



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

Docket Number: CWA-10-2024-0211, NPDES No. WA0024031

Penalty Amount: **\$4,350**, Desk Audit Date: August 1, 2024

The United States Environmental Protection Agency (EPA) and the City of Lynnwood Wastewater Treatment Plant (“Respondent”), a “person” within the meaning of Section 502(5) of the Clean Water Act, 33 U.S.C § 1362(5), and 40 C.F.R § 122.2 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 **\$4,350**. 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 Lynnwood Wastewater Treatment Plant
Docket No.: CWA-10-2024-0211
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 Washington for the purposes of consultation with Washington 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 Washington 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.

Vanessa Oquendo, 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	Christine Frizzell Mayor, City of Lynnwood 19100 44th Avenue West Lynnwood, Washington 98046	WA0024031			
		Permit Effective Date:		March 1, 2019	
		Permit Expiration Date:		February 29, 2024 (admin ext)	
LOCATION AND ADDRESS OF FACILITY		EPA Contact Name:		Vanessa Oquendo	
2	City of Lynnwood Wastewater Treatment Plant 17000 76th Avenue West Edmonds, Washington 98026	EPA Contact Title:		Compliance Officer	
		EPA Office:		Region 10 - Seattle, WA	
		FACILITY DESCRIPTION / CONTACT NAMES			
3	Name of Facility Contact (ESO Worksheet recipient):		Mayor Christine Frizzell with Jared Bond and Tanner Boyle cc'd		
	Name of Authorized Official (40 CFR 122.22):		Mayor Christine Frizzell		
	Are any findings a result of an inspection?		No		
	Inspection Date(s) (if applicable):				
	Name of Receiving Water Body (Indicate whether 303(d) listed):		Browns Bay - Puget Sound		
PRIVATE ENTITY ADJUSTMENT FACTOR					
4	Is the entity privately owned?	If yes, adjustment factor of 2.0 is applied.	No		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.		
	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.	X	6.0
	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%.	0	1.0
				TOTAL ADJUSTMENT FACTOR	
				6.00	

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:	2/28/24 - Late submittal of biomonitoring report (acute toxicity testing) with due date of 1/30/24 and submittal date of 2/28/24. 12/22/23 - Late submittal of biomonitoring report (acute toxicity testing) with due date of 10/30/23 and submittal date of 12/22/23. Late submittal of biomonitoring report (acute toxicity testing) with due date of 4/30/23 and submittal date of 5/11/23. Late submittal of biomonitoring report (acute toxicity testing) with due date of 7/30/22 and submittal date of 8/19/22.	S8.C.3 and S9.A.2					
A	Late but less than 30 days late				3	\$300	=	\$900
B	Submitted more than 30 days late				1	\$450	=	\$450
C	Not submitted					\$900	=	
8	Failure to submit timely discharge monitoring report (DMR) and/or DMR submitted with failure to conduct self-monitoring:							
A	DMR late but less than 30 days late					\$300	=	
B	DMR submitted more than 30 days late					\$450	=	
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)					\$450	=	
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)			\$450	=			
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)					\$150	=	

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					\$300	=	
B	Submitted more than 30 days late					\$450	=	
C	Not submitted					\$900	=	
11	24-Hour Noncompliance Notice							
A	Failure to provide notice of noncompliance					\$450	=	
B	Noncompliance notice late					\$300	=	
12	5-Day Written Noncompliance Follow-up Report:							
A	Failure to provide report					\$450	=	
B	Report provided late and/or incomplete					\$300	=	
13	Noncompliance Not Required Within 24 Hours:							
A	Failure to provide report with DMR					\$150	=	
B	Report provided late and/or incomplete					\$60	=	
Subtotal Monitoring / Reporting Violations								\$1,350

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)					\$240	=	
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)					\$120	=	
16	Failure to identify and document corrective actions					\$120	=	
17	Failure to meet operation and maintenance requirement of the permit					\$600	=	
18	Failure to manage removed substances in accordance with the permit					\$1,500	=	
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:	5/1/24 with reported value of 35.7 mg/L and limit of 30 mg/L; 12/1/23 with reported value of 38.5 mg/L and limit of 30 mg/L. Weekly TSS exceedances: 4/1/24 with reported value of 61.6 mg/L and limit of 45 mg/L; 2/1/24 with reported value of 60.3 mg/L and limit of 45 mg/L; 12/1/23 with reported value of 135.5 mg/L and limit of 45 mg/L. Did not meet monthly 85% average influent TSS removal: 12/1/23 with reported value of 77.8%. 12/1/23 - Did not meet weekly average TSS load of 2777 lbs/day with reported value of 10013 lbs/day. Did not meet monthly average TSS of 1851lbs/day with reported value of 2649 lbs/day. Did not meet weekly average CBOD5 of 2469 lbs/day with reported value of 2675.4 lbs/day.	S1.A	7	\$300	=	\$2,100
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)						
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)		S1.A	2	\$450	=	\$900
C	Months with effluent exceedance less than 20% above the limit - toxic pollutants (count each toxic pollutant separately as a violation)				\$600	=	
E	Months with effluent exceedance 20% or more above the limit - toxic pollutants (count each toxic pollutant separately as a violation)				\$1,200	=	
			Subtotal Effluent Limitations Violations				\$3,000
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)				\$240	=	
21	Failure to maintain other records required by the permit (count each month with one or more failure excluding records not maintained in #22)				\$150	=	
			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)				\$600	=	
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	\$	3,875	ESA eligible			
			Total Expedited Settlement				\$4,350