

EXPEDITED SETTLEMENT AGREEMENT



DOCKET NO: CAA (112r)-09-2024-0063

This ESA is issued to: **City of Flagstaff**
Lake Mary Water Treatment Plant
4500 S. Lake Mary Road, Flagstaff, AZ 86005

Wildcat Hill Water Reclamation Plant
2800 N. El Paso Flagstaff Rd., Flagstaff, AZ 86004

For: Violation of Section 112(r)(7) of the Clean Air Act.

At: Lake Mary Water Treatment Plant, 4500 S. Lake Mary Road, Flagstaff, AZ 86005

Wildcat Hill Water Reclamation Plant, 2800 N. El Paso Flagstaff Rd., Flagstaff, AZ 86004

This Expedited Settlement Agreement (“ESA”) is being entered into by the United States Environmental Protection Agency (“EPA”), Region IX, by its duly delegated official, Amy C. Miller-Bowen, Director, Enforcement and Compliance Assurance Division, and City of Flagstaff (“Respondent”) pursuant to Section 113(a)(3) and (d) of the Clean Air Act (the “Act”), 42 U.S.C. § 7413(a)(3) and (d), and by 40 C.F.R. § 22.13(b). EPA has obtained the concurrence of the U.S. Department of Justice, pursuant to Section 113(d)(1) of the Act, 2 U.S.C. § 7413(d)(1), to pursue this administrative enforcement action.

ALLEGED VIOLATIONS

Following their November 28 and 29, 2023, inspections, EPA alleges Respondent’s failure to:

1. At the Wildcat Hill Water Reclamation Facility, install and maintain hazard signage outside of the chlorine storage and injection rooms in accordance with Section 112(r)(7) of the Clean Air Act and 40 C.F.R. § 68.65(d)(2) and (3).
2. At both facilities, correct engineering and administrative controls applicable to hazards and interrelationships within the Process Hazard Analysis (PHA) in accordance with Section 112(r)(7) of the Clean Air Act and 40 C.F.R. § 68.67(c)(3).
3. At the Wildcat Hill Water Reclamation Facility, develop and implement written operating procedures that are consistent between the office and the chlorine storage room in accordance with Section 112(r)(7) of the Clean Air Act and 40 C.F.R. § 68.69(a).
4. At the Wildcat Hill Water Reclamation Facility, follow recognized and generally accepted good engineering practices for inspections and testing procedures for chlorine detectors in accordance with Section 112(r)(7) of the Clean Air Act and 40 C.F.R. § 68.73(d)(2), (d)(3), and (e).
5. At the Wildcat Hill Water Reclamation Facility, ensure the frequency of inspections and tests of process equipment is consistent with applicable manufacturers’ recommendations, good engineering practices, and prior operating experience by documenting daily rounds checklists in

- accordance with Section 112(r)(7) of the Clean Air Act and 40 C.F.R. § 68.73(d)(2), (3), and (4).
6. At both facilities, corrected deficiencies in equipment that were outside acceptable limits defined by the process safety information, specifically in regard to the hoist inspection recommendations (Wildcat Hill Water Reclamation Plant) and unprotected tubing (Lake Mary Water Treatment Plant) in accordance with Section 112(r)(7) of the Clean Air Act and 40 C.F.R. § 68.73(e).
 7. At Lake Mary Water Treatment Plant, promptly determine and document an appropriate response to each of the findings of the audit and document that deficiencies had been corrected in accordance with Section 112(r)(7) of the Clean Air Act and 40 C.F.R. § 68.79(d).
 8. At Wildcat Hill Water Reclamation Plant, adequately investigate the accidental release of chlorine that occurred on October 29, 2019 and promptly address report findings in accordance with Section 112(r)(7) of the Clean Air Act and 40 C.F.R. § 68.81(d)(4) and (e).
 9. At both facilities, obtain and evaluate information regarding the contract owner or operator's safety performance and programs when selecting contractors and periodically evaluate contract owner or operators in fulfilling their obligations in accordance with Section 112(r)(7) of the Clean Air Act and 40 C.F.R. § 68.87(b)(1) and (5).
 10. At the Wildcat Hill Water Reclamation Plant, maintain and implement procedures for informing the public and local emergency response agencies about accidental releases as part of the Emergency Action Plan in accordance with Section 112(r)(7) of the Clean Air Act and 40 C.F.R. § 68.95(a)(1)(i).
 11. At the Wildcat Hill Water Reclamation Plant, maintain procedures for the use of emergency response equipment and for its inspection, testing, and maintenance as a part of the Emergency Action Plan to include Chlorine kits purchased for the local fire department in accordance with Section 112(r)(7) of the Clean Air Act and 40 C.F.R. § 68.95(a)(2).

SETTLEMENT

In consideration of Respondent's population served, its full compliance history and previous penalties assessed, if any, its good faith effort to comply, the duration and seriousness of the violation, the economic impact of the penalty, and other factors as justice may require, the parties enter into this ESA in order to settle the violations described above for the total penalty amount of **\$13,320**. This settlement is subject to the following terms and conditions:

- 1) The Respondent by signing below admits to jurisdiction, neither admits nor denies the specific factual allegations contained above, and consents to the assessment of the penalty as stated above. Respondent waives its rights to a hearing afforded by Section 113(d)(2)(A) of the Act, 42 U.S.C §7413(d)(2)(A), and to appeal this ESA. Each party to this action shall bear its own attorney's fees and costs, if any. Respondent also certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the Respondent has corrected the violations listed above and has sent an **Online Payment through the Department of Treasury: WWW.PAY.GOV** (Enter SFO 1.1 in search field. Open form and complete required fields). EPA encourages electronic payments, but **alternatively you may send a cashier's check or certified check** (payable to the Treasurer, United States of America) in the amount of **\$13,320** in payment of the full penalty amount to the following address:

US Environmental Protection Agency Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

The payment should reference Respondent's name and a copy of this ESA must be included with the check/online payment. Please send a copy of your payment confirmation and the signed ESA to Kathryn Kwiecinski at: kwiecinski.kathryn@epa.gov. Alternatively, you may send the original signed ESA and a copy of the payment to:

U.S. Environmental Protection Agency Region IX
Kathryn Kwiecinski (ENF-2-2)
75 Hawthorne Street
San Francisco, CA 94105

- 2) Pursuant to CAA § 114(a)(1)(B) [42 U.S.C. § 7414(a)(1)(B)] please provide documentation to USEPA Region IX describing how each area of identified non-compliance has been addressed. Such documentation is due to EPA within 45 calendar days of your receipt of this letter. If you have corrected non-compliance and intend to resolve EPA's penalty action through the enclosed ESA, your signature affirms that the listed violations have been corrected. When you return the signed ESA to EPA, please provide documentation describing how each area of identified non-compliance was addressed along with an estimate of the cost you incurred fixing those deficits.

Upon Respondent's submission of the signed original ESA, EPA will take no further civil penalty action against Respondent for the violations of the Act alleged above. This ESA shall not be construed as a covenant not to sue, a release, waiver, or limitation of any rights, remedies, powers, or authorities, civil or criminal that EPA has under the Act or any other statutory, regulatory, or common law enforcement authority of the United States, except as stated above.

If the signed ESA with an attached copy of the payment is not returned to the EPA Region IX office at the above address in correct form by the Respondent within 45 days of the date of Respondent's receipt of the proposed ESA and EPA has not granted an extension of its offer to settle, the ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified herein.

This ESA is binding on the parties signing below.

This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT: City of Flagstaff

Signature:  Date: 9/25/24

Name (print): Lee Williams

Title (print): Operations Section Director
Water Services Division

FOR COMPLAINANT: Environmental Protection Agency

**AMY MILLER-
BOWEN**

Digitally signed by AMY MILLER-
BOWEN
Date: 2024.10.28 18:18:22 -07'00'

Date: _____

Amy C. Miller-Bowen, Director
Enforcement and Compliance Assurance Division
U.S. EPA Region IX

It is hereby ORDERED that this ESA between the Environmental Protection Agency and the City of Flagstaff entered.

**BEATRICE
WONG**

Digitally signed by
BEATRICE WONG
Date: 2024.11.15
11:19:06 -08'00'

Date: _____

Beatrice Wong
Regional Judicial Officer
U.S. EPA Region IX

CERTIFICATE OF SERVICE

I hereby certify the attached Expedited Settlement Agreement and Final Order in the matter of Lake Mary Water Treatment Plant and Wildcat Hill Water Reclamation Plant (Docket No. CAA(112r)-09-2024-0063) was filed with the Regional Hearing Clerk, Region IX, and that copies were sent by electronic mail to:

RESPONDENT:

Lee Williams
Operations Section Director
City of Flagstaff Water Services
2323 N Walgreen Boulevard
Flagstaff, AZ 86004
lwilliams@flagstaffaz.gov

COMPLAINANT:

Andrew Helmlinger
Assistant Regional Counsel
U.S. EPA – Region IX
Hazardous Waste Section I (ORC-3-1)
75 Hawthorne Street
San Francisco, CA 94105
Helmlinger.Andrew@epa.gov

Kate Kwiecinski
Physical Scientist
U.S. EPA – Region IX
75 Hawthorne Street
San Francisco, CA 94105
Kwiecinski.Kathryn@epa.gov

Grace Elam
Regional Hearing Clerk
U.S. EPA – Region IX