



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET
DENVER, CO 80202-1129

Phone: 800-227-8917
http://www.epa.gov/region08

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FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: CAA-08-2016-0006

IN THE MATTER OF:

GR/RS/Sw Co. Joint Powers Water Board
P.O. Box 1299
Green River, Wyoming 82935

RESPONDENT

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FINAL ORDER

Pursuant to 40 C.F.R. §22.13(b) and 22.18(b)(2)(3), 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 filing this Consent Agreement and Final Order.

SO ORDERED THIS 26th DAY OF September, 2016.

Elyana Sutin
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:)

GR/RS/Sw Co. Joint Powers Water Board)
Green River, Wyoming)

Respondent)

EXPEDITED SETTLEMENT AGREEMENT
Docket No.: CAA-08-2016-0006
(COMBINED COMPLAINT AND
CONSENT AGREEMENT)

AUTHORITY

1. This Expedited Settlement Agreement (also known as a Combined Complaint and Consent Agreement, hereafter ESA), intended to simultaneously commence and conclude this matter, is being entered into by the United States Environmental Protection Agency, Region 8, by its duly delegated official, the Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, and by GR/RS/Sw Co. Joint Powers Water Board (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) and 22.18. The 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 the EPA may pursue this type of case through administrative enforcement.

RESPONDENT

2. The Respondent is a municipality that does business in the State of Wyoming.
3. The Respondent is a "person" under section 302(e) of the Act. 42 U.S.C. § 7602(e).

ALLEGED VIOLATIONS

4. On October 30, 2014, an authorized representative of the EPA conducted a compliance inspection of Respondent's water treatment facility located at 3 Telephone Canyon Road in Green River, Wyoming, to determine compliance with the Risk Management Plan (RMP) regulations promulgated at 40 C.F.R. part 68 under section 112(r)(7) of the Act. The EPA found that Respondent had violated regulations implementing section 112(r)(7) of the Act by failing to comply with the specific requirements outlined in the attached *RMP Program Level 3 Process Checklist-Alleged Violations & Penalty Assessment* (Checklist and Penalty Assessment). The Checklist and Penalty Assessment is incorporated into this ESA.

GR/RS/Sw Co. Joint Powers Water Board
EXPEDITED SETTLEMENT AGREEMENT

SETTLEMENT

5. In consideration of the factors contained in section 113(d)(1) of the Act and the entire record, the parties enter into this ESA in order to settle the violations for the total penalty amount of \$4,380. An explanation for the penalty calculation is found in the attached *Expedited Settlement Penalty Matrix*.
6. This settlement is subject to the following terms and conditions with respect to the violations alleged in the Checklist & Penalty Assessment:
 - a. 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.
 - b. 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.
 - c. Each party to this action shall bear its own costs and attorney fees, if any.
 - d. Respondent waives any and all available rights to judicial or administrative review or other remedies which the Respondent may have, with respect to any issue of fact or law or any terms and conditions set forth in this ESA, including any right of judicial review under the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
7. By signing this ESA Respondent certifies that: (1) the alleged violations listed in the Checklist and Penalty Assessment have been corrected, and (2) Respondent is submitting payment of the civil penalty as described below.

Within 30 days of receipt of this ESA, Respondent must send a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of \$4,380 in payment of the full penalty amount to the following address:

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

The following identifier for this ESA must be included on the check: **ESA-R8-CAA**

GR/RS/Sw Co. Joint Powers Water Board
EXPEDITED SETTLEMENT AGREEMENT

The signed ESA and a copy of the check must be sent by certified mail to:

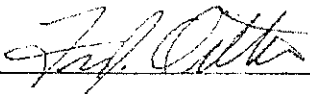
Greg Bazley
RMP/EPCRA Technical Enforcement Program
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street [8ENF-AT]
Denver, Colorado 80202-1129

8. Respondent agrees that the penalty specified in this ESA shall not be deductible for purposes of state or federal taxes.
9. Once the Respondent receives a copy of the Final Order and pays in full the penalty assessment described above, the EPA agrees not to take any further civil administrative penalty action against Respondent for the violations alleged in the Checklist and Penalty Assessment, which has been incorporated herein.
10. This ESA does not pertain to any matters other than those expressly specified herein. The EPA reserves, and this ESA is without prejudice to, all rights against Respondent with respect to all other matters, including but not limited to, the following:
 - a. Claims based on a failure by Respondent to meet a requirement of this ESA including any claims for costs which are caused by the Respondent's failure to comply with this ESA;
 - b. claims based on criminal liability; and,
 - c. claims based on any other violations of the Act or federal or state law.
11. If the signed original ESA with an attached copy of the check is not returned to the EPA Region 8 office at the above address in correct form by Respondent within 7 days of the date of Respondent's receipt of this ESA, the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified in this ESA.
12. This ESA, upon incorporation into the Final Order, applies to and is binding upon, the EPA and Respondent and Respondent's successors and assigns. Any change in ownership or corporate status of Respondent, including, but not limited to, any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this ESA. This ESA contains all terms of the settlement agreed to by parties.
13. Nothing in this ESA shall relieve Respondent of the duty to comply with the Act and its implementing regulations.
14. The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions of this ESA and to bind Respondent to the terms and condition of this ESA.

GR/RS/Sw Co. Joint Powers Water Board
EXPEDITED SETTLEMENT AGREEMENT

15. The parties agree to submit this ESA to the Regional Judicial Officer with a request that it be incorporated into a final order.

For Respondent: GR/RS/Sw Co. Joint Powers Water Board

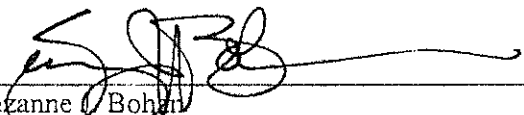


Date: 9/23/2016

Name (print): FRED J. OSTLER

Title (print): GENERAL MANAGER

For Complainant: United States Environmental Protection Agency, Region 8



Date: 9/23/16

Suzanne Bohan
Assistant Regional Administrator
Office of Enforcement, Compliance and
Environmental Justice

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

Respondent: GR/RS/Sw Co. Joint Powers Water Board

INSPECTION DATE: 10/30/2014

SUBPART D: PREVENTION PROGRAM [40 CFR 68.65 – 68.87]

PENALTY

Prevention Program – Process Hazard Analysis [68.67]

Has the PHA been updated and revalidated by a team every five years after the completion of the initial PHA to assure that the PHA is consistent with the current process? [68.67(f)]

No.

- Respondent failed to update the PHA at the required five year frequency. At the time of the EPA inspection, Respondent could only provide PHAs from 2001 and 2014.

2500

Prevention Program – Operating Procedures (68.69)

Has the owner or operator certified annually that the operating procedures are current and accurate and that procedures have been reviewed as often as necessary? [68.69(c)]

No.

- Respondent failed to certify annually that the operating procedures at the Facility are current and accurate.

1200

Prevention Program – Training (68.71)	
<p>Has refresher training been provided at least every three years, or more often if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process? [68.71(b)] No.</p> <ul style="list-style-type: none"> • Respondent failed to provide refresher training to each employee involved in a covered process at the three year frequency. At the time of the EPA inspection, the most recent training records provided were from 2004. 	1500
Prevention Program – Mechanical Integrity (68.73)	
<p>Has the owner or operator documented each inspection and test that had been performed on process equipment, which identifies the date of the inspection or test, the name of the person who performed the inspection or test, the serial number or other identifier of the equipment on which the inspection or test was performed, a description of the inspection or test performed, and the results of the inspection or test? [68.73(d)(4)] No.</p> <ul style="list-style-type: none"> • Respondent failed to document inspections and test performed on process equipment. 	900
Prevention Program – Compliance Audits (68.79)	
<p>Has the owner or operator certified the stationary source has evaluated compliance with the provisions of the prevention program at least every three years to verify that the developed procedures and practices are adequate and being followed? [68.79(a)] No.</p> <ul style="list-style-type: none"> • Respondent failed to certify it has evaluated compliance with the prevention program at least every three years. 	1200
BASE PENALTY	\$7,300

EXPEDITED SETTLEMENT PENALTY MATRIX
GR/RS/Sw Co. Joint Powers Water Board – Green River, Wyoming

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

Governmental Entities

(Primarily public drinking water and waste water systems)

Total Population Served	1 – 5*	> 5 – 10*	>10*
1 – 10,000	0.2	0.4	0.6
10,001 – 100,000	0.4	0.6	0.8
> 100,000	0.6	0.8	1.0

* Largest Multiple of Threshold Quantity of any Regulated Chemical(s) on Site.

PENALTY WORKSHEET

Adjusted Penalty = Unadjusted Penalty X Size-Threshold Quantity Multiplier

The Unadjusted Penalty is calculated by adding up all the penalties listed on the Risk Management Program Inspections Findings, Alleged Violations and Proposed Penalty Sheet.

The Size-Threshold Quantity multiplier is a factor that considers the population served by the facility and the amount of regulated chemicals at the facility.

The Proposed Penalty is the amount of the non-negotiable penalty that is calculated by multiplying the Total Penalty and the Size/Threshold Quantity multiplier.

Example:

XYZ Facility is a private company which has 24 employees and 7 times the threshold amount for the particular chemical in question. After adding the penalty numbers in the Risk Management Program Inspection Findings, Alleged Violations and Proposed Penalty Sheet an unadjusted penalty of \$4700 is derived.

Calculation of Adjusted Penalty

1st Reference the Multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the column for 10-100 employees and the row for >5- 10 times the threshold quantity amount gives a multiplier factor of 0.8.

2nd Use the Adjusted Penalty formula

Adjusted Penalty = \$4700 (Unadjusted Penalty) X 0.8(Size-Threshold Multiplier)
Adjusted Penalty = \$3760

3rd An Adjusted Penalty of \$3760 would be assessed to XYZ Facility for Violations found during the RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement (ESA)

PENALTY CALCULATION

Unadjusted Penalty X Threshold Quantity Multiplier = Adjusted Penalty

$$\$7,300 \times .6 = \$4,380$$

Adjusted penalty = \$4,380

GR/RS/Sw Co. Joint Powers Water Board has up to 6.4 times the Threshold Quantity of regulated chemical (chlorine) and serves a population of approximately 45,000.

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMBINED COMPLAINT AND CONSENT AGREEMENT** in the matter of **GR/RS/Sw Co. Joint Powers Water Board; DOCKET NO.: CAA-08-2016-0006** was filed with the Regional Hearing Clerk on September 22, 2016. The **FINAL ORDER** was filed with the Regional Hearing Clerk on Sept 26, 2016.

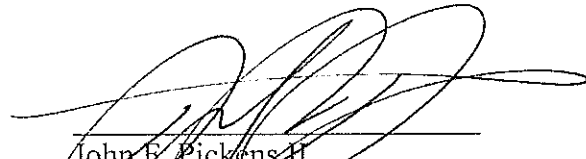
Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Marc Weiner, Enforcement Attorney. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt on Sept 26, 2016, to:

Respondent

Fred J. Ostler
Joint Powers Water Board
P.O. Box 1299
Green River, Wyoming 82935

And emailed to:

Jessica Farmer
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268



John F. Pickens II
Acting Regional Hearing Clerk

