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REGION 8
1595 WYNKOOP STREET
DENVER, CO 80202-1129
PHONE 800-277-8917
<http://www.epa.gov/region08>
REF: 8ENF-W-NP

FILED
EPA REGION VIII
HEARING CLERK

PERMIT NO.: SD-0020192
AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

CITY OF EAGLE BUTTE

SUMMARY OF CORRECTIVE ACTIONS

01/06/11 ADDENDUM/RESPONSE

RE: Findings of Violation and Order for Compliance under Section 309 of Docket No. **CWA-08-2010-0040**
AND
Proposed Assessment of Class I Civil Penalty under Section 309 of the Clean Water Act
Docket No. **CWA-08-2010-0041**

TO WHOM IT MAY CONCERN:

ANDREW M. GAYDOSH, ASSISTANT REGIONAL DIRECTOR
OFFICE OF ENFORCEMENT, COMPLIANCE AND ENVIRONMENTAL JUSTICE

TINA ARTEMIS, REGIONAL HEARING CLERK (8RC)

NATASHA DAVIS (8ENF-W-NP)

MARGARET J. (PEGGY) LIVINGSTON, ENFORCEMENT ATTORNEY

ELYANA R. SUTIN, REGIONAL JUDICIAL OFFICER

City Request:

Since the US EPA is now taking action against the City of Eagle Butte, the City of Eagle Butte is requesting copies of this documentation photos and lab results for our files.

There was a phone conference to review these matters on 01/05/2010 at 1:00 p.m. whereby various EPA and City of Eagle Butte officials were in attendance to include:

NATASHA DAVIS (8ENF-W-NP)

MARGARET J. (PEGGY) LIVINGSTON, ENFORCEMENT ATTORNEY

DARCY O'CONNOR, NPDES ENFORCEMENT UNIT CHIEF

DANIELA GOLDEN, FINANCIAL BURDEN OFFICER (TITLE NOT EXACT)

JOHN P. BACHMAN, CITY MAYOR

JON GANJE, CITY SUPERINTENDENT

SHEILA GANJE, CITY FINANCE OFFICER

It was reiterated at this phone conference that the city did have four (4) options that may be taken to settle the Findings of Violation and Order for Compliance under Section 309 of Docket No. **CWA-08-2010-0040** as follows.

a. Pay the full penalty: Payment of the fine would then need to be paid within thirty (30) days of the decision to settle for the full penalty payment.

b. Appeal the issue via a court or legal process: The City of Eagle Butte has already issued a request for an appeal and if the intent to appeal is the intent of the City of Eagle Butte, the City should then proceed with the directions as issued by the Regional Judicial Officer. It was agreed that as a result of a communication issued 12/29/2010 by Elyana R. Sutin, Regional Judicial Officer that the City of Eagle Butte and the USEPA via those present at the aforesaid meeting would issue the following communication:

The City of Eagle Butte Council shall convene on 01/12/2011 at 6:00 in regular session whereby the issue of the Findings of Violation and Order for Compliance under Section 309 of Docket No. **CWA-08-2010-0040** shall be addressed and action taken to determine the city's action for settlement. It is unlikely that the City shall desire to accept payment of the fine in full nor shall they desire to proceed with a hearing given the cost of retaining an attorney to assist in the resolution of this matter. Therefore the City Council shall be recommended to consider either a counteroffer or completion of documents to contend that the City is unable to pay the fine or any portion thereof.

In an effort to ensure that the City of Eagle Butte is not viewed as failing to respond to the Notice and Order as issued by Elyana R. Sutin wherein it was conveyed that the parties should be prepared to provide Ms. Artemis with several dates and times for the conference by January 14, 2011, the City of Eagle Butte shall request that the first hearing be set for **March 24th 2011 at 1:00 p.m. MST. The aforesaid USEPA officials have agreed to this date as well and shall issue a communication for this purpose as well.**

c. Complete paperwork for the purpose of proving the City of Eagle Butte's inability to pay the proposed fine: The paperwork was issued to Sheila Ganje via email. Initial questions regarding the completion of this paperwork was addressed at the phone conference on this date to include issues regarding reporting of population and population statistics. The city shall issue a guesstimate of population with a statement below on the determination for this information. Further the additional census statistical information shall be obtained from the last US Census for Dewey County in South Dakota (Eagle Butte does lie primarily in Dewey County with a lesser portion in the Ziebach County)

d. Issue a counteroffer for a lesser dollar amount to paid as a fine imposed by the USEPA. The City Council should they determine to opt for this option, shall issue a written counteroffer. If the counteroffer is accepted by the appropriate USEPA official, the a legal document of settlement shall be issued and executed by all parties. Upon completion of this document, the agreed upon sum must be paid within thirty (30) days of the settlement date. In some cases the payment has been divided into multiple payments and if this is also to be offered as part of the counteroffer these dates would have to be agreed upon in the legal document of settlement whereby payments would have to be issued as per the dates specified.

Sheila J. Ganje