



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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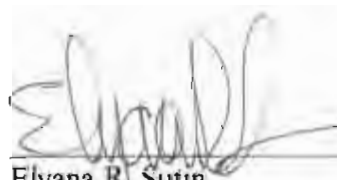
1595 WYNKOOP STREET  
DENVER, CO 80202-1129

DOCKET NO.: CAA-08-2009-0010

IN THE MATTER OF:	)	
	)	
<b>BOZEMAN WATER</b>	)	<b>FINAL ORDER</b>
<b>TREATMENT PLANT</b>	)	
Bozeman, MI	)	
	)	
<b>RESPONDENT</b>	)	

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 21<sup>st</sup> DAY OF April, 2009.



\_\_\_\_\_  
Elyana R. Sutin  
Regional Judicial Officer

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UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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IN THE MATTER OF:	)	
	)	<b>EXPEDITED SETTLEMENT AGREEMENT</b>
<b>Bozeman Water Treatment Plant</b>	)	
<b>Bozeman, Montana</b>	)	(COMBINED COMPLAINT AND
	)	CONSENT AGREEMENT)
Respondent	)	
	)	DOCKET NO.: CAA-08-2009-0010

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 Bozeman 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 October 9, 2008, an authorized representative of EPA conducted a compliance inspection of the Bozeman Water Treatment Plant facility located at 7022 Sourdough Canyon 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 \$525. 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 \$525. 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  
CIX 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](http://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 FSA 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 Water Treatment Plant Expedited Settlement Agreement**

FOR RESPONDENT:

R J Moroney

Date: 3/17/09

Name (print): Richard J. Moroney

Title (print): Superintendent  
Bozeman Water Treatment Plant

FOR COMPLAINANT:

[Signature]

Date: 3/20/09

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



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**Bozeman Water 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**

$$\$1,050 \times .5 = \$525$$

**Adjusted Penalty - \$525**

## RMP PROGRAM LEVEL 3 PROCESS CHECKLIST

### ALLEGED VIOLATIONS AND PENALTY ASSESSMENT

Facility Name: **Bozeman Water Treatment Plant**

INSPECTION DATE: 10/09/2008

#### 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 the RMP.**

**300**

#### SECTION C: PREVENTION PROGRAM

Prevention Program – Compliance Audits [68.79]

Has the audit been conducted by at least one person knowledgeable in the process? [68.79(b)]. **No. The audit of 11/9/05 was conducted by the lab microbiologist. It was not evident that he was knowledgeable in the development of PHAs. (Team approach with representatives from all areas of plant operations is recommended.)**

**300**

#### 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. There was no formal contractor policy in place. (A written program should be in place before building the new water treatment facility.)**

**450**

**BASE PENALTY**

**\$1050**

## RECOMMENDATIONS:

### **Conduct 3 Year Compliance Audit**

Last internal compliance audit was dated November 11, 2005. During the inspection, it was noted by the inspector that a new internal audit should be completed by the end of 2008 to be in compliance with section 68.79 of the Risk Management Program. If the three-year compliance audit has not yet been done, it must be completed no later than April 15, 2009.

### **Management of Change**

Document (according to your MOC procedure) all changes to the RMP-covered processes of chemicals, technology, equipment and procedures for the new water filtration plant. This is required under **[68.75]** of the Risk Management Plan for Program Level 3 facilities.

### **Develop Written Plan for Employee Participation**

Facility did not have a written plan for employee participation in the RMP (development of PHAs, SOPs, training). Employee participation was through "word of mouth."

### **Third Party Preparer**

The Bozeman Water Treatment Plant addressed the findings of the EPA audit conducted in 2005 in a rudimentary manner. Although, the superintendent and operators are very knowledgeable in the processes and maintenance of this facility, it is recommended that an independent third party be utilized to develop a more comprehensive RMP resubmission which is due in 2010, as well as the RMP for the new facility which is expected to open in 2013.



## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT/FINAL ORDER** in the matter **BOZEMAN WATER TREATMENT PLANT; DOCKET NO.: CAA-08-2009-0010** was filed with the Regional Hearing Clerk on April 2, 2009.

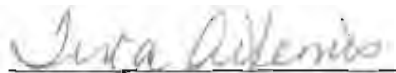
Further, the undersigned certifies that a true and correct copy of the documents were delivered to David Rochlin, Senior Enforcement Attorney, U. S. EPA -- Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt requested on April 2, 2009 to:

Richard J. Moroney  
Superintendent  
Bozeman Water Treatment Plant  
7022 Sourdough Canyon Road  
Bozeman, Montana 59715

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

