



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

2009 APR -2 PM 1:00

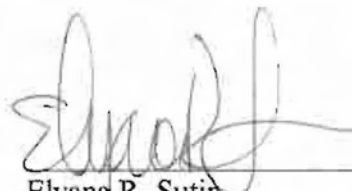
REGIONAL OFFICE
DENVER, CO

DOCKET NO.: CAA-08-2009-0009

IN THE MATTER OF:)	
)	
BOZEMAN WASTEWATER)	FINAL ORDER
TREATMENT PLANT)	
Bozeman, MT)	
)	
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 2nd DAY OF April, 2009.



 Elyana R. Sutin
 Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2009 APR -2 PM 1:00

IN THE MATTER OF:)	
)	EXPEDITED SETTLEMENT AGREEMENT
Bozeman Wastewater Treatment Plant)	
Bozeman, Montana)	(COMBINED COMPLAINT AND
)	CONSENT AGREEMENT)
Respondent)	
)	DOCKET NO. : CAA-08-2009-0009

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 Bozeman Wastewater 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 October 8, 2008, an authorized representative of EPA conducted a compliance inspection of the Bozeman Wastewater Treatment Plant facility located at 255 Moss Bridge Road, Bozeman, Montana, 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 3 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 \$975. 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 \$975. 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:

U.S. 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.

Bozeman Wastewater Treatment Plant Expedited Settlement Agreement

FOR RESPONDENT:

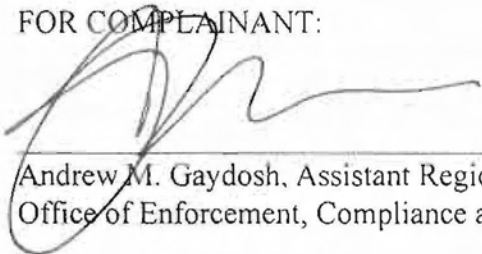


Date: March 25, 2009

Name (print): J. Thomas Adams

Title (print): WWTP Superintendent
Bozeman Wastewater Treatment Plant

FOR COMPLAINANT:



Date: 3/24/09

Andrew M. Gaydosh, Assistant Regional Administrator
Office of Enforcement, Compliance and Environmental Justice



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Bozeman Wastewater Treatment Plant, Bozeman, Montana
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

$$\$1,950 \times .5 = \$975$$

Adjusted penalty = \$975

RMP PROGRAM LEVEL 3 PROCESS CHECKLIST

ALLEGED VIOLATIONS AND PENALTY ASSESSMENT

Facility Name: **Bozeman Wastewater Treatment Plant**

INSPECTION DATE: 10/08/2008

SECTION A: MANAGEMENT

PENALTY

Has the owner or operator documented other persons responsible for implementing individual requirements of the risk management program and defined the lines of authority through an organization chart or similar document? [68.15(c)]. **No. There was no documentation or definition of responsibilities for implementing elements of RMP.**

300

SECTION B: PREVENTION PROGRAM

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. Documentation of annual review and certification of SOPs was not available for review.**

600

Prevention Program – Mechanical Integrity [68.73]

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 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)]. **Although the chlorine alarm is calibrated by operators twice per year, this information is not being documented.**

450

Prevention Program – Compliance Audits [68.79]

Has the owner or operator promptly determined and documented an appropriate response to each of the findings of the audit and documented that deficiencies had been corrected? [68.79(d)] **No. The audit dated 9/12/05 documented findings but had no dates for completion of corrective actions or responsible parties.**

150

SECTION F: CONTRACTORS	
Has the owner or operator obtained and evaluated information regarding the contract owner or operator's safety performance and programs when selecting a contractor? [68.87(b)(1)]. No. Contractors are given orientation on hazards of chlorine and emergency evacuation. No formal contractor policy is in place.	450
BASE PENALTY	\$1950

RECOMMENDATIONS:
<p>Improve PHA Documentation The PHA dated January, 2006 documents findings and recommendations and prioritizes corrective action with dates for completion. Responsible party is referred to as "WWTP Staff" and should be defined more specifically. Documentation of resolution should be included with PHA review.</p>
<p>Develop Written Plan for Employee Participation Facility did not have a written plan for employee participation in the RMP (development of PHAs, SOPs, training). These steps need to be taken.</p>
<p>Conduct 3 Year Compliance Audit Last internal compliance audit was dated September 12, 2005. During the inspection, it was noted by the inspector that a new internal audit must be completed immediately. If the three-year compliance audit has not yet been done, it must be completed no later than <u>April 15, 2009</u> to be in compliance with 68.79 of the Risk Management Program.</p>
<p>Management of Change Document (according to your MOC procedure) changes to process chemicals, technology, equipment and procedures regarding the elimination of chlorine and implementation of the ultra violet disinfection system proposed for the expansion of the wastewater treatment facility.</p>

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT/FINAL ORDER** in the matter **BOZEMAN WASTEWATER TREATMENT PLANT; DOCKET NO.: CAA-08-2009-0009** was filed with the Regional Hearing Clerk on April 2, 2009.


Further, the undersigned certifies that a true and correct copy 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 documents were placed in the United States mail certified/return receipt requested on April 2, 2009 to:

J. Thomas Adams
Superintendent
Bozeman Wastewater Treatment Plant
255 Moss Bridge Road
Bozeman, Montana 59718

E-mailed to:

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

April 2, 2009


Tina Artemis
Paralegal/Regional Hearing Clerk

