

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

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)	
)	Docket No. CWA-07-2024-0153
Bally's Corporation)	
)	COMPLAINT AND
Respondent)	CONSENT AGREEMENT /
)	FINAL ORDER
Proceedings under Section 309(g) of the)	
Clean Water Act, 33 U.S.C. § 1319(g))	
)	

COMPLAINT

Jurisdiction

1. This is an administrative action for the assessment of civil penalties instituted 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 Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), 40 C.F.R. Part 22.

2. Complainant, the U.S. Environmental Protection Agency Region 7 ("EPA") and Respondent, Bally's Corporation, 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 Consolidated Rules 22.13(b) and 22.18(b)(2) and (3), 40 C.F.R. §§ 22.13(b), 22.18(b)(2) and (3).

3. This Complaint and Consent Agreement/Final Order ("CA/FO") serves as notice that the EPA has reason to believe that the Respondent has violated Section 301 and a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. §§ 1311, 1342, and regulations promulgated thereunder.

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 the EPA. The Administrator has delegated this authority to the Regional Administrator, EPA Region 7, who in turn has delegated the authority under Section 309(g) to the Director of the Enforcement and Compliance Assurance Division of EPA Region 7 (collectively referred to as the "Complainant") with concurrence of the Regional Counsel.

5. Respondent is and was at all relevant times a domestic corporation organized under the laws of the state of Delaware and authorized to do business in the state of Missouri.

Statutory and Regulatory Framework

6. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants, except in compliance with, *inter alia*, Section 402 of the CWA, 33 U.S.C. § 1342. Section 402 of the CWA provides that pollutants may be discharged in accordance with the terms of a National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to that Section.

7. The CWA prohibits the discharge of “pollutants” from a “point source” to a “navigable water,” as these terms are defined by Section 502 of the CWA, 33 U.S.C. § 1362.

8. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines “navigable waters” as “the waters of the United States, including the territorial seas.”

9. To implement Section 402 of the CWA, the EPA promulgated regulations codified at 40 C.F.R. Part 122. Under 40 C.F.R. § 122.1, an NPDES permit is required for the discharge of pollutants from any point source into waters of the United States.

10. The Missouri Department of Natural Resources (“MDNR”) is the state agency within the state of Missouri that has been authorized by the EPA to administer the federal NPDES program pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and applicable implementing regulations.

11. Pursuant to Section 402(i) of the CWA, 33 U.S.C. § 1342(i), the EPA retains concurrent enforcement authority with authorized states for violations of the CWA.

EPA’s General Allegations

12. Respondent is a “person,” as defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

13. At all times relevant for this action, Respondent is or was the owner and/or operator of the property located at 1800 E. Front Street, Kansas City, MO 64120 (“Facility”).

14. The Facility consists of a casino located in a moat.

15. The Missouri River flows along the western perimeter of the Facility.

16. The Facility’s moat is comprised of wastewater discharge from the Facility’s cooling tower, groundwater that has been pumped into the moat to maintain operating levels, and precipitation runoff.

17. When water levels in the moat fall below the Facility's needed operating level, Respondent pumps groundwater into the moat to raise water levels. When water levels in the Facility's moat rise or are predicted to rise due to precipitation, Respondent pumps wastewater from the moat through Outfall #001 into the Missouri River.

18. Discharge from Outfall #001 into the Missouri River consists of cooling tower wastewater, groundwater, and precipitation runoff.

19. The Missouri River is a traditional navigable water, and is therefore a "navigable water" within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

20. Wastewater from the Facility contains "pollutants" as defined by Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

21. The Facility is a "point source" as defined by Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

22. Wastewater discharge from the Facility results in the addition of pollutants from a point source to navigable waters, and thus is the "discharge of a pollutant" as defined by CWA Section 502(12), 33 U.S.C. § 1362(12), and requires a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

23. As of the effective date of March 1, 2020, Respondent was authorized under Missouri State Operating Permit MO-0139386 for wastewater discharges from the Facility into the Missouri River ("Permit"). The Permit expired on June 30, 2024 and has been administratively continued by MDNR.

EPA's Allegations of Violation

Count 1

Failure to Timely Submit Discharge Monitoring Reports

24. Table A-1 of the Permit states that "monitoring reports shall be submitted monthly; the first report is due April 28, 2020" for all effluent parameters listed in Limit Set: M.

25. Table A-1 of the Permit states that "monitoring reports shall be submitted annually; the first report is due January 28, 2021" for all effluent parameters listed in Limit Set: A.

26. Permit Condition C.2(a) states that "the permittee must electronically submit compliance monitoring data via the eDMR system. Standard Conditions Part I, Section B, #7 indicates the eDMR system is currently the only Department approved reporting method for this permit."

27. Permit Condition C.7 states that Respondent must "report no discharge when a

discharge does not occur during the report period. It is a violation of this permit to report no-discharge when a discharge has occurred.”

28. Standard Condition B.7 of the Permit states that:

- a. Monitoring results shall be reported at the intervals specified in the permit.
- b. Monitoring results must be reported to the Department via the current method approved by the Department, unless the permittee has been granted a waiver from using the method. If the permittee has been granted a waiver, the permittee must use forms provided by the Department.
- c. Monitoring results shall be reported to the Department no later than the 28th day of the month following the end of the reporting period.

29. Respondent failed to timely submit Discharge Monitoring Reports (“DMRs”) as required by the Permit between November 2020 to July 2024.

30. Respondent’s failure to timely submit DMRs is a violation of the conditions or limitations of the Permit issued pursuant to Section 402(a) of the CWA, 33 U.S.C. § 1342(a).

Count 2 Failure to Comply with Permit Effluent Limits

31. Table A-1 of the Permit states the final effluent limitations for the Facility, including effluent parameters for chlorine, oil and grease, and pH.

32. Respondent failed to comply with Permit effluent limits during the following months: July 2020, September 2020 through November 2020, June 2021 through February 2022, May 2022 through August 2022, August 2023, October 2023, November 2023, March 2024 through August 2024, and November 2024.

33. Respondent’s failure to comply with Permit effluent limits is a violation of the conditions or limitations of the Permit issued pursuant to Section 402(a) of the CWA, 33 U.S.C. § 1342(a).

Penalty

34. Pursuant to Section 309(g)(2)(A) of the CWA, 33 U.S.C. § 1319(g)(2)(A), as adjusted pursuant to 40 C.F.R. § 19.4, for violations that occurred after November 2, 2015, where penalties are assessed on or after January 8, 2025, Respondent is liable for civil penalties of up to \$27,378 per day for each day during which the violation continues, up to a maximum of \$68,445.

CONSENT AGREEMENT

35. Respondent admits the jurisdictional allegations of this CA/FO and agrees not to contest the EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of this Complaint and CA/FO.

36. Respondent neither admits nor denies the factual allegations asserted by the EPA in this Complaint and CA/FO.

37. Respondent waives its right to contest any issue of fact or law set forth above, and its right to appeal this Complaint and CA/FO.

38. Respondent and the EPA agree to conciliate the matters set forth in this Complaint and CA/FO without the necessity of a formal hearing and agree to bear their own costs and attorney's fees incurred as a result of this action.

39. Respondent consents to receive service of the filed Complaint and CA/FO electronically at the following email address: legal.na@ballys.com.

40. The undersigned representative of Respondent certifies that they are fully authorized to enter into the terms and conditions of this Complaint and CA/FO and to execute and legally bind Respondent to it.

41. Respondent understands and agrees that this Complaint and CA/FO 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 Complaint and CA/FO.

42. Respondent waives any right to contest the allegations in the Complaint and its right to appeal the Final Order. By signing this CA/FO, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of this CA/FO.

Terms of Payment

43. Respondent agrees to pay a civil penalty in the amount of **Fifty-Seven Thousand and Four hundred and Fifty-Five Dollars (\$57,455)** ("Assessed Penalty") within thirty (30) calendar days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date").

44. 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>.

45. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, CWA-07-2024-0153.
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following persons:

Amy Gonzales
Regional Hearing Clerk
U.S. Environmental Protection Agency Region 7
Via electronic mail to:
r7_hearing_clerk_filings@epa.gov;

Emily Quinn
Office of Regional Counsel
U.S. Environmental Protection Agency
Via electronic mail to:
Quinn.emily@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.

46. 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) calendar days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) calendar 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.
- d. 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:
 - i. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
 - ii. 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.
 - iii. 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.
 - iv. 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.

47. 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.

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

49. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to annually send to the Internal Revenue Service ("IRS") a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements) that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Respondent's failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. To provide EPA with sufficient information to enable it to fulfill these obligations, Respondent shall complete the following actions as applicable.

- a. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN.
- c. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at weidner.lori@epa.gov on or before the date that Respondent's penalty payment is due, pursuant to Paragraph 43 of the CA/FO, or within 7 days should the order become effective between December 15 and December 31 of the calendar year. EPA recommends encrypting IRS Form W-9 email correspondence.
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA's Cincinnati Finance Division with Respondent's TIN, via email, within five (5) days of Respondent's receipt of a TIN issued by the IRS.

Effect of Settlement and Reservation of Rights

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

51. The effect of settlement described above is conditional upon the accuracy of the Respondent's representations to the EPA, as memorialized in this Complaint and CA/FO.

52. Nothing contained in this Complaint and CA/FO shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

53. Notwithstanding any other provision of this Complaint and CA/FO, the EPA reserves the right to enforce the terms of this Complaint and CA/FO by initiating a judicial or administrative action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, and to seek penalties against Respondent or to seek any other remedy allowed by law.

54. With respect to matters not addressed in this Complaint and CA/FO, 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

55. The Parties acknowledge that this Complaint and CA/FO 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.

56. Pursuant to 40 C.F.R. § 22.31(b), this Complaint and CA/FO shall be effective after signature by the authorized regional official and the date upon filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, 11201 Renner Boulevard, Lenexa, Kansas 66219. All time periods herein shall be calculated therefrom in calendar days unless otherwise provided in this Complaint and CA/FO.

57. The state of Missouri 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).

58. The headings in this Complaint and CA/FO are for convenience of reference only and shall not affect interpretation of this Complaint and CA/FO.

59. Respondent and Complainant agree that this Complaint and CA/FO may be signed electronically in part and counterpart.

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


Date

David Cozad
Director
Enforcement and Compliance Assurance Division

Date

Emily Quinn
Office of Regional Counsel

For the Respondent, Bally’s Corporation:

Signed by:

ADB731A15362411...

Signature

8/20/2025

Date

Craig Eaton
Name

SR VP
Title

FINAL ORDER

Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and the Consolidated Rules of Practicing 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

CERTIFICATE OF SERVICE

I certify that on the date noted below, a true and correct copy of this fully-executed Complaint and Consent Agreement/Final Order was served on each party by electronic mail to:

For Respondent:

Paul Carballosa
Bally's Corporation,
pcarballosa@ballys.com

Luis Pinedo
Bally's Corporation, VP & Deputy General Counsel
lpinedo@ballys.com

For Complainant:

Emily Quinn
EPA Region 7 Office of Regional Counsel
quinn.emily@epa.gov

Seth Draper
EPA Region 7 Enforcement and Compliance Assurance Division
draper.seth@epa.gov

Carrie Venerable | New Solutions Workforce
EPA Region 7 ORC
venerable.carrie@epa.gov

Copy to MDNR:

Joe Clayton
Missouri Department of Natural Resources
Joe.Clayton@dnr.mo.gov

Date

Signature