



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2 – 290 Broadway, 21st Floor, New York, NY 10007
EXPEDITED SETTLEMENT AGREEMENT**

Docket Number: CWA-02-2026-3305, Permit Number NYR00D502

Action Environmental Systems LLC ("Respondent") is a "person," within the meaning of Section 502(5) of the Clean Water Act ("Act"), 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

Attached is an "Expedited Settlement Offer Worksheet" ("Settlement Worksheet"), which is incorporated by reference. By its signature, Complainant ("EPA") finds that Respondent is responsible for the alleged violations specified in the Settlement Worksheet. Respondent failed to comply with the condition(s) or limitation(s) of a duly issued permit pursuant to Section 402 of the Act, 33 U.S.C. § 1342, and Section 301(a) of the Act, 33 U.S.C. § 1311(a).

EPA finds, and Respondent admits, that Respondent is subject to Section 301(a) of the Act, 33 U.S.C. § 1311, and that EPA has jurisdiction over any "person" who "discharges pollutants" from a "point source" to "waters of the United States." Respondent neither admits nor denies the specific alleged violations specified in the Settlement Worksheet or this Consent Agreement and Final Order ("Agreement").

EPA is authorized to enter into this Agreement under the authority vested in the Administrator of EPA by Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), and by 40 C.F.R. § 22.13(b). The parties enter into this Agreement to settle the civil violation(s) alleged in this Agreement for a penalty of \$10,547. Respondent consents to the assessment of this penalty and waives the right to: (1) contest the finding(s) specified in the Settlement Worksheet; (2) a hearing pursuant to Section 309(g)(2) of the Act, 33 U.S.C. § 1319(g)(2); or (3) an appeal pursuant to Section 309(g)(8), 33 U.S.C. § 1319(g)(8). 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.

Additionally, Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that the alleged violations identified in the Settlement Worksheet have been corrected. Respondent shall submit a written report and other documentation required by EPA with this Agreement detailing the specific actions taken to correct the alleged violations cited herein. This documentation may include monitoring, inspection and maintenance reports, documentation of corrective actions, certification records, and other records required for compliance with permit documentation and recordkeeping conditions.

Respondent certifies that, within ten (10) days after receipt of the Final Order, Respondent will submit electronic payment via: <https://www.pay.gov/public/home>, or through an Automated Clearinghouse payments (ACH), or through Wire Transfer. Full payment information can be found at

<https://www.epa.gov/financial/makepayment>.

Respondent agrees that consistent with section 162(f)(1) of the Internal Revenue Code, 26 U.S.C. § 162(f)(1), it will not deduct the penalties paid under this Agreement for federal tax purposes.

This Agreement settles EPA's civil penalty claims against Respondent for the alleged Clean Water Act violation(s) specified in this Agreement. EPA does not waive its rights to take any enforcement action against Respondent for any other past, present, or future civil or criminal violation of the Act or of any other federal statute or regulation. EPA does not waive its right to issue a compliance order for any uncorrected alleged violation(s) described in the Settlement Worksheet. EPA has determined this Agreement to be appropriate.

Prior to requesting that the EPA Regional ECAD Director issue the Final Order, EPA will provide a copy of the Agreement to the state of New York for the purposes of consultation with them on the appropriateness of this Agreement. EPA will also provide public notice of this Agreement and a reasonable opportunity for public comment on it. EPA will address any comments on the Agreement in accordance with section 309(g)(1) and (4)(A) of the Act, 33 U.S.C. § 1319(g)(1) and (4)(A), and 40 CFR §§ 22.38 and 22.45.

This Agreement is binding on the parties signing below and becomes final 30 days from the date it signed is by the ECAD Director, unless a petition to set aside this Agreement is filed by a commenter pursuant to Section 309(g)(5) of the Act, 33 U.S.C. § 1391(g)(5), following public notice of this Agreement.

APPROVED BY RESPONDENT:

Name & Title

(print): JAMES C. SWOERSON, JR. Director of Enforcement

Signature: [Signature] Date: 2/24/2021

APPROVED BY EPA:

Date: _____

Douglas McKenna, Acting Director
Enforcement and Compliance Assurance Division

More than 40 days have elapsed since providing the Agreement to New Jersey and the issuance of public notice pursuant to Section 309(g)(1) and (4)(A) of the Act, 33 U.S.C. § 1319(g)(1) and (4)(A), and EPA has received no comments concerning this matter. Having determined that this Agreement is authorized by law,

IT IS SO ORDERED: _____ Date: _____

Douglas McKenna, Acting Director, ECAD
Enforcement and Compliance Assurance Division