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BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	
)	DOCKET NO. CWA 10-2009-0247
)	
Idaho Transportation Department & Parsons RCI, Inc.)	CONSENT AGREEMENT AND FINAL ORDER
)	
Sandpoint, Idaho)	
Respondents.)	

I. STATUTORY AUTHORITY

1.1. This Consent Agreement and Final Order (“CAFO”) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 309(g)(2)(B) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(g)(2)(B).

1.2. The Administrator has delegated the authority to issue the Final Order contained in Part IV of this CAFO to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.3. Pursuant to Section 309(g)(1) and (g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(1) and (g)(2)(B), and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and the Idaho Transportation Department (“ITD”) agrees to issuance of, the Final Order contained in Part IV of this CAFO.

II. PRELIMINARY STATEMENT

2.1 On September 30, 2009, EPA initiated this proceeding against ITD and Parsons RCI, Inc. pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g), by issuing an Administrative Complaint (“Complaint”).

2.2. The Complaint alleged that Respondents’ violations of the Act had subjected Respondents to civil penalties.

2.3. The complete factual and jurisdictional basis for proposing the assessment of a civil penalty is set forth in the Complaint and is incorporated herein by reference.

III. CONSENT AGREEMENT

3.1. ITD admits the jurisdictional allegations in the Complaint.

3.2. ITD neither admits nor denies the specific factual allegations in the Complaint.

3.3. ITD voluntarily enters into this CAFO to resolve the allegations made against it in the Complaint and to avoid the uncertainty and expense of contesting those allegations. The Parties agree that the factual allegations against ITD and any legal conclusions in this CAFO shall not be deemed an admission in any future proceeding and that ITD maintains the right to contest those allegations and conclusions in any future proceeding, except in any proceeding to enforce the terms of this CAFO.

3.4. As required by Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), EPA has taken into account the nature, circumstances, extent, and gravity of the alleged violations as well as ITD’s economic benefit of noncompliance, ability to pay, and other relevant factors. After considering all of these factors, EPA has determined and ITD agrees that an appropriate penalty to settle its portion of this action is FIFTEEN THOUSAND DOLLARS (\$15,000).

3.5. ITD agrees to pay the civil penalty set forth in Paragraph 3.4 within thirty (30) days of the effective date of the Final Order.

3.6. Payment under this CAFO must be made by cashier's check or certified check payable to the order of "Treasurer, United States of America" and delivered to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

ITD must note on the check the title and docket number of this action.

3.7. ITD must serve photocopies of the check described in Paragraph 3.6 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-158
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

Chae Park
U.S. Environmental Protection Agency
Region 10, Mail Stop, OCE-133
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

3.8. If ITD fails to pay the penalty assessed by this CAFO in full by the due date set forth in Paragraph 3.5, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. Such failure may also subject ITD to a civil action to collect the assessed penalty under the CWA, together with interest, fees, costs, and additional penalties described below. In any collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

3.8.1. Interest. Pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. 1319(g)(9), any unpaid portion of the assessed penalty shall bear interest at a rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the

effective date of the Final Order set forth in Part IV, provided however, that no interest shall be payable on any portion of the assessed penalty that is paid within thirty (30) days of the effective date of the Final Order.

3.8.2. Attorneys Fees, Collection Costs, Nonpayment Penalty. Pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), if ITD fails to pay on a timely basis the penalty set forth in Paragraph 3.4, ITD shall pay (in addition to any assessed penalty and interest) attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to twenty percent (20%) of the aggregate amount of ITD's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

3.9. The penalty described in Paragraph 3.3, including any additional costs incurred under Paragraph 3.8, above, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

3.10. The undersigned representative of ITD certifies that he or she is authorized to enter into the terms and conditions of this CAFO and to bind ITD to this document.

3.11. Except as described in Subparagraph 3.8.2, above, each party shall bear its own fees and costs in bringing or defending this action.

3.12. ITD expressly waives any right to contest the allegations and waives any right to appeal the Final Order set forth in Part IV.

3.13. The provisions of this CAFO shall bind ITD and its agents, servants, employees, successors, and assigns.

3.14. The above provisions are STIPULATED AND AGREED upon by ITD and EPA Region 10.

DATED:

3-25-10

FOR ITD:



Signature

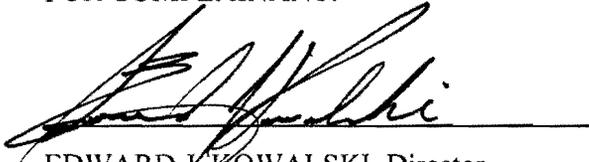
Print Name: DAMON L ALLEN

Title: DE

DATED:

4/07/2010

FOR COMPLAINANT:



EDWARD J. KOWALSKI, Director
Office of Compliance and Enforcement

IV. FINAL ORDER

4.1. The terms of the foregoing Parts I-III are ratified and incorporated by reference into this Final Order. ITD is ordered to comply with the terms of settlement.

4.2. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to the CWA for the violations alleged in the Complaint. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO does not waive, extinguish or otherwise affect ITD's obligations to comply with all applicable provisions of the CWA and regulations promulgated or permits issued thereunder.

4.3. In accordance with Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), and 40 C.F.R. § 22.38(b), the Idaho Department of Environmental Quality has been given the opportunity to consult with EPA regarding the assessment of the administrative civil penalty against ITD.

4.4. Pursuant to Section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b), EPA issued public notice of the Complaint within 30 days following proof of service and provided reasonable opportunity to comment on its intent to assess an administrative penalty against ITD. EPA received no comments on the Complaint.

4.5. This Final Order shall become effective upon filing.

SO ORDERED this 15th day of April, 2010.



THOMAS M. JAHNKE
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 10

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **Consent Agreement and Final Order in In the Matter of: Idaho Transportation Department & Parsons RCI, Inc.**, DOCKET NO.: CWA-10-2009-0247 was filed with the Regional Hearing Clerk on April 16, 2010.

On April 16, 2010 the undersigned certifies that a true and correct copy of the document was delivered to:

Mark Ryan, Esquire
US Environmental Protection Agency
Idaho Operations Office
1435 North Orchard Street
Boise, ID 83706

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt on April 16, 2010, to:

Murray Feldman
Holland & Hart LLP
101 S. Capitol Blvd.
Suite 1400
P.O. Box 2527
Boise, ID 83701-2527

Andrew Albrecht, President
Parsons RCI, Inc.
1216 140th Avenue St. East
Sumner, WA 98390

DATED this 16th day of April.



Carol Kennedy
Regional Hearing Clerk
EPA Region 10