



**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 II penalties under Section 309(g). On March 2, 2023, EPA sent a communication to the Pennsylvania Department of Environmental Protection (“PADEP”), giving prior notice of this action in accordance with Section 309(g)(1) of CWA, 33 U.S.C. § 1319(g)(1).

**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 Final Order 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), the PADEP is authorized to administer the NPDES program in the Commonwealth of Pennsylvania.

15. Pursuant to Section 402(i) of the CWA, 33 U.S.C. § 1342(i), EPA retains its authority to take enforcement action within the Commonwealth of Pennsylvania for NPDES permit violations.

16. MCCA is a municipality, and as such, it is a “person” within the meaning of Section 502(4) and (5) of the Act, 33 U.S.C. § 1362(4) and (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 Mid-Centre Wastewater Treatment Plant (“WWTP” or “Facility”) located at 296 Mid-Centre Lane, Milesburg, Pennsylvania 16853. The WWTP discharges treated domestic wastewater from the Facility into an unnamed tributary to Bald Eagle Creek that ultimately discharges to the West Branch Susquehanna River.

20. At all times relevant to this Consent Agreement and Final Order, Respondent’s operation of the WWTP has been subject to NPDES Discharge Permit No. PA0110965 (“Permit”), which was issued by PADEP to MCCA for its WWTP on March 7, 2018 with an expiration date of March 31, 2023. The Permit has been administratively extended.

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 Permit.

22. Bald Eagle Creek that ultimately discharges to the West Branch Susquehanna River, is a water of the United States within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).

23. At all times relevant to this Consent Agreement and Final Order, the Facility discharged wastewater into Bald Eagle 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 September 17, 2020, representatives of PADEP inspected the WWTP for purposes of determining compliance with the Permit (“Inspection”). Subsequently, on April 2, 2021, EPA

issued to Respondent an information request letter pursuant to Section 308 of the CWA, 33 U.S.C. § 1318.

**Count 1  
Effluent Exceedances**

- 25. Part A of the Permit sets forth the effluent limits under the Permit.
- 26. There were a total of 24 effluent limit violations from 9/30/2018 to 9/30/22 that were reported in Respondent’s discharge monitoring reports (“DMRs”). Permit limits were exceeded for total suspended solids (TSS) (5 exceedances), total phosphorous (5 exceedances), 5-day carbonaceous biochemical oxygen demand (CBOD<sub>5</sub>) (1 exceedance), fecal coliform (6 exceedances), and ammonia-nitrogen (7 exceedances). The repeated violations caused the Facility to be in significant non-compliance (SNC). A summary of those effluent exceedances is as follows:

Monitoring Period Date	Parameter Description	Limit Type	Limit Value	DMR Value	Value Unit
9/30/2018	Solids, total suspended	WKLY AVG	125	265	lb/day
9/30/2018	Solids, total suspended	MO AVG	83	102	lb/day
9/30/2018	Coliform, fecal general	INST MAX	1000	9678.4	CFU/100mL
12/31/2018	Phosphorus, dissolved	WKLY AVG	1.5	2.2	mg/L
12/31/2018	Biochemical Oxygen Demand (“BOD”), carbonaceous, 5-day, 20 C	WKLY AVG	30	43	mg/L
7/31/2019	Nitrogen, ammonia total (as N)	WKLY AVG	37	47	lb/day
7/31/2019	Nitrogen, ammonia total (as N)	WKLY AVG	4.5	12	mg/L
7/31/2019	Phosphorus, dissolved	WKLY AVG	1.5	2	mg/L
4/30/2020	Phosphorus, dissolved	WKLY AVG	13	18	lb/day
6/30/2020	Coliform, fecal general	INST MAX	1000	2419.6	CFU/100mL
7/31/2020	Coliform, fecal general	INST MAX	1000	2419.6	CFU/100mL
10/31/2020	Phosphorus, dissolved	WKLY AVG	1.5	2	mg/L

Monitoring Period Date	Parameter Description	Limit Type	Limit Value	DMR Value	Value Unit
06/30/2022	Coliform, fecal general	INST MAX	1000	2419.6	CFU/100ml
06/30/2022	Nitrogen, ammonia total	WKLY AVG	4.5	12	mg/L
06/30/2022	Nitrogen, ammonia total	MO AVG	3	9.8	mg/L
06/30/2022	Nitrogen, ammonia total	MO AVG	25	26	lb/day
07/31/2022	Coliform, fecal general	INST MAX	1000	1011.2	CFU/100ml
07/31/2022	Nitrogen, ammonia total	WKLY AVG	4.5	13	mg/L
07/31/2022	Nitrogen, ammonia total	MO AVG	3	6.4	mg/l
08/31/2022	Solids, total suspended	WKLY AVG	15	89.8	mg/L
08/31/2022	Solids, total suspended	MO AVG	10	22	mg/L
08/31/2022	Solids, total suspended	WKLY AVG	125	178	lb/day
09/30/2022	Coliform, fecal general	INST MAX	1000	1299.7	CFU/100ml
09/30/2022	Phosphorus, dissolved	MO AVG	1.0	1.3	mg/L

- 27. Based on the above allegations, Respondent violated Part A of the Permit by failing to comply with the effluent limitations contained in the Permit on 24 occasions from September 30, 2018 through September 30, 2022.
- 28. In failing to comply with the effluent limitations contained in Part A of the Permit, Respondent has violated Section 301 of the CWA, 33 U.S.C. § 1311 and its Permit issued under Section 402 of the CWA, 33 U.S.C. § 1342, and is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

**Count 2**  
**Improper Whole Effluent Toxicity Testing**

- 29. Part C.III.B. of the Permit sets forth the whole effluent toxicity (“WET”) test frequency and reporting requirements.

30. Part C.III.B.3. of the Permit states that “[i]f a test failure is determined for any endpoint during a quarterly or annual monitoring, the permittee shall initiate a re-test for the species with the failure, at a minimum, within 45 days of test completion.”
31. The WWTP had a WET failure in January 2020. Pursuant to the Permit, Respondent was required to re-test within 45 days of the failed test.
32. At the time of the PADEP Inspection on September 17, 2020, Respondent failed to re-test within 45 days following a WET test end-point failure result in accordance with Part C.III.B.3. of the Permit.
33. Based on the above allegations, Respondent violated Part C.III.B.3. of the Permit by failing to comply with the WET testing and reporting requirements in the Permit.
34. In failing to comply with the WET testing and reporting requirements in Part C.III.B.3 of the Permit, Respondent has violated Section 301 of the CWA, 33 U.S.C. § 1311 and its Permit issued under Section 402 of the CWA, 33 U.S.C. § 1342, and is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g)..

### **CIVIL PENALTY**

35. 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 **Seventeen Thousand Five Hundred Dollars (\$17,500)**, which Respondent shall be liable to pay in accordance with the terms set forth below.

36. 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 with specific reference to EPA’s Interim Clean Water Act Settlement Penalty Policy dated March 1, 1995, which reflects the statutory factors set forth in Section 309(g) of the CWA 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.

37. 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-03-2024-0029*;

- 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 979078  
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:

Louis F. Ramalho  
Senior Assistant Regional Counsel  
[Ramalho.Louis@epa.gov](mailto:Ramalho.Louis@epa.gov)

and

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

38. 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.

39. 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).

40. **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).

41. **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). If payment is not received within 30 calendar days of the effective date of this Consent Agreement, EPA will also 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.

42. **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).

43. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.

44. The parties consent to service of the Final Order by e-mail at the following valid email addresses: [ramalho.louis@epa.gov](mailto:ramalho.louis@epa.gov) (for Complainant), and [dgaines@mkclaw.com](mailto:dgaines@mkclaw.com) (for Respondent).

**V. GENERAL SETTLEMENT CONDITIONS**

45. 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.

46. 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.

**VI. CERTIFICATION OF COMPLIANCE**

47. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with the Permit conditions and terms.



**VII. OTHER APPLICABLE LAWS**

48. 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 – 1389, or any regulations promulgated thereunder.

**VIII. RESERVATION OF RIGHTS**

49. 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.

**IX. EXECUTION /PARTIES BOUND**

50. 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.

**X. EFFECTIVE DATE**

51. 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.

**XI. ENTIRE AGREEMENT**

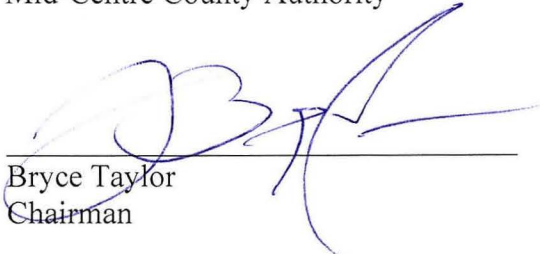
52. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants,

terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent:

Mid-Centre County Authority

By:

  
\_\_\_\_\_  
Bryce Taylor  
Chairman

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and 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: \_\_\_\_\_  
[*Digital Signature and Date*]  
Karen Melvin, Division Director  
Enforcement and Compliance Assurance Division  
U.S. EPA Region 3

By: \_\_\_\_\_  
[*Digital Signature and Date*]  
Louis F. Ramalho  
Senior Assistant Regional Counsel  
U.S. EPA Region 3



C.F.R. Part 19, and the applicable EPA memoranda addressing EPA’s civil penalty policies to account for inflation.

**NOW, THEREFORE, PURSUANT TO** Section 309(g) of the Clean Water Act, 33 U.S.C. Section 1319(g), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **Seventeen Thousand Five Hundred Dollars (\$17,500)** in accordance with the payment provisions set forth in the Consent Agreement, and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, 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.

Date: \_\_\_\_\_

By: \_\_\_\_\_

*[Digital Signature and Date]*

Joseph J. Lisa

Regional Judicial and Presiding Officer

U.S. EPA Region III



[Ramalho.Louis@epa.gov](mailto:Ramalho.Louis@epa.gov)

Shane McAleer  
NPDES Enforcement – Water Branch Enforcement and Compliance Assurance  
Division  
U.S. EPA, Region III  
[McAleer.Shane@epa.gov](mailto:McAleer.Shane@epa.gov)

---

*[Digital Signature and Date]*

Bevin Esposito  
Regional Hearing Clerk  
U.S. EPA, Region III