



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET  
DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08


2008 JAN 17 AM 0:29

DOCKET NO.: CAA-08-2008-0004

IN THE MATTER OF:	)	
	)	
<b>CITY OF GREELEY, COLORADO</b>	)	
<b>(23<sup>RD</sup> AVENUE TREATED WATER</b>	)	<b>FINAL ORDER</b>
<b>STORAGE FACILITY</b>	)	
	)	
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 Expedited Settlement Agreement and Final Order.

SO ORDERED THIS 17<sup>th</sup> DAY OF January, 2008.




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Elyana R. Sutin  
Regional Judicial Officer

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

2008 JAN 17 AM 8:30

IN THE MATTER OF:	)	
	)	<b>EXPEDITED SETTLEMENT AGREEMENT</b>
<b>City of Greeley, Colorado</b>	)	
<b>(23<sup>rd</sup> Avenue Treated Water</b>	)	(COMBINED COMPLAINT AND
<b>Storage Facility)</b>	)	CONSENT AGREEMENT)
	)	
Respondent	)	<b>DOCKET NO.: CAA-08-2008-0004</b>

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 City of Greeley ("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 September 13, 2007, an authorized representative of EPA conducted a compliance inspection of Respondent's 23<sup>rd</sup> Avenue Treated Water Storage facility located at 2503 Reservoir

Road, Greeley, 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 Respondent’s 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 \$450. 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:

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. 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. Each party to this action shall bear its own costs and fees, if any. 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 a cashier's or certified check payable to the "Treasurer, United States of America" in the amount of \$450 to the following address:

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

The check shall reference Respondent's name and facility address, the EPA Docket Number of this action. (**A docket number will be assigned to the fully executed copy of the ESA.**) A copy of the check 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

Cheryl Turcotte  
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.

### City of Greeley Expedited Settlement Agreement

FOR RESPONDENT:


  
\_\_\_\_\_

Date: 4 JAN 2008

Name (print): JON G. MONSON

Title (print): Director of Water and Sewer  
City of Greeley (23<sup>rd</sup> Avenue Treated Water Storage Facility)

FOR COMPLAINANT:

  
\_\_\_\_\_

Assistant Regional Administrator  
Office of Enforcement, Compliance and Environmental Justice

Date: 1/10/08

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

Facility Name: 23<sup>rd</sup> Avenue Treated Water Storage Facility – Greeley, CO

INSPECTION DATE: 9/13/2007

**Section C: Prevention Program – Maintenance**

**Has the owner or operator:**

Prepared and implemented procedures to maintain the on-going mechanical integrity of the process equipment? [68.56(a)] **No. The facility did not have documentation to demonstrate that the facility had prepared and implemented procedures to maintain the on-going integrity of the chlorine.**

**600**

Performed or caused to be performed the inspections and tests on process equipment that follow recognized and generally accepted engineering practices? [68.56(d)] **No. There was not documentation available to demonstrate that the facility performed maintenance inspections on the chlorine system or the chlorine cylinder hoist.**

**300**

**BASE PENALTY**

**\$900**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

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)

**PROPOSED PENALTY WORKSHEET**

**Adjusted Penalty = Unadjusted Penalty X Size-Threshold Quantity Multiplier**

The Unadjusted Penalty is calculated by adding up all the penalties listed on the Risk Management Program Inspections Findings, Alleged Violations and Proposed Penalty Sheet.

The Size-Threshold Quantity multiplier is a factor that considers the size of the facility and the amount of regulated chemicals at the facility.

The Proposed Penalty is the amount of the non-negotiable penalty that is calculated by multiplying the Total Penalty and the Size/Threshold Quantity multiplier.

**PENALTY CALCULATION FOR THE 23<sup>RD</sup> AVENUE TREATED WATER STORAGE FACILITY**

**Adjusted Penalty = Unadjusted Penalty X Service Size- Multiplier**

$$\$900 = \$900 \times .5^*$$

$$\text{Adjusted penalty} = \$450$$

\* Service size (25,001 - 50,000) for the 23<sup>rd</sup> Avenue Treated Water Storage facility was calculated based on the percentage of water passing through the facility for further distribution to the Greeley drinking water customers.



## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT/FINAL ORDER** in the matter **CITY OF GREELEY, COLORADO (23<sup>RD</sup> AVEUE TREATED WATER STORAGE FACILITY), DOCKET NO.: CAA-08-2008-0004** was filed with the Regional Hearing Clerk on January 17, 2008.


Further, the undersigned certifies that a true and correct copy of the document was delivered to David Janik, 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 January 17, 2008, to:

John Kolanz  
City Attorney's Office  
City of Greeley  
1100 10<sup>th</sup> Street, Suite 401  
Greeley, CO 80631

And e-mailed to:

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

January 17, 2008

  
Tina Artemis  
Paralegal/Regional Hearing Clerk

