



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 10, 1200 Sixth Avenue, Seattle, Washington 98101
EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA 10-2024-0091, NPDES No. ID0020206
Penalty Amount: \$1,656.00, Inspection Date: 4/23/2024

The United States Environmental Protection Agency (EPA) and the City of Pierce, a "person" withing the meaning of Section 502(5) of the Clean Water Act, 33 U.S.C § 1362(5), and 40 C.F.R § 122.2 ("Respondent"), enter into this Expedited Settlement Agreement ("Agreement") to resolve Respondent's civil penalty liability for alleged violations of the National Pollutant Discharge Elimination System permit cited above ("Permit").

The EPA finds that Respondent failed to comply with the Permit, that the Permit was issued pursuant to section 402 of the Clean Water Act (Act), 33 U.S.C. § 1342, that Respondent is a "person" as defined in section 502(5) of the Act, 33 U.S.C. § 1362(5), and that Respondent is responsible for the violations specified in the attached Expedited Settlement Offer Worksheet Violations Form for Wastewater ("Violations Form"). The Violations Form is incorporated into this Agreement by reference.

The EPA also finds, and Respondent admits, that the EPA has jurisdiction over this matter pursuant to section 309(g) of the Act, 33 U.S.C. § 1319(g), and 40 C.F.R. part 22. Respondent neither admits nor denies the violations specified in the Violations Form.

Respondent agrees to pay a penalty of \$1,656. Respondent waives the rights (1) to contest the statements in the Violations Form and (2) to appeal any final order that an EPA Regional Judicial Officer may issue to ratify this Agreement (Final Order).

Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that any violations identified in the Violations Form have been corrected. No later than the date it signs this Agreement, Respondent shall submit an itemized list to the EPA detailing the specific actions taken to correct the violations cited in the Violations Form.

Respondent certifies that, within ten (10) days after receipt of the Final Order, Respondent will submit electronic payment via www.pay.gov or submit a bank, cashiers, or certified check, with case name and docket number noted, for the amount specified above, payable to the "Treasurer, United States of America," via certified mail, to:

Regional Hearing Clerk
U.S. EPA, Region 10
Fines and Penalties, Cincinnati Finance Center
In the Matter of: City of Pierce
Docket No.: CWA 10-2024-0091
P.O. Box 979078
St. Louis, MO 63197-9000

Respondent agrees that consistent with section 162(f)(1) of the Internal Revenue Code, 26 U.S.C. § 162(f)(1), it will not deduct the penalties paid under this Agreement for federal tax purposes.

This Agreement, upon incorporation into a Final Order and full satisfaction by the parties, shall be a complete and full resolution of Respondent's liability for federal civil penalties for the violations and facts alleged in the Violations Form. This Agreement does not affect the right of the EPA or the United States to pursue additional violations not specifically listed in the Violations Form or appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. Nothing in this Agreement shall relieve Respondent of the duty to comply with the Act and any regulation, order, or permit issued pursuant to the Act.

Prior to requesting that an EPA Regional Judicial Officer issue the Final Order, EPA will provide a copy of the Agreement to the state of Idaho for the purposes of consultation with Idaho on the appropriateness of this Agreement. EPA will also provide public notice of this Agreement and a reasonable opportunity for public comment on it. EPA will address any comments on the Agreement in accordance with section 309(g)(4) of the Act, 33 U.S.C. § 1319(g)(4), and 40 C.F.R. § 22.45.

This Agreement is binding on the parties signing below and becomes final 30 days from the date it signed is by the Regional Judicial Officer, unless a petition to set aside this Agreement is filed by a commenter pursuant to Section 309(g)(5) of the Act, 33 U.S.C. §1391(g)(5), following public notice of this Agreement.

APPROVED BY RESPONDENT:

Name
(print): _____

Title
(print): _____

Signature: _____ Date: _____

APPROVED BY EPA:

Edward J. Kowalski, Director
Enforcement and Compliance Assurance Division

More than 40 days have elapsed since providing the Agreement to Idaho and the issuance of public notice pursuant to Section 309(g)(1) and (4)(A) of the Act, 33 U.S.C. § 1319(g)(1) and (4)(A), and EPA has received no comments concerning this matter.

Wesley Simmons, Case Officer
Enforcement and Compliance Assurance Division

Having determined that this Agreement is authorized by law,
IT IS SO ORDERED:

Regional Judicial Officer
Region 10
U.S. Environmental Protection Agency

Expedited Settlement Offer Worksheet Violations Form For Wastewater

Version 1 (updated April 2019)

Consult instructions regarding eligibility criteria and procedures prior to use.



LEGAL NAME AND MAILING ADDRESS OF RESPONSIBLE ENTITY		NPDES Permit Number											
1		PIERCE, CITY OF P.O. BOX 356	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">Permit Effective Date:</td> <td>06/01/2018</td> </tr> <tr> <td>Permit Expiration Date:</td> <td>05/31/2023</td> </tr> </table>	Permit Effective Date:	06/01/2018	Permit Expiration Date:	05/31/2023						
Permit Effective Date:	06/01/2018												
Permit Expiration Date:	05/31/2023												
LOCATION AND ADDRESS OF FACILITY		EPA Contact Name:											
2		15 FROMELT ROAD	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">EPA Contact Title:</td> <td>NPDES Enforcement Officer</td> </tr> <tr> <td>EPA Office:</td> <td>R10, Seattle Wa</td> </tr> </table>	EPA Contact Title:	NPDES Enforcement Officer	EPA Office:	R10, Seattle Wa						
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EPA Office:	R10, Seattle Wa												
FACILITY DESCRIPTION / CONTACT NAMES													
3		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">Name of Facility Contact (ESO Worksheet recipient):</td> <td>Jack Koepke (Operator)</td> </tr> <tr> <td>Name of Authorized Official (40 CFR 122.22):</td> <td>Greg Gerot (Mayor)</td> </tr> <tr> <td>Are any findings a result of an inspection?</td> <td>No</td> </tr> <tr> <td>Inspection Date(s) (if applicable):</td> <td>n/a</td> </tr> </table>	Name of Facility Contact (ESO Worksheet recipient):	Jack Koepke (Operator)	Name of Authorized Official (40 CFR 122.22):	Greg Gerot (Mayor)	Are any findings a result of an inspection?	No	Inspection Date(s) (if applicable):	n/a	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">Name of Receiving Water Body (Indicate whether 303(d) listed):</td> <td>Orofino Creek, 303D Listed</td> </tr> </table>	Name of Receiving Water Body (Indicate whether 303(d) listed):	Orofino Creek, 303D Listed
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Inspection Date(s) (if applicable):	n/a												
Name of Receiving Water Body (Indicate whether 303(d) listed):	Orofino Creek, 303D Listed												
PRIVATE ENTITY ADJUSTMENT FACTOR													
4			1.0										

FLOW ADJUSTMENT FACTOR

5	Select the appropriate average volume of flow on a day of discharge in millions of gallons per day (MGD). If a facility discharges only on a periodic basis, do <u>not</u> include days with zero flow when calculating the average flow:				
	A	<0.050 mgd (no adjustment is applied)	No adjustment factor is applied.		
	B	≥0.050 mgd and <0.250 mgd	Adjustment factor of 1.5 is applied.	X	1.5
	C	≥0.250 mgd and <1 mgd	Adjustment factor of 3.0 is applied.		
	D	≥1 mgd and <5 mgd	Adjustment factor of 6.0 is applied.		
	E	≥5 mgd and <10 mgd	Adjustment factor of 10.0 is applied.		
	F	≥10 mgd and <50 mgd	Adjustment factor of 15.0 is applied.		
	G	≥50 mgd	Adjustment factor of 20.0 is applied.		

REPEAT VIOLATOR ADJUSTMENT FACTOR

6	A	How many other state and federal formal enforcement actions has the responsible entity been subject to in the last three years? Include enforcement actions at this facility and any other facilities.	For each enforcement action, adjustment factor is increased 50%.		1.0
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TOTAL ADJUSTMENT FACTOR				1.50
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Notes: * RCA = Requires Corrective Action

			Violation(s) / Corrective Action(s)	CWA / Permit Citation	R C A*	No. of Viol- actions	Dollar Amount w/ Adjust. Factor	Total
MONITORING / REPORTING			ESA eligible if violations occurred within the 24 months immediately prior to the ESA offer.					
7	Failure to submit compliance schedule report:	Section I, Part C, 8, b requires the Surface Water Monitoring Report to be submitted in the annual report by January 31 of the following year.						
A	Late but less than 30 days late	The 2022 annual report was submitted late, on 3/7/2023. The 2023 annual report was submitted late, on 4/4/2024	Section I, Part C, 8, b			2	\$75 =	\$226
B	Submitted more than 30 days late						\$113 =	
C	Not submitted						\$225 =	
8	Failure to submit timely discharge monitoring report (DMR) and/or DMR submitted with failure to conduct self-monitoring:	Per Part III, B, and the permit's "Schedule of Submission" the Permittee must submit monitoring data by the 20th of the month following the monitoring month. The Permittee failed to submit DMRs during the following monitoring periods for the indicated parameters.						
A	DMR late but less than 30 days late	8/31/23 (1 day late) Solids, Total suspended (Raw Sewage Influent) 9/30/2023 (5 days late) Solids, suspended percent removal Solids, Total suspended (Effluent Gross) 10/31/2023 (2 days late) BOD, 5-day, 20 deg. C (Effluent Gross)	Part III, B and the permit's "Schedule of Submission"			4	\$75 =	\$300
B	DMR submitted more than 30 days late	7/31/2023 (31 days late) Solids, Total suspended (Raw Sewage Influent)					1	\$113 =

	C	DMR not submitted or DMR submitted with a failure to sample pollutants - conventional pollutants (count each conventional pollutant not reported or not sampled as a violation; BOD, TSS, pH, oil and grease, e. coli, fecal coliform)	5/31/2022 (not submitted) Dissolved Oxygen N, Kjeldahl Nitrite + Nitrate (as N) Phosphorus, Total (as P) Oil and Grease Chlorine, Total Residual Solids, Total dissolved		7	\$113 =	\$791	
	D	DMR not submitted or DMR submitted with a failure to sample pollutants - toxic pollutants (count each toxic pollutant not reported or not sampled as a violation)				\$113 =		
9		Failure to conduct self-monitoring in accordance with permit requirements, including but no limited to required sample type, sample location, representative sampling, meeting 40 CFR 136 or other permit requirements (count each pollutant with one or more failures)				\$38 =		
10		Failure to submit any other required report or notice (e.g., biosolids report, pretreatment report, industrial user notification, planned changes, anticipated noncompliance, anticipated bypass, etc.):						
	A	Late but less than 30 days late				\$75 =		
	B	Submitted more than 30 days late				\$113 =		
	C	Not submitted				\$225 =		
11		24-Hour Noncompliance Notice						
	A	Failure to provide notice of noncompliance				\$113 =		
	B	Noncompliance notice late				\$75 =		
12		5-Day Written Noncompliance Follow-up Report:						
	A	Failure to provide report				\$113 =		
	B	Report provided late and/or incomplete				\$75 =		
13		Noncompliance Not Required Within 24 Hours:						
	A	Failure to provide report with DMR				\$38 =		
	B	Report provided late and/or incomplete				\$15 =		
Subtotal Monitoring / Reporting Violations								\$1,430

OPERATIONS AND MAINTENANCE		ESA eligible if violations occurred within the 24 months immediately prior to the ESA offer.					
14	Failure to conduct and document self-inspections of facility (count each month with one or more missed and/or undocumented inspection)				\$60	=	
15	Failure to document all required information in self-inspections or conduct a complete inspection (count each month with one or more partially documented/completed inspection unless the month is accounted for in #15)				\$30	=	
16	Failure to identify and document corrective actions				\$30	=	
17	Failure to meet operation and maintenance requirement of the permit				\$150	=	
18	Failure to manage removed substances in accordance with the permit				\$375	=	
Subtotal Operations and Maintenance Violations							\$0

EFFLUENT LIMITATIONS		ESA eligible if violations occurred within the 12 months immediately prior to the ESA offer.					
19	Failure to meet effluent limitations:	The Permittee must meet the effluent limits per Part I, B, Table 1 of the permit. The Permittee exceeded the permit effluent limits on during the following monitoring periods with the corresponding parameter exceedances;					
A	Months with effluent exceedance less than 40% above the limit - conventional pollutants (count each conventional pollutant separately as a violation; BOD, TSS, pH, oil and grease, e. coli, fecal coliform)				\$75	=	
B	Months with effluent exceedance 40% or more above the limit - conventional pollutants (count each conventional pollutant separately as a violation; BOD, TSS, pH, oil and grease, e. coli, fecal coliform)		4/30/2023 Solids, suspended percent removal >40%	Part I, B, Table 1	2	\$113	=
		5/31/2023 Solids, suspended percent removal >40%					

C	Months with effluent exceedance less than 20% above the limit - toxic pollutants (count each toxic pollutant separately as a violation)				\$150 =	
E	Months with effluent exceedance 20% or more above the limit - toxic pollutants (count each toxic pollutant separately as a violation)				\$300 =	
Subtotal Effluent Limitations Violations						\$226
RECORDS ESA eligible if violations occurred within the 24 months immediately prior to the ESA offer.						
20	Failure to create/maintain sampling and/or analysis records (count each month with one or more failure)				\$60 =	
21	Failure to maintain other records required by the permit (count each month with one or more failure excluding records not maintained in #22)				\$38 =	
Subtotal Records Violations						\$0
INDUSTRIAL WASTE ESA eligible if violations occurred within the 60 months immediately prior to the ESA offer.						
22	Failure to meet industrial waste management/pretreatment requirement for POTWs without approved pretreatment programs (excluding failure to provide notice counted in #11)				\$150 =	
ECONOMIC BENEFIT ESTIMATE ESA eligible if estimated economic benefit of noncompliance is less than total ESA offer.						
23	Enter total estimate economic benefit calculated rounded up to the nearest \$50	\$	675		ESA eligible	
Total Expedited Settlement						\$1,656