



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
WASTEWATER ESA**

<b>IN THE MATTER OF:</b>	)	<b>DOCKET NO.:</b> CWA-04-2021-0302(b)
	)	
Ecrú POTW,	)	Expedited Settlement Agreement and Final Order
	)	Pursuant to Clean Water Act Section 309(g)(2)(A)
Town of Ecrú, Mississippi	)	
	)	NPDES Permit No. MS0035173

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

Respondent’s facility is located at Newsom Drive, Ecrú, MS, Pontotoc County, 38841 (Site). The EPA finds that: (1) Respondent, who is an owner of the Site, failed to comply with the Permit issued pursuant to Section 402 of the Clean Water Act (Act), 33 U.S.C. § 1342, in violation of Section 301 of the Act, 33 U.S.C. § 1311; (2) Respondent is a “person” as defined in Section 502(5) of the Act, 33 U.S.C. § 1362(5); and (3) Respondent is responsible for the alleged violations specified in the attached “Expedited Settlement Offer Violations Form for Wastewater (Alleged Violations Form)”. The Alleged Violations Form is hereby incorporated into this Agreement by reference.

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

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

Respondent consents to the assessment of a civil penalty and agrees to pay \$630. Respondent waives the right to: (1) contest the allegations in the Alleged Violations Form; (2) a hearing pursuant to Section 309(g)(2) of the Act, 33 U.S.C. § 1319(g)(2); (3) appeal the Final Order; and (4) judicial review pursuant to Section 309(g)(8) of the Act, 33 U.S.C. § 1319(g)(8). The civil penalty will be due within thirty (30) days of the Effective Date of this ESA and Final Order and shall be made in accordance with the attached Expedited Settlement Agreement Payment Instructions (Payment Instructions), incorporated herein by reference.

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

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

This Agreement, upon incorporation into the Final Order and full satisfaction by the parties, shall be a complete and full resolution of Respondent’s liability for federal civil penalties for the violations of the Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a), alleged in the Alleged Violations Form.

This Agreement does not affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law or to issue an administrative compliance order, e.g., for any uncorrected violations listed in the Alleged Violations Form. Nothing in this Agreement shall relieve Respondent of the duty to comply with the Act and any regulation, order, or permit issued pursuant to the Act.

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

If Respondent does not sign and return this ESA as presented within 60 days of the date of its receipt, or within an extension timeframe approved by the EPA, this proposed ESA is withdrawn without prejudice to the EPA's ability to file any other enforcement action for the violations identified in the Alleged Violations Form.

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

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

**APPROVED BY RESPONDENT:**

Name (print): Jeff P. Smith

Title (print): Mayor

Signature:  Date: 2/12/2021

**APPROVED BY THE EPA:**

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

**FINAL ORDER**

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

**IT IS SO ORDERED:**

\_\_\_\_\_  
Tanya Floyd  
Regional Judicial Officer

## ENCLOSURE A

### Wastewater Alleged Violations Form

1. To accomplish the objective of the Clean Water Act (CWA), as defined in Section 101(a) of the CWA, 33 U.S.C. § 1251(a), to restore and maintain the chemical, physical, and biological integrity of the nation's waters, Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the point source discharge of pollutants into navigable waters except as in compliance with a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.
2. Section 402 of the CWA, 33 U.S.C. § 1342, establishes an NPDES Permit Program authorizing the EPA or authorized states to administer the NPDES Permit Program, including the issuance of NPDES permits allowing for the discharge of pollutants into navigable waters subject to specific terms and conditions. The EPA has granted the state of Mississippi through the Mississippi Department of Environmental Quality (MDEQ) approval to issue NPDES permits pursuant to Section 402(b) of the CWA.
3. The Town of Ecu (the Town) is a municipality in the State of Mississippi and is a "person" within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).
4. At all times relevant to this action, the Town owned and operated a Wastewater Treatment Plant (WWTP) located on Newsom Drive in Ecu, Pontotoc County, Mississippi.
5. On December 10, 2018, the MDEQ issued NPDES No. MS0035173 (Permit) to the Town. Under this Permit, the WWTP is permitted to discharge "pollutants" from a "point source" into an unnamed tributary to Lappatubby Creek, a "navigable water" as defined at Section 502(7) of the CWA, 33 U.S.C. § 1362(7). The Permit became effective on December 10, 2018 and expires on November 30, 2023.
6. Pursuant to 40 C.F.R. Part 122.41(l)(4)(i), the Town is required to comply with the conditions of its NPDES Permit.
7. The NPDES Permit number MS0035173, Permit Condition S-1, requires the Town to submit analytical results on an annual Discharge Monitoring Report (DMR) which are due each year by the 28th of January.
8. On November 5, 2020, the EPA discovered, through their ICIS database, that the Town's annual DMR analytical results had not been submitted for 2018 and 2019.
9. Based on the missing information in ICIS, review of additional information, and discussions between the Town and the EPA, the EPA has determined that the Town violated Section 301 of the CWA, 33 U.S.C. § 1311, for failing to comply with the Permit, with required the Town to submit annual DMRs by January 28, 2019 and January 28, 2020.

## **Enclosure B**

### **Expedited Settlement Agreement and Final Order Payment Instructions**

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

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

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

The payment shall be remitted as follows:

**If remitted by regular U.S. mail:**

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

**If remitted by any overnight commercial carrier:**

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

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

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

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

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

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

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

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

Regional Hearing Clerk  
U.S. EPA Region 4  
Office of Regional Counsel  
61 Forsyth Street, S.W.  
Atlanta, GA 30303-8960  
Email: [R4\\_Regional\\_Hearing\\_Clerk@epa.gov](mailto:R4_Regional_Hearing_Clerk@epa.gov)

and

Laurie Jones  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, GA 30303-8960  
Email: [jones.laurie@epa.gov](mailto:jones.laurie@epa.gov)

## CERTIFICATE OF SERVICE

I hereby certify that the foregoing Expedited Settlement Agreement and Final Order, in the Matter of Town of Ecu, Docket No. CWA-04-2021-0302(b), were filed and copies of the same were emailed to the parties as indicated below.

**Via email to all parties at the following email addresses:**

**To Respondent:** Jeff Smith, Mayor  
Town of Ecu  
P.O. Box 526  
Ecu, MS 38841  
[mayor@townofecrums.com](mailto:mayor@townofecrums.com)  
(662) 489-3881

**To EPA:** Laurie Jones  
Environmental Engineer  
[Jones.Laurie@epa.gov](mailto:Jones.Laurie@epa.gov)  
404-562-9201

Stephen P. Smith  
Associate Regional Counsel  
[Smith.Stephen@epa.gov](mailto:Smith.Stephen@epa.gov)  
404-562-9554

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

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