

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

In the Matter of:

**Wyoming Valley Sanitary Authority  
P.O. Box 33-A  
Wilkes-Barre, PA 18703-1333**

Respondent

Class I Proceeding Under  
Section 309(g)(2)(A) of the  
Clean Water Act

EPA Docket No. CWA-03-2010-0282

**CONSENT AGREEMENT  
and FINAL ORDER**

**I. PRELIMINARY STATEMENT and STATUTORY AUTHORITY**

1. This Consent Agreement and Final Order ("CAFO") is entered into by the Director, Water Protection Division, United States Environmental Protection Agency, Region III ("Complainant"), and Wyoming Valley Sanitary Authority ("Wyoming Valley" or "Respondent"), pursuant to Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits ("Consolidated Rules")*, 40 C.F.R. Part 22. The parties have agreed that this CAFO resolves Complainant's civil claims pertaining to violations of Section 402 of the Clean Water Act, 33 U.S.C. § 1342, alleged in an administrative Complaint filed on June 30, 2010.
2. Pursuant to Section 309(g) of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1319(g), and the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, any person violating the CWA is liable for an administrative penalty under Section 309(g) of the Act. Violations occurring after March 15, 2004 through January 12, 2009 subject the violator to civil penalties in an amount not to exceed \$11,000 per day for each day the violation continues, up to a total penalty amount of \$32,500; violations of the Act that occurred after January 12, 2009 subject the violator to civil penalties in an amount not to exceed \$16,000 per day for each day the violation continues, up to a maximum of \$37,500.

## **II. FINDINGS OF FACT AND JURISDICTIONAL ALLEGATIONS**

3. Respondent neither admits nor denies the factual allegations contained in Paragraphs 9 through 23 of the administrative Complaint filed on June 30, 2010.
4. Respondent admits the jurisdictional allegations contained in the Complaint.

## **III. CONCLUSIONS OF LAW**

5. As described in the Findings of Fact and Jurisdictional Allegations referred to in Section II, above, Respondent has violated Sections 301 of the Clean Water Act, 33 U.S.C. § 1311, and is therefore liable to the United States for a civil penalty in accordance with Section 309(g) of the Act, 33 U.S.C. § 1319(g).

## **IV. CONSENT AGREEMENT AND FINAL ORDER**

6. Respondent agrees not to contest EPA's jurisdiction to issue and enforce this CAFO.
7. Respondent hereby expressly waives its right to a hearing on any issue of law or fact in this matter pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and consents to issuance of this CAFO without adjudication.
8. Each party to this action shall bear its own costs and attorney fees.
9. The provisions of this CAFO shall be binding upon the Respondent, its officers, principals, directors, successors and assigns.
10. The parties agree that settlement of this matter is in the public interest and that entry of this CAFO is the most appropriate means of resolving this matter.
11. Based upon the foregoing and having taken into account the nature, circumstances, extent and gravity of the violation(s), Respondent's ability to pay, prior history of compliance, degree of culpability, economic benefit or savings resulting from the violations, and such other matters as justice may require pursuant to the authority of Section 309(g) of the Act, 33 U.S.C. § 1319(g), EPA HEREBY ORDERS AND Respondent CONSENTS to pay a civil penalty in the amount of eighteen thousand five hundred dollars (\$18,500) and to perform four educational seminars as set forth in Attachment "A" in full and final settlement of EPA's claims for civil penalties for the violations alleged herein. Respondents will provide EPA with an implementation schedule for these seminars within thirty (30) days of the effective date of this Consent Agreement. Failure to comply with any aspect of these payment terms will result in EPA seeking additional penalties under the Consent Agreement.

12. Respondent shall pay the total administrative civil penalty of eighteen thousand five hundred dollars (\$18,500) for the violations alleged in this CAFO within thirty (30) days of the effective date of this CAFO pursuant to 40 C.F.R. § 22.31(c), by mailing a cashier's check or certified check for the penalty to "Treasurer, United States of America":

By regular mail:

Regional Hearing Clerk  
U.S. EPA Region III  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

By overnight delivery:

U.S. Bank, Government Lock Box 979077  
US EPA Fines and Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
314-418-1028

By Wire Transfer:

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 68010727  
SWIFT address: FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency"

By Automated Clearinghouse (ACH):

US Treasury REX/Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 - checking  
Physical location of US Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737

Respondent shall send notice of such payment, including a copy of the check, to

the Regional Hearing Clerk at the following address:

Regional Hearing Clerk (3RC00)  
U.S. EPA Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

-and-

Pamela J. Lazos  
Mail Code 3RC20  
Office of Regional Counsel  
U.S. EPA Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

13. Respondent will perform the remaining obligations under this Consent Agreement in accordance with the schedule set forth in Attachment "A".
14. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law and ordinance, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit. Nor does this CAFO constitute a waiver, suspension or modification of the requirements of the CWA, 33 U.S.C. §§ 1251, *et seq.*, or any regulations promulgated thereunder.
15. The following notice concerns interest and late penalty charges that will accrue in the event that any portion of the civil penalty is not paid as directed:

Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

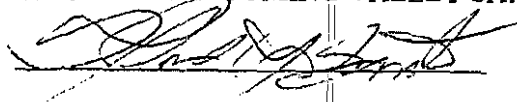
16. This Consent Agreement and the accompanying Final Order resolve only the civil claims for the specific violations alleged herein. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under the Clean Water Act, 33 U.S.C. §§ 1251, *et seq.*, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.
17. Nothing in this CAFO shall be construed as prohibiting, altering or in any way eliminating the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violations of this CAFO or of the statutes and regulations upon which this CAFO is based or for Respondent's violation of any other applicable provision of law.
18. The penalty specified above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.
19. Entry of this CAFO is a final settlement of all civil violations alleged in the Complaint. EPA shall have the right to institute a new and separate action to recover additional civil penalties for the claims made in the Complaint if the EPA obtains evidence that the information and/or representations of the Respondent are false, or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action, civil or criminal, the EPA may have under law or equity in such event.
20. In addition, EPA shall have the right to seek additional penalties under this CAFO should Respondent fail to fulfill its obligations under this CAFO.
21. The undersigned representative of Respondent certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

22. All of the terms and conditions of this CAFO together comprise one agreement, and each of the terms and conditions is in consideration of all of the other terms and conditions. In the event that this CAFO, or one or more of its terms and conditions, is held invalid, or is not executed by all of the signatories in identical form, or is not approved in such identical form by the Regional Administrator or his designee, then the entire CAFO shall be null and void.

#### **V. EFFECTIVE DATE**

1. This CAFO shall become final and effective, absent a petition for review, thirty (30) days after it is lodged with the Regional Hearing Clerk, pursuant to Section 309(g)(5), 33 U.S.C. § 1319(g)(5).

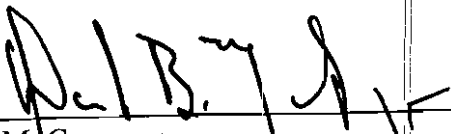
FOR RESPONDENT WYOMING VALLEY SANITARY AUTHORITY

By: 

Name: Fred DeSanto  
Title: Executive Director

SO ORDERED, pursuant to 33 U.S.C. § 1319(g), and 40 C.F.R. Part 22,

this 9 day of February, 2011.

  
\_\_\_\_\_  
Jon M. Capacasa  
for Director, Water Protection Division  
U.S. EPA Region III



**CERTIFICATE OF SERVICE**

I hereby certify that on this day, I caused to be filed with the **Regional Hearing Clerk**, EPA Region III, the original Consent Agreement and Final Order, and that copies of this document were sent to the following individuals in the manner described below:

By hand delivery:

Regional Judicial Officer Renee Sarajian  
EPA Region III  
1650 Arch St.  
Philadelphia, PA 19103

By first class mail:

Wyoming Valley Sanitary Authority  
P.O. Box 33-A  
Wilkes-Barre, PA 18703-1333

Date: \_\_\_\_\_

2/19/11



\_\_\_\_\_  
Pamela J. Lazos  
Senior Assistant Regional Counsel  
US EPA Region III

## Attachment A

Revised 1/4/11

The following educational program has been developed and shall be implemented by WVSA:

### **Topics to Be Discussed:**

Optimization of Nutrient Removal with On -Line Ammonium Probes- While Saving Energy. "From an Operators Perspective".

Following completion of improvements made to existing airlines at the WVSA WWTP in 2008 and the institution of Cap Loadings by DEP for nitrogen and phosphorus for waste water treatment plants in the Chesapeake Bay Watershed WVSA plant management team began working on nutrient reduction. Our presentation/workshops will vary in length depending on the venue; however the following three topics will be discussed at each presentation.

1. How WVSA was able to optimize nutrient removal at its facility.
2. The Nitrification, Denitrification and Bio- Phosphorus removal process takes place in three phases. They are the **Oxic Phase** where oxygen is supplied by mechanical equipment and the Ammonia is converted to nitrites and nitrates. The **Anoxic Phase** where the nitrites and nitrates are denitrified into nitrogen gas and the **Anaerobic Phase** creates the conditions necessary for biological phosphorus removal. A detailed explanation of these phases and where they take place within various types of treatment processes will be provide.
3. The Hach NH4D ammonium sensors selected at the WVSA plant have been utilized as a key component for process control. Ammonium set points are used to turn blowers on and off thus maximizing nutrient removal. At plants other than WVSA pulsed blower operation has also been utilized to save energy without compromising nutrient removal. An explanation of how the Hach 4DNH probe is utilized at WVSA and how it works will be provided.

### **Importance for Topics:**

Nearly 500 wastewater treatment plants discharge to the Chesapeake Bay watershed. Point source nutrient levels have impaired water quality within the Bay. Cap loads for nitrogen and phosphorus have been imposed as well as a zero net increase in these loadings forever By DEP. WWTP owners have been challenged to meet these requirements. Our proposal passes on to others the methods WVSA has utilized to optimize its nutrient removal. It will also explain the nitrification, denitrification and biological phosphorus removal process which is part of and common to nutrient removal process. Lastly it will explain how technology in the form of the latest type probes is capable of assisting WWTP owners meet their nutrient removal goals.

### **Locations for Education/ Workshops and Dates:**

WVSA proposes to provide education at the following locations on or about the following dates:

1. PMAA region 2/3 annual meeting held in Palmerton PA on October 14, 2010. Actual attendance was 60 people including municipal authority board members, plant operators and engineers. *This education session was presented to EPA Counsel and was completed by WVSA on October 14, 2010.*
2. WVSA presentation to be held at the WVSA treatment facility located in Hanover Township, PA in May of 2011. An extended presentation as described above with a plant tour and lunch will be provided to all who attend. Outreach will include all operators, wastewater treatment personnel and their consulting engineers for all wastewater treatment plants in the Chesapeake Bay Watershed. WVSA estimates attendance at 40.
3. PMAA Spring Workshop in Hershey PA in April of 2011 The spring workshop turnout is estimated at 150 plus attendees.
4. Included in this education, WVSA- proposes to prepare an article to be placed in the Pennsylvania Water Environment Association (PWEA) – Keystone Water Quality Manager- July or October 2011 issue.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

February 14, 2011

William Finnegan, Esq.  
Pugliese, Finnegan & Shaffer LLC  
Riverside Commons  
575 Pierce Street ~ Suite 500  
Kingston, Pa. 18704

Fred DeSanto, Director  
Executive Director  
Wyoming Valley Sanitary Authority  
Wilkes-Barre, PA 18703-1333

Re: Wyoming Valley Sanitary Authority  
EPA Docket No. CWA-03-2010-0282

Gentlemen:

Enclosed please find a fully executed and filed Consent Agreement and Final Order (CAFO) lodged this day with the Regional Hearing Clerk.

Please note that the CAFO will become effective thirty days from today, or on March 14, 2011. The penalty is due on or before thirty days from the effective date of the CAFO, or by April 14, 2011.

Thanks for much for working toward and amicable resolution of this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "P. Lazos".

Pamela J. Lazos  
Sr. Asst. Regional Counsel  
US EPA Region III

cc: Lydia Guy (3RC00)

