



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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1595 WYNKOOP STREET  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

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INDEXED  
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DOCKET NO.: CAA-08-2008-0010

IN THE MATTER OF:	)	
	)	
<b>CARTER LAKE FILTER PLANT</b>	)	<b>FINAL ORDER</b>
<b>WATER ACTIVITY ENTERPRISE</b>	)	
	)	
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 13<sup>th</sup> DAY OF March, 2008

Elyana R. Sutin  
Regional Judicial Officer

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

2008 MAR 13 AM 9:59

IN THE MATTER OF:	)	
	)	<b>EXPEDITED SETTLEMENT AGREEMENT</b>
<b>Carter Lake Filter Plant</b>	)	
<b>Water Activity Enterprise</b>	)	(COMBINED COMPLAINT AND CONSENT AGREEMENT)
	)	
Respondent	)	<b>DOCKET NO. : CAA-08-2008-0010</b>

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 is 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 Carter Lake Filter Plant Water Activity Enterprise ("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 September 13, 2007, an authorized representative of EPA conducted a compliance inspection of the Carter Lake Filter Plant located at 6981 West County Road 8E, Berthoud, 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 \$3750. 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 \$3750 to the following address:

US Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979076  
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.

**Carter Lake Filter Plant Water Activity Enterprise Expedited Settlement Agreement**

FOR RESPONDENT:

Brian Mark Maddox

Date: 2/14/08

Name (print): BRIAN MARK MADDOX

Title (print): PLANT MANAGER

**Carter Lake Filter Plant Water Activity Enterprise**

FOR COMPLAINANT:

*for* Michael T. Bioner  
Assistant Regional Administrator  
Office of Enforcement, Compliance and Environmental Justice

Date: 3/7/08

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

Facility Name: Carter Lake Filter Plant – Berthoud, Colorado  
INSPECTION DATE: 9/13/2007

**Section A: Prevention Program**

**PENALTY**

**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? [68.52(a)] **No. There were no documented instructions for internal inspections of hoists or calibration of the chlorine alarms.**

**750**

Do the procedures that have been written address temporary operations? [68.52(b)(3)] **There was no procedure for turning off the alarm during the changing of the chlorine cylinders.**

**600**

**Prevention Program – Training [68.54]**

Has the owner or operator provided refresher training at least every three years to employees operating a covered process and determined in consultation with the employees the appropriate frequency of refresher training [68.54(b)] **No. Refresher training was not documented. There was not an SOP addressing the training method, frequency or employee participation in the process.**

**750**

Has the owner or operator certified that each employee was trained in any updated or new procedures prior to the startup of a process after a major change? [68.54(d)] **There was no documentation of employee training for the startup of the new North Plant on 1/18/2007.**

**300**

**Prevention Program – Maintenance [68.56]**

Has the owner or operator prepared and implemented procedures to maintain the on-going mechanical integrity of the process equipment? [68.56(a)] **No. There were no documented SOPs for maintenance of the process equipment.**

**600**

Has the owner or operator performed inspections and tests on process equipment that follow recognized and generally accepted engineering practices? [68.56(d)] **No. There was no documentation provided for the performance of inspections and tests using accepted engineering practices.**

**300**

**Prevention – Compliance Audits [68.58]**

Has the owner or operator certified that compliance audits are conducted at least every three years [68.58(a)], developed a report about the audit findings [68.58(c)]? **No.**  
**There was not a compliance audit available for review.**

**450**

**BASE PENALTY**

**\$3750**

**Recommendation:**

The facility should consider using a third party auditor to perform the three year compliance audit.



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CARTER LAKE FILTER PLANT WATER ACTIVITY ENTERPRISE - BERTHOUD, CO
EXPEDITED SETTLEMENT PENALTY MATRIX

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

Governmental Entities\*

Table with 2 columns: Service Size (pop.) and Multiplier. Rows include 0-10,000 (.2), 10,001-25,000 (.4), 25,001-50,000 (.5), and >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 Carter Lake Filter Plant.

PENALTY CALCULATION FOR CARTER LAKE FILTER PLANT WATER ACTIVITY ENTERPRISE

Unadjusted Penalty X Service Size Multiplier = Adjusted Penalty

\$3,750 = \$3,750 X 1

Proposed penalty = \$3750



## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT/FINAL ORDER** in the matter of **CARTER LAKE FILTER PLANT WATER ACTIVITY ENTERPRISE, DOCKET NO.: CAA-08-2008-0010** 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 Janik, 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.

Mark Maddox  
Carter Lake Filter Plant Water Activity Enterprises  
6981 West County Road 8E  
Berthoud, CO 80513

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

