

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

BEFORE THE ADMINISTRATOR

IN THE MATTER OF:)	
)	
City of Philadelphia)	Docket No. CWA-07-2024-0136
)	
Respondent)	
)	
Proceedings under)	Consent Agreement and
Section 309(g) of the Clean Water Act,)	Final Order
33 U.S.C. § 1319(g))	
)	

Preliminary Statement

1. This is an administrative action for the assessment of civil penalties initiated 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 United States Environmental Protection Agency's (“EPA”) 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 (“Consolidated Rules of Practice”).

2. Complainant, EPA Region 7, and Respondent, the city of Philadelphia, 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 Consent Agreement and Final Order (“CAFO”) serves as notice that the EPA has reason to believe that Respondent violated Section 405 of the CWA, 33 U.S.C. § 1345, and a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and regulations promulgated thereunder and codified at 40 C.F.R. Part 503.

Parties

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

5. Respondent is the city of Philadelphia (hereafter “City” or “Respondent”), a municipality organized under the laws of the Commonwealth of Pennsylvania.

Statutory and Regulatory Framework

6. Section 405(a) of the CWA, 33 U.S.C. § 1345(a), prohibits the disposal of sewage sludge resulting from the operation of a treatment works where the disposal would result in any pollutant from such sewage sludge entering the navigable waters, except in accordance with a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

7. Section 402 of the CWA, 33 U.S.C. § 1342, 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.

8. Section 405(d)(1) of the CWA, 33 U.S.C. § 1345(d)(1), provides that the Administrator shall develop and publish regulations providing guidelines for the disposal of sludge and the utilization of sludge for various purposes.

9. Pursuant to Section 405(d)(1) of the CWA, the EPA promulgated regulations governing the Standards for the Use or Disposal of Sewage Sludge which are set forth at 40 C.F.R. Part 503 (the “Sludge Management Program”). These regulations establish recordkeeping and reporting requirements, pollutant limits and site management practices applicable to owners or operators of treatment works treating domestic sewage, and standards for the final use or disposal of sewage sludge generated during the treatment of domestic sewage in treatment works.

10. The Pennsylvania Department of Environmental Protection (“PDEP”) is the state agency with the authority to administer the federal NPDES program in Pennsylvania pursuant to Section 402 of the CWA.

11. The Commonwealth of Pennsylvania has not applied for or obtained primary authority to administer and enforce the sludge management program pursuant to Sections 402(b) or 405(c) of the CWA, 33 U.S.C. §§ 1342(b) or 1345(c), and 40 C.F.R. Part 503. The EPA directly implements the sludge management program in Pennsylvania, and is therefore the “permitting authority,” as defined by 40 C.F.R. § 503.9(p), for purposes of the sludge management program.

12. Section 405(e) of the CWA, 33 U.S.C. § 1345(e), prohibits the disposal of sludge from a publicly owned treatment works or any other treatment works treating domestic sewage for any use for which regulations have been established pursuant to subsection (d) of that Section, except in accordance with such regulations.

13. The regulations found in Subpart B of 40 C.F.R. Part 503 apply to any person who prepares sewage sludge that is applied to the land, to any person who applies sewage sludge to the land, to sewage sludge applied to the land, and to the land on which sewage sludge is applied. 40 C.F.R. § 503.10(a).

14. Pursuant to 40 C.F.R. § 503.9(w), “sewage sludge” is solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works.

15. Pursuant to 40 C.F.R. § 503.9(z), “treatment of sewage sludge” is the preparation of sewage sludge for final use or disposal.

16. Pursuant to 40 C.F.R. § 503.9(r), a “person who prepares sewage sludge” is either the person who generates sewage sludge during the treatment of domestic sewage in a treatment works or the person who derives a material from sewage sludge.

17. Pursuant to Section 502(4) of the CWA, 33 U.S.C. § 1362(4), and 40 C.F.R. § 503.9(o), a “municipality” is defined to mean a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes.

18. Pursuant to Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and 40 C.F.R. § 503.9(q), a “person” is defined to include a municipality.

19. Pursuant to 40 C.F.R. § 503.9(a), “apply sewage sludge or sewage sludge applied to land” means land application of sewage sludge.

20. Pursuant to 40 C.F.R. § 503.11(h), “land application” means the spraying or spreading of sewage sludge onto the land surface; the injection of sewage sludge below the land surface; or the incorporation of sewage sludge into the soil so that the sewage sludge can either condition the soil or fertilize crops or vegetation grown in the soil.

21. Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), authorizes the issuance of a penalty against any person who violates Section 405 of the CWA, 33 U.S.C. § 1345, or a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

EPA’s General Allegations

22. Respondent is a “municipality” and a “person” as defined by Sections 502(4) and (5) of the CWA, 33 U.S.C. §§ 1362(4) and (5), and 40 C.F.R. §§ 503.9(o) and (q), respectively.

23. At all relevant times, Respondent has owned and/or operated publicly owned treatment works (“POTW”), as defined by 40 C.F.R. § 403.3(q), Southwest Water Pollution Control Plant, located at 8200 Enterprise Ave., Philadelphia, Pennsylvania 19153 (hereafter

“Facility”). Respondent utilized the Facility for the “treatment of sewage sludge” as defined in 40 C.F.R. § 503.9(z).

24. Respondent generates “sewage sludge” that is used for “land application” as these terms are defined by 40 C.F.R. §§ 503.9(w) and 503.11(h), respectively. Respondent land applies its sewage sludge at agricultural and mine restoration locations in and around the Commonwealth of Pennsylvania.

25. Respondent is a "person who prepares sewage sludge," as defined at 40 C.F.R. § 503.9(r), and is subject to Section 405 of the CWA, 33 U.S.C. § 1345, and 40 C.F.R. Part 503. PDEP issued NPDES Permit Number PA0026671 for Respondent’s Facility on August 15, 2007. NPDES Permit Number PA0026671 reiterates Respondent’s requirements to comply with Section 405 of the CWA and 40 C.F.R. Part 503.

Failure to Submit Annual Reports

26. The paragraphs above are herein incorporated.

27. Respondent is required by 40 C.F.R. § 503.18 and its NPDES Permit to submit an annual report to the EPA, each year by no later than February 19 regarding its sludge activities for the preceding calendar year.

28. Respondent failed to submit annual reports to EPA for biosolids disposal activities for the years 2021, 2022, and 2023.

29. Respondent’s failure to submit annual reports as required by 40 C.F.R. § 503.18 and its NPDES Permit is a violation of § 503.18 and the conditions and limitations of the NPDES Permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

Failure to Meet Vector Attraction Reduction Requirements

30. The paragraphs above are herein incorporated.

31. 40 C.F.R §503.33(a)(1) provides that “one of the vector attraction reduction requirements in §503.33(b)(1) through (b)(10) shall be met when bulk sewage sludge is applied to agricultural land, forest, a public contact site, or a reclamation site.”

32. Respondent submitted notification letters dated April 10, 2024, and April 21, 2024, to PDEP alerting the department of Respondent’s noncompliance with vector attraction reduction requirements and biosolids disposal requirements since January of 2022.

33. Respondent's noncompliant Class B biosolids produced were provided to and land applied by Respondent's contractor between January 2022 and February 2024.

34. Respondent's failure to meet vector attraction reduction requirements for land applied bulk sewage sludge is a violation of 40 C.F.R. § 503.33(a)(1) and the conditions and limitations of the NPDES Permit, and Section 405 of the CWA, 33 U.S.C. § 1345.

Failure to Meet Pathogen Reduction Requirements

35. The paragraphs above are herein incorporated.

36. 40 C.F.R. §503.32(a) and 503.32(b) provide pathogen reduction requirements for sewage sludge. Under 40 C.F.R. 503.32(b), pathogens in Class B sewage sludge must be reduced to levels that are unlikely to pose a threat to public health and the environment under specific use conditions.

37. 40 C.F.R. § 503.32(b)(1) requires that Class B sewage sludge must meet the pathogen requirements of either § 503.32(b)(2) through (b)(4) and the site restrictions in § 503.32(b)(5).

38. Respondent submitted notification letters dated April 10, 2024, and April 21, 2024, to PDEP alerting the agency of Respondent's noncompliance with pathogen reduction requirements and biosolids disposal requirements since January of 2022.

39. Respondent's noncompliant Class B biosolids were provided to and land applied by Respondent's contractor between January 2022 and February 2024.

40. Respondent's failure to comply with the pathogen reduction requirements for Class B sewage sludge, as described above, is a violation of 40 C.F.R. § 503.32(b), the conditions and limitations of the NPDES permit, and Section 405 of the CWA, 33 U.S.C. § 1345.

CONSENT AGREEMENT

41. Respondent and the EPA agree to the terms of this Consent Agreement and Final Order.

42. Respondent admits the jurisdictional allegations of this Complaint and Consent Agreement and Final Order and agrees not to contest the EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of the Consent Agreement and Final Order.

43. Respondent neither admits nor denies the factual allegations in this Consent Agreement and Final Order.

44. 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 this Consent Agreement and the accompanying proposed Final Order.

45. Respondent and Complainant each agree to resolve the matters set forth in this Consent Agreement and Final Order without the necessity of a formal hearing and agree to bear their own costs and attorney's fees.

46. Respondent consents to receive service of the filed Consent Agreement and Final Order electronically at the following email address: Benjamin.Jewell@phila.gov.

47. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind Respondent to it.

48. Respondent understands and agrees that this Consent Agreement and Final Order 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 Consent Agreement and Final Order.

49. Respondent certifies by signing this Consent Agreement and Final Order that Respondent is currently in compliance with all requirements of the CWA and its implementing regulations, including but not limited to the requirements of 40 C.F.R. Part 503.

50. This Consent Agreement and Final Order addresses all civil administrative claims for CWA violations identified above. Complainant reserves the right to take any enforcement action with respect to other violations of the CWA or any other applicable law.

51. Based upon the facts alleged in this CAFO, and upon the nature, circumstances, extent, and gravity of the violations alleged, as well as Respondent's ability to pay, prior history of such violations, degree of culpability, economic benefit or savings (if any) resulting from the violations, and such other matters as justice may require, U.S. EPA has determined that an appropriate civil penalty to settle this action is **\$203,563**.

Penalty Payment

52. Respondent agrees to pay a civil penalty in the amount of **Two Hundred Three Thousand Five Hundred and Sixty-Three Dollars (\$203,563)** ("Assessed Penalty") within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date").

53. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, CWA-07-2024-0136,
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

Amy Gonzales
Regional Hearing Clerk
U.S. Environmental Protection Agency Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219
r7_hearing_clerk_filings@epa.gov

and

Kristina Gonzales
Office of Regional Counsel
U.S. Environmental Protection Agency
11201 Renner Boulevard
Lenexa, Kansas 66219
Gonzales.kristina@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

54. Interest, Charges, and Penalties on Late Payments. Pursuant to 33 U.S.C. § 1319(g)(9), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this

Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and EPA is authorized to recover the following amounts:

- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until the unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. Interest will be assessed at prevailing rates, per 33 U.S.C. § 1319(g)(9). The rate of interest is the IRS standard underpayment rate.
- b. Handling Charges. The United States' enforcement expenses including, but not limited to, attorneys' fees and costs of collection proceedings.
- c. Late Payment Penalty. A twenty percent (20%) quarterly non-payment penalty.

55. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following:

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
- b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
- c. Suspend or revoke Respondent's licenses or other privileges or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
- d. Request that the Attorney General bring a civil action in the appropriate district court to recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, pursuant to 33 U.S.C. § 1319(g)(9). In any such action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

56. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second

to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

57. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

Effect of Settlement and Reservation of Rights

58. Respondent's payment of the entire penalty pursuant to this Consent Agreement and Final Order resolves all civil and administrative claims pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), for violations alleged in this Consent Agreement and Final Order. Complainant reserves the right to take any enforcement action with respect to any other violations of the CWA or any other applicable law.

59. The effect of settlement described above is conditioned upon the accuracy of the Respondent's representations to the EPA, as memorialized in this Consent Agreement and Final Order.

60. Nothing contained in this Consent Agreement and Final Order shall alter or otherwise affect Respondent's obligations to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.

61. Notwithstanding any other provision of this Consent Agreement and Final Order, the EPA reserves the right to enforce the terms of this Consent Agreement and Final Order by initiating a judicial or administrative action pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), and to seek penalties against Respondent or to seek any other remedy allowed by law.

62. With respect to matters not addressed in this Consent Agreement and Final Order, 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.

General Provisions

63. The Parties acknowledge that this Consent Agreement and Final Order is subject to the public notice and comment required pursuant to Section 309(g)(4) of the CWA, 33 U.S.C. § 1319(g)(4), and 40 C.F.R. § 22.45.

64. Pursuant to 40 C.F.R. § 22.31(b), this Consent Agreement and Final Order shall be effective after entry of the Final Order and upon filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219. All time periods herein shall be calculated therefrom in calendar days unless otherwise provided

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in this Consent Agreement and Final Order.

65. The state of Pennsylvania has been provided an opportunity to consult with Complainant regarding this matter in accordance with the requirements of 40 C.F.R. § 22.38(b) and Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1).

66. The headings in this Consent Agreement and Final Order are for convenience of reference only and shall not affect interpretation of this Consent Agreement and Final Order.

67. Respondent and Complainant agree that this Consent Agreement and Final Order may be signed in part and counterpart.

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For the Complainant, United States Environmental Protection Agency Region 7:

Date

David Cozad
Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency Region 7

Kristina Gonzales
Office of Regional Counsel
U.S. Environmental Protection Agency Region 7

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For the Respondent, City of Philadelphia:

June 11, 2025

Date

Signed by:


Signature

Name: Randy E. Hayman

Title: Commissioner

**APPROVED AS TO FORM
RENEE GARCIA, CITY SOLICITOR**

June 9, 2025

Date

DocuSigned by:


Signature

Name: Atusa Shirasb

Title: Deputy City solicitor

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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.

IT IS SO ORDERED.

Date

Karina Borromeo
Regional Judicial Officer

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CERTIFICATE OF SERVICE

I certify a true and correct copy of the Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy by First Class Mail to Respondent:

The Honorable Cherelle Parker
Mayor of Philadelphia
City Hall, Office 215
Philadelphia, Pennsylvania 19107

Copy emailed to Benjamin Jewell

Benjamin Jewell
Philadelphia Water Department, Deputy Commissioner
1101 Market Street, 5th Floor
Philadelphia, Pennsylvania 19107
Benjamin.Jewell@phila.gov

Copy emailed to Attorney for Complainant:

Kristina Gonzales
U.S. Environmental Protection Agency - Region 7
Gonzales.kristina@epa.gov

Copy by First Class Mail to the Pennsylvania Department of Environmental Protection:

Thomas Magge
Pennsylvania Department of Environmental Protection
Environmental Program Manager
2 East Main Street
Norristown, Pennsylvania 19401
Tmagge@pa.gov

Date

Amy Gonzales
Hearing Clerk, Region 7