

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
Philadelphia, Pennsylvania 19103**

<b>In the Matter of:</b>	:
	:
<b>CITY OF MARTINSBURG 232 N. QUEEN STREET MARTINSBURG, WV 25402</b>	: <b>U.S. EPA Docket No. CWA-03- 2022-0064</b>
	:
<b>Respondent.</b>	: <b>PROCEEDING UNDER SECTION</b>
	: <b>309(g) OF THE CLEAN WATER ACT, 33</b>
	: <b>U.S.C. § 1319</b>
<b>WASTEWATER TREATMENT PLANT 500 EAST JOHN STREET MARTINSBURG, WV 25404,</b>	:
	:
<b>Facility.</b>	:
	:

**CONSENT AGREEMENT**

**I. PRELIMINARY STATEMENT**

1. This Consent Agreement is entered into by the Division Director of the Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and the City of Martinsburg, West Virginia (“Respondent” or “City”) (collectively the “Parties”), pursuant to Sections 301 and 402 of the Clean Water Act, 33 U.S.C. §§ 1311 and 1342 (“CWA”), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. Section 309 of the CWA, 33 U.S.C. §§ 1319, authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondent under Section 309 of the CWA, 33 U.S.C. § 1319, for the violations alleged herein.
  
2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

**II. JURISDICTION**

3. The U.S. Environmental Protection Agency (“EPA”) has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(6) in assessing Class I penalties under Sections 309(g).

**III. GENERAL PROVISIONS**

5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
7. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and waives its right to appeal the accompanying Final Order.
9. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
10. Respondent shall bear its own costs and attorney’s fees in connection with this proceeding.
11. Pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b), EPA is providing public notice and an opportunity to comment on the Consent Agreement prior to issuing the Final Order

**IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
13. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the National Pollutant Discharge Elimination System (“NPDES”) program for the discharge of pollutants from point sources to waters of the United States. The discharges are subject to specific terms and conditions as prescribed in the permit. Section 402(b) of the Act, 33 U.S.C. § 1342(b), provides for the authorization of state programs to issue NPDES permits.

14. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), EPA authorized the State of West Virginia to administer the NPDES program on May 10, 1982. The West Virginia Department of Environmental Protection (“WVDEP”) issues NPDES permits in West Virginia.
15. Pursuant to Section 402(i) of the CWA, 33 U.S.C. § 1342(i), EPA retains its authority to take enforcement action within West Virginia for NPDES permit violations.
16. As a municipality, Respondent is a “person” within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5).
17. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person into waters of the U.S. except in compliance with sections 301, 302, 306, 307, 318, 402, and 404 of the Act.
18. “Discharge of a pollutant” means “[a]ny addition of any ‘pollutant’ or combination of pollutants to ‘waters of the United States’ from any ‘point source’.” 40 C.F.R. § 122.2 *See also* 33 U.S.C. § 1362(12).
19. Respondent owns and operates the Martinsburg Wastewater Treatment Plant (“WWTP” or “Facility”), a publicly-owned wastewater treatment plant located in the City of Martinsburg, Berkeley County, WV. The WWTP discharges treated domestic, commercial, and industrial wastewater to Tuscarora Creek.
20. Respondent’s operation of the WWTP has been subject to NPDES Discharge Permit No. WV0023167 (“WWTP Permit”), which was issued by WVDEP on January 10, 2018, became effective March 1, 2018, and which expires January 29, 2023.
21. Respondent is authorized to discharge pollutants, in the form of wastewater from the WWTP, to waters of the United States in accordance with the terms and conditions of its WWTP Permit.
22. Tuscarora Creek is a tributary of the Opequon River in Berkeley County, West Virginia, and both Tuscarora Creek and the Opequon River are “waters of the United States” within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7). These waters discharge to the Chesapeake Bay.
23. The WWTP discharged wastewater into Tuscarora Creek through a “point source” as that term is defined at Section 502(14) of the Act, 33 U.S.C. § 1362(14).
24. On February 11, 2020, representatives of EPA inspected the WWTP for purposes of determining compliance with the WWTP Permit (“Inspection”).

25. On March 18, 2020, EPA sent Respondent a copy of its Site inspection report (“EPA Inspection Report”) identifying the following violations of the WWTP Permit and the CWA as described below.

**Count I**  
**Discharging Without a Valid Permit and Effluent Exceedances**

26. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
27. Section A.001 of the WWTP Permit establishes effluent discharge limitations, monitoring, and reporting requirements for Outlet No. 001 discharges to Tuscarora Creek. Section A.002 of the Permit defines effluent discharge limitations, monitoring, and reporting requirements for Outlet No. 002 discharges to Tuscarora Creek.
28. Respondent has discharged wastewater from Outlet No. 001 in exceedance of its WWTP Permit’s effluent discharge limitations on multiple occasions since 2017, including repeated aluminum exceedances. There were 35 effluent exceedances during the reporting period from January 1, 2017 to April 22, 2020. A summary of the exceedances identified are set forth in Table 1, below.

<b>Effluent Exceedances</b>					
<b>Table 1. (January 1, 2017 through April 22, 2020)</b>					
<b>Perm Feature ID</b>	<b>Parameter Description</b>	<b>Limit Value</b>	<b>Statistical Base Code</b>	<b>DMR Value</b>	<b>Monitoring Period End Date</b>
001	Nitrogen, ammonia total [as N]	6.8	MO AVG	8.58	01/31/2017
001	Nitrogen, ammonia total [as N]	13.6	DAILY MX	18.4	01/31/2017
001	Coliform, fecal general	400.	DAILY MX	490.	02/28/2017
001	Coliform, fecal general	400.	DAILY MX	600.	05/31/2017
IU02	Solids, total suspended	250.	DAILY MX	543.	08/31/2017
IU02	Aluminum, total [as Al]	10.	DAILY MX	66.6	08/31/2017
001	Coliform, fecal general	400.	DAILY MX	430.	09/30/2017
IU02	Aluminum, total [as Al]	10.	DAILY MX	11.6	10/31/2017
001	Coliform, fecal general	400.	DAILY MX	600.	02/28/2018
IU02	Aluminum, total [as Al]	10.	DAILY MX	16.4	02/28/2018
IU01	Aluminum, total [as Al]	10.	DAILY MX	13.2	03/31/2018
001	Nitrogen, ammonia total [as N]	13.6	DAILY MX	14.9	04/30/2018
001	Coliform, fecal general	400.	DAILY MX	600.	05/31/2018
IU01	Aluminum, total [as Al]	10.	DAILY MX	170.	05/31/2018
IU01	Aluminum, total [as Al]	10.	DAILY MX	15.3	06/30/2018
IU01	Aluminum, total [as Al]	10.	DAILY MX	21.8	07/31/2018
002	Coliform, fecal general	400.	DAILY MX	600.	08/31/2018
001	Toxicity [chronic], Ceriodaphnia dubia	1.3	MO AVG	2.	09/30/2018
001	Coliform, fecal general	400.	DAILY MX	600.	12/31/2018

IU01	Lead, total [as Pb]	.02	DAILY MX	.028	12/31/2018
IU01	Aluminum, total [as Al]	10.	DAILY MX	302.	12/31/2018
IU02	Aluminum, total [as Al]	10.	DAILY MX	18.1	01/31/2019
001	Nitrogen, total [as N]	45662.	ANNL TOT	57644.	02/28/2019
IU01	Aluminum, total [as Al]	10.	DAILY MX	23.	04/30/2019
IU01	Aluminum, total [as Al]	10.	DAILY MX	50.9	05/31/2019
IU01	Aluminum, total [as Al]	10.	DAILY MX	229.	06/30/2019
IU01	Aluminum, total [as Al]	10.	DAILY MX	26.	07/31/2019
IU01	Aluminum, total [as Al]	10.	DAILY MX	34.2	08/31/2019
IU01	Aluminum, total [as Al]	10.	DAILY MX	62.4	09/30/2019
001	Nitrogen, ammonia total [as N]	3.4	MO AVG	7.08	10/31/2019
001	Nitrogen, ammonia total [as N]	6.8	DAILY MX	23.5	10/31/2019
IU01	Aluminum, total [as Al]	10.	DAILY MX	42.8	10/31/2019
IU01	Aluminum, total [as Al]	10.	DAILY MX	10.3	11/30/2019
001	BOD, 5-day, 20 deg. C	60.	DAILY MX	74.4	12/31/2019
001	Coliform, fecal general	400.	DAILY MX	570.	12/31/2019

29. Based on the above assertions and allegations, EPA concludes that Respondent violated Section A.001 of the WWTP Permit during the periods set forth in Table 1, above.
30. In failing to comply with Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342, Respondent is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. §1319.

**Count II**

**Outlet No. 001 had Characteristics prohibited by the WWTP Permit**

31. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
32. Section C.22 of the WWTP Permit states, “Certain characteristics of sewage, industrial wastes, and other wastes cause pollution and are objectionable in all waters of the State. Certain general conditions are not allowed in any waters of the State. Therefore, the effluent discharge from the permittee’s treatment facility shall not cause violation of any of the following conditions not allowed in State waters as stated below... f) Distinctly visible color... g) Algae blooms or concentrations of bacteria that may impair or interfere with the designates uses of the affected waters.”
33. At the time of the Inspection, there was red staining and algae growth present in Tuscarora Creek at Outlet No. 001 and immediately downstream. EPA Inspectors also noted red/copper colored foam present in the shared outlet chamber for the three chlorine contact chambers.
34. Based on the above assertions and allegations, EPA concludes that Respondent violated Section C.22 of the WWTP Permit on at least February 11, 2020.

35. In failing to comply with Section 402 of the CWA, 33 U.S.C. §§ 1311 and 1342, Respondent is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. §1319.

**Count III  
Failure to Operate and Maintain  
the WWTP as required by the WWTP Permit**

36. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
37. The WWTP Permit details the plant as being comprised of “two (2) high flow band screens, two (2) grit traps and classifiers, four (4) vertical turbine solids handling pumps, two (2) primary clarifiers with a volume of 340,000 gallons each and a surface area of 5,026 square feet each, chemical feed facilities, three (3) moving bed biological reactors with each train having a pre-anoxic reactor, a swing reactor, two (2) nitrification reactors, an internal recycle, a post-anoxic reactor, and a reaeration reactor, two (2) secondary clarifiers – one (1) with a volume of 526,400 gallons and a surface area of 5,026 square feet and one (1) with a volume of 338,400 gallons and a surface area of 5,026 square feet, three (3) chlorine contact chambers with a volume of 54,400 gallons each, dechlorination facilities, mechanical sludge thickeners, two (2) anaerobic digesters with a volume of 281,900 gallons each, aerated/mixed liquor sludge storage, two volute sludge dewatering units, and all requisite appurtenances.”
38. Appendix A.II of the WWTP Permit states, “The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit.”
39. At the time of the Inspection, the following conditions indicated that the Respondent was not properly operating and maintaining all facilities and systems of treatment and control (and related appurtenances) in compliance with the conditions of this WWTP Permit:
- a. The Pre-anoxic Reactor No. 2 of the moving bed biological reactor (“MBBR”) system contained significantly less media than Pre-anoxic Reactor Nos. 1 and 3.
  - b. The scum trough on Secondary Clarifier No. 2 was flooded, and pieces of broken MBBR media were present in the flooded scum trough.
  - c. There was substantial snail shell accumulation in each of the three internal recycle areas of the MBBR system.
  - d. The standby chlorine contact chamber was not available for use at the time of the inspection, as it was being utilized to store sodium hypochlorite. There did not appear to be any backup chlorine contact chamber if the main chlorine contact chamber needed maintenance.

- e. A 260-gallon in-plant spill from the band screens located at headworks had resulted in raw sewage discharging to Tuscarora Creek on February 6, 2020. This spill was caused by debris blocking the band screen.
  - f. Concrete around various guardrail posts at the MBBR system appeared to be cracking.
  - g. The baffle rings on both the primary and secondary clarifiers were uneven and appeared warped.
40. Based on the above assertions and allegations, EPA concludes that Respondent violated Appendix A.II of the WWTP Permit on at least February 11, 2020.
41. In failing to comply with Section 402 of the CWA, 33 U.S.C. § 1342, Respondent is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. §1319.

**Count IV**

**Failure to Address Average Monthly Flow Exceedances in  
November 2018 through March 2019 Through a Plan of Action**

42. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
43. Section C.14 of the WWTP Permit requires that the Permittee submit a Plan of Action if the average monthly flow reported at Outlet No. 001 exceeds 90 percent of design flow, which would be greater than (>) 2.7 Million Gallons per Day (“MGD”), for three consecutive monthly periods.
44. The average monthly flow reported at Outlet No. 001 exceeded 2.7 MGD for the months of November 2018 through March 2019. During that time period, average monthly flows were reported between 4.06 and 3.29 MGD. Respondent did not submit a Plan of Action to address these average monthly flow exceedances, as required by the Permit.
45. Based on the above assertions and allegations, EPA concludes that Respondent violated Section C.14 of the WWTP Permit from November 2018 through some time subsequent to February 11, 2020.
46. In failing to comply with Section 402 of the CWA, 33 U.S.C. § 1342, Respondent is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. §1319.

**V. CIVIL PENALTY**

47. In settlement of EPA’s claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **FIFTY THOUSAND DOLLARS (\$50,000)**, which Respondent shall be liable to pay in accordance with the terms set forth below.



48. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 309(g) of the CWA, 33 U.S.C. § 1319(g), including, the following: the nature, circumstances, extent and gravity of the violation(s), and the violator's ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings resulting from the violation, and such other matters as justice may require. These factors were applied to the particular facts and circumstances of this case and adjusted in accordance with the appropriate Adjustment of Civil Monetary Penalties for Inflation, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.

49. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, EPA Docket No. CWA-03-2022-0064;
- b. All checks shall be made payable to the "United States Treasury";
- c. All payments made by check and sent by regular mail shall be addressed and mailed to:

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

- d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>

- e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously by email to:

Natalie L. Katz  
Senior Assistant Regional Counsel  
[katz.natalie@epa.gov](mailto:katz.natalie@epa.gov)

and



U.S. EPA Region III Regional Hearing Clerk  
[R3\\_Hearing\\_Clerk@epa.gov](mailto:R3_Hearing_Clerk@epa.gov).

50. 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 of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
51. Payment of the civil penalty is due and payable immediately upon the effective date of this Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed as of the effective date of this Consent Agreement and Final Order by Respondent in accordance with 40 C.F.R. § 13.9(a).
52. **INTEREST:** Interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the effective date of this Consent Agreement and Final Order. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the effective date of this Consent Agreement and Final Order. 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).
53. **ADMINISTRATIVE COSTS:** The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives – Case Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
54. **LATE PAYMENT PENALTY:** A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that 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).
55. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
56. The parties consent to service of the Final Order by e-mail at the following valid email addresses: [katz.natalie@epa.gov](mailto:katz.natalie@epa.gov) (for Complainant), and [ksayre@bowlesrice.com](mailto:ksayre@bowlesrice.com) (for Respondent).

**VI. GENERAL SETTLEMENT CONDITIONS**

57. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
58. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

**VII. CERTIFICATION OF COMPLIANCE**

59. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with the Administrative Order on Consent between Respondent and EPA, Docket No. CWA-03-2021-0053DN, which addresses the violations alleged herein.

**VIII. OTHER APPLICABLE LAWS**

60. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the Clean Water Act, 33 U.S.C. §§ 1251 *et seq.*, or any regulations promulgated thereunder.

**IX. RESERVATION OF RIGHTS**

61. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. 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. 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, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under the Clean Water Act, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date. Respondent reserves whatever rights or defenses it may have to defend itself in any such action.]

**X. EXECUTION /PARTIES BOUND**

62. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

**XI. EFFECTIVE DATE**

63. Pursuant to 40 C.F.R. § 22.45(b), this Consent Agreement and Final Order shall be issued only after a 40-day public notice and comment period is concluded. This Consent Agreement and Final Order will become final and effective thirty (30) days after having been signed by the Regional Administrator or his delegate, the Regional Judicial Officer, and filed with the Regional Hearing Clerk.

**XII. ENTIRE AGREEMENT**

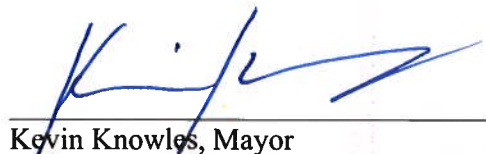
64. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent: City of Martinsburg

Date:

3-17-22

By:

  
Kevin Knowles, Mayor

**For the Complainant:**

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

By: \_\_\_\_\_  
*[Signature and Date]*  
Karen Melvin, Director  
Enforcement & Compliance Assurance Division  
U.S. EPA – Region III  
Complainant

**Attorney for Complainant:**

By: \_\_\_\_\_  
*[Signature and Date]*  
Natalie L. Katz  
Senior Assistant Regional Counsel  
U.S. EPA – Region III



extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the Clean Water Act and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is thirty (30) days after the date on which this Final Order is filed with the Regional Hearing Clerk.

By:

\_\_\_\_\_  
*[Signature and Date]*

Joseph J. Lisa

Regional Judicial and Presiding Officer

U.S. EPA Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
Philadelphia, Pennsylvania 19103

In the Matter of: :  
: :  
CITY OF MARTINSBURG : U.S. EPA Docket No. CWA-03- 2022-0064  
232 N. QUEEN STREET : :  
MARTINSBURG, WV 25402 : :  
Respondent. : PROCEEDING UNDER SECTION  
: 309(g) OF THE CLEAN WATER ACT, 33  
: U.S.C. § 1319  
WASTEWATER TREATMENT PLANT :  
500 EAST JOHN STREET :  
MARTINSBURG, WV 25404, :  
Facility. :  
:

**CERTIFICATE OF SERVICE**

I certify that the foregoing *Consent Agreement and Final Order* was filed with the EPA Region III Regional Hearing Clerk on the date that has been electronically stamped on the *Consent Agreement and Final Order*. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, via email, at the following addresses:

Mark Baldwin, City Manager  
Andy Blake, Assistant City Manager  
City of Martinsburg, West Virginia  
232 N. Queen Street  
Martinsburg, WV 25402  
ablake@cityofmartinsburg.org  
mbaldwin@cityofmartinsburg.org

Floyd M. Sayre, III, Esq.  
Bowles Rice  
101 South Queen Street,  
Martinsburg, WV 25401  
ksayre@bowlesrice.com

Natalie Katz  
Sr. Assistant Regional Counsel  
EPA, Region III  
katz.natalie@epa.gov

Michael Greenwald  
Enforcement Officer  
EPA, Region III  
greenwald.michael@epa.gov

By: \_\_\_\_\_  
[Electronic Signature and Date]  
Regional Hearing Clerk  
U.S. Environmental Protection  
Agency, Region III



