



Sep 22, 2025

1:38 pm

**U.S. EPA REGION 3
HEARING CLERK**

[illegible]

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

1. This Consent Agreement is entered into by the Division Director of the Enforcement and Compliance Assurance Division ("ECAD"), U.S. Environmental Protection Agency, Region 3 ("Complainant"), and the City of Keyser (the "Respondent"), pursuant to Section 309 of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1319, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 Code of Federal Regulations ("C.F.R.") Part 22. Section 309 of the CWA, 33 U.S.C. § 1319, authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated this authority to enter

into consent agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the "Consent Agreement and Final Order") resolve Complainant's civil penalty claims against Respondent under Section 309 of the CWA, 33 U.S.C. § 1319, for the violations alleged herein.

2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency ("EPA") has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(6) in assessing Class II penalties under Section 309(g) of the CWA 33 U.S.C. § 1319(g).
5. On November 13, 2023, EPA sent a communication to the West Virginia Department of the Environmental Protection ("WVDEP"), giving prior notice of this action in accordance with Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1).

GENERAL PROVISIONS

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
7. Except as provided in Paragraph 6, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
8. Respondent agrees not to contest the jurisdiction of the EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
9. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.
10. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
11. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

12. 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), the EPA is providing public notice and an opportunity to comment on the Consent Agreement prior to issuing the Final Order.
13. By signing this Consent Agreement, Respondent waives any rights or defenses that respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the Final Order accompanying the Consent Agreement.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

14. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person into waters of the U.S. except in compliance with sections 301, 302, 306, 307, 318, 402, and 404 of the Act, 33 U.S.C. §§ 1311, 1312, 1316, 1317, 1328, 1342, and 1344.
15. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
16. Section 402(a) of the CWA, Section 33 U.S.C. § 1342(a), provides that the Administrator of the EPA may issue permits under the National Pollutant Discharge Elimination System (“NPDES”) program for the discharge of pollutants from point sources to waters of the United States. The discharges are subject to specific terms and conditions as prescribed in the permit. Section 402(b) of the CWA, 33 U.S.C. § 1342(b), provides for the authorization of state programs to issue NPDES permits.
17. Pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b), WVDEP is authorized to administer the NPDES program in the State of West Virginia.
18. Pursuant to Section 402(i) of the CWA, 33 U.S.C. § 1342(i), the EPA retains its authority to take enforcement action within the State of West Virginia for NPDES permit violations.
19. As a “municipality,” Respondent is a “person” within the meaning of Section 502(4) and (5) of the Act, 33 U.S.C. § 1362(4) and (5).
20. “Discharge of a pollutant” means “[a]ny addition of any ‘pollutant’ or combination of pollutants to ‘waters of the United States’ from any ‘point source’.” 40 C.F.R. § 122.2. *See also* 33 U.S.C. § 1362(12).
21. At all times relevant to this Consent Agreement, Respondent owned and operated the City of Keyser Wastewater Treatment Plant (“WWTP” or “Facility”) located at 881 Waxler Road, Keyser, WV.

22. At all times relevant to this Consent Agreement, the operation of the WWTP has been subject to West Virginia NPDES Discharge Permit No. WV0024392 ("Permit"), which was issued by WVDEP on April 6, 2018, became effective on June 1, 2018, and had an expiration date of June 30, 2022, which has been administratively extended by WVDEP.
23. Respondent is authorized to discharge pollutants, in the form of wastewater from the WWTP, to waters of the United States in accordance with the terms and conditions of its Permit.
24. The WWTP discharges domestic wastewater into North Branch of the Potomac River.
25. The North Branch of the Potomac River is a water of the United States within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).
26. At all times relevant to this Consent Agreement, the Respondent discharged wastewater into the North Branch of the Potomac River through a "point source" as that term is defined at Section 502(14) of the CWA, 33 U.S.C. § 1362(14).
27. On November 19, 2021, EPA and WVDEP representatives inspected the WWTP for purposes of determining compliance with the Permit (the "Inspection").

Count 1 Effluent Exceedances

28. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
29. Part A.001 of the Permit defines effluent limitations and monitoring requirements for Outfall 001 discharges. Based on the Discharge Monitoring Reports ("DMRs") provided by the Permittee, the Facility experienced the following two (2) exceedances from Outfall 001:

Table 1. Facility Effluent Exceedances

Outfall #	Monitoring Period End Date	Parameter Name	DMR Value	Permit Limit	Units	Limit Type	% Exceeding Limit
001	9/30/2021	Chronic Tox-Ceriodaphnia Dubia	4.0	3.1	TUc	Monthly Average	29%
001	6/30/2024	Nitrogen, Kjeldahl, total [as N]	39	36	mg/L	Daily Max	8%

30. Based on the allegations in Paragraph 29, above, the EPA concludes that as a result of the identified effluent limitation exceedances, Respondent violated Part A.001 of the Permit

and Section 301(a) of the Act, 33 U.S.C. § 1311(a), on at least the dates set forth above.

31. In failing to comply with the effluent limitations contained in Part A.001 of the Permit, Respondent violated Section 301 of the CWA, 33 U.S.C. § 1311, and is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

Count 2

Failure to Report Monitoring Data Timely

32. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
33. Appendix A, Section III. 2. of the Permit states, "Permittee shall submit, according to the enclosed format, a Discharge Monitoring Report (DMR) indicating in terms of concentration, and/or quantities, the values of the constituents listed in Part A analytically determined to be in the plant effluent(s). DMR submissions shall be made in accordance with the terms contained in Section C of this permit."
34. Section C – Other Requirements of the Permit, 6 states, "The required DMRs shall be received by the Agency no later than 25 days following the end of the reporting period.". Respondent submitted their DMR for 48 parameters below "38 days late" according to EPA's Enforcement and Compliance History Online ("ECHO") website.

Table 2. Late DMR Data

Outfall #	Monitoring Period End Date	Parameter Name	Date Received	Date Due By	Limit Type
002	10/31/2023	BOD, 5-day, 20 deg. C	1/2/2024	11/25/2023	MO AVG
002	10/31/2023	BOD, 5-day, 20 deg. C	1/2/2024	11/25/2023	DAILY MX
002	10/31/2023	pH	1/2/2024	11/25/2023	INST MIN
002	10/31/2023	pH	1/2/2024	11/25/2023	INST MAX
002	10/31/2023	Solids, total suspended	1/2/2024	11/25/2023	DAILY MX
002	10/31/2023	Solids, total suspended	1/2/2024	11/25/2023	MO AVG
002	10/31/2023	Oil and grease, hexane extr method	1/2/2024	11/25/2023	DAILY MX
002	10/31/2023	Oil and grease, hexane extr method	1/2/2024	11/25/2023	MO AVG
002	10/31/2023	Nitrogen, ammonia total [as N]	1/2/2024	11/25/2023	DAILY MX
002	10/31/2023	Nitrogen, ammonia total [as N]	1/2/2024	11/25/2023	MO AVG

Outfall #	Monitoring Period End Date	Parameter Name	Date Received	Date Due By	Limit Type
002	10/31/2023	Flow, in conduit or thru treatment plant	1/2/2024	11/25/2023	MO AVG
002	10/31/2023	Flow, in conduit or thru treatment plant	1/2/2024	11/25/2023	DAILY MX
002	10/31/2023	Coliform, fecal general	1/2/2024	11/25/2023	DAILY MX
002	10/31/2023	Coliform, fecal general	1/2/2024	11/25/2023	MO GEOMN
002	10/31/2023	Chemical Oxygen Demand [COD]	1/2/2024	11/25/2023	MO AVG
002	10/31/2023	Chemical Oxygen Demand [COD]	1/2/2024	11/25/2023	DAILY MX
003	10/31/2023	BOD, 5-day, 20 deg. C	1/2/2024	11/25/2023	MO AVG
003	10/31/2023	BOD, 5-day, 20 deg. C	1/2/2024	11/25/2023	DAILY MX
003	10/31/2023	pH	1/2/2024	11/25/2023	INST MAX
003	10/31/2023	pH	1/2/2024	11/25/2023	INST MIN
003	10/31/2023	Solids, total suspended	1/2/2024	11/25/2023	DAILY MX
003	10/31/2023	Solids, total suspended	1/2/2024	11/25/2023	MO AVG
003	10/31/2023	Oil and grease, hexane extr method	1/2/2024	11/25/2023	DAILY MX
003	10/31/2023	Oil and grease, hexane extr method	1/2/2024	11/25/2023	MO AVG
003	10/31/2023	Nitrogen, ammonia total [as N]	1/2/2024	11/25/2023	MO AVG
003	10/31/2023	Nitrogen, ammonia total [as N]	1/2/2024	11/25/2023	DAILY MX
003	10/31/2023	Flow, in conduit or thru treatment plant	1/2/2024	11/25/2023	MO AVG
003	10/31/2023	Flow, in conduit or thru treatment plant	1/2/2024	11/25/2023	DAILY MX
003	10/31/2023	Coliform, fecal gen	1/2/2024	11/25/2023	DAILY MX
003	10/31/2023	Coliform, fecal general	1/2/2024	11/25/2023	MO GEOMN
003	10/31/2023	Chemical Oxygen Demand [COD]	1/2/2024	11/25/2023	MO AVG

Outfall #	Monitoring Period End Date	Parameter Name	Date Received	Date Due By	Limit Type
003	10/31/2023	Chemical Oxygen Demand [COD]	1/2/2024	11/25/2023	DAILY MX
004	10/31/2023	BOD, 5-day, 20 deg. C	1/2/2024	11/25/2023	DAILY MX
004	10/31/2023	BOD, 5-day, 20 deg. C	1/2/2024	11/25/2023	MO AVG
004	10/31/2023	pH	1/2/2024	11/25/2023	INST MAX
004	10/31/2023	pH	1/2/2024	11/25/2023	INST MIN
004	10/31/2023	Solids, total suspended	1/2/2024	11/25/2023	DAILY MX
004	10/31/2023	Solids, total suspended	1/2/2024	11/25/2023	MO AVG
004	10/31/2023	Oil and grease, hexane extr method	1/2/2024	11/25/2023	DAILY MX
004	10/31/2023	Oil and grease, hexane extr method	1/2/2024	11/25/2023	MO AVG
004	10/31/2023	Nitrogen, ammonia total [as N]	1/2/2024	11/25/2023	MO AVG
004	10/31/2023	Nitrogen, ammonia total [as N]	1/2/2024	11/25/2023	DAILY MX
004	10/31/2023	Flow, in conduit or thru treatment plant	1/2/2024	11/25/2023	MO AVG
004	10/31/2023	Flow, in conduit or thru treatment plant	1/2/2024	11/25/2023	DAILY MX
004	10/31/2023	Coliform, fecal general	1/2/2024	11/25/2023	MO GEOMN
004	10/31/2023	Coliform, fecal general	1/2/2024	11/25/2023	DAILY MX
004	10/31/2023	Chemical Oxygen Demand [COD]	1/2/2024	11/25/2023	DAILY MX
004	10/31/2023	Chemical Oxygen Demand [COD]	1/2/2024	11/25/2023	MO AVG

35. Based on the allegations in Paragraph 34, above, the EPA concludes that as a result of late submittal of DMRs, Respondent violated Section C of the Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a), on the dates set forth above.

36. In failing to comply with the DMR submittal requirements in Section C of the Permit, Respondent violated Section 301 of the CWA, 33 U.S.C. § 1311, and is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

Count 3

Failure to Operate and Maintain the Facility

37. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
38. Appendix A, Part II. 1. of the Permit states, “The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also include adequate laboratory controls, and appropriate quality assurance procedures. Unless otherwise required by Federal or State law, this provision requires the operation of back-up auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit.”
39. On March 5, 2023, Respondent reported that a power outage at the WWTP had occurred on March 4, 2023 due to heavy rain and high winds. It is estimated that 170,000 gallons of sewage overflowed at the WWTP and into a nearby stormwater outlet leading to the North Branch of the Potomac River. There was a backup generator available, but it shut off due to faulty wires causing the transfer switch to malfunction and shut the generator off.
40. Based on the allegations in Paragraph 39, above, Respondent violated Appendix A, Part II. 1. of the Permit and Section 301(a) of the CWA, 33 U.S.C. 1311(a), by not properly maintaining “all facilities and systems of treatment and control” which includes the generator.
41. In failing to comply with the requirements contained in Appendix A, Part II.1. of the Permit, Respondent violated Section 301 of the CWA, 33 U.S.C. § 1311, and is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

CIVIL PENALTY

42. In settlement of the EPA’s claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **Two Thousand Five Hundred Dollars (\$2,500.00)**, which Respondent shall be liable to pay in accordance with the terms set forth below.
43. The civil penalty is based upon EPA’s consideration of a number of factors, including the penalty criteria (“statutory factors”) set forth in Section 309(g) of the CWA, 33 U.S.C. § 1319(g). After considering these factors, EPA has determined that an appropriate penalty to settle this action is \$2,500.00.

44. The civil penalty is also based upon an analysis of Respondent's ability to pay a civil penalty. This analysis was based upon information submitted to the EPA by Respondent including the third party 2021 - 2023 fiscal year audits, and the 2021 - 2023 annual reports of the City of Keyser Sewer Department.
45. Respondent agrees to pay a civil penalty in the amount of \$2,500.00 ("Assessed Penalty"). Based upon Respondent's documented inability to pay claim, and in accordance with applicable laws, the EPA conducted an analysis of Respondent's financial information and determined that the Assessed Penalty is an appropriate amount to settle this action, Respondent agrees to pay the Assessed Penalty within thirty (30) days of the Effective Date of this Consent Agreement and Final Order.
46. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>. Any checks should be made payable to "Treasurer, United States of America." *However, for any payments made after September 30, 2025, and in accordance with the March 25, 2025 Executive Order on [Modernizing Payments To and From America's Bank Account](#), Respondent shall pay using one of the electronic payments methods listed on [EPA's How to Make a Payment website](#) and will not pay with a paper check.*
47. When making a payment, Respondent shall:
- a. Identify every payment with Respondent's name and the docket number of this Consent Agreement, CWA-03-2025-0002,
 - b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve Proof of Payment simultaneously by email to the following person(s):

Manuel Ronquillo, Chief
Waste and Water Branch Office of
Regional Counsel
Ronquillo.Manuel@epa.gov,

U.S. Environmental Protection
Agency
Cincinnati Finance Center
CINWD_AcctsReceivable@epa.gov,

and

U.S. EPA Region 3
Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov

“Proof of Payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

48. Interest, Charges, and Penalties on Late Payments. Pursuant to 33 U.S.C. § 1319(g)(9), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Consent Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and the EPA is authorized to recover the following amounts.
- a. Interest. Interest begins to accrue from the Effective Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until the unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. Interest will be assessed at prevailing rates, per 33 U.S.C. § 1319(g)(9). The rate of interest is the IRS standard underpayment rate.
 - b. Handling Charges. The United States’ enforcement expenses including, but not limited to, attorneys’ fees and costs of collection proceedings.
 - c. Late Payment Penalty. A twenty percent (20%) quarterly non-payment penalty.
49. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Consent Agreement, the EPA may take additional actions. Such actions the EPA may take include, but are not limited to, the following.
- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14;
 - b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
 - c. Suspend or revoke Respondent’s licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, per 40 C.F.R. § 13.17.

d. Request that the Attorney General bring a civil action in the appropriate district court to recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, pursuant to 33 U.S.C. § 1319(g)(9). In any such action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

50. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.
51. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Consent Agreement shall not be deductible for purposes of federal taxes.
52. Payment of the civil penalty is due and payable immediately upon the Effective Date of this Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed as of the effective date of this Consent Agreement and Final Order by Respondent in accordance with 40 C.F.R. § 13.9(a).
53. The parties consent to service of the Final Order by e-mail at the following valid email addresses: Ronquillo.Manuel@epa.gov (for Complainant), and Marissa.Nortz@Steptoe-Johnson.com (for Respondent).
54. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:
 - a. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at

<https://www.irs.gov/pub/irs-pdf/fw9.pdf>;

- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at henderson.jessica@epa.gov, within 30 days after the Final Order ratifying this Consent Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the effective date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:
 - notify EPA's Cincinnati Finance Center of this fact, via email, within 30 days after the 30 days after the Effective Date of the Final Order per Paragraph 61, below; and
 - provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of the TIN.

GENERAL SETTLEMENT CONDITIONS

55. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
56. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about Respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

57. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it is currently in compliance with the Permit conditions and terms.

OTHER APPLICABLE LAWS

58. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the Clean Water Act or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

59. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under the Clean Water Act, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date. Respondent reserves whatever rights or defenses it may have to defend itself in any such action.

EXECUTION /PARTIES BOUND

60. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and its officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

61. Pursuant to 40 C.F.R. § 22.45(b), this Consent Agreement and Final Order shall be issued only after a 40-day public notice and comment period is concluded. This Consent Agreement and Final Order will become final and effective ("Effective Date") thirty (30)

days after having been signed by the Regional Administrator or his delegate, the Regional Judicial Officer, and filed with the Regional Hearing Clerk.

ENTIRE AGREEMENT

62. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent:

City of Keyser

By

Damon Tillman, Mayor

Date

8-20-25

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region 3, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

By:

**ANDREA
BAIN**

Digitally signed by
ANDREA BAIN
Date: 2025.09.08
15:43:13 -04'00'

[Digital Signature and Date]

Acting Division Director
Enforcement and Compliance Assurance Division
U.S. EPA Region 3

Attorney for Complainant:

**MANUEL
RONQUILLO**

Digitally signed by
MANUEL RONQUILLO
Date: 2025.09.03
15:56:46 -04'00'

[Digital Signature and Date]

Manuel Ronquillo, Chief
Waste and Water Branch
U.S. EPA Region 3



REGION 3
PHILADELPHIA, PA 19103

FILED

Sep 22, 2025

1:39 pm

**U.S. EPA REGION 3
HEARING CLERK**

In the Matter of:

City of Keyser
111 North Davis Street
Keyser, WV 26726

Respondent,

**City of Keyser Wastewater
Treatment Plant
881 Waxler Road
Keyser, WV 26726
NPDES Permit No. WV0024392**

Facility.

[illegible]

U.S. EPA Docket No. CWA-03-2025-0002

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

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3, and Respondent, City of Keyser, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

NOW, THEREFORE, PURSUANT TO Section 309(g) of the Clean Water Act, 33 U.S.C. Section 1319(g), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT**

IS HEREBY ORDERED that Respondent pay a civil penalty in the amount of **Two Thousand Five Hundred Dollars (\$2,500.00)** in accordance with the payment provisions set forth in the Consent Agreement, and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the Clean Water Act and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is thirty (30) days after the date on which this Final Order is filed with the Regional Hearing Clerk.

By:

**DONZETTA
THOMAS**

Digitally signed by
DONZETTA THOMAS
Date: 2025.09.22
11:48:55 -04'00'

[Digital Signature and Date]

Regional Judicial and Presiding Officer
U.S. EPA Region 3



PHILADELPHIA, PA 19103

[illegible]

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

CERTIFICATE OF SERVICE

Damon Tillman
Mayor
City of Keyser
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Edward Simas
NPDES Section, Water Branch,
Enforcement and Compliance Assurance Division
U.S. EPA, Region 9
Simas.Edward@epa.gov

and

Mark Zolandz, Chief
NPDES Section 1, Water Branch,
Enforcement and Compliance Assurance Division
U.S. EPA, Region 3
Zolandz.Mark@epa.gov

BEVIN
ESPOSITO

Digitally signed by BEVIN
ESPOSITO
Date: 2025.09.22 13:40:00
-04'00'

[Digital Signature and Date]

Regional Hearing Clerk
U.S. EPA, Region 3