



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

2008 MAR 13 PM 1:59


EPA REGION VIII
HEARING CLERK

DOCKET NO.: CAA-08-2008-0012

IN THE MATTER OF:)	
)	
UTE WATER CONSERVANCY DISTRICT)	FINAL ORDER
)	
RESPONDENT)	

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 13th DAY OF March, 2008



Elyana R. Sufin
Regional Judicial Officer

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

2008 MAR 13 PM 1:59

EPA REGION VIII
HEARINGS CLERK

IN THE MATTER OF:)		
Ute Water Conservancy District))	EXPEDITED SETTLEMENT AGREEMENT
Respondent))	(COMBINED COMPLAINT AND
_____))	CONSENT AGREEMENT)
)	DOCKET NO. : CAA-08-2008-0012

This Expedited Settlement Agreement (also known as a “Combined Complaint and Consent Agreement,” hereafter “ESA”) is entered into by the parties for the purpose of simultaneously commencing and concluding this matter.

This ESA in being entered into by the United States Environmental Protection Agency (“EPA”), Region 8, by its duly delegated official, the Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, and by the Ute Water Conservancy District (“Respondent”) pursuant to sections 113(a)(3) and (d) of the Clean Air Act (the “Act”), 42 U.S.C. §§ 7413(a)(3) and (d), and 40 C.F.R. § 22.13(b). EPA and the U.S. Department of Justice have determined, pursuant to section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), that EPA may pursue this type of case through administrative enforcement action.

ALLEGED VIOLATIONS

On October 30, 2007, an authorized representative of EPA conducted a compliance inspection of the Ute Water Treatment Plant located at 3976 Rapid Creek Road, Palisade, Colorado, to determine compliance with the Risk Management Plan (“RMP”) regulations

promulgated at 40 C.F.R. part 68 under section 112(r) of the Act. EPA found that the facility had violated regulations implementing section 112(r) of the Act by failing to comply with the specific requirements outlined in the attached *RMP Program Level 2 Process Checklist-Alleged Violations & Penalty Assessment* (“Checklist and Penalty Assessment”).

SETTLEMENT

In consideration of Respondent’s facility service size, its full compliance history, its good faith effort to comply, and other factors as justice may require, and upon consideration of the entire record, the parties enter into this ESA in order to settle the violations for the total penalty amount of \$1,350. An explanation for the penalty calculation is found in the attached *Expedited Settlement Penalty Matrix*.

This settlement is subject to the following terms and conditions:

The Respondent by signing below waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained in the Checklist and Penalty Assessment and consents to the assessment of the penalty as stated above. Respondent waives its rights to a hearing afforded by section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A), and to appeal this ESA, and consents to EPA’s approval of the ESA without further notice. Each party to this action shall bear its own costs and fees, if any. Respondent also certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent will correct the violations listed in the Checklist and Penalty Assessment **no later than 60 days** from the date the ESA is signed by the Respondent.

After the Regional Judicial Officer issues the Final Order, the Respondent will receive a fully executed copy of this ESA and the Final Order. Within twenty days (20) of receiving a signed Final Order, Respondent shall remit a cashier's or certified check payable to the "Treasurer, United States of America" in the amount of \$1,350 to the following address:

U. S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

The check shall reference Respondent's name and facility address, the EPA Docket Number of this action. A copy of the check shall be sent simultaneously to:

Tina Artemis, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street [8RC]
Denver, Colorado 80202-1129

and

Cheryl Turcotte
EPCRA/RMP Enforcement Coordinator
US EPA, Region 8
1595 Wynkoop Street [8ENF-AT]
Denver, Colorado 80202-1129

The penalty specified in this ESA shall not be deductible for purposes of State or Federal taxes.

Upon Respondent's receipt of the signed ESA and Final Order by the Regional Judicial Officer and payment of the penalty as set forth in this ESA, EPA will take no further civil action against Respondent for the alleged violations of the Act referenced in the Risk Management Plan Penalty Checklist. EPA does not waive its right to take enforcement action for other violations of the Clean Air Act or for violations of any other statute.

If the signed original ESA is not returned to the EPA Region 8 office at the above address in correct form by the Respondent in a timely manner, the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified herein.

In addition, if Respondent fails to comply with the provisions of this ESA, by either 1) failing to timely submit the above-referenced payment or 2) by failing to correct the violations no later than 60 days from the date the ESA is signed by the Respondent, the Respondent agrees that this agreement shall become null and void, and that EPA may file an administrative or civil enforcement action against Respondent for the violations addressed herein.

This ESA is binding on the parties signing below.

Ute Water Conservancy District Expedited Settlement Agreement

FOR RESPONDENT:



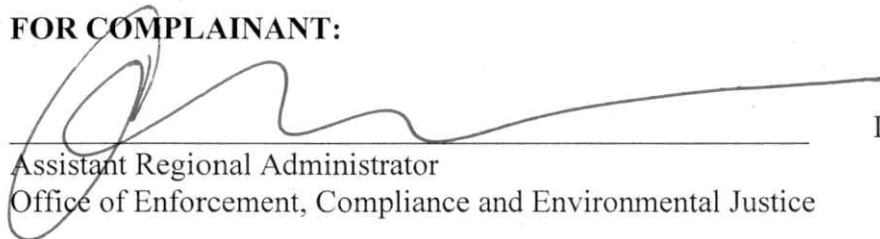
Date: 2-21-2008

Name (print): Larry W. Cleveland

Title (print): General Manager

Ute Water Conservancy District

FOR COMPLAINANT:



Date: 3/11/08

Assistant Regional Administrator
Office of Enforcement, Compliance and Environmental Justice

**RMP PROGRAM LEVEL 2 PROCESS CHECKLIST
ALLEGED VIOLATIONS & PENALTY ASSESSMENT**

Facility Name: Ute Water Treatment Plant – Palisade, Colorado

INSPECTION DATE: 10/30/2007

Section A: Prevention Program

PENALTY

Prevention Program – Hazard Review [68.50]

Has the owner or operator conducted a review of the hazards associated with the regulated substances, processes, and procedures and documented the results of the review [68.50(c)]. **No. The facility failed to document all results of the hazard review including the hazards identified and the actions required.**

750

Prevention Program – Operating Procedures [68.52]

Has the owner or operator prepared written operating procedures that provide clear instructions or steps for safely conducting activities associated with each covered process? Do the procedures that have been written address equipment inspections? [68.52(b)(8)] **No. The facility did not have detailed inspection logs for all equipment in the covered processes. Inspection logs that were available were not specific.**

600

BASE PENALTY

\$1350



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**UTE WATER CONSERVANCY DISTRICT – GRAND JUNCTION, CO
EXPEDITED SETTLEMENT PENALTY MATRIX FOR THE UTE WATER TREATMENT
PLANT, PALISADE, CO**

MULTIPLIER FACTORS FOR CALCULATING PROPOSED PENALTIES FOR VIOLATIONS
FOUND DURING RMP INSPECTIONS

Governmental Entities*

Service Size (pop.)	Multiplier
0-10,000	.2
10,001-25,000	.4
25,001-50,000	.5
>50,000	1

* Primarily public drinking water and waste water systems (40 CFR Part 68, pg 31715, dated June 20, 1996)

PENALTY WORKSHEET

Adjusted Penalty = Unadjusted Penalty X Service Size Multiplier

The Unadjusted Penalty is calculated by adding up all the penalties listed on the Process Checklist of Alleged Violations & Penalty Assessment

The Service Size multiplier considers the population served by the entity. The penalty is the amount of the non-negotiable penalty that is calculated by multiplying the total Unadjusted Penalty and the Service Size multiplier.

The service population is greater than 50,000 for the Ute Water Treatment Plant.

PENALTY CALCULATION FOR UTE WATER TREATMENT PLANT

Unadjusted Penalty X Service Size Multiplier = Adjusted Penalty

\$1,350 = \$1,350 X 1

Proposed penalty = \$1,350

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT/FINAL ORDER** in the matter of **UTE WATER CONSERVANCY DISTRICT, DOCKET NO.: CAA-08-2008-0012** was filed with the Regional Hearing Clerk on February 13, 2008.


Further, the undersigned certifies that a true and correct copy of the document was delivered to David Rochlin, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on February 13, 2008.

Larry Clever
City Manager
Ute Water Conservancy District
560 25 Road
Grand Junction, CO 81505

E-mailed to:

Michelle Angel
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

February 13, 2008


Tina Artemis
Paralegal/Regional Hearing Clerk

