



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2008 MAR 13 AM 8:59

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


RECEIVED
MAR 13 2008

DOCKET NO.: CAA-08-2008-0008

IN THE MATTER OF:)	
)	
SOUTH DAVIS SEWER DISTRICT)	FINAL ORDER
NORTH AND SOUTH PLANTS)	
)	
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. Sutin
Regional Judicial Officer

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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_____)	
IN THE MATTER OF:)	
South Davis Sewer District)	EXPEDITED SETTLEMENT AGREEMENT
North and South Plants)	(COMBINED COMPLAINT AND
Respondent)	CONSENT AGREEMENT)
_____)	DOCKET NO.: CAA-08-2008-0008

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 the South Davis Sewer 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 November 1-2, 2007, an authorized representative of EPA conducted compliance inspections of the South Davis Sewer District, North and South Plants located at 1800 West 1200 North, West Bountiful, Utah, and 2500 West Center Street, North Salt Lake City, Utah,

respectively, 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 both facilities had violated regulations implementing section 112(r) of the Act by failing to comply with the specific requirements outlined in the two attachments each titled *RMP Program Level 3 Process Checklist-Alleged Violations & Penalty Assessment* (“Checklist and Penalty Assessment”).

SETTLEMENT

In consideration of Respondent’s individual 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 \$675 (\$450 for the North Plant, \$225 for the South Plant). An explanation for the penalty calculations is found in the two attachments each with a title of *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 Checklists and Penalty Assessments 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 Checklists and Penalty Assessments **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 \$675 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 Checklists. 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.

South Davis Sewer District Expedited Settlement Agreement

FOR RESPONDENT:

Da1 D. Wayment

Date: *2-22-08*

Name (print): Da1 D. Wayment

Title (print): General Manager

South Davis Sewer District

FOR COMPLAINANT:

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

Date: *3/7/08*

**RMP PROGRAM LEVEL 3 PROCESS CHECKLIST
ALLEGED VIOLATIONS & PENALTY ASSESSMENT**

Facility Name: South Davis Sewer District, North Plant – West Bountiful, Utah

INSPECTION DATE: 11/2/2007

Section A: Prevention Program

PENALTY

Compliance Audits [68.79]

Did the facility prepare reports of the audit findings and retain the two most recent reports? [68.79 (c & e)] **No. Documentation was not available for the compliance audit findings for audits conducted for the two most recent audits.**

300

Has the owner or operator promptly determined and documented an appropriate response to each of the findings of the audit and documented that deficiencies had been corrected? [68.79(d)] **No. There was no documentation available to demonstrate that the facility determined and documented responses to the audit findings and that any deficiencies detected had been corrected.**

150

BASE PENALTY

\$450

Recommendation:

Implement a computerized maintenance system for documentation of preventative maintenance, work orders, equipment history, inspections and training.



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**SOUTH DAVIS SEWER DISTRICT (NORTH PLANT), WEST BOUNTIFUL, UTAH
EXPEDITED SETTLEMENT PENALTY MATRIX**

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 South Davis Sewer District, North Plant serves 60,000 people in the south half of Davis County.

PENALTY CALCULATION FOR SOUTH DAVIS SEWER DISTRICT, NORTH PLANT

Unadjusted Penalty X Service Size Multiplier = Adjusted Penalty

\$450 X 1 = \$450

**RMP PROGRAM LEVEL 3 PROCESS CHECKLIST
ALLEGED VIOLATIONS & PENALTY ASSESSMENT**

Facility Name: South Davis Sewer District, South Plant – North Salt Lake City, Utah

INSPECTION DATE: 11/1/2007

Section A: Prevention Program

PENALTY

Compliance Audits [68.79]

Did the facility prepare reports of the audit findings and retain the two most recent reports? [68.79 (c & e)] **No. Documentation was not available for the findings of the two most recent compliance audits.**

300

Has the owner or operator promptly determined and documented an appropriate response to each of the findings of the audit and documented that deficiencies had been corrected? [68.79(d)] **No. There was no documentation available to demonstrate that the facility determined and documented responses to the audit findings and that any deficiencies detected had been corrected.**

150

BASE PENALTY

\$450

Recommendations:

Management of Change [68.75(b)] – Create a format to capture the following: 1) technical basis for any proposed change, 2) impact of change on safety and health, 3) modifications to operating procedures, 3) necessary time period for the change, 4) and authorization requirements for the proposed change.

Pre-Startup Review [68.77(a)] [68.77(b)(1,2,3,4)] – Create a format to capture pre-startup safety review for new or modified stationary sources or introduction of a regulated substance.

Contractors [68.87] – Create a format for evaluation and training of contractors.



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**SOUTH DAVIS SEWER DISTRICT (SOUTH PLANT), WEST BOUNTIFUL, UTAH
EXPEDITED SETTLEMENT PENALTY MATRIX**

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

Governmental Entities*

Service Size (pop.)	Multiplier
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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 South Davis Sewer District, South Plant serves 30,000 people in the North Salt Lake City area.

PENALTY CALCULATION FOR SOUTH DAVIS SEWER DISTRICT, SOUTH PLANT

Unadjusted Penalty X Service Size Multiplier = Adjusted Penalty

\$450 X .5 = \$225

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT/FINAL ORDER** in the matter of **LEFT HAND WATER DISTRICT**, **DOCKET NO.: CAA-08-2008-0008** 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.

Dal Wayment, General Manager
South Davis Sewer District
1800 West 1200 North
West Bountiful, UT 84404

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

