

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)
) Docket No. CWA-07-2022-0016
)
Interstate Power and Light Co.)
d/b/a Alliant Energy) COMPLAINT AND
) CONSENT AGREEMENT/
) FINAL ORDER
Respondent,)
)
)
Proceedings under Section 309(g) of the)
Clean Water Act, 33 U.S.C. § 1319(g))
_____)

COMPLAINT

Jurisdiction

1. This is an administrative action for the assessment of civil penalties instituted pursuant to Section 309(g) of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act (CWA), 33 U.S.C. § 1319(g), and in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22.

2. Complainant, the U.S. Environmental Protection Agency Region 7 (the EPA), and Respondent, the Interstate Power and Light Company d/b/a Alliant Energy, have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

3. This Complaint and Consent Agreement/Final Order (CAFO) serves as notice that the EPA has reason to believe that Respondent has violated Sections 301(a) and 402 of the CWA, 33 U.S.C. §§ 1311(a) and 1342, and regulations promulgated thereunder.

4. The authority to act under Section 309(g) of the CWA, 33 U.S.C. § 1319(g), is vested in the Administrator of the EPA. The Administrator has delegated this authority to the Regional Administrator of EPA Region 7, who in turn has delegated it to the Director of the Enforcement and Compliance Assurance Division of EPA Region 7 (“Complainant”).

Statutory and Regulatory Framework

5. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants except in compliance with, *inter alia*, Section 402 of the CWA, 33 U.S.C. § 1342.

6. Section 402 of the CWA provides that pollutants may be discharged only in accordance with the terms of a National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to that Section.

7. The CWA prohibits the discharge of “pollutants” from a “point source” into a “navigable water” of the United States, as these terms are defined by Section 502 of the CWA, 33 U.S.C. § 1362.

8. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines “navigable waters” as the “waters of the United States,” which in turn has been defined to include, *inter alia*, all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, and tributaries to such waters. 40 C.F.R. § 122.2.

9. To implement Section 402 of the CWA, EPA promulgated regulations codified at 40 C.F.R. Part 122. Under 40 C.F.R. Part 122.1, an NPDES permit is required for the discharge of pollutants from any point source into waters of the United States.

10. The Iowa Department of Natural Resources (“IDNR”) is the state agency with the authority to administer the federal NPDES program in Iowa pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, the implementing regulations, and a Memorandum of Understanding between EPA and IDNR.

11. Pursuant to Section 402(i) of the CWA, 33 U.S.C. § 1342(i), the EPA retains concurrent enforcement authority with authorized states for violations of the CWA.

The EPA’s Specific Allegations

12. Respondent, a corporation, is a “person” within the meaning of Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7).

13. Respondent is the owner and/or operator, within the meaning of Section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 112.2, of the Prairie Creek Generating Station, a power plant located at 3300 C St SW, Cedar Rapids, Iowa 52404 (the “Facility”).

14. Effluent discharged from the Facility through Outfall 001 is a “pollutant” as defined by Section 502(6) of the Act, 33 U.S.C. § 1362(6).

15. Outfall 001 at the Facility is a “point source” within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

16. Outfall 001 of the Facility discharges into the Cedar River, which is a “navigable water” as defined by Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

17. The Facility is a “point source” that “discharges pollutants” into a “navigable water” of the United States, as these terms are defined by Section 502 of the CWA, 33 U.S.C. § 1362.

18. The Facility’s discharge of pollutants requires a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

19. IDNR issued NPDES Permit No. IA-5715108 (hereafter the “NPDES permit”) to the Facility. The NPDES permit became effective on November 1, 2016, and expired on October 31, 2021. Respondent submitted a permit renewal application on February 3, 2021.

20. The NPDES permit contains limits on discharges of effluent through Outfall 001, including, as relevant here, a concentration limit for total residual chlorine of 0.2 mg/L and a daily loading limit for total residual chlorine of 72.8 lbs/day.

Count 1
Unauthorized Discharge

21. The facts alleged above are incorporated by reference.

22. On or about June 23, 2021, the valve/check valve assemblies that are part of Chemical Metering Pump B at the Facility failed open, causing 12.5% sodium hypochlorite solution containing approximately 591 pounds (268 kilograms) of sodium hypochlorite to circulate through the condenser system, proceed through the discharge tunnel, and then enter the Cedar River via Outfall 001.

23. After the discharge was discovered, Respondent notified the Iowa Department of Natural Resources (IDNR) and the National Response Center of the discharge.

24. Respondent’s discharge of sodium hypochlorite from the Facility into the Cedar River violated the limits set forth in the Facility’s NPDES permit.

25. Respondent’s violation of the terms and conditions of the Facility’s NPDES permit is a violation of Sections 301(a) and 402 of the CWA, 33 U.S.C. §§ 1311(a) and 1342.

CONSENT AGREEMENT

26. Respondent agrees that, in settlement of the claims alleged in this CAFO, Respondent shall pay a civil penalty of \$14,576 as set forth in the Penalty section below.

27. Respondent and the EPA agree to the terms of this CAFO and Respondent agrees to comply with the terms of the Final Order portion of this CAFO.

28. Respondent admits the jurisdictional allegations of this CAFO and agrees not to contest the EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of the Final Order portion of this CAFO.

29. Respondent neither admits nor denies the factual allegations and legal conclusions asserted by the EPA in the Specific Allegations section set forth above.

30. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth above, and its right to appeal the Final Order portion of this CAFO.

31. Respondent and Complainant agree to resolve the matters set forth in this CAFO without the necessity of a formal hearing and agree to bear their own costs and attorney's fees incurred as a result of this action.

32. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this CAFO and to execute and legally bind Respondent to it.

33. Nothing contained in this CAFO shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

34. This CAFO addresses all civil and administrative claims for the CWA violations alleged above. With respect to matters not addressed in this CAFO, the EPA reserves the right to take any enforcement action pursuant to the CWA and its implementing regulations, or any other available legal authority, including without limitation, the right to seek injunctive relief, penalties, and damages.

35. Respondent understands that its failure to timely pay any portion of the civil penalty described in the Penalty Section below may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest.

36. Respondent consents to receiving the filed Consent Agreement/Final Order electronically at the following address: *jenniferhynek@alliantenergy.com*.

37. Respondent certifies by the signing of this CA/FO that it is in compliance with all requirements of Sections 301(a) and 402 of the CWA and its NPDES permit.

38. The effect of settlement is conditional upon the accuracy of the Respondent's representations to the EPA, as memorialized in the foregoing paragraph.

Penalty

39. Respondent agrees to pay a civil penalty of fourteen thousand five hundred and seventy six dollars (\$14,576) pursuant to the authority of Section 309 of the CWA, 33 U.S.C. §

1319, within thirty (30) days of the Effective Date of the Final Order. The payment of penalties must reference docket number CWA-07-2022-0016 and be remitted to:

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

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>. Copies of the checks or verification of another payment method for the penalty payments remitted shall be emailed to:

Natasha Goss
Attorney Advisor
U.S. Environmental Protection Agency Region 7
goss.natasha@epa.gov

and

Regional Hearing Clerk
U.S. Environmental Protection Agency Region 7
r7_hearing_clerk_filings@epa.gov.

40. Should the civil penalty not be paid as provided above, interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. The interest will be assessed on the overdue amount from the due date through the date of payment. Failure to pay the civil penalty when due may result in the commencement of a civil action in Federal District Court to collect said penalty, together with costs and interest thereon.

41. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this CAFO shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.

Parties Bound

42. This CAFO shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this CAFO.

General Provisions

43. Notwithstanding any other provision of this CAFO, the EPA reserves the right to enforce the terms of this CAFO by initiating a judicial or administrative action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, and to seek penalties against Respondent or to seek any other remedy allowed by law.

44. This executed Complaint and Consent Agreement and Final Order shall be filed with the Regional Hearing Clerk, U.S. Environmental Protection Agency, 11201 Renner Boulevard, Lenexa, Kansas 66219.

For the Complainant, U.S. Environmental Protection Agency:

Issued this _____ day of _____, 2022.

Wendy Lubbe
Acting Director
Enforcement and Compliance Assurance Division

Natasha Goss
Office of Regional Counsel

For the Respondent, Interstate Power and Light Co. d/b/a Alliant Energy:

Signature: Terry Kouba
Digitally signed by Terry Kouba
DN: cn=Terry Kouba, o=Alliant Energy,
ou=PL Operations,
email=terrykouba@alliantenergy.com,
c=US
Date: 2022.07.26 09:07:44 -05'00'

Date: _____

Name: Terry Kouba

Title: President, Interstate Power and Light Company

FINAL ORDER

Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

The Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Karina Borromeo
Regional Judicial Officer

Date: _____

CERTIFICATE OF SERVICE

I certify that on the date noted below I delivered a true and correct copy of this Consent Agreement and Final Order by electronic mail to:

Representative of Respondent:

Margaret Hoefler
Corporate Counsel, Manager
4902 N. Biltmore Lane
Madison, WI 53718
MargaretHoefler@alliantenergy.com

Representatives of the EPA:

Natasha Goss
Office of Regional Counsel
U.S. Environmental Protection Agency Region 7
goss.natasha@epa.gov

Mark Aaron
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency Region 7
aaron.mark@epa.gov

Date: _____

Signature: _____