

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8  
1595 WYNKOOP STREET  
DENVER, CO 80202-1129  
PHONE 800-277-8917  
<http://www.epa.gov/region08>  
REF: 8ENF-W-NP

2011 FEB -1 AM 9:57

FILED  
EPA REGION VIII  
HEARING CLERK

PERMIT NO.: SD-0020192  
AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

## CITY OF EAGLE BUTTE

### SUMMARY OF CORRECTIVE ACTIONS

01/21/11 ADDENDUM

RE: Findings of Violation and Order for  
Compliance under Section 309 of  
Docket No. CWA-08-2010-0040  
AND  
Proposed Assessment of Class I  
Civil Penalty under Section 309 of  
the Clean Water Act  
Docket No. CWA-08-2010-0041

**TO WHOM IT MAY CONCERN:**

ANDREW M. GAYDOSIL, ASSISTANT REGIONAL DIRECTOR  
OFFICE OF ENFORCEMENT, COMPLIANCE AND ENVIRONMENTAL JUSTICE

TINA ARTEMIS, REGIONAL HEARING CLERK (BBC)

NATASHA DAVIS (8ENF-W-NP)

MARGARET J. (PEGGY) LIVINGSTON, ENFORCEMENT ATTORNEY

ELYANA R. SUTIN, REGIONAL JUDICIAL OFFICER

As per several phone conferences with Natasha Davis, the following responses are amended and attachment(s) included.

Furthermore there have been two phone conferences to review these matters to include one on 01/05/2010 at 1:00 p.m. whereby various EPA and City of Eagle Butte officials were in attendance to include: NATASHA DAVIS (8ENF-W-NP); MARGARET J. (PEGGY) LIVINGSTON, ENFORCEMENT ATTORNEY; DARCY O'CONNOR, NPDES ENFORCEMENT UNIT CHIEF; DANIELA GOLDEN, FINANCIAL BURDEN OFFICER (TITLE NOT EXACT); JOHN P. BACHMAN, CITY MAYOR; JON GANJE, CITY SUPERINTENDENT; SHEILA GANJE, CITY FINANCE OFFICER. The second phone session was conducted of which many of the aforesaid individuals were present.

---

From:

Davis.Natasha@epamail.epa.gov [Davis.Natasha@epamail.epa.gov]

Sent: 1/21/2011 12:42:07 PM

To: sjganje@dakota2k.net [sjganje@dakota2k.net]

Cc: budhe@lakotanetwork.com [budhe@lakotanetwork.com]; dalemccrea@hotmail.com  
[dalemccrea@hotmail.com]; ddplumbing@lakotanetwork.com [ddplumbing@lakotanetwork.com];  
jpbachman@cityofeaglebutte.com [jpbachman@cityofeaglebutte.com]; wandalind@hotmail.com  
[wandalind@hotmail.com]; Livingston.Peggy@epamail.epa.gov [Livingston.Peggy@epamail.epa.gov]

Subject: Re: MAY 2009 RELEASE ISSUE - ADDITIONAL INFORMATION

Sheila,

The violations listed in the order, and listed in the document you submitted yesterday, are for discharge monitoring results from May 2009. Your response references a DMR for 2010. I'm asking again that you send May 2009 copies of log books that show visual monitoring results for floating solids or foam, oil and grease, and flow measurements or you can submit copies of the flow meter readout if you have an electronic flow meter. I understand that as good practice the City monitors for oil and grease regardless of whether the visual sheen was observed, the DMR needs to show whether an oil and grease sheen was seen on the lagoon as well as the maximum value if you choose to monitor for oil and grease when you did not observe a sheen.

The information you have provided regarding pH measurements is also inaccurate. The pH as monitored by the SD Health Lab had a result of 9.12 on May 26, 2009. The NPDES Permit effluent limit for pH is 9.0, the result was 9.12 which is in violation of the permit. A violation must be reported to EPA and information provided regarding the cause, duration, and solution to prevent further violations, all of which is required by the NPDES Permit. The City did not report this violation or submit any of the required information.

Furthermore, pH must be measured within 15 minutes of taking the grab sample, to date you have not provided EPA with any information about how this holding time is met as required by paragraph 34 of the order. If Mr. Ganje is measuring pH on site with a pH meter the monitoring results must also be recorded in a log book and copies must be submitted to EPA as required by paragraph 31 of the order.

EPA and the City cannot reach settlement of the complaint until all of the requirements of the order have been met. Please address these issues as soon as possible so that we may complete the settlement process.

~\*~\*~\*~\*~\*~\*~\*~\*~\*~\*~\*~\*~\*~\*~\*~\*

Natasha Davis USEPA Region 8 NPDES Enforcement Unit  
(303) 312-6225

---

The violations listed in the order are for discharge monitoring results from May 2009. Please find attached a response referencing a DMR for *04/01/09-06/30/09*.

---

# CITY OF EAGLE BUTTE

## SUMMARY OF CORRECTIVE ACTIONS

---

REVISED 01/21& 27/2011

### VIOLATIONS / RESPONSE

1. (17) In the Month of May 2009, Respondent received permission to discharge from EPA. Respondent failed to monitor the Facility's effluent for flow in violation of Part 1.3.2.2. of the Permit.

*RESPONSE:*

*Please find attached the DMR found in the file as completed for the monitoring period of 04/01/09-06/30/09. Please note that the FLOW is reported.*

*While there are several ways to measure flow at a facility, the flow at the Eagle Butte facility is measured by one of the most common methods – use of a pond depth indicator whereby a water measurement units and conversion factor table for one acre-foot is utilized. The information is then recorded onto a DMR which is initiated at the onset of discharge.*

2. (18) In the Month of May 2009, the City of Eagle Butte failed to visually monitor the Facility's effluent for floating solids or foam, in violation of Part 1.3.2.2. of the Permit

*RESPONSE:*

*Please find attached the DMR found in the file as completed for the monitoring period of 04/01/09-06/30/09. Please note that the VISUAL MONITORING OF THE EFFLUENT FOR FLOATING SOLIDS OR FOAM is not reported.*

*A Lagoon Inspection Form is completed each week and kept as part of the log book. Floating solids and/or foam are checked for but are only recorded onto the form if they are present. Please find attached the log book for visual inspection of the lagoon during this period.*

3. (19) In the Month of May 2009, the City of Eagle Butte failed to visually monitor the City's effluent for oil and grease, in violation if Part 1.3.2.2. of the Permit.

*RESPONSE:*

*Please find attached the DMR found in the file as completed for the monitoring period of 04/01/09-06/30/09 Please note that the OIL AND GREASE MONITORING is reported.*

*A Lagoon Inspection Form is completed each week and kept as part of the log book. Oil and grease is checked for but is only reported onto the form if it is present. Please find attached the log book for visual inspection of the lagoon during this period.*

*Furthermore the City of Eagle Butte does monitor for oil and grease regardless of whether or not a visual sheen is observed. The City does and did at this time report onto the DMRs the oil and grease maximum value information. The City has only noted a oil and grease issue once as a result of actions taken by the B.I.A. and the observation was immediately recorded and reported to USEAP.*

4. (20) In the Month of May 2009, the City of Eagle Butte allowed the pH in the Facility's effluent to exceed 9.0 s.u., in violation of Part 1.3.1. of the Permit.

*RESPONSE:*

*While it is true the pH as monitored by the SD Health Lab had a result of 9.12 on May 26, 2009 and the NPDES Permit effluent limit for pH is 9.0 and the result of 9.12 exceeds the permit effluent limit and is therefore supposedly in violation of the permit, these pH results do not meet the testing requirements as per the permit. As you have stated above the pH must be measured within 15 minutes of taking the grab sample.*

*The City does have a pH meter, does utilize this equipment when obtaining the grab sample within the holding time as per our permit. The pH meter was purchased from Hach and is a sensION1 pH meter. Mr. Ganje has possessed this device for years and does understand the use of this simple testing devise. Further he does measure pH on site with a pH meter within the prescribed 15 minutes of taking the grab sample, does keep a small log book with the ph kit in the case so that each pH may be recorded and does record the monitoring results in said log book.*

*Please find attached the copy of the pH information within the log book which is hereby being submitted to EPA as required by paragraph 31 of the order. Please note that the PH AS PER THE GRAB SAMPLE as reported. The pH tests as per the grab sample (the method of sampling required by EPA/PERMIT) do NOT exceed 9.0 s.u.*

*Finally the City of Eagle Butte is in the process of encouraging other employees to obtain training via the SD Rural Water Association for this purpose.*

5. (21) In the Month of May 2009, the City of Eagle Butte failed to provide EPA with any notification of the effluent pH daily maximum limit violation, in violation of Part 2.8. of the Permit.

*RESPONSE:*

*Because the grab sample is the actual sample results that are required for reporting purposes and because the results do NOT exceed the parameters, the city did not take any action regarding notification as the testing method as designated via the permit yielded a pH that did not exceed permit parameters.*

*While you do state that a violation must be reported to EPA and information provided regarding the cause, duration, and solution to prevent further violations, all of which is required by the NPDES Permit and that the City did not report this violation or submit any of the required information, the City did not report a violation as there was not a violation as per our grab sampling/pH testing within the 15 minute holding period. Further two samples taken 15 minutes apart as issued to the lab showed that one of the two met the parameters – moot though as these test results are NOT a determination of pH as per the permit sampling requirements. Furthermore as the field pH testing did reflect that the pH limits were getting close to the 9.0 limit, the release was stopped prior to the planned cessation for release. As it was later determined, the release was ceased within a short time (less than a half hour of sampling) the same day of the state lab results that are now in question and it is important to note that the City does not get the State results until days after the sampling was originally performed.*

*Any violation of grab sampling pH tests taken within the 15 minute holding period will be reported to EPA and information provided regarding the cause, duration, and solution to prevent further violations, all of which is required by the NPDES Permit. Furthermore the City shall continue to cease releasing should the testing parameter reach a level near the limits of the permit.*

NOTE: Mr. Ganje, WW Superintendent, does direct the SD State Lab to test for oil and grease as well as pH so that he may have comparative information to be utilized in addition to his on site collection of data and that he may have information that can be located on official state lab report (all on one page).

*The City of Eagle Butte does realize that the EPA and the City cannot reach settlement of the complaint until all of the requirements of the order have been met. We are attempting to respond to your communications as soon as possible so that we may address these issues as soon as possible and so that we may complete the settlement process.*

*/Sheila J. Ganje/*