



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

2013 APR 11 PM 3:27

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EPA REGION VIII
HEARING CLERK

APR 11 2013

Ref: 8ENF-L

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

The Honorable Kim Aipperspach, Mayor
City of Ronan
207 Main Street SW, Suite A
Ronan, Montana 59864

Re: Findings of Violation and Order for Compliance
City of Ronan Wastewater Treatment Facility
Docket No. **CWA-08-2013-0010**

Dear Mayor Aipperspach:

Enclosed is a United States Environmental Protection Agency Region 8 (EPA) Order for Compliance (Order) issued to the City of Ronan (City) for alleged violations of the Clean Water Act (Act) and National Pollutant Discharge Elimination System (NPDES) Permit No. MT0021474 (Permit) at the City's Wastewater Treatment Facility (Facility). The authority for EPA to issue this Order is provided under section 309(a)(3) of the Clean Water Act (Act), 33 U.S.C. § 1319(a)(3).

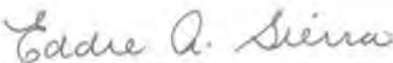
The Order describes the actions necessary for the City to achieve compliance with the Act. Specifically, the Order requires the City to submit a plan and schedule to the EPA for complying with the ammonia nitrogen permit limits pursuant to Section 1.3.4 of the Permit following three violations of the summer 30-day average and three violations of the daily maximum permit limits since June 1, 2012.

The Act requires the Administrator of the EPA to take all appropriate enforcement actions necessary to secure prompt compliance with the statute and any orders issued thereunder. Section 309 of the Act provides a variety of possible enforcement actions, including the filing of a civil, criminal, or administrative action. (See 33 U.S.C. § 1319, subsections (b), (c), (d) and (g).) Please be advised that issuance of this Order does not preclude civil or criminal judicial actions or EPA administrative penalty proceedings for the violations cited in the Order. Please review the Order carefully. Failure to comply with the requirements of the Order shall constitute a violation of the Order.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) information sheet. The SBREFA sheet notifies small entities of their right to comment on regulatory enforcement activities and provides information on compliance assistance resources and tools available to small businesses. SBREFA does not eliminate the City's responsibility to comply with the Act or to respond to this Order.

If you have any questions regarding this letter, the enclosed Order, or any other matters pertinent to the City's compliance with the Act, the most knowledgeable people on my staff regarding these matters for technical and legal issues, respectively, are Rosemary Rowe, Montana Office NPDES Program, at (406) 457-5020, and Amy Swanson, Enforcement Attorney, at (303) 312-6906.

Sincerely,

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

Enclosures:

Findings of Violation and Order for Compliance
Small Business Regulatory Enforcement and Fairness Act Information Sheet

cc: Clint Folden, Confederated Salish & Kootenai Tribes Environmental Protection Division
Tina Artemis, Regional Hearing Clerk
Chris Atkison, City of Ronan

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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In the Matter of:)	Docket No. CWA-08-2013-0010
)	
The City of Ronan, Montana,)	FINDINGS OF VIOLATION AND
)	ORDER FOR COMPLIANCE
Respondent.)	
)	Proceeding Under Section 309(a) of the
)	Clean Water Act, 33 U.S.C. § 1319(a)

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STATUTORY AUTHORITY

The following Findings of Violation and Order for Compliance (Order) is issued pursuant to section 309(a)(3) of the Clean Water Act (Act), 33 U.S.C. § 1319(a)(3), which authorizes the Administrator of the U.S. Environmental Protection Agency (EPA) to issue an order requiring compliance by a person found to be in violation of, *inter alia*, sections 301 or 402 of the Act, or in violation of any permit condition or limitation implementing such sections of the Act. This authority has been properly delegated to the undersigned Assistant Regional Administrator of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS OF FACT AND LAW

General

1. The City of Ronan (Respondent) is a "municipality" as defined in section 502(4) of the Act, 33 U.S.C. § 1362(4), and 40 C.F.R. § 122.2.
2. Respondent is a municipality and therefore a "person" as that term is defined in section 502(5) of the Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.
3. Section 402 of the Act, 33 U.S.C. § 1342, establishes a National Pollutant Discharge Elimination System (NPDES) program, under which the EPA may issue permits authorizing discharges into navigable waters, subject to specific terms and conditions.

4. Effective June 1, 2008, EPA issued NPDES Permit no. MT0021474 (Permit) to the City of Ronan (City) authorizing the City to discharge from its wastewater lagoon to waters of the United States in accordance with the conditions set forth in the Permit.
5. Respondent owns and/or operates a wastewater treatment facility (Facility) that includes a sanitary sewer collection system and a three-cell wastewater treatment lagoon serving the incorporated City.
6. The Facility is located within the exterior boundaries of the Flathead Indian Reservation in Montana.
7. The Confederated Salish and Kootenai Tribes (Tribes) do not own, manage or control the Facility.
8. The Facility is a “point source” within the meaning of section 502(14) of the Act, 33 U.S.C. § 1362(14).
9. The Facility discharges into an unnamed tributary of Crow Creek, which flows southwest into the Flathead River. The Flathead River and its tributaries constitute “waters of the United States” within the meaning of 40 C.F.R. § 122.2 and, therefore, navigable waters within the meaning of section 502(7) of the Act, 33 U.S.C. § 1362(7).
10. Wastewater is a “pollutant” within the meaning of section 502(6) of the Act, 33 U.S.C. § 1362(6).
11. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits, among other things, the discharge of any pollutant by any person into navigable waters, unless authorized by certain other provisions of the Act, including section 402 of the Act, 33 U.S.C. § 1342.

12. Respondent is subject to the requirements of the Act, the Permit, and EPA's regulations implementing the Act.

Permit Terms and Conditions

13. Part 1.3.1. of the Permit requires Respondent to meet the ammonia nitrogen limit by June 1, 2012, four years after the effective date of the permit.
14. Part 1.3.4. of the Permit includes a compliance schedule for meeting the final permit limits for ammonia nitrogen. The compliance schedule requires the following:
 - (1) Within 12 months of the effective date of the permit, select an alternative for complying with the limits and preliminary design and submit an interim progress report.
 - (2) Within 24 months of the effective date of the permit, obtain funding and submit an interim progress report.
 - (3) Within 36 months of the effective date of the permit, have a final engineering and design plan and submit an interim progress report.
 - (4) Within 48 months from the effective date of the permit, comply with the permit and ammonia limits and submit a final compliance report.

FINDINGS OF VIOLATION

15. On September 12, 2011, Respondent submitted a progress report for the ammonia nitrogen compliance schedule. In that report, Respondent reported obtaining the funding to conduct a Preliminary Engineering Report and that the identification of a viable alternative to achieve compliance was on-going.
16. No final compliance report was received from the Respondent on June 1, 2012.

17. On July 26, 2012, the Respondent and EPA and Tribal representatives participated in a teleconference to discuss the status of the Respondent's efforts to comply with the ammonia limit. The Respondent reported that they had been unable to identify a cost effective means of complying with the permit limit via treatment and that eliminating the discharge by land application was not viable due to high ground water in the area. Respondent also reported that piping the discharge to a receiving water where dilution and mixing was available was not acceptable to the City or to the Tribes. The group agreed that developing a site specific water quality standard was the most viable option for the Respondent to pursue.

18. The following permit limits for ammonia nitrogen were effective as of June 1, 2012:

Season	30- Day Average, mg/L	Daily Maximum, mg/L
Winter, Nov. 1 – March 31	1.79	3.15
Summer, April 1 – Oct. 31	0.74	1.47

19. Since June 1, 2012, Respondent has had three violations of the summer 30-day average and three violations of the daily maximum permit limits.

20. Long term monitoring data demonstrates that the Respondent will continue to violate the ammonia nitrogen permit limit:

Season	Range	Average	Permit Limits
Summer, 30-Day Ave	0.4 – 17.2	4.84	0.74
Summer, Daily Max	0.44 – 18.8	6.98	1.47
Winter 30-day ave	0.23 – 23.3	11.01	1.79
Winter, daily max	0.28 -24.7	13	3.15

ORDER

21. Within 10 calendar days of receipt of this Order, Respondent shall submit a written notice to the EPA of its intent to comply with the requirements of this Order.
22. No later than 90 calendar days after receiving this Order, Respondent shall submit a plan and a schedule to the EPA for complying with the ammonia nitrogen permit limits. The plan may include, but not be limited to, additional treatment, elimination of discharge or development of a site-specific water quality standard. The schedule may not extend for more than three years.
23. Within 15 days of receiving any comments on the plan and the schedule, the Respondent shall respond to those comments and make any changes required by the EPA.
24. Within 10 days of incorporating the changes required by the EPA, the Respondent shall provide a final plan and schedule to the EPA and the Tribes.
25. Upon notification by EPA of approval of the final plan and schedule, the Respondent shall immediately implement the plan and schedule.
26. All notices and reports to the EPA required by this Order shall be given to:

Rosemary Rowe
U.S. EPA Region 8 Montana Office
10 W 15 Street Suite 3200
Helena, MT 59626
rowe.rosemary@epa.gov

27. All notices and reports to the Tribes required by this Order shall be given to:

Clint Folden, Environmental Protection Division
Confederated Salish and Kootenai Tribes
P.O. Box 278
Pablo, MT 59855

28. All reports and information required by this Order shall include the following certification statement, signed and dated by either a principal executive officer or a ranking elected official for Respondent, or a duly authorized representative of such person:

I hereby certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations.

GENERAL PROVISIONS

29. Issuance of this Order shall not be deemed an election by the EPA to forego any civil or criminal action to seek civil penalties, fines, or other appropriate relief under the Act for the violations set forth in the Findings.
30. Issuance of this Order does not otherwise affect the EPA's ability to enforce or implement the Act.
31. Failure to comply with the terms of this Order may result in Respondent's liability for civil penalties for each violation of up to \$37,500 per day under Section 309(d) of the Act, 33 U.S.C. § 1319(d), as modified by 40 C.F.R. part 19. The United States District Court may impose such penalties if the court determines that you have violated the Act and failed to comply with the terms of the Order.
32. Respondent has the right to seek immediate federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706. Section 706, which is set forth at <http://uscode.house.gov/download/pls/05C7.txt>, provides the grounds for such review.

33. This Order shall be effective upon receipt by Respondent.

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

Date: 4/11/2013

for Eddie A. Seira
Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance,
and Environmental Justice

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and a copy of the preceding Administrative Order for Compliance were hand-carried to the Regional Hearing Clerk, EPA, Region 8, 1595 Wynkoop Street, Denver, Colorado, 80202, and that a true copy of the same was sent to the following by CERTIFIED MAIL/RETURN RECEIPT REQUESTED:

Kim Aipperspach, Mayor
City of Ronan
207 Main Street SW, Suite A
Ronan, MT 59864

Date: APR 11 2013

By: Gayle Aldinger

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources, including workshops, training sessions, hotlines, websites and guides, to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

EPA's Small Business Websites

Small Business Environmental Homepage - www.smallbiz-enviroweb.org

Small Business Gateway - www.epa.gov/smallbusiness

EPA's Small Business Ombudsman - www.epa.gov/sbo or 1-800-368-5888

EPA's Compliance Assistance Homepage

[www.epa.gov/compliance/assistance/
business.html](http://www.epa.gov/compliance/assistance/business.html)

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

EPA's Compliance Assistance Centers

www.assistancecenters.net

EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture/

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org or 1-734-995-4911

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Metal Finishing

www.nmfrc.org

Paints and Coatings

www.paintcenter.org

Printed Wiring Board Manufacturing

www.pwbrc.org

Printing

www.pneac.org

Ports

www.portcompliance.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

Hotlines, Helplines and Clearinghouses

www.epa.gov/epahome/hotline.htm

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

Antimicrobial Information Hotline

info-antimicrobial@epa.gov or
1-703-308-6411

Clean Air Technology Center (CATC) Info-line

www.epa.gov/ttn/catc or 1-919-541-0800

Emergency Planning and Community Right-To-Know Act

[www.epa.gov/superfund/resources/
infocenter/epcra.htm](http://www.epa.gov/superfund/resources/infocenter/epcra.htm) or 1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or
734-214-4100

National Pesticide Information Center

www.npic.orst.edu/ or 1-800-858-7378

National Response Center Hotline -

to report oil and hazardous substance spills
www.nrc.uscg.mil or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC)

www.epa.gov/opptintr/ppic or
1-202-566-0799

Safe Drinking Water Hotline

[www.epa.gov/safewater/hotline/index.
html](http://www.epa.gov/safewater/hotline/index.html) or 1-800-426-4791

Stratospheric Ozone Protection Hotline

www.epa.gov/ozone or 1-800-296-1996