



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2009 MAY 14 AM 11:43

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

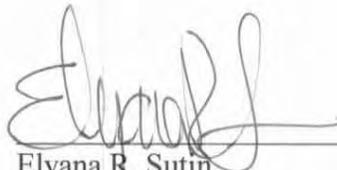
THE REGIONAL
HEARING CLERK

DOCKET NO.: CAA-08-2009-0020

IN THE MATTER OF:)	
)	
BWWP WHITLOCK WATER)	FINAL ORDER
TREATMENT PLANT)	
Pueblo, Colorado)	
)	
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 14th DAY OF May, 2009.



Elyana R. Sutin
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2009 MAY 14 AM 11:43

OFFICE REGION VIII
HEARING CLERK

IN THE MATTER OF:)
)
BWWP Whitlock Water Treatment) **EXPEDITED SETTLEMENT AGREEMENT**
Plant - Pueblo, Colorado)
) (COMBINED COMPLAINT AND
) (CONSENT AGREEMENT)
Respondent) **DOCKET NO. : CAA-08-2009-0020**

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 BWWP Whitlock Water Treatment Plant, ("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 February 26, 2009, an authorized representative of EPA conducted a compliance inspection of the BWWP Whitlock Water Treatment Plant facility located at 1920 West 11th Street, Pueblo, Colorado 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 the facility had violated regulations implementing section 112(r) of the Act by failing to comply with the specific requirements outlined in the attached *RMP Program Level 2 Process Checklist-Alleged Violations & Penalty Assessment* ("Checklist and Penalty Assessment").

SETTLEMENT

In consideration of Respondent's 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 \$1200. An explanation for the penalty calculation is found in the attached *Expedited Settlement Penalty Matrix*.

This settlement is subject to the following terms and conditions:

1. 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 Checklist and Penalty Assessment and consents to the assessment of the penalty as stated above.
2. 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.
3. Each party to this action shall bear its own costs and fees, if any.
4. 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 Checklist and Penalty Assessment 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 payment in the amount of \$1200. The payment shall reference the name and docket number of this case and be made by remitting a cashier's or certified check for this amount, payable to "Treasurer, United States of America," (or be paid by one of the other methods listed below) and sent as follows:

Regular Mail:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979076
St. Louis, MO 63197-9000

Federal Express, Airborne, or other commercial carrier:

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

Wire Transfers:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727

ACH Transactions:

PNC Bank/Remittance Express
ABA: 051036706
Account Number: 310006
CTX Format, Transaction Code 22, checking

There is now an On Line Payment Option, available through the US Department of Treasury. This payment option can be accessed from the information below:

www.PAY.GOV

A copy of the check, or notification that the payment has been made by one of the other methods listed above, 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

David Cobb
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 Checklist. 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.

BWWP Whitlock Water Treatment Plant Expedited Settlement Agreement

FOR RESPONDENT:

BWWP Whitlock Water Treatment Plant - Pueblo, Colorado Date: 5/1/09

Name (print): Don A. Colalancia Don A. Colalancia

Title (print): Water Quality Manager
BWWP Whitlock Water Treatment Plant

FOR COMPLAINANT:

for Sharon Z. Keck
Andrew M. Gaydosh, Assistant Regional Administrator
Office of Enforcement, Compliance and Environmental Justice

Date: 5/8/2009

**RMP PROGRAM LEVEL 2 PROCESS CHECKLIST
ALLEGED VIOLATIONS AND PENALTY ASSESSMENT**

FACILITY NAME: **BWWP Whitlock Water Treatment Plant**

INSPECTION DATE: **02/26/2009**

SECTION C: PREVENTION PROGRAM

PENALTY

Prevention Program – Hazard Review [68.50]

Has the owner/operator updated the hazard review at least once every five years or whenever a major change in the processes occurred? **[68.50(d)] No. Last documented review of process hazards was conducted on August 26, 2003.**

750

Prevention Program – Compliance Audits [68.58]

Has the owner or operator certified that compliance audits are conducted at least every three years to verify that the procedures and practices are adequate and are being followed? **[68.58(a)];** developed a report of findings? **[68.58(c)];** retained the two most recent compliance audit reports unless more than five years old? **[68.58(e)] No. There were no compliance audits available for review.**

**150
150
150**

BASE PENALTY

\$1200

RECOMMENDATIONS:

Implementation of Computerized Maintenance System

Whitlock Water Treatment Plant uses a manually generated maintenance program. A project priority list is developed annually. Work orders are generated based on the project list and through daily planning sessions with maintenance personnel. Daily logs of equipment readings/checks and reports of maintenance activity are documented. It would greatly benefit the organization to electronically generate and monitor ammonia and chlorine system maintenance activities, thus ensuring adherence of the preventative maintenance program outlined in the Risk Management Plan. An electronic maintenance system is a more efficient method for issuing and tracking work orders, rate of completion, follow ups, equipment history, inventory and costs. Implementation of an electronic maintenance program would save time and storage space. This system can be set up to generate work orders/reminders of due dates for compliance audits, process hazard revalidations and training updates. It is EPA's experience that municipal water treatment plants with similar service populations have implemented electronic maintenance systems.



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BWWP Whitlock Water Treatment Plant – Pueblo, Colorado

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.

PENALTY CALCULATION

Unadjusted Penalty X Service Size Multiplier = Adjusted Penalty

$$\$1,200 \times 1 = \$1,200^1$$

Adjusted Penalty - \$1,200

The service population for BWWP Whitlock Water Treatment Plant is 103,000

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT/FINAL ORDER** in the matter **BWWP WHITLOCK WATER TREATMENT PLANT; DOCKET NO.: CAA-08-2009-0020**; these documents were filed with the Regional Hearing Clerk on May 14, 2009.

Further, the undersigned certifies that a true and correct copies of the documents were delivered to David Rochlin, 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 May 14, 2009 to:

Don Colalancia, Water Quality Manager
BWWP Whitlock Water Treatment Plant
319 West 4th Street
P. O. Box 400
Pueblo, CO 81002-0400

E-mailed to:

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

May 14, 2009


Tina Artemis
Paralegal/Regional Hearing Clerk