UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
INDUSTRIAL STORMWATER EXPEDITED SETTLEMENT AGREEMENT

IN THE MATTER OF:)
)
Cedar Valley Recycling and Transfer Co.,   )
)
Respondent.   )
)
_____   )

DOCKET NO.: CWA-07-2023-0019

Expedited Settlement Agreement and Final Order
Pursuant to Clean Water Act Section 309(g)(2)(A)

NPDES Permit No.: Unpermitted

The undersigned representative of the United States Environmental Protection Agency (EPA) and Cedar Valley Recycling and Transfer Co., a corporation, (Respondent) enter into this Expedited Settlement Agreement (Agreement) to resolve Respondent's civil penalty liability for violations of the Clean Water Act (CWA or Act). On May 10 and 12, 2022, representatives of EPA inspected the Respondent's facility at 1920 Water Street, Waterloo, Iowa 50703 (Facility).

Based on information obtained during the EPA inspection, the EPA finds that: (1) Respondent, who is an owner/operator of the Facility, discharged industrial stormwater pollutants from the Facility without authorization by an NPDES permit issued pursuant to the CWA in violation of Section 301 of the Act, 33 U.S.C. § 1311; (2) Respondent is a "person" as defined in Section 502(5) of the Act, 33 U.S.C. § 1362(5); and (3) Respondent is responsible for the alleged violations specified in the attached "Industrial Non-Filer Expedited Settlement Worksheet" (Worksheet). The Worksheet is hereby 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). Respondent neither admits nor denies the factual allegations alleged in the Worksheet.

The EPA is authorized to enter into this Agreement under the authority vested in the Administrator by Section 309(g) of the Act, 33 U.S.C. § 1319(g), and by 40 C.F.R. § 22.13(b) and § 22.18.

Respondent consents to the assessment of a civil penalty and agrees to pay $15,000. Respondent waives the right to: (1) contest the allegations in the Worksheet; (2) a hearing pursuant to Section 309(g)(2) of the Act, 33 U.S.C. § 1319(g)(2); (3) appeal the Final Order; and (4) judicial review pursuant to CWA § 309 (g)(8), 33 U.S.C. § 1319(g)(8). The civil penalty will be due within thirty (30) days of the Effective Date of this Expedited Settlement Agreement and Final Order and shall be made in accordance with the attached Expedited Settlement Agreement Payment Instructions (Payment Instructions), incorporated herein by reference. Respondent agrees to bear its own costs and attorney's fees related to this ESA.

Failure by Respondent to pay the penalty assessed by this ESA and Final Order in full by its due date may subject Respondent to a civil action to collect the assessed penalty plus interest, attorney's fees, costs and an additional quarterly nonpayment penalty pursuant to CWA § 309(g)(9)(B), 33 U.S.C. § 1319(g)(9)(B). In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review. Pursuant to Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), and 40 C.F.R. § 22.38(b), the state of Iowa was provided a prior opportunity to consult with the EPA regarding this matter.

By signing this Agreement, Respondent certifies that: (1) the alleged violations listed in the Worksheet have been corrected, and Respondent has submitted true and accurate documentation to the EPA of such correction; and (2) consistent with Section 162(f)(1) of the Internal Revenue Code, 26 U.S.C. § 162(f)(1), Respondent will not deduct penalties paid under this Agreement for federal tax purposes.

This Agreement, upon incorporation into the 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 of Section 301(a) of the CWA alleged in the Worksheet. This Agreement does not affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law or to issue an administrative compliance order, e.g., for any uncorrected violations listed in the Worksheet. 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.

Pursuant to Section 309(g)(4) of the CWA, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45, the EPA will provide public notice of this Agreement and a reasonable opportunity for the public to comment on the proposed issuance of this Agreement prior to issuance of the Final Order.

If Respondent does not sign and return this ESA as presented within 30 days of the date of its receipt, or within an extension timeframe approved by EPA, this proposed ESA is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violations identified in the Worksheet.

Respondent consents to service of this ESA and Final Order to the email addresses provided herein.

This Agreement is binding on the parties signing below. Each person signing this Agreement certifies that he or she has the authority to sign for the party who he or she represents and to bind that party to its terms. The Expedited Settlement Agreement and Final Order are effective the date of filing with the Regional Hearing Clerk. Once the ESA is signed by the Regional Judicial Officer, the original ESA will be filed with the Regional Hearing Clerk. A copy of the filed ESA will be emailed to Respondent.

Attachments:

1. Worksheet
2. Payment Instructions

FINAL ORDER

Having determined that this Agreement is authorized by law, the foregoing Expedited Settlement Agreement is hereby incorporated into the Final Order.

IT IS SO ORDERED:

_____

Karina Borromeo
Regional Judicial Officer

APPROVED BY RESPONDENT:

Name (print): __JOHN BANGUS__

Title (print): __OPERATIONS MANAGER__

Email: __JOHN@BLACKHAWKWASTE.COM__

Signature: __John Bangus__ Date: __5/10/2023__

APPROVED BY THE EPA:

_____

David Cozad
Director
Enforcement and Compliance Assurance Division