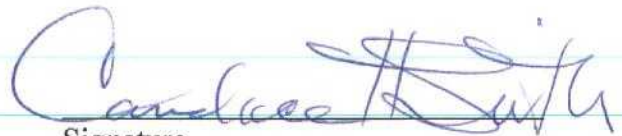
The undersigned certifies that a true and correct copy of the document was delivered to:

Stephanie Ebright
U.S. Environmental Protection Agency
1200 Sixth Avenue, ORC-158, Suite 900
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Gary G. Allen
Givens Pursley LLP
601 W. Bannock St.
Boise, ID 83702

DATED this 5TH day of FEBRUARY 2015


Signature

Candace H. Smith
Regional Hearing Clerk
EPA Region 10