



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

Docket Number: CWA-10-2024-0214, NPDES No. WA0020907  
Penalty Amount: \$675, Desk Audit Date: August 1, 2024

The United States Environmental Protection Agency (EPA) and the City of Bainbridge Island 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 \$675. 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](http://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 Bainbridge Island**  
**Wastewater Treatment Plant**  
**Docket No.: CWA-10-2024-0214**  
**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:

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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.

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Vanessa Oquendo, Case Officer  
Enforcement and Compliance Assurance Division

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

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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	Joe Deets Mayor, City of Bainbridge Island 280 Madison Avenue N Bainbridge Island, WA 98110	WA0020907			
		Permit Effective Date:	August 1, 2017		
		Permit Expiration Date:	July 31, 2022 (admin ext)		
LOCATION AND ADDRESS OF FACILITY		EPA Contact Name:	Vanessa Oquendo		
2	City of Bainbridge Island Wastewater Treatment Plant 1220 Donald Place Bainbridge Island, WA 98110	EPA Contact Title:	Compliance Officer		
		EPA Office:	Region 10 - Seattle, WA		
FACILITY DESCRIPTION / CONTACT NAMES					
		Name of Facility Contact (ESO Worksheet recipient):	Mayor Joe Deets with Mark Horton and Tom Edwards cc'd		
		Name of Authorized Official (40 CFR 122.22):	Mayor Joe Deets		
		Are any findings a result of an inspection?	No		
		Inspection Date(s) (if applicable):			
3		Name of Receiving Water Body (Indicate whether 303(d) listed):	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.	X	3.0
	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%.	0	1.0
				<b>TOTAL ADJUSTMENT FACTOR</b>	<b>3.00</b>

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	
<b>MONITORING / REPORTING</b>								
<b>ESA eligible if violations occurred within the 24 months immediately prior to the ESA offer.</b>								
7	Failure to submit compliance schedule report:	Late submittal of the quarterly biomonitoring report due 10/30/22 - acute toxicity testing (submitted lated on 11/14/22). Late submittal of the quarterly biomonitoring report due 4/30/23 - acute toxicity testing (submitted on 5/8/23). Late submittal of the quarterly biomonitoring report - acute toxicity testing due 1/30/24 (submitted late on 3/19/24).	S9.C					
A	Late but less than 30 days late			No	2	\$150	=	\$300
B	Submitted more than 30 days late			No	1	\$225	=	\$225
C	Not submitted					\$450	=	
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					\$150	=	
B	DMR submitted more than 30 days late					\$225	=	
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)			Yes		\$225	=	
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)	Yes		\$225	=			
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)	1/1/23: Improper analysis or lab error - samples sent to Spectra labs for BOD because of incubator temperature problem -exceeded BOD hold time Analysis not conducted on 1/30/23 for TSS (influent and effluent - lbs/day, %, and composite sample-mg/L) due to Spectra labs not running those samples- short on weekly requirement	S2	Yes	2	\$75	=	\$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,						
	A	Late but less than 30 days late				\$150	=	
	B	Submitted more than 30 days late				\$225	=	
	C	Not submitted				\$450	=	
11		24-Hour Noncompliance Notice						
	A	Failure to provide notice of noncompliance				\$225	=	
	B	Noncompliance notice late				\$150	=	
12		5-Day Written Noncompliance Follow-up Report:						
	A	Failure to provide report				\$225	=	
	B	Report provided late and/or incomplete				\$150	=	
13		Noncompliance Not Required Within 24 Hours:						
	A	Failure to provide report with DMR				\$75	=	
	B	Report provided late and/or incomplete				\$30	=	
<b>Subtotal Monitoring / Reporting Violations</b>								<b>\$675</b>

<b>OPERATIONS AND MAINTENANCE</b>		<b>ESA eligible if violations occurred within the 24 months immediately prior to the ESA offer.</b>							
14		Failure to conduct and document self-inspections of facility (count each month with one or more missed and/or undocumented inspection)					\$120	=	
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)					\$60	=	
16		Failure to identify and document corrective actions					\$60	=	
17		Failure to meet operation and maintenance requirement of the permit					\$300	=	
18		Failure to manage removed substances in accordance with the permit					\$750	=	
<b>Subtotal Operations and Maintenance Violations</b>								<b>\$0</b>	

<b>EFFLUENT LIMITATIONS</b>		<b>ESA eligible if violations occurred within the 12 months immediately prior to the ESA offer.</b>				
19	Failure to meet effluent limitations:					
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)				\$150 =	
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)				\$225 =	
C	Months with effluent exceedance less than 20% above the limit - toxic pollutants  (count each toxic pollutant separately as a violation)				\$300 =	
E	Months with effluent exceedance 20% or more above the limit - toxic pollutants  (count each toxic pollutant separately as a violation)				\$600 =	
<b>Subtotal Effluent Limitations Violations</b>						<b>\$0</b>
<b>RECORDS</b>		<b>ESA eligible if violations occurred within the 24 months immediately prior to the ESA offer.</b>				
20	Failure to create/maintain sampling and/or analysis records (count each month with one or more failure)				\$120 =	
21	Failure to maintain other records required by the permit (count each month with one or more failure excluding records not maintained in #22)				\$75 =	
<b>Subtotal Records Violations</b>						<b>\$0</b>
<b>INDUSTRIAL WASTE</b>		<b>ESA eligible if violations occurred within the 60 months immediately prior to the ESA offer.</b>				
22	Failure to meet industrial waste management/pretreatment requirement for POTWs without approved pretreatment programs (excluding failure to provide notice counted in #11)				\$300 =	
<b>ECONOMIC BENEFIT ESTIMATE</b>		<b>ESA eligible if estimated economic benefit of noncompliance is less than total ESA offer.</b>				
23	Enter total estimate economic benefit calculated rounded up to the nearest \$50				<b>ESA eligible</b>	
<b>Total Expedited Settlement</b>						<b>\$675</b>