



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAR 04 2010

CERTIFIED MAIL 7009 0960 0000 2366 0086
RETURN RECEIPT REQUESTED

MAR 04 2010

Mr. Robin Dial
Alpine Utilities Inc.
Stoop Creek Wastewater Treatment Plant
2712 Middleburg Drive, Suite 208
Columbia, South Carolina 29204

Re: Consent Agreement and Final Order
Docket No. CWA-04-2010-4501(b)

Dear Mr. Dial:

Enclosed please find a fully executed copy of the Consent Agreement and Final Order that has been finalized by the U.S. Environmental Protection Agency and the Regional Judicial Officer. Please make note of the provisions under Section IV. Payment.

Should you have any questions or concerns regarding this matter, please contact Ms. Araceli Bonilla at (404) 562-9790.

Sincerely,

Douglas F. Mundrick, P.E., Chief
Clean Water Enforcement Branch
Water Protection Division

Enclosure

cc: David Wilson, South Carolina Department of Health
and Environmental Control

November 17, 2008. Based on the response, the following deficiencies and the corresponding regulatory requirements were identified:

- a. The clarifier was not fully operational from July 19 - 29, 2008. The Collection System had 21 Sanitary Sewer Overflows (SSOs) from December 2005-September 2008 with the majority fifty percent (50%) of the SSOs stemming from grease blockages.
 - (1) Part II, Section B of the Permit requires that "the permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit."
- b. The Respondent failed to notify, in a timely manner, the downstream water supply of the operational issues with the clarifier which had potential to violate permit limits.
 - (1) Part I, Section A(12) of the Permit requires that "the permittee shall notify the downstream water supply facility(ies)...of any emergency condition , i.e., plant upset bypass, or other system failure, which has the potential to violate permit limits and/or affect the quality of the water to be withdrawn for drinking water purposes. This notification should be made by telephone and as soon as possible after an event or in anticipation of such event, if feasible, without taking away from any response time necessary to attempt to alleviate the situation."
- c. The Respondent failed to notify EPA that the clarifier was not fully operational from July 19 - 29, 2008. EPA became aware of the clarifier problems through e-mail correspondence with SCDHEC on August 4, 2008.
 - (1) Part I, Section A(12) of the Permit requires that "...The permittee shall follow up with written notification , within 10 days to the facility(ies), with a copy to EPA and SCDHEC. This notification shall include the reason for the emergency, any sampling information, any visual data recorded, a description of how the situation was handled and when it would be (was) considered to no longer be an emergency situation."
- d. The Respondent failed to notify EPA about the unanticipated bypass that occurred from July 21 - 29, 2008, as a result of the clarifier not being fully operational. The bypass consisted of the pumping and hauling of sludge from the Facility to alternative locations.

(1) Part II, Section B(3)(c)(2) of the Permit requires that “ The permittee shall submit notice of an unanticipated bypass as required in Section D Subsection 8 (24-hour notice).”

7. Part I, Section A(1) of the Permit includes Biochemical Oxygen Demand 5-Day (hereinafter, “BOD₅”) limits on the effluent and requires the Respondent to conduct analysis of the effluent for BOD₅ to determine compliance with those limits.

8. BOD₅ tests conducted by the Respondent for December 2005, the results of which were submitted as part of the Respondent’s monthly DMRs to EPA, revealed the effluent to be in violation of the weekly average BOD₅ limit in the Permit. As particularly set forth in the Permit, the weekly average BOD₅ limit requires that the average of all of the BOD₅ tests in a calendar week not exceed 54 mg/L. However, the weekly average BOD₅ reported by the Respondent during this month was 59 mg/L, and thus outside the acceptable range of the Permit.

9. Part I, Section A(1) of the Permit includes Ammonia Nitrogen (hereinafter, “NH₃-N”) limits and requires the Respondent to conduct analysis of the effluent for NH₃-N to determine compliance with those limits.

10. NH₃-N tests conducted by the Respondent for November 2005, the results of which were submitted as part of the Respondent’s monthly DMRs to EPA, revealed the effluent to be in violation of the weekly average NH₃-N limits in the Permit. As particularly set forth in the Permit, the weekly average NH₃-N limit requires the average of all of the NH₃-N tests conducted in a calendar week not to exceed 4.22 mg/L (or 70.0 lbs/day) for the months of November through February. However, the weekly average NH₃-N reported by the Respondent during this month was 8.3 mg/L, and thus outside the acceptable range of the Permit.

11. NH₃-N tests conducted by the Respondent for August 2007, the results of which were submitted as part of the Respondent’s monthly DMRs to EPA, revealed the effluent to be in violation of the weekly average NH₃-N limits in the Permit. As particularly set forth in the Permit, the weekly average NH₃-N limit requires the average of all of the NH₃-N tests conducted in a calendar week not to exceed 4.1 mg/L (or 68.0 lbs/day) for the months of March through October. However, the weekly average NH₃-N reported by the Respondent during this month was 4.15 mg/L, and thus outside the acceptable range of the Permit.

12. NH₃-N tests conducted by the Respondent for February 2008, the results of which were submitted as part of the Respondent’s monthly DMRs to EPA, revealed the effluent to be in violation of the weekly average NH₃-N limits in the Permit. As particularly set forth in the Permit, the weekly average NH₃-N limit requires the average of all of the NH₃-N tests conducted in a calendar week not to exceed 4.22 mg/L (or 70.0 lbs/day) for the months of November through February. However, the week of February 9, 2008, the weekly average NH₃-N reported by the Respondent during this month was 6 mg/L, and thus outside the acceptable range of the Permit.

13. NH₃-N tests conducted by the Respondent for February 2008, the results of which were submitted as part of the Respondent's monthly DMRs to EPA, revealed the effluent to be in violation of the weekly average NH₃-N limits in the Permit. As particularly set forth in the Permit, the weekly average NH₃-N limit requires the average of all of the NH₃-N tests conducted in a calendar week not to exceed 4.22 mg/L (or 70.0 lbs/day) for the months of November through February. However, the week of February 22, 2008 the weekly average NH₃-N reported by the Respondent during this month was 6.3 mg/L, and thus outside the acceptable range of the Permit.

14. NH₃-N tests conducted by the Respondent for February 2008, the results of which were submitted as part of the Respondent's monthly DMRs to EPA, revealed the effluent to be in violation of the monthly average NH₃-N limits in the Permit. As particularly set forth in the Permit, the monthly average NH₃-N limit requires the average of all of the NH₃-N tests conducted in a calendar month not to exceed 2.11 mg/L (or 35.0 lbs/day) for the months of November through February. However, the monthly average NH₃-N reported by the Respondent during this month was 3.93 mg/L, and thus outside the acceptable range of the Permit.

15. NH₃-N tests conducted by the Respondent for July 2008, the results of which were submitted as part of the Respondent's monthly DMRs to EPA, revealed the effluent to be in violation of the weekly average NH₃-N limits in the Permit. As particularly set forth in the Permit, the weekly average NH₃-N limit requires the average of all of the NH₃-N tests conducted in a calendar week not to exceed 4.1 mg/L (or 68.0 lbs/day) for the months of March through October. However, the week of July 25, 2008, the weekly average NH₃-N reported by the Respondent during this month was 4.3 mg/L, and thus outside the acceptable range of the Permit.

16. NH₃-N tests conducted by the Respondent for July 2008, the results of which were submitted as part of the Respondent's monthly DMRs to EPA, revealed the effluent to be in violation of the monthly average NH₃-N limits in the Permit. As particularly set forth in the Permit, the monthly average NH₃-N limit requires the average of all of the NH₃-N tests conducted in a calendar month not to exceed 2.05 mg/L (or 34.0 lbs/day) for the months of March through October. However, the monthly average NH₃-N reported by the Respondent during this month was 2.18 mg/L, and thus outside the acceptable range of the Permit.

17. NH₃-N tests conducted by the Respondent for August 2008, the results of which were submitted as part of the Respondent's monthly DMRs to EPA, revealed the effluent to be in violation of the weekly average NH₃-N limits in the Permit. As particularly set forth in the Permit, the weekly average NH₃-N limit requires the average of all of the NH₃-N tests conducted in a calendar week not to exceed 4.1 mg/L (or 68.0 lbs/day) for the months of March through October. However, the week of August 4, 2008, the weekly average NH₃-N reported by the Respondent during this month was 4.4 mg/L, and thus outside the acceptable range of the Permit.

18. NH₃-N tests conducted by the Respondent for December 2008, the results of which were submitted as part of the Respondent's monthly DMRs to EPA, revealed the effluent to be in violation of the weekly average NH₃-N limits in the Permit. As particularly set forth in the

Permit, the weekly average NH₃-N limit requires the average of all of the NH₃-N tests conducted in a calendar week not to exceed 4.22 mg/L (or 70.0 lbs/day) for the months of November through February. However, the week of December 19, 2008, the weekly average NH₃-N reported by the Respondent during this month was 4.4 mg/L, and thus outside the acceptable range of the Permit.

19. NH₃-N tests conducted by the Respondent for December 2008, the results of which were submitted as part of the Respondent's monthly DMRs to EPA, revealed the effluent to be in violation of the weekly average NH₃-N limits in the Permit. As particularly set forth in the Permit, the weekly average NH₃-N limit requires the average of all of the NH₃-N tests conducted in a calendar week not to exceed 4.22 mg/L (or 70.0 lbs/day) for the months of November through February. However, the week of December 22, 2008, the weekly average NH₃-N reported by the Respondent during this month was 10 mg/L, and thus outside the acceptable range of the Permit.

20. NH₃-N tests conducted by the Respondent for December 2008, the results of which were submitted as part of the Respondent's monthly DMRs to EPA, revealed the effluent to be in violation of the monthly average NH₃-N limits in the Permit. As particularly set forth in the Permit, the monthly average NH₃-N limit requires the average of all of the NH₃-N tests conducted in a calendar month not to exceed 2.11 mg/L (or 35.0 lbs/day) for the months of November through February. However, the monthly average NH₃-N reported by the Respondent during this month was 3.7 mg/L, and thus outside the acceptable range of the Permit.

21. Part I, Section A(3) of the Permit includes Fecal Coliform limits on the effluent and requires the Respondent to conduct analysis of the effluent for Fecal Coliform to determine compliance with those limits.

22. Fecal Coliform tests conducted by the Respondent for August 2008, the results of which were submitted as part of the Respondent's monthly DMRs to EPA, revealed the effluent to be in violation of one of the daily maximum Fecal Coliform limits in the Permit. As particularly set forth in the Permit, the daily maximum Fecal Coliform limit requires the maximum of the Fecal Coliform tests on any single day to not exceed 400 #/100mL. However, Respondent reported one daily maximum Fecal Coliform result of 767 #/100mL during this month, which was outside the acceptable range of the Permit.

23. Fecal Coliform tests conducted by the Respondent for August 2008, the results of which were submitted as part of the Respondent's monthly DMRs to EPA, revealed the effluent to be in violation of one of the daily maximum Fecal Coliform limits in the Permit. As particularly set forth in the Permit, the daily maximum Fecal Coliform limit requires the maximum of the Fecal Coliform tests on any single day to not exceed 400 #/100mL. However, Respondent reported one daily maximum Fecal Coliform result of 600 #/100mL during this month, which was outside the acceptable range of the Permit.

24. Total Phosphorus tests conducted by the Respondent for September 2008, the results of which were submitted as part of the Respondent's monthly DMRs to EPA, revealed the results reported were invalid because the holding time on the sample expired prior to analysis.

(1) Part II, Section C(3) of the Permit requires that "Monitoring results must be conducted according to test procedures approved under 40 CFR Part 136 unless otherwise specified in 40 CFR Part 503, unless other test procedures have been specified in the permit."

25. Therefore, the Respondent has violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a), and the Permit, issued pursuant to 402 of the CWA, 33 U.S.C. § 1342, as set forth herein.

III. Stipulations and Findings

26. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order ("CA/FO") will simultaneously commence and conclude this matter.

27. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out above and neither admits nor denies the factual allegations set out above.

28. Respondent hereby waives its right to contest the allegations set out above and its right to appeal the Final Order accompanying this Consent Agreement.

29. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CA/FO and consents to the other conditions set forth in this CA/FO.

30. By signing this CA/FO, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and is, truthful, accurate, and complete for each such submission, response and statement. Respondent realizes that there are significant penalties for submitting false or misleading information, including the possibility of fines and/or imprisonment for knowing submission of such information.

31. EPA reserves the right to assess and collect any and all civil penalties for any violation described herein to the extent that any information or certification provided by Respondent was materially false or inaccurate at the time such information or certification was provided to EPA.

32. Complainant and Respondent agree to settle this matter by their execution of this CA/FO. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of the CWA.

IV. Payment

33. Pursuant to Section 309(g)(2)(A) of the CWA, 33 U.S.C. § 1319(g)(2)(A), and 40 C.F.R. Part 19, and considering the nature of the violations and other relevant factors, EPA has determined that **Fourteen Thousand Dollars (\$14,000)** is an appropriate civil penalty to settle this action.

34. Respondent shall submit payment of the penalty specified in the preceding paragraph within thirty (30) days of the effective date of this CA/FO via a cashier's or certified check, payable to the order of "Treasurer, United States of America." The check shall reference on its face the name of Respondent and the Docket Number of this CA/FO. Such payment shall be tendered to:

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

35. At the time of payment, Respondent shall send a separate copy of the check, and a written statement that payment has been made in accordance with this CA/FO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960

and

Ms. Mary Mattox
U.S. Environmental Protection Agency, Region 4
Water Protection Division
Clean Water Enforcement Branch
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960

36. The penalty amount specified in Paragraph 33 above shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.

37. Pursuant to 40 C.F.R. Parts 13 and 31 U.S.C. § 3717 et seq., if EPA does not receive payment of the penalty assessed by this CA/FO in full by its due date, interest shall accrue on the unpaid balance from the due date through the date of payment at an annual rate equal to the rate of the current value of funds to the United States Treasury as prescribed and published by the Secretary of the Treasury. If all or part of the payment is overdue, EPA will assess a late-payment handling charge of \$15.00, with an additional delinquent notice charge of \$15.00 for each subsequent thirty (30) day period. EPA will also assess on a monthly basis an up to six percent (6%) per annum penalty on any principle amount not paid within ninety (90) days of the due date.

38. Pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), failure by the Respondent to pay the penalty assessed by the CA/FO in full by its due date may subject the Respondent to a civil action to collect the assessed penalty plus interest (at currently prevailing rates from the effective date of this CA/FO), attorneys fees, costs for collection proceedings and a quarterly nonpayment penalty shall be in an amount equal to twenty percent (20%) of the aggregate amount of such penalty and nonpayment penalty which are unpaid as of beginning of such quarter. In any such collection action, the validity, amount and appropriateness of the penalty and of this CA/FO shall not be subject to review.

V. General Provisions

39. This CA/FO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit. Other than as expressed herein, compliance with this CA/FO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by the EPA.

40. Nothing in this CA/FO shall be construed as prohibiting, altering, or in any way limiting the ability of the United States to seek any other remedies or sanctions available by virtue of Respondent's violation of this CA/FO or of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any federal or state statute, regulation or permit.

41. Except as otherwise set forth herein, this CA/FO constitutes a settlement by Complainant and Respondent of all claims for civil penalties pursuant to the CWA with respect to only those violations alleged in this CA/FO. Except as otherwise set forth herein, compliance with this CA/FO shall resolve the allegations of violations contained herein. Nothing in this CA/FO is intended to nor shall be construed to operate in any way to resolve any criminal liability of the Respondent, or other liability resulting from violations that were not alleged in this CA/FO. Other than as expressed herein, Complainant does not waive any right to bring enforcement

action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.

42. Each undersigned representative of the parties to this CA/FO certifies that he or she is fully authorized to enter into the terms and conditions of this CA/FO and to execute and legally bind that party to it.

43. This CA/FO applies to and is binding upon Respondent and its officers, directors, employees, agents, successors and assigns.

44. Any change in the legal status of Respondent including, but not limited to any transfer of assets of real or personal property, shall not alter Respondent's responsibilities under this CA/FO.

45. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this CA/FO.

46. In accordance with 40 C.F.R. § 22.5, the individuals below are authorized to receive service relating to this proceeding.

For Complainant:

William Bush
Associate Regional Counsel
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303
(404) 562-9538

For Respondent:

Robin Dial
Alpine Utilities Inc.
2712 Middleburg Drive, Suite 208
Columbia, SC 29204
(803) 799-6244

47. The parties acknowledge and agree that this CA/FO is subject to the requirements of 40 C.F.R. § 22.45(c)(4), which provides a right to petition to set aside a consent agreement and proposed final order based on comments received during the public comment period.

48. Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and 40 C.F.R. § 22.38(b), Complainant represents that the State of South Carolina was provided a prior opportunity to consult with Complainant regarding this matter.

VI. Effective Date

49. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

For COMPLAINANT, U.S. ENVIRONMENTAL PROTECTION AGENCY:



Douglas F. Mundrick, P.E., Chief
Clean Water Enforcement Branch
Water Protection Division
U.S. EPA Region 4

Date: JAN 7, 2010

For RESPONDENT:



Robin Dial, President
Alpine Utilities, Inc.

Date: DEC, 15, 2009

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

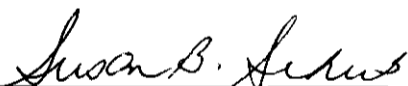
IN THE MATTER OF:)	
)	CONSENT AGREEMENT AND
Alpine Utilities, Inc., South Carolina)	FINAL ORDER
)	
Respondent.)	Docket No.: CWA-04-2010-4501(b)
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FINAL ORDER

In accordance with 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*, including Subpart I, 40 C.F.R. Part 22, and authorities delegated to me, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Pursuant to Section 309(g)(2)(A) of the CWA, 33 U.S.C. § 1319(g)(2)(A), Respondent is hereby ordered to comply with the terms of the foregoing Consent Agreement.

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: March 4, 2010



 Susan B. Schub
 Regional Judicial Officer

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the attached **CONSENT AGREEMENT AND FINAL ORDER** in the matter of the **Alpine Utilities Inc., South Carolina**, Docket No. **CWA-04-2010-4501(b)** (filed with the Regional Hearing Clerk on MAR 04 2010, 2010) was served on MAR 04 2010, 2010, in the manner specified to each of the persons listed below.

By hand-delivery: William Bush
Associate Regional Counsel
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

**By certified mail,
return receipt requested:** Mr. Robin Dial, President
Alpine Utilities Inc.
2712 Middleburg Drive, Suite 208
Columbia, South Carolina 29204

Mr. David Wilson, Chief
Bureau of Water
South Carolina Department of Health and
Environmental Control\
2600 Bull Street
Columbia, South Carolina 29201



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental
Protection Agency, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9511

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Mary Mattox on _____
(Name) (Date)

in the WPD/CWEB/West NPDES Enforcement Section at (404) 562- 9733
(Office) (Telephone Number)

Non-SF Judicial Order/Consent Decree
USAO COLLECTS

Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree
DOJ COLLECTS

Oversight Billing - Cost Package required:
Sent with bill

Other Receivable

Not sent with bill

This is an original debt

Oversight Billing - Cost Package not required

This is a modification

PAYEE: Alpine Utilities Inc / Stoop Creek, Columbia, SC
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 14,000
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: CWA-04-2010-4501(b)

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Office: Water Protection Division

TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number is: _____ Date _____

DISTRIBUTION:

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- | | |
|--|------------------------------|
| 1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice RM 1647
P.O. Box 7611, Benjamin Franklin Station
Washington, D.C. 20044 | 2. Originating Office (EAD) |
| | 3. Designated Program Office |

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- | | |
|---------------------------|------------------------------|
| 1. Originating Office | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD) |