

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 3  
Philadelphia, Pennsylvania 19103

**FILED**

Apr 16, 2025

11:02 am

U.S. EPA REGION 3  
HEARING CLERK

In the Matter of: :

: :

PENNSYLVANIA DEPARTMENT OF : U.S. EPA Docket No. CWA-03-2025-0048

TRANSPORTATION : :

ENGINEERING DISTRICT 2-0 : Proceeding under Section 309(g) of the Clean

70 PENNDOT DRIVE : Water Act

CLEARFIELD, PENNSYLVANIA 16830 : :

: :

Respondent. : :

: :

I-99 EXCAVATED ROCK PLACEMENT AREA : :

WASTEWATER TREATMENT FACILITY : :

WORTH TOWNSHIP : :

CENTRE COUNTY, PENNSYLVANIA : :

LATITUDE 40.815278, LONGITUDE -

78.030667

and

J2 ACID ROCK DRAINAGE TREATMENT

FACILITY

HUSTON TOWNSHIP

CENTRE COUNTY, PENNSYLVANIA

LATITUDE 40.829167; LONGITUDE -

77.992111

Facilities.

**CONSENT AGREEMENT**

**PRELIMINARY STATEMENT**

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3 ("Complainant") and Pennsylvania Department of Transportation ("Respondent") (collectively the "Parties"), pursuant to Section 309 of the Clean Water 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 C.F.R. Part 22. Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g), 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 the authority to enter into 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 the Clean Water Act ("CWA" or the "Act") 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).
5. On May 29, 2024, the EPA sent a communication to the Pennsylvania Department of Environmental Protection ("PADEP") giving prior notice of this action in accordance with Section 309(g)(1) of 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 Act, 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.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

13. 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.
14. Section 402(a) of the Act, 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.
15. Section 402(b) of the Act, 33 U.S.C. § 1342(b), provides for the authorization of state programs to issue NPDES permits.
16. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), the PADEP is authorized to administer the NPDES program in the Commonwealth of Pennsylvania.
17. Pursuant to Section 402(i) of the Act, 33 U.S.C. § 1342(i), the EPA retains its authority to take enforcement action within the Commonwealth of Pennsylvania for NPDES permit violations.
18. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person in compliance with sections 301, 302, 306, 307, 318, 402, and 404 of the Act.
19. “Discharge of a pollutant” is defined as “[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).
20. “Pollutant” is defined as “dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.” 40 C.F.R. § 122.2; *see also* 33 U.S.C. § 1362(6).
21. “Point source” is defined as “any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate

- collection system, vessel or other floating craft from which pollutants are or may be discharged.” 40 C.F.R. § 122.2; *see also* 33 U.S.C. § 1362(14).
22. Respondent is a State Agency granted authority under 71 P.S. § 512 and existing under the laws of the State of Pennsylvania and is thus a “person” within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5) and 40 C.F.R § 122.2.
  23. Respondent’s office for Engineering District 2-0 is located at 70 PennDOT Drive, Clearfield, Pennsylvania 16830
  24. Respondent owns the I-99 Excavated Rock Placement Area Industrial Wastewater Treatment Facility (“I-99 ERPA Facility”), an Industrial Wastewater Treatment Facility located in Worth Township, Centre County, Pennsylvania (Latitude 40.815278; Longitude -78.030667) and the I-99 J2 Acid Rock Drainage Treatment Facility (“J2 ARD Facility”), a treatment facility to treat acid rock drainage, located in Huston Township, Centre County, Pennsylvania (Latitude 40.829167; Longitude -77.992111).
  25. The I-99 ERPA Facility and J2 ARD Facility are and, at all times relevant to the violations alleged herein, were operated by Skelly and Loy, Inc.
  26. At all times relevant to the violations alleged herein, the I-99 ERPA Facility discharged wastewater through a “point source” as that term is defined at Section 502(14) of the Act, 33 U.S.C. § 1362(14), into an unnamed tributary which is connected to Bald Eagle Creek.
  27. At all times relevant to the violations alleged herein, the J2 ARD Facility discharged wastewater through a “point source” as that term is defined at Section 502(14) of the Act, 33 U.S.C. § 1362(14), into an unnamed tributary which is connected to Bald Eagle Creek.
  28. The unnamed tributaries are connected to Bald Eagle Creek, which is connected to the West Branch Susquehanna River which is connected to the Susquehanna River. The West Branch Susquehanna River and the Susquehanna River are Traditional Navigable Waters. The unnamed tributaries to Bald Eagle Creek, Bald Eagle Creek, and the Susquehanna River are “waters of the United States” within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).

*I-99 ERPA Facility*

29. At all times relevant to the violations alleged herein, the I-99 ERPA Facility has been subject to NPDES Discharge Permit No. PA0234010 issued by PADEP, effective February 1, 2019, and which expired January 31, 2024 (hereinafter “I-99 ERPA Permit”). On July 26, 2023, Respondent applied for renewal of NPDES Discharge Permit No. PA0234010.

30. Respondent is authorized to discharge pollutants, in the form of wastewater, from the I-99 ERPA Facility to waters of the United States in accordance with the terms and conditions of its I-99 ERPA Permit.
31. On July 14, 2021 and September 21, 2023, PADEP issued Notices of Violation (“NOVs”) to the Respondent for effluent limit exceedances discovered during administrative reviews of the Discharge Monitoring Reports (“DMRs”) submitted in accordance with the I-99 ERPA Permit.

*J2 ARD Facility*

32. At all times relevant to the violations alleged herein, the J2 ARD Facility has been subject to NPDES Discharge Permit No. PA0232432 issued by PADEP, effective January 1, 2020, and which expires December 31, 2024 (hereinafter, “J2 ARD Permit”).
33. Respondent is authorized to discharge pollutants, in the form of wastewater, from the J2 ARD Facility to waters of the United States in accordance with the terms and conditions of its J2 ARD Permits.
34. On December 28, 2022, PADEP issued an NOV to the Respondent for effluent limit exceedances discovered during administrative reviews of the DMRs submitted in accordance with the J2 ARD Permit.

*EPA Inspection*

35. On June 22, 2022, an authorized inspector of EPA Region 3 conducted a Compliance Evaluation Inspection at the I-99 ERPA Facility to evaluate operations, review the Respondent’s self-monitoring program, and assess Respondent’s compliance with the I-99 ERPA Permit (“Site Inspection”). Due to the proximity of the J2 ARD Facility, EPA Region 3 also extended the Site Inspection to include an evaluation of operations at the J2 ARD Facility, review the Respondent’s self-monitoring program, and assess Respondent’s compliance with the J2 ARD Permit.
36. On September 1, 2022, the EPA sent Respondent a copy of the inspection report (“EPA Inspection Report”) identifying the following alleged violations of the I-99 ERPA and J2 ARD Permits and the CWA as described below.
37. On June 21, 2024, the EPA issued Respondent a Notice of Potential Violation and Opportunity to Confer (“NOPVOC”) letter related to compliance with the I-99 ERPA and J2 ARD Permits.
38. On July 15, 2024, Respondent sent the EPA a letter in response to the alleged violations in the NOPVOC.
39. In its July 15, 2024 letter, Respondent alleges that :

- a. the effluent exceedances on July 31, 2019, October 31, 2019, June 30, 2020, May 31, 2021, August 31, 2021 and August 31, 2022 were caused by vegetation growing in the settling pond at the I-99 ERPA Facility and Respondent completed a corrective action on November 16, 2022 to clean out the pond;
  - b. the effluent exceedance on May 31, 2023 at the I-99 ERPA Facility was the result of the laboratory it employed failing to use a sufficiently sensitive test for total mercury;
  - c. the effluent exceedances on May 31, 2024 and June 30, 2024 at the I-99 ERPA Facility were the result of sample collection during low flow conditions and do not reflect discharges to surface waters exceeding the permit limits and Respondent installed equipment at the I-99 ERPA facility on July 31, 2024 to improve sample collection in low flow conditions; and
  - d. the effluent exceedances at the J2 ARD Facility were the result of malfunctioning equipment and Respondent completed corrective actions to replace the equipment in November 2021 and March 2022.
40. On July 29, 2024, the EPA and Respondent participated in an Opportunity to Confer conference to discuss the alleged violations in the NOPVOC.
41. The EPA's *Interim Clean Water Act Settlement Penalty Policy* (March 1, 1995) states, "[i]n those cases against a municipality or other public entity (such as a sewer authority) in which the entity has failed to comply with the Clean Water Act but nevertheless did make good faith efforts to comply, the Agency may mitigate the preliminary penalty amount based on this national municipal litigation consideration. .... It should be used only if there is some evidence that the municipality made a good faith effort to comply." Pg. 17.
42. The EPA has assessed the penalty amount in this Consent Agreement based on the national municipal litigation consideration.

**Count 1**  
**Effluent Exceedances at I-99 ERPA Facility**

43. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
44. Part A, Section I of the I-99 ERPA Permit sets forth the effluent limitations and monitoring requirements for Outfall 001 discharges.
45. Based on the DMRs submitted by Respondent, the I-99 ERPA Facility experienced fifteen (15) effluent limit exceedances from Outfall 001 from July 2019 through May 2024. See Table 1, below:

**Table 1: I-99 ERPA Permit (PA0234010), Outfall 001 Effluent Limitation Exceedances (July 1, 2019 through July 2024)**

<b>Monitoring Period End Date</b>	<b>Parameter Name</b>	<b>DMR Value</b>	<b>Permit Limit</b>	<b>Units</b>	<b>Limit Type</b>
7/31/2019	Total Manganese	1.7	1	mg/L	MO AVG
10/31/2019	Total Manganese	1.1	1	mg/L	MO AVG
6/30/2020	Total Manganese	1.4	1	mg/L	MO AVG
5/31/2021	Total Manganese	2.34	2	mg/L	DAILY MX
5/31/2021	Total Manganese	1.7	1	mg/L	MO AVG
8/31/2021	Total Manganese	1.2	1.0	mg/L	MO AVG
8/31/2022	Total Manganese	2.2	1	mg/L	MO AVG
8/31/2022	Total Manganese	3.76	2	mg/L	DAILY MX
5/31/2023	Total Mercury	<0.06	0.05	ug/L	MO AVG
5/31/2024	Total Iron	1.8	1.5	mg/L	MO AVG
5/31/2024	Total Iron	3.37	3.0	mg/L	DAILY MX
5/31/2024	Total Manganese	1.1	1.0	mg/L	MO AVG
6/30/2024	Total Suspended Solids	27.6	27	mg/L	MO AVG
6/30/2024	Total Iron	2.3	1.5	mg/L	MO AVG
6/30/2024	Total Manganese	1.1	1	mg/L	MO AVG

46. On the dates identified in Table 1 above, Respondent exceeded the effluent limitations related to Total Iron, Manganese, and Mercury in violation of Part A, Section I of its I-99 ERPA Permit.
47. In failing to comply with Part A, Section I of its I-99 ERPA Permit on fifteen (15) occasions, Respondent violated Section 301 of the CWA, 33 U.S.C. § 1311, and the I-99 ERPA Permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. § 1319.

### **Count 2**

#### **Effluent Exceedances at J2 ARD Facility**

48. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
49. Part A, Section I.A. of the J2-ARD Permit sets forth effluent limitations and monitoring requirements for Outfall 001 discharges.
50. Based on the DMRs submitted by Respondent, the J2 ARD Facility experienced twenty-eight (28) effluent limit exceedances from Outfall 001 from February 2020 through January 2023. See Table 2, below:

**Table 2: J2-ARD Permit (PA0232432), Outfall 001 Effluent Limitation Exceedances (February 1, 2020 through January 31, 2023)**

<b>Monitoring Period End Date</b>	<b>Parameter Name</b>	<b>DMR Value</b>	<b>Permit Limit</b>	<b>Units</b>	<b>Limit Type</b>
2/29/2020	Total Aluminum	0.85	0.75	mg/L	DAILY MX
7/31/2021	Total Aluminum	0.835	0.75	mg/L	DAILY MX
9/30/2021	pH	11.1	9	S.U.	INST MAX
9/30/2021	Total Aluminum	< 0.50	0.25	lbs/day	MO AVG
9/30/2021	Total Aluminum	0.80	0.25	lbs/day	DAILY MX
10/31/2021	pH	10.38	9	S.U.	INST MAX
10/31/2021	Total Aluminum	0.90	0.25	lbs/day	MO AVG
10/31/2021	Total Aluminum	1.03	0.25	lbs/day	DAILY MX
10/31/2021	Total Manganese	0.50	0.33	lbs/day	MO AVG
11/30/2021	Total Aluminum	0.90	0.75	mg/L	MO AVG
11/30/2021	Total Aluminum	1.18	0.25	lbs/day	MO AVG
11/30/2021	Total Aluminum	1.17	0.75	mg/L	DAILY MX
11/30/2021	Total Aluminum	2.57	0.25	lbs/day	DAILY MX
11/30/2021	pH	9.7	9	S.U.	INST MAX
11/30/2021	Total Iron	1.60	0.50	lbs/day	MO AVG
11/30/2021	Total Iron	3.14	1.00	lbs/day	DAILY MX
11/30/2021	Total Manganese	0.50	0.33	lbs/day	MO AVG
11/30/2021	Total Manganese	1.10	0.66	lbs/day	DAILY MX
11/30/2021	Total Zinc	0.70	0.63	lbs/day	DAILY MX
12/31/2021	Total Aluminum	0.79	0.75	mg/L	DAILY MX
1/31/2022	Total Aluminum	1.1	0.75	mg/L	MO AVG
1/31/2022	Total Aluminum	1.17	0.75	mg/L	DAILY MX
2/28/2022	Total Aluminum	0.30	0.25	lbs/day	MO AVG
2/28/2022	Total Aluminum	0.894	0.75	mg/L	DAILY MX
2/28/2022	Total Aluminum	0.60	0.25	lbs/day	DAILY MX
1/31/2023	Total Aluminum	0.30	0.25	lbs/day	MO AVG
1/31/2023	Total Aluminum	0.70	0.25	lbs/day	DAILY MX
1/31/2023	Total Aluminum	1.63	0.75	mg/L	DAILY MX

51. On the dates identified in Table 2 above, Respondent exceeded the effluent limitations related to Total Aluminum, Iron, Manganese, Zinc, and pH in violation of Part A, Section I.A of its J2 ARD Permit.
52. In failing to comply with Part A, Section I.A of J2 ARD Permit on twenty-eight (28) occasions, Respondent violated Section 301 of the CWA, 33 U.S.C. § 1311, and the J2



ARD Permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. § 1319.

**CIVIL PENALTY**

53. 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 Twenty-Two Thousand and Seventeen dollars (\$22,017), which Respondent shall be liable to pay in accordance with the terms set forth below.
54. The civil penalty is based upon the EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 309(g)(3) of the Act, 33 U.S.C. § 1319(g)(3), including, the following: the nature, circumstances, extent and gravity of the violation, or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to the EPA's *Interim Clean Water Act Settlement Penalty Policy* dated March 1, 1995, which reflects the statutory penalty criteria and factors set forth at Section 309(g)(3) of the Act, 33 U.S.C. § 1319(g)(3), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.
55. Respondent agrees to pay a civil penalty in the amount of **\$22,017** ("Assessed Penalty") within thirty (30) days of the Effective Date of this Consent Agreement and Final Order.
56. 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>.
57. When making a payment, Respondent shall:
  - a. Identify every payment with Respondent's name and the docket number of this Consent Agreement, CWA-03-2025-0048.
  - 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):

Hannah Leone  
Assistant Regional Counsel  
Leone.hannah@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 the EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

58. 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 (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.
59. 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.
60. 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.
61. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Consent Agreement shall not be deductible for purposes of federal taxes.
62. 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).
63. The parties consent to service of the Final Order by e-mail at the following valid email addresses: leone.hannah@epa.gov (for Complainant), and nbrofee@pa.gov (for Respondent).

#### **GENERAL SETTLEMENT CONDITIONS**

64. 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.
65. Respondent certifies that any information or representation it has supplied or made to the 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. The EPA shall have the right to institute further actions to recover appropriate relief if the 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 the 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.

66. Respondent certifies to the EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

#### **OTHER APPLICABLE LAWS**

67. 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 the 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 CWA, or any regulations promulgated thereunder.

#### **RESERVATION OF RIGHTS**

68. This Consent Agreement and Final Order resolves only the EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. The EPA reserves the right to commence action against any person, including Respondent, in response to any condition which the 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). The EPA reserves any rights and remedies available to it under the CWA, 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.

#### **EXECUTION /PARTIES BOUND**

69. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the 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**

70. 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**

71. 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: Pennsylvania Department of Transportation

Date: 1/15/25


By:

  
Thomas A. Prestash, P.E.  
District Executive

Approved as to Legality and Form:

Date: \_\_\_\_\_

By:

 Digitally signed by Neal  
Thomas Brofee  
Date: 2025.01.15  
09:18:02 -05'00'  
Neal T. Brofee  
Environmental Counsel

**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: **Melvin, Karen** Digitally signed by Melvin, Karen  
Date: 2025.04.16 07:46:18  
-04'00'  
\_\_\_\_\_  
[*Digital Signature and Date*]  
Karen Melvin, Director  
Enforcement and Compliance Assurance Division  
U.S. EPA – Region 3  
Complainant

**Attorney for Complainant:**

By: **HANNAH  
LEONE** Digitally signed by HANNAH  
LEONE  
Date: 2025.04.15 11:46:34  
-04'00'  
\_\_\_\_\_  
[*Digital Signature and Date*]  
Hannah Leone  
Assistant Regional Counsel  
U.S. EPA – Region 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 3  
Philadelphia, Pennsylvania 19103

**FILED**

Apr 16, 2025

11:02 am

U.S. EPA REGION 3  
HEARING CLERK

In the Matter of: :  
:  
PENNSYLVANIA DEPARTMENT OF : U.S. EPA Docket No. CWA-03-2025-0048  
TRANSPORTATION :  
ENGINE DISTRICT 2-0 : Proceeding under Section 309(g) of the Clean  
70 PENNDOT DRIVE : Water Act  
CLEARFIELD, PENNSYLVANIA 16830 :  
:

Respondent. :  
:  
:

I-99 EXCAVATED ROCK PLACEMENT AREA :  
WASTEWATER TREATMENT FACILITY :  
WORTH TOWNSHIP :  
CENTRE COUNTY, PENNSYLVANIA :  
LATITUDE 40.815278, LONGITUDE - :  
78.030667

and

J2 ACID ROCK DRAINAGE TREATMENT  
FACILITYHUSTON TOWNSHIP  
CENTRE COUNTY, PENNSYLVANIA  
LATITUDE 40.829167; LONGITUDE -  
77.992111

Facilities.

**FINAL ORDER**

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3, and Respondent, Pennsylvania Department of Transportation, 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, 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.



Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, the EPA's *Interim Clean Water Act Settlement Penalty Policy* dated March 1, 1995, and the statutory factors set forth in Section 309(g)(3) of the Act, 33 U.S.C. § 1319(g)(3).

**NOW, THEREFORE, PURSUANT TO** Section 309 of the Clean Water Act, 33 U.S.C. § 1319, 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 **TWENTY-TWO THOUSAND AND SEVENTEEN DOLLARS (\$22,017)**, 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 in which this Final Order is filed with the Regional Hearing Clerk.

By: **JOSEPH LISA** Digitally signed by JOSEPH LISA  
Date: 2025.04.16 10:58:49 -04'00'  
\_\_\_\_\_  
Joseph J. Lisa  
Regional Judicial and Presiding Officer  
U.S. EPA Region 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 3  
Philadelphia, Pennsylvania 19103

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	:	
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	:	
I-99 EXCAVATED ROCK PLACEMENT AREA	:	
WASTEWATER TREATMENT FACILITY	:	
WORTH TOWNSHIP	:	
CENTRE COUNTY, PENNSYLVANIA	:	
LATITUDE 40.815278, LONGITUDE -	:	
78.030667	:	
	:	
and	:	
	:	
J2 ACID ROCK DRAINAGE TREATMENT	:	
FACILITY	:	
HUSTON TOWNSHIP	:	
CENTRE COUNTY, PENNSYLVANIA	:	
LATITUDE 40.829167; LONGITUDE -	:	
77.992111	:	
	:	
Facilities.	:	

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**CERTIFICATE OF SERVICE**

I certify that the foregoing ***Consent Agreement and Final Order*** was filed with the EPA Region 3 Regional Hearing Clerk on the date that has been electronically stamped on the ***Consent Agreement and Final Order***. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Eric J. Murnyack, P.E.  
Assistant District Executive - Design  
PennDOT, Engineering District 2-0  
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Hannah Leone  
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Ingrid Hopkins  
Environmental Protection Specialist  
U.S. EPA, Region 3  
hopkins.ingrid@epa.gov

**BEVIN ESPOSITO**

Digitally signed by BEVIN  
ESPOSITO  
Date: 2025.04.16 11:04:08 -04'00'

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*[Digital Signature and Date]*

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 3