



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7

FILED
February 29, 2024
8:30AM
U.S. EPA REGION 7
HEARING CLERK

AMENDED INDUSTRIAL STORMWATER EXPEDITED SETTLEMENT AGREEMENT

IN THE MATTER OF:)	DOCKET NO.: CWA-07-2023-0019
)	
Cedar Valley Recycling and Transfer Co., Final Order)	Amended Expedited Settlement Agreement and
)	Pursuant to Clean Water Act Section 309(g)(2)(A)
Respondent.)	
)	NPDES Permit No.: Unpermitted

The undersigned representative of the United States Environmental Protection Agency (EPA) and Cedar Valley Recycling and Transfer Co., a corporation, (Respondent) entered into an Expedited Settlement Agreement and Final Order (Agreement) to resolve Respondent’s civil penalty liability for violations of the Clean Water Act (CWA or Act) that was filed, and became effective, on July 5, 2023. On September 11, 2023, Respondent sent a certified statement to the EPA of its current financial condition, articulating a basis that it could not pay the penalty within 30 days of the effective date of the Agreement without experiencing an undue financial hardship. This Amended Expedited Settlement Agreement and Final Order (Amended Agreement) is entered into between the EPA and the Respondent to amend the original payment terms and allow the Respondent to make payments on an enforceable schedule to resolve their civil penalty liability. The revised payment terms of this Amended Agreement were put on public notice on October 17, 2023, pursuant to Section 309(g)(4) of the CWA, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. Part 22.45.

On May 10 and 12, 2022, representatives of EPA inspected the Respondent’s facility at 1920 Water Street, Waterloo, Iowa 50703 (Facility). Based on information obtained during the EPA inspection, the EPA finds that: (1) Respondent, who is an owner/operator of the Facility, discharged industrial stormwater pollutants from the Facility without authorization by an NPDES permit issued pursuant to the CWA 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 "Industrial Non-Filer Expedited Settlement Worksheet" (Worksheet). The Worksheet is hereby incorporated into this Agreement by reference.

The EPA also finds, and Respondent admits, that the EPA has jurisdiction over this matter pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g). Respondent neither admits nor denies the factual allegations alleged in the Worksheet.

The EPA is authorized to enter into this Amended 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 the penalty pursuant to the terms below. Respondent waives the right to: (1) contest the allegations in the Worksheet; (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 CWA § 309 (g)(8), 33 U.S.C. § 1319(g)(8). By signing this Amended Agreement, Respondent certifies, and has submitted a signed and certified statement to EPA of its current financial condition articulating a basis, that it cannot pay the penalty within 30 days of the effective date of the Agreement without experiencing an undue financial hardship.

EPA has considered the appropriateness of the penalty pursuant to Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), and has determined that based on Respondent’s signed and certified statement to EPA, as described in the paragraph above, and the EPA’s best interests, the appropriate penalty for the violations is \$15,000 plus applicable interest and administrative fees to be paid in six equal monthly installments of \$2,538.34, all of which shall be received by April 1, 2024. 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 and in accordance with the schedule above 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 CWA § 309(g)(9)(B), 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 CWA, 33 U.S.C. § 1319(g)(1), and 40 C.F.R. § 22.38(b), the state of Iowa was provided a prior opportunity to consult with the EPA regarding this matter.

By signing this Amended Agreement, Respondent certifies that: (1) the alleged violations listed in the Worksheet have been corrected, and Respondent has submitted true and accurate documentation to the EPA of such correction; 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 Amended Agreement for federal tax purposes.

APPROVED BY THE EPA:

This Amended 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 Section 301(a) of the CWA alleged in the Worksheet. This Amended 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 Worksheet. 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.

David Cozad
Director
Enforcement and Compliance Assurance Division

FINAL ORDER

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

If Respondent does not sign and return this Amended Agreement as presented within 30 days of the date of its receipt, or within an extension timeframe approved by EPA, this proposed Amended Agreement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violations identified in the Worksheet.

IT IS SO ORDERED:

Respondent consents to service of this Amended ESA and Final Order to the email addresses provided herein.

Karina Borromeo
Regional Judicial Officer

This Amended Agreement is binding on the parties signing below. Each person signing this Amended 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. This Amended Expedited Settlement Agreement and Final Order are effective the date of filing with the Regional Hearing Clerk. Once the Amended Agreement is signed by the Regional Judicial Officer, the original Amended Agreement will be filed with the Regional Hearing Clerk. A copy of the filed Amended Agreement will be emailed to Respondent.

Attachments:

1. Worksheet
2. Payment Instructions

APPROVED BY RESPONDENT:

Name (print): James L. Watts

Title (print): President

Email: marlys@wattstrucking.com

Signature: James Watts Date: 2/22/24