

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
PHILADELPHIA, PENNSYLVANIA 19103-2029

_____ : Docket No. CWA-03-2006-0110
In the Matter of: :
: :
: : Proceeding Under Class I
: : Section 309(g) of the
City of Sharon, Pennsylvania : : Clean Water Act
155 W. Connelly Blvd. : :
Sharon, PA 16146 : :
Respondent. : :
_____ :

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Consent Agreement and Final Order

I. Preliminary Statement

1. This administrative proceeding for the assessment of civil penalties was initiated pursuant to Section 309(g) of the Clean Water Act ("the Act"), 33 U.S.C. § 1319(g). The action was instituted by issuance of an Administrative Complaint and Notice of Opportunity to Request a Hearing dated March 31, 2006. The Administrative Complaint, which is incorporated herein by reference, alleges that Respondent, the City of Sharon, Pennsylvania ("Sharon" or "Respondent") violated sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342, and the Act's implementing regulations, by failing to comply with the requirements of its NPDES permit through failure to establish a pretreatment program. The Complainant is the Director, Water Protection Division, United States Environmental Protection Agency ("EPA"), Region III.

2. Respondent admits the jurisdictional allegations set forth in the Complaint.

3. Respondent hereby expressly waives its right to a hearing on any issue of fact or law set forth herein and consents to the issuance of this Consent Agreement and Final Order ("CAFO") without adjudication.

4. Respondent waives any defenses it might have as to jurisdiction and venue.

Respondent agrees not to contest EPA's jurisdiction to issue this CAFO and to enforce the terms of this CAFO.

5. Each party to this action shall pay its own costs and attorney fees.

6. The parties agree that settlement of this matter without further litigation is in the public interest and that entry of a CAFO is the most appropriate means of resolving this matter.

7. The provisions of this CAFO shall be binding upon the Complainant and the Respondent, its principals, officers, directors, successors and assigns.

II. EPA FINDINGS OF FACT

8. EPA adopts and Respondent neither admits nor denies the allegations contained in Paragraphs 1 through 6 of the Administrative Complaint filed at Docket No. Docket No. CWA-03-2006-0110 as the Findings of Fact herein.

III. CONCLUSION OF LAW

9. Respondent has violated Section 301 of the 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 ORDER

10. Based on the foregoing and having taken into account the statutory factors enumerated in section 309(g)(3) of the Act, 33 U.S.C. § 1319(g)(3), EPA Region III hereby ORDERS and Respondent hereby CONSENTS, that:

11. Respondent shall pay a civil penalty in the amount of zero dollars, based solely on its inability to pay any penalty.

12. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, 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.

13. This Consent Agreement and the accompanying Final Order resolve only the civil claims for the specific violations alleged in the Complaint issued in the above-captioned action. 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. Further, EPA reserves any rights and remedies available to it under the CWA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO.

14. 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 applicable provision of law.

15. EPA shall have the right to institute a new and separate action to recover additional civil penalties if EPA obtains evidence that the information and/or representations of Respondent made in connection with this settlement 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.

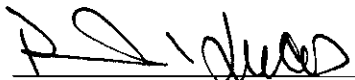
16. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the party represented to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of the Consent Agreement and accompanying Final Order

17. This CAFO may be executed in any number of counterpart originals, each of which shall be deemed to constitute an original agreement, and all of which shall constitute one agreement. The execution of one counterpart by any party shall have the same force and effect as if that party had signed all other counterparts.

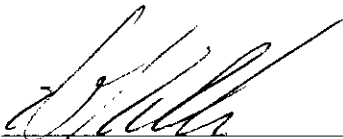
18. All of the terms and conditions of this CAFO together comprise one agreement, and each of the terms and conditions is in consideration of all of the other terms and conditions. In the event that this CAFO, or one or more of its terms and conditions, is held invalid, or is not executed by all of the 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.

19. This CAFO shall become final and effective 30 days after it is lodged with the Regional Hearing Clerk, pursuant to section 309(g)(5) of the Act, 33 U.S.C. § 1319(g)(5).

FOR RESPONDENT, City of Sharon, Pennsylvania

By: 
Name: Robert Lucas
Title: Mayor, City of Sharon, Pennsylvania

Date: 1-18-07

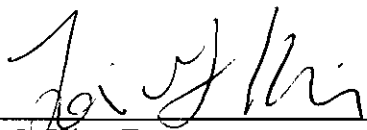
By: 
Name: William J. Madden, Esq.
Title: Solicitor, City of Sharon, Pennsylvania

Date: 1-19-07

FOR COMPLAINANT:

~~By: _____
Jon M. Capacasa
Director, Water Protection Division
U.S. EPA Region III~~

~~Date: _____~~


Lori G. Kier, Esq.
Senior Assistant Regional Counsel
U.S. EPA Region III

Date: 12/4/08

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Sharon, PA 16146	:	
	:	
Respondent.	:	

FINAL ORDER

Complainant, the Director of the Water Protection Division, U.S. Environmental Protection Agency - Region III, and Respondent, City of Sharon, Pennsylvania, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22 ("Consolidated Rules of Practice"). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

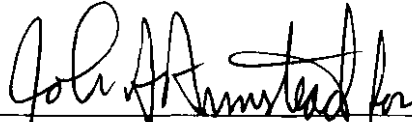
NOW, THEREFORE, PURSUANT TO Section 309 of the Clean Water Act, *as amended*, 33 U.S.C. § 1319 ("CWA"), and the Consolidated Rules of Practice, and based on the representations in the Consent Agreement, having determined that the penalty agreed to in the Consent Agreement is based on a consideration of the factors set forth in Section 309(g)(3) of the CWA, IT IS HEREBY ORDERED that Respondent pay a penalty of zero dollars (\$0) based

solely on its inability to pay any penalty, and that Respondent comply with the terms and conditions of the Consent Agreement.

The foregoing Consent Agreement and this Final Order shall become final and effective 30 days after they are lodged with the Regional Hearing Clerk, pursuant to section 309(g)(5) of the Act, 33 U.S.C. § 1319(g)(5).

DEC 22 2008

Date



Jon M. Capacasa
Director, Water Protection Division
U.S. Environmental Protection Agency, Region III

CERTIFICATE OF SERVICE

I hereby certify that on the date listed below, I filed the original Consent Agreement and Final Order with the Regional Hearing Clerk, and sent a copy thereof to the following persons in the manner described below

Hand Delivery

Hon. Renee Sarajian
U.S. EPA Region 3
1650 Arch St.
Philadelphia, PA 19103

First Class Mail
and Facsimile

William Madden, Esq.
165 Euclid Avenue
Sharon, PA 16146

Date: December 22, 2008



Lori G. Kier