

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

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)
)
Enterprise Precast Concrete of Kansas, LLC) Docket No. CWA-07-2025-0108
)
Respondent) CONSENT AGREEMENT /
) FINAL ORDER
)
Proceedings under Section 309(g) of the)
Clean Water Act, 33 U.S.C. § 1319)

Jurisdiction

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.

1. Complainant, the U.S. Environmental Protection Agency Region 7 (“EPA”) and Respondent, Enterprise Precast Concrete of Kansas, LLC (“Enterprise Precast”), 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).

2. This Consent Agreement/Final Order serves as notice that the EPA has reason to believe that the Respondent has violated a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and regulations promulgated thereunder.

Parties

3. 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 with concurrence of the Regional Counsel.

4. Respondent is and was at all relevant times a limited liability company under the laws of the state of Kansas.

Statutory and Regulatory Framework

5. 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.

6. 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.

7. 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.”

8. 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.

9. Pursuant to Section 402(p) of the CWA, the EPA promulgated regulations setting forth the NPDES permit requirements for stormwater discharges at 40 C.F.R. § 122.26.

10. 40 C.F.R. § 122.21(a) requires dischargers of pollutants from industrial facilities to apply for an NPDES permit.

11. 40 C.F.R. §§ 122.26(a)(1)(ii) and 122.26(c) require dischargers of stormwater associated with industrial activity to apply for an individual permit or to seek coverage under a promulgated stormwater general permit.

12. 40 C.F.R. § 122.26(b)(14) defines “stormwater discharge associated with industrial activity” as “the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw material storage areas at an industrial plant.”

13. Included in the categories of facilities considered to be engaging in “industrial activity” are facilities under Standard Industrial Classifications (“SIC”) Code 3241 (Cement, Hydraulic). See 40 C.F.R. §122.26(b)(14)(iii).

14. The Kansas Department of Health and Environment (“KDHE”) is the agency within the state of Kansas 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.

15. 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

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

17. At all times relevant for this action, Respondent is or was the owner and/or operator of the property located at 5525 Kaw Drive Kansas City, Kansas (“Facility”). The Facility operates under SIC 3241.

18. The Facility is on a parcel that is approximately 50 acres located on the north bank of the Kansas River in Kansas City, Kansas. Approximately 30 acres of the facility is usable for its industrial activities, which consist of manufacturing hydraulic cement. Muncie Creek flows through the property and adjacent to the industrial activity area to the Kansas River. The Kansas River flows adjacent the south/southeast perimeter of the Facility’s industrial areas.

19. Stormwater from the site drains to the Kansas River and Muncie Creek as surface runoff and through the below ground the storm sewer system. Muncie Creek confluences with the Kansas River next to the facility. Process wastewater also enters the below ground storm sewer system and discharges to the Kansas River.

20. Muncie Creek flows year-round and is impaired for aquatic life use, bacteria/other microbes, murky water, nitrogen, and phosphorus, and primary contact recreation. Total Maximum Daily Loads (“TMDLs”) are in place for E. coli, nitrate, phosphorus, and total suspended solids.

21. The Kansas Department of Health and Environment lists the Kansas River as impaired for aquatic life use and primary contact recreation and has TMDLs established. TMDLs are in place for E. coli, nitrate, phosphorus, and total suspended solids. The Kansas Department of Wildlife and Parks designates this section of the Kansas River as critical habitat for endangered or threatened species. Under Kansas Water Quality Standards, this section of Kansas River is designated for special aquatic life use.

22. Muncie Creek is a perennial water of the United States within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

23. The Kansas River is an interstate traditionally navigable water and is therefore a “navigable water” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

24. Stormwater from the Facility contains “pollutants” as defined by Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

25. The Facility has “stormwater discharges associated with industrial activity” as defined by 40 C.F.R. § 122.26(b)(14) and is a “point source” as defined by Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

26. Stormwater runoff from industrial activity at 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).

27. Respondent’s discharge of pollutants, including discharges of stormwater associated with an industrial activity, as defined by 40 C.F.R. § 122.26(b)(14), requires a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

28. The KDHE issues and implements the Kansas Water Pollution Control General Permit & Authorization to Discharge (“Kansas General Permit”).

29. The Kansas General Permit governs stormwater runoff and process wastewater discharges associated with industrial activities from ready-mixed concrete plants, products plants and their associated facilities.

30. On July 12, 2022, Respondent submitted a Notice of Transfer of Ownership to transfer the Facility’s Kansas General Permit KSG110024. The Kansas General Permit was administratively continued on October 1, 2022, and was effective until April 3, 2025 when it was superseded by the current NPDES permit (“Respondent’s Permit”).

31. On December 8, 2023, Respondent submitted a renewal NOI for permit number KSG110024 to KDHE to maintain the authorization to discharge at the Facility.

32. On June 14, 2024, the EPA performed an Industrial Stormwater Inspection (“EPA Inspection”) of the Facility under the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a), to evaluate Respondent’s compliance with the CWA and transmitted a copy of the report to the facility on September 5, 2024.

33. On March 10, 2025, Respondent responded to the EPA Information Request.

EPA’s Allegations of Violation

The paragraphs above are re-alleged and incorporated herein by reference.

WASTEWATER VIOLATIONS

Count 1

Failure to Monitor and Report Wastewater Discharge

34. Part B of the Respondent’s Permit requires the Facility to monitor and report process wastewater discharges at Outfall 001A1 and Outfall 002A1 for Oil and Grease, Total Suspended Solids, Total Recoverable Iron, and pH.

35. Based on the EPA Inspection, Respondent’s response to the EPA Information Request, and other relevant information, Respondent failed to monitor and report process

wastewater discharge from Outfalls 001A1 and 002A1 in Quarter 4 of 2022, Quarters 1 and 2 of 2023, Quarters 1 and 2 of 2024, and Quarter 2 of 2025.

36. Respondent’s failures to monitor process wastewater discharge are violations of the terms and conditions of the Permit issued pursuant to Section 402 of the CWA, 42 U.S.C. § 1342, and implementing regulations.

Count 2

Failure to Monitor and Record Wastewater Discharge

37. Part B of the Respondent’s Permit requires the Facility to monitor and record wastewater discharge flow monthly.

38. Based on the EPA Inspection, Respondent’s response to the EPA Information Request, and other relevant information, Respondent failed to monitor and record the wastewater discharge flow each month from July 2022 to June 2024.

39. Respondent’s failures to monitor and record process wastewater discharge from July 2022 to April 2024 are violations of the terms and conditions of the Permit issued pursuant to Section 402 of the CWA, 42 U.S.C. § 1342, and implementing regulations.

Count 3

Effluent Limitation Violations

40. Part B of the Permit establishes the discharge limit for pH and Total Suspended Solids (“TSS”), among other parameters. Respondent’s Permit establishes a monthly average range limit of 6.0-9.0 S.U. for pH and a monthly average limit of 100 mg/L for TSS.

41. Respondent’s Discharge Monitoring Reports (“DMRs”) document that Respondent’s discharges exceeded the effluent limitations of their Permit for pH and TSS as follows:

Date	Parameter¹	Value (monthly avg)	Limit (monthly avg)	Outfall
7/28/2022	pH	12.3	6.0-9.0	001A1
7/28/2023	pH	12.4 ²	6.0-9.0	001A1
7/28/2023	pH	11.8 ²	6.0-9.0	002A1
11/3/2023	pH	11.6 ³	6.0-9.0	001A1
8/15/2024	pH	11.9	6.0-9.0	001A1
11/18/2024	pH	11.9	6.0-9.0	001A1
11/18/2024	TSS	235	100	001A1
1/31/2025	pH	12.9	6.0-9.0	002A1
1/31/2025	TSS	987	100	002A1

¹Units for pH are S.U. and TSS are mg/L.

²Three samples were collected at each outfall on the same day. These were averaged to determine the value shown.

³Two samples were collected at outfall 001A1 on the same day. These were averaged to determine the value shown.

42. Respondent's discharges of process wastewater with pH and TSS in excess of permitted limits is a violation of the terms and conditions of the Respondent's Permit issued pursuant to Section 402 of the CWA, 42 U.S.C. § 1342, and implementing regulations.

Count 4

Failure to Properly Analyze Wastewater Discharge

43. EPA Regulations at 40 C.F.R. Part 136 and the Permit's Standard Conditions 4 require Respondent to analyze wastewater samples within pH a 15-minute hold time.

44. At all times relevant to this Consent Agreement Final Order and based on the EPA Inspection, Respondent's response to the EPA Information Request, and other relevant information, Respondent failed to analyze wastewater samples for pH per 40 C.F.R. Part 136, within 15 minutes of sample collection.

45. Respondent's failures to properly analyze wastewater are violations of the conditions or limitations of the Permit issued pursuant to Section 402(p) of the CWA, 33 U.S.C. § 1342(p).

STORMWATER VIOLATIONS

Count 5

Inadequate SWPPP

46. Attachment A of the Respondent's Permit requires the Respondent to develop and implement a Stormwater Pollution Prevention Plan ("SWPPP").

47. Part A.1.f and Attachment A.6 of the Permit requires that Respondent re-evaluate and maintain the SWPPP in a timely manner, including if there are changes in design, operations, construction or maintenance that have a significant effect on the potential for the discharge of pollutants or the SWPPP proves to be ineffective in eliminating or minimizing pollutants in the stormwater discharges.

48. Attachment A of the Permit identifies all the required elements of the SWPPP which include, but are not limited to: a pollution prevention team, description of potential pollutant sources, measures and controls, comprehensive site compliance evaluation, and monitoring and record keeping requirements.

49. Attachment A.2 of the Permit requires that Respondent include a site map in the SWPPP that identifies the following:

- a. The outline of drainage area(s) for each stormwater outfall;
- b. the location of significant materials exposed to precipitation;
- c. storage tanks; scrap yards and general refuse areas;
- d. fuel storage and distribution areas; vehicle and equipment maintenance and storage areas;
- e. loading//unloading areas; waste treatment, storage or disposal areas;
- f. short and long term material storage areas (including but not limited to: supplies, construction materials, plant equipment, construction sites, oils, fuels, used and unused solvents, cleaning materials, paint, water treatment chemicals, fertilizers, and pesticides);
- g. landfills; construction sites; stock piles; major spill or leaks; surface water bodies and existing structural controls measures to reduce pollutants in stormwater runoff (such as bermed areas, grassy swales, etc).

50. During the EPA Inspection, EPA observed and documented that the Facility's 2019 SWPPP failed to include or Respondent failed to update the Facility's SWPPP to include, among other things:

- a. Accurate conditions at the facility;
- b. Comprehensive site compliance evaluations;
- c. Complete records like monitoring, inspections, employee training, and maintenance logs; and
- d. A complete and accurate description of potential pollutant sources, a site map, an inventory of exposed materials, sampling data, and risk identification

51. On October 11, 2024, EPA received an updated copy of the SWPPP from the Respondent, which failed to include corrections for all the inadequacies observed and documented in the EPA Inspection Report.

52. EPA's review of Respondent's responses to the Inspection Report and EPA Information Request established that the Facility's 2024 revised SWPPP failed to meet the requirements of the Permit due to the following reasons:

- a. Does not include a complete and accurate site map identifying all required components required by the Permit such as existing structural controls, internal wastewater discharge points, internal storm sewer inlets, collection system infrastructure, and wastewater treatment processes and systems; and
- b. Part 3.2 of the SWPPP states facility inspections are conducted at a minimum once per year, but the Permit requires minimum frequency of quarterly.

53. Based on the EPA Inspection and a review of information provided by Respondent and other relevant information, the Facility's SWPPP was inadequate from the date of the issuance of Respondent's Permit, July 12, 2022, through, at least, October 11, 2024.

54. Respondent's failure to develop an adequate SWPPP is a violation of the conditions or limitations of the Permit issued pursuant to Section 402(p) of the CWA, 33 U.S.C. § 342(p).

Count 6

Failure to Implement SWPPP

55. Attachment A of the Respondent's Permit requires the Respondent to develop and fully implement a Stormwater Pollution Prevention Plan. The purpose of the SWPPP is to ensure the design, implementation, management, and maintenance of Best Management Practices ("BMPs") in order to reduce the amount of pollutants in stormwater discharges associated with industrial activities at the facility. The SWPPP shall evaluate BMPs from each of three major classes: managerial/administrative structural controls, and non-structural controls.

56. During the EPA Inspection, the inspector observed the following failures to implement good housekeeping and spill prevention practices in accordance with the Permit and SWPPP:

- a. Storm sewer inlets had no BMPs in place or were not using effective measures to minimize or prevent pollutants, such as, petroleum, waste, garbage, aggregates, solids, and floatable debris from discharging.
- b. Pollutants from industrial activities at the site were present in the stormwater conveyance system showing controls are ineffective to prevent contact with stormwater.
- c. Open oil containers and other liquid wastes stored exposed to stormwater. The EPA inspector also observed oil containers and other liquid wastes stored with leaks and spills on the outside of the barrel, and not in secondary containment.
- d. Material handling, storage and other process areas were not maintained in a clean and orderly manner to minimize the potential for waste, garbage and floatable debris in exposed areas.

57. Respondent's failures to install and adequately maintain BMPs are violations of the conditions of the Respondent's Permit issued pursuant Section 402 of the CWA, 42 U.S.C. § 1342, and implementing regulations.

Count 7

Failure to Conduct and/or Document Quarterly Inspections

58. Section B of the Permit requires that the permittee shall inspect the system of pollution controls on a quarterly basis and within 24 hours after any event which could reasonably be expected to affect the integrity of the controls (3" rainfall event within 24 hours, unless another intensity storm event is justified by the permittee based on a written record of past performance).

59. Section B of the Permit requires that an inspection report shall be completed for each inspection which shall include: the inspection date, inspection personnel, scope of the inspection, major observations, and any revisions needed in the SWPPP.

60. Based on the EPA Inspection and a review of information provided by Respondent and other relevant information, Respondent either failed to conduct inspections and examinations or was unable to produce stormwater discharge examination, site compliance evaluation, and pollution control inspection records from July 2022 until December 2024.

61. Respondent's failure to conduct and/or document inspections and/or timely take appropriate corrective actions are violations of the conditions or limitations of the Permit issued pursuant to Section 402(p) of the CWA, 33 U.S.C. § 1342(p).

Penalty

62. Pursuant to Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), 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 \$342,218.

CONSENT AGREEMENT

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

64. By signing this consent agreement, 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 the final order accompanying the consent agreement.

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

66. Respondent neither admits nor denies the factual allegations asserted by the EPA in this Consent Agreement/Final Order.

67. Respondent waives its right to contest any issue of fact or law set forth above, and its right to appeal this Consent Agreement/Final Order.

68. Respondent and the EPA agree to conciliate the matters set forth in this Consent Agreement/Final Order 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.

69. Respondent consents to receive service of the filed Consent Agreement/Final Order electronically at the following email address: djarecke@woodsaitken.com.

70. The undersigned representative of Respondent certifies that they are fully authorized to enter into the terms and conditions of this Consent Agreement/Final Order and to execute and legally bind Respondent to it.

71. Respondent understands and agrees that this Consent Agreement/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/Final Order.

72. Respondent certifies by the signing of this Consent Agreement/Final Order that Respondent is in compliance with the Administrative Order for Compliance on Consent (Docket No. CWA-07-2025-0109).

Terms of Payment

73. Respondent agrees to pay a civil penalty in the amount of **\$268,000.00** ("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").

74. 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>.

75. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this Agreement, CWA-07-2025-0108.
- 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;

Angela Stillwagon
Office of Regional Counsel
U.S. Environmental Protection Agency
Via electronic mail to:
Stillwagon.Angela@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.

76. 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 the 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.

77. 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.

78. Tax Treatment of Penalties. 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.” The 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/irspdf/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 Division at sherrer.dana@epa.gov on or before the date that Respondent’s penalty payment is due, pursuant to Paragraph 74 of the CAFO 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

79. Respondent's payment of the entire civil penalty pursuant to this Consent Agreement/Final Order 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 Consent Agreement/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.

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

81. Nothing contained in this Consent Agreement/Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

82. Notwithstanding any other provision of this Consent Agreement/Final Order, the EPA reserves the right to enforce the terms of this Complaint and Consent Agreement/Final Order 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.

83. With respect to matters not addressed in this Consent Agreement/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

84. The Parties acknowledge that this Consent Agreement/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.

85. Pursuant to 40 C.F.R. § 22.31(b), this Consent Agreement/Final Order 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 Consent Agreement/Final Order.

86. The state of Kansas 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).

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

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

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

Date


Alyse Stoy
Acting Director
Enforcement and Compliance Assurance Division

Date

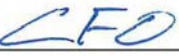
Angela Stillwagon
Assistant Regional Counsel
Office of Regional Counsel

For the Respondent, Enterprise Concrete of Kansas, LLC:


Signature


Date


Name


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, I sent a true and correct copy of this signed Consent Agreement/Final Order in the stated manner to the following:

Copy emailed to Respondent:

David Jarecke
djarecke@woodsaitken.com

Copy emailed to representatives for Complainant:

Angela Stillwagon
EPA Region 7 Office of Regional Counsel
Stillwagon.Angela@epa.gov

Hannah Lewis
EPA Region 7 Enforcement and Compliance Assurance Division
lewis.hannah@epa.gov

Carrie Venerable | New Solutions
EPA Region 7 Office of Regional Counsel
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Copy emailed to KDHE:

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