

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2008 SEP 30 PM 3:13

EPA REGION VIII
HEARING CLERK

In the Matter of:)
)
Williams Field Services Company and) **CONSENT AGREEMENT**
Williams Four Corners LLC,)
) Docket No. **CWA-08-2008-0032**
)
Respondents)

Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondents, Williams Field Services Company (WFSC) and Williams Four Corners, LLC (WFC), by their undersigned representatives, hereby consent and agree as follows:

AUTHORITY

1. EPA has jurisdiction over these matters pursuant to sections 308 and 309(a) of the Federal Water Pollution Control Act (Clean Water Act), as amended. 33 U.S.C. §§ 1318 and 1319(a). The rules for this proceeding are the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits ("Rules of Practice")," 40 C.F.R. part 22, a copy of which has been provided to Respondents.
2. This Consent Agreement is entered into by the parties for the purpose of simultaneously commencing and concluding this matter, as authorized by 40 C.F.R. § 22.13(b), and executed pursuant to 40 C.F.R. § 22.18(b)(2) and (3).

FACTUAL AND LEGAL ALLEGATIONS

3. For the purposes of this proceeding, Respondents admit the jurisdictional allegations contained in this Consent Agreement, neither admit nor deny the factual allegations contained in this Consent Agreement, consent to the assessment of the civil penalty, and waive any right to a hearing or appeal before any tribunal and to contest any issue of law or fact set forth herein.
4. Complainant asserts that settlement of this matter is in the public interest, and the parties agree that entry of this Consent Agreement without further litigation and without adjudication of any issue of fact or law is the most appropriate means of resolving this matter at the least cost and expense to Respondents and the EPA.
5. Nothing in this Consent Agreement shall constitute or be deemed an admission by Respondents of any violations of the Clean Water Act or any regulation issued pursuant thereto. Respondents maintain they have acted reasonably and in good faith with respect

to EPA requirements relating to the incidents described herein. By entering into this Consent Agreement, no Party is precluded in future cases which may involve allegations similar to those contained herein from making any argument with respect to such items that the Party may have raised in this case.

6. This Consent Agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondents, and Respondents' officers, directors, employees, agents, successors and assigns. Any change in ownership or corporate status of Respondents including, but not limited to, any transfer of assets or real or personal property shall not alter Respondents' responsibilities under this agreement.
7. This Consent Agreement contains all terms of the settlement agreed to by the parties.
8. Section 301(a) of the Act, 33 U.S.C. § 1311(a), among other things, prohibits the discharge of any pollutant by any person into waters of the United States except in compliance with a permit issued pursuant to section 402 of the Act, 33 U.S.C. § 1342.
9. Section 402 of the Act, 33 U.S.C. § 1342, establishes the National Pollutant Discharge Elimination System (NPDES) program, under which EPA and, upon receiving authorization, states may permit discharges of pollutants into navigable waters, subject to specific terms and conditions. "Navigable waters" means the waters of the United States. 33 U.S.C. § 1362(7).
10. Pursuant to section 402 of the Act, 33 U.S.C. § 1342, and 40 C.F.R. part 122, EPA is authorized to implement the NPDES program within the exterior boundaries of the Southern Ute Indian Reservation, which is "Indian country" as defined by Federal law. 18 U.S.C. § 1151.
11. Respondent WFSC was at all relevant times a Delaware corporation doing business in the State of Colorado and registered with the Colorado Secretary of State.
12. Respondent WFC is and was at all relevant times a Delaware limited liability company doing business in the State of Colorado and registered with the Colorado Secretary of State.
13. Respondents are "persons" within the meaning of section 502(5) of the Act, 33 U.S.C. § 1362(5).
14. At all relevant times, Respondents owned and/or operated the Ignacio Gas Plant located at 3746 County Road 307, approximately ten miles southeast of the City of Durango, Colorado ("the Ignacio facility"), and is therefore an "owner or operator" of a facility subject to regulation under the NPDES program as defined in the regulations. 40 C.F.R. § 122.2. WFSC owned the plant at the time of the discharge event in 2004 described below, and WFC owned it at the time of the discharge event in 2008 described below.

15. Process wastewater generated from the plant, which includes benzene, toluene, total dissolved solids, chloride, and sodium, is managed onsite in four constructed impoundments. The four constructed wastewater impoundments include: a synthetic-lined primary process wastewater pond; a clay-lined secondary process wastewater pond; and in 2004 one lined wastewater evaporation pond (which was divided into two lined evaporation ponds in 2005). The wastewater described in this paragraph is a "pollutant," when discharged into water, as defined by the regulations. 40 C.F.R. § 122.2.
16. Pine Gulch and the Florida River are "navigable waters," as defined in the Clean Water Act, 33 U.S.C. § 1362(7), and "waters of the United States" as defined in the regulations. 40 C.F.R. § 122.2.
17. From January to March 2004, wastewater seeped through the wastewater evaporation impoundment down the hillside, along the Road 307 drainage into Pine Gulch and then the Florida River. Sampling confirmed approximately 20,160 and 60,480 gallons seeped from the impoundment into the Road 307 drainage between February 27 and March 12, 2004 alone. From January to March 2004, the evaporation pond and the seep which drained into the Road 307 drainage and to the Florida River beyond were "point sources" as defined in the regulations. This release constituted the "discharge" of a "pollutant" as defined in the regulations. 40 C.F.R. § 122.1.
18. On January 22, 2008, approximately 7,700 gallons of wastewater overflowed the primary process wastewater impoundment, spilling down the hillside, directly into Pine Gulch and then the Florida River. During this release, the primary process wastewater impoundment was a "point source" as defined in the regulations. This release constituted the "discharge of a pollutant" as defined in the regulations. 40 C.F.R. § 122.1.
19. Respondents have never had an NPDES permit for water discharges from the Ignacio facility into waters of the U.S.
20. Respondents' discharges in 2004 and 2008 of pollutants into waters of the United States violate section 301(a) of the Act. 33 U.S.C. § 1311(a).
21. Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), authorizes EPA to assess administrative penalties for violations of the Act.

TERMS AND CONDITIONS

22. Respondents consent and agree to pay a civil penalty in the amount of \$75,000 in the manner described below:
 - a. Payment is due within 30 calendar days from the date written on the final order, issued by the Regional Judicial Officer, that adopts this Consent Agreement. Payment shall be made according to the instructions on the attached document, which is

incorporated by reference. A copy of the check or evidence of wire transfer shall be sent simultaneously to:

Aaron Urdiales, Environmental Scientist
Water Technical Enforcement Program, NPDES Unit (8ENF-W-NP)
U.S. EPA, Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

and

Tina Artemis, Regional Hearing Clerk (8RC)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

- b. In the event payment is not received by the specified due date, interest will accrue from the date of the final order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received. (i.e., on the 1st late day, 30 days of interest accrues).
- c. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 31st day from the date of the final consent order, and each subsequent 30 day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6 %) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., the 121st day from the date the final consent order is signed). Payments are first applied to outstanding handling charges, 6 % penalty interest, and late interest. The remainder is then applied to the outstanding principal amount.
- d. Respondents agree that the penalty shall never be claimed as a federal or other tax deduction or tax credit.
23. Nothing in this Consent Agreement shall relieve Respondents of the duty to comply with the Clean Water Act and its implementing regulations.
24. Failure by Respondents to comply with any of the terms of this Consent Agreement shall constitute a breach of the Consent Agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.
25. Nothing in this Consent Agreement shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondents' failure to perform pursuant to the terms of this Consent Agreement.

26. The undersigned representative of Respondents certifies that he is fully authorized to enter into the terms and conditions of this Consent Agreement and to bind them to its terms and conditions.
27. In accordance with 40 C.F.R. § 22.45, EPA will provide public notice of this action. EPA may modify or withdraw its consent to this Consent Agreement if comments received disclose facts or considerations which indicate that the Consent Agreement is inappropriate, improper, or inadequate.
28. If comments received during the public comment period do not require modification of or withdrawal from this Consent Agreement by EPA, the parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.
29. Each party shall bear its own costs and attorney fees in connection with this matter.
30. This Consent Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged herein.

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8**

Date: 9/30/08

By: Michael T. Weiner
for Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance &
Environmental Justice

Date: 9/30/08

By: T. Sitz
Thomas E. Sitz
Senior Enforcement Attorney
US EPA, Region 8, ENF-L
1595 Wynkoop St.
Denver, CO 80202
303-312-6918

**WILLIAMS FIELD SERVICES COMPANY
WILLIAMS FOUR CORNERS LLC**

Date: 9/30/08

By: 
Raj Basl, Counsel for Respondents
Senior Counsel
The Williams Companies, Inc.
One Williams Center, Suite 4700
Tulsa, OK 74172
918-573-0656

CHECK PAYMENTS:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

WIRE TRANSFERS:

Wire transfers should be directed to the Federal Reserve Bank of New York

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045
Field Tag 4200 of the Fedwire message should read " D 68010727 Environmental Protection Agency "

OVERNIGHT MAIL:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: Natalie Pearson
314-418-4087

ACH (also known as REX or remittance express)

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact – Jesse White 301-887-6548
ABA = 051036706
Transaction Code 22 - checking
Environmental Protection Agency
Account 310006
CTX Format

ON LINE PAYMENT:

There is now an On Line Payment Option, available through the Dept. of Treasury.
This payment option can be accessed from the information below:

WWW.PAY.GOV

Enter sfo 1.1 in the search field

Open form and complete required fields.

IN THE MATTER OF: Williams Field Services Company and Williams Four Corners, LLC
DOCKET NUMBER: CWA-08-2008-0032

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of the Consent Agreement was hand-carried to:

Tina Artemis
Regional Hearing Clerk (8RC)
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

a true copy was hand-carried to:

Elyana R. Sutin
Regional Judicial Officer (8RC)
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

and a true copy was sent via first class mail to:

Raj Basi, Counsel for Respondents
Senior Counsel
The Williams Companies, Inc.
One Williams Center
Tulsa, OK 74172

Date: _____

9/30/08

By: _____



Andrea Reed