

referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondent under 309 of the CWA, 33 U.S.C. § 1319, for the violations alleged herein.

2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

II. JURISDICTION

3. The U.S. Environmental Protection Agency (“EPA”) has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.

4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(6) in assessing Class II penalties under Section 309(g). On August 17, 2022, EPA sent a communication to the Pennsylvania Department of the Environmental Protection (“PADEP”), giving prior notice of this action in accordance with Section 309(g)(1) of CWA, 33 U.S.C. § 1319(g)(1).

III. GENERAL PROVISIONS

5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.

6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.

7. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.

8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.

9. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.

10. Respondent shall bear its own costs and attorney’s fees in connection with this proceeding.

11. Pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b), EPA is providing public notice and an opportunity to comment on the Consent Agreement prior to issuing the Final Order.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.

13. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the National Pollutant Discharge Elimination System (“NPDES”) program for the discharge of pollutants from point sources to waters of the United States. The discharges are subject to specific terms and conditions as prescribed in the permit. Section 402(b) of the Act, 33 U.S.C. § 1342(b), provides for the authorization of state programs to issue NPDES permits.

14. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), the Pennsylvania Department of Environmental Protection (“PADEP”) is authorized to administer the NPDES program in the Commonwealth of Pennsylvania.

15. Pursuant to Section 402(i) of the CWA, 33 U.S.C. § 1342(i), EPA retains its authority to take enforcement action within the State of West Virginia for NPDES permit violations.

16. Borough of Tamaqua is a municipality, and as such, it is a “person” within the meaning of Section 502(4) and (5) of the Act, 33 U.S.C. § 1362(4) and (5).

17. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person into waters of the U.S. except in compliance with sections 301, 302, 306, 307, 318, 402, and 404 of the Act, 33 U.S.C. §§ 1311, 1312, 1316, 1317, 1328, 1342, and 1344.

18. “Discharge of a pollutant” means “[a]ny addition of any ‘pollutant’ or combination of pollutants to ‘waters of the United States’ from any ‘point source’.” 40 C.F.R. § 122.2. *See also* 33 U.S.C. § 1362(12).

19. At all times relevant to this Consent Agreement and Final Order, Respondent owned and operated the Borough of Tamaqua Wastewater Treatment Plant (“WWTP” or “Facility”) located at 32 Sewer Plant Road, Tamaqua, PA. The WWTP discharges treated domestic wastewater from the Facility into Little Schuylkill River.

20. At all times relevant to this Consent Agreement and Final Order, Respondent’s operation of the WWTP has been subject to Pennsylvania NPDES Discharge Permit No. PA0027006 (“Permit”), which was issued by PADEP on December 7, 2011 and became effective

on January 1, 2012. The Permit expired on December 31, 2016 and is currently administratively extended.

21. Respondent is authorized to discharge pollutants, in the form of wastewater from the WWTP, to waters of the United States in accordance with the terms and conditions of its Permit.

22. The Little Schuylkill River is a water of the United States within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).

23. At all times relevant to this Consent Agreement and Final Order, the Facility discharged wastewater into the Little Schuylkill River through a “point source” as that term is defined at Section 502(14) of the Act, 33 U.S.C. § 1362(14).

24. On December 15, 2021, January 4, 2022, January 12, 2022, January 19, 2022, and January 26, 2022, PADEP representatives inspected the WWTP for purposes of determining compliance with the Permit (“PADEP Inspection(s)”).

25. February 14 and 15, 2022, representatives of EPA and PADEP inspected the WWTP for purposes of determining compliance with the Permit (“Inspection”).

Count 1
Effluent Exceedances

26. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

27. There were a total of 15 Permit effluent limit violations from November 30, 2020 to January 31, 2022. A summary of those effluent exceedances is as follows:

NPDES Permit No. PA0027006 effluent violations 11/01/2021 – 01/31/22

Outfall #	Monitoring Period End Date	Parameter Name	DMR Value	Permit Limit	Units	Limit Type	% Exceeding Limit
001	11/30/2020	Coliform, fecal general	35,000	10,000	cfu/100 ml	Instantaneous Maximum	250%
001	12/20/2021*	Coliform, fecal general	19,000	10,000	cfu/100 ml	Instantaneous Maximum	90%
001	12/31/2021	Solids, total suspended	48	45	mg/L	Weekly Average	7%
001	12/31/2021	Coliform,	10,70	10,00	cfu/100	Instantaneous	7%

Outfall #	Monitoring Period End Date	Parameter Name	DMR Value	Permit Limit	Units	Limit Type	% Exceeding Limit
	1	fecal general	0	0	ml	Maximum	
001	12/31/2021	BOD, carbonaceous [5-day, 20 C]	43	25	mg/L	Monthly Average	72%
001	12/31/2021	BOD, carbonaceous [5-day, 20 C]	50	40	mg/L	Weekly Average	25%
001	1/12/2022*	TSS	72	60	mg/L	Instantaneous Maximum	20%
001	1/12/2022*	CBOD	69.1	50	mg/L	Instantaneous Maximum	38%
001	1/19/2022*	TSS	100	60	mg/L	Instantaneous Maximum	67%
001	1/19/2022*	CBOD	99.9	50	mg/L	Instantaneous Maximum	100%
001	1/26/2022*	CBOD	51.9	50	mg/L	Instantaneous Maximum	4%
001	1/31/2022	CBOD	44	25	mg/L	Monthly Average	76%
001	1/31/2022	CBOD	67	40	mg/L	Weekly Maximum	68%
001	1/31/2022	TSS	35	30	mg/L	Monthly Average	17%
001	1/31/2022	TSS	56	35	mg/L	Weekly Maximum	60%

**Effluent Violations that were taken by PADEP grab samples*

28. Based on the allegations in Paragraph 27, above, EPA concludes that as a result of the identified effluent limitation exceedances, Respondent violated Part A of the Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a), on at least the dates set forth above.

29. In failing to comply with the effluent limitations contained in Part A of the Permit, Respondent has violated Section 301 of the CWA, 33 U.S.C. § 1311, and is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

Count 2
Failure to Implement Nine Minimum Controls

30. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
31. Part C.II.A. of the Permit states, in pertinent part, that the Respondent shall continue the implementation of the technology-based Nine Minimum Controls (“NMCs”), demonstrate wide compliance with NMCs and submit discharge monitoring reports and annual reports to PADEP with appropriate documentation.
32. Part C.II.B. of the Permit states, in pertinent part, that PADEP will use the EPA guidance document “Guidance For Nine Minimum Controls” (“NMCs Guidance”) (EPA 832-B-95-003), dated May 1995, and specific comments provided during review of the NMC documentation reports to determine continued compliance with the combined sewer overflow (“CSO”) requirements in the Permit.
33. The NMCs Guidance requires permittees to display public notification of the locations of CSOs and the actual occurrences of CSOs.
34. The NMCs Guidance requires permittees to implement measures for CSO outfalls to eliminate or reduce significantly visible floatables and solids.
35. The NMCs Guidance requires permittees to determine whether nondomestic sources are contributing to CSO impacts, and if those sources are, the permittee is required to investigate ways of controlling such nondomestic sources.
36. During the February 14 and 15, 2022 Inspection, representatives of EPA and PADEP observed that out of twelve (12) CSOs listed in the Permit, signage providing notice for the following four CSOs could not be located: No. 003, No. 006, No. 010, and No. 015. In addition, the actual locations of CSOs No. 006 and No. 015 could not be located at all.
37. During the February 14 and 15, 2022, representatives of EPA and PADEP observed solids and floatables at and near the outfalls of both CSOs No. 003 and No. 014.
38. In December 2021, the Facility experienced an upset due to a toxic slug of white/gray wastewater which entered the WWTP through a combined sewer system (“CSS”) that Facility representatives believed to have come from an industrial user in the Rush Township sewer system that connects to the Tamaqua CSS.
39. Based on the allegations in Paragraphs 36, 37, and 38, above, Respondent violated Part C.II.A. and B. of the NPDES Permit and Section 301(a) of the CWA, 33 U.S.C. 1311(a), by failing to implement technology-based NMCs, and by failing to adhere the CSO Policy and the

“Guidance for Nine Minimum Controls,” EPA 832-13-95-003, May 1995 (“NMC Guidance”) by not 1) providing notice to the public of the locations of all CSO, 2) implementing measures to reduce/eliminate solids and floatables at all CSO outfalls, and 3) investigating and controlling nondomestic sources of discharge negatively impacting CSO outfalls.

40. In failing to comply with the requirements contained in Part C.II.A and B. of the Permit, Respondent violated Section 301 of the CWA, 33 U.S.C. § 1311, and is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

Count 3

Failure to Properly Record Discharge Monitoring Reports for Combine Sewer Overflows

41. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
42. Part C.IV.A of the Permit states, in pertinent part, that Respondent shall record data on CSO discharges in the format specified in PADEP’s discharge monitoring reports (“DMR”) for CSOs attached to the permit.
43. During the February 14 and 15, 2022 inspection, Respondent produced a CSO DMR for the month of December 2021 that failed to include the dates when the CSOs were inspected, and failed to include any information about missing CSO signage, and whether solids and floatables were observed at or near the outfalls.
44. Based on the allegations in Paragraph 43, above, Respondent violated Part C.IV.A of the Permit and Section 301(a) of the CWA, 33 U.S.C. 1311(a), by failing to provide all the necessary information in the format required by PADEP’s DMRs such as the dates when the CSOs were inspected, and information about missing CSO signage, and whether solids and floatables were observed at or near the outfalls.
45. In failing to comply with the requirements contained in Part C.IV of the Permit, Respondent violated Section 301 of the CWA, 33 U.S.C. § 1311, and is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

Count 4

Failure to Properly Operate and Maintain the Facility

46. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
47. Part B.I.D.2. of the Permit states, in pertinent part, “the Respondent shall operate and maintain all facilities and systems of treatments and control (and related appurtenances)

which are installed or used by the permittee to achieve compliance with the terms and conditions of this permit”.

48. Part A.I.C.1. of the Permit states, in pertinent part, that Respondent may not discharge floating materials, oil, grease, scum, foam, sheen and substances in concentrations or amounts sufficient to be, or creating a danger of being, inimical to the water used to be protected or to human, animal, plant, or aquatic life.
49. During the February 14 and 15, 2022 Inspection, the Inspection Team observed the following operation and maintenance issues at the Facility:
 - i. In the pipe room below the office building, two rusted check valves in need of replacement were observed; one of the valves was seen dripping from one of the valves and gathering on the floor.
 - ii. One of the two secondary digester tanks located adjacent to the office building was offline due to a non-functioning lid. The equipment at the top of the offline tank was observed to be rusted. Additionally, the concrete at the top of the tank walls for both digester tanks was observed to be deteriorated.
 - iii. The primary clarifier distribution chamber was found to contain equipment in need of maintenance or repair. One of the three primary clarifiers was out of service for approximately 8-9 years prior due to a faulty gearbox.
 - iv. Solids and floatables were observed at and near the outfalls of both CSO No. 003 and No. 014.
50. Based on the allegations in Paragraph 49, above, Respondent violated Part B.I.D.2 of the Permit and Section 301(a) of the CWA, 33 U.S.C. 1311(a), by failing to maintain all treatment systems at the Facility in working order, including failing to repair or replace valves, digester tanks, and a primary clarifier.
51. Based on the allegations in Paragraph 49, above, Respondent violated Part A.I.C.1 of the Permit and Section 301(a) of the CWA, 33 U.S.C. 1311(a), by discharging floating materials, oil, grease, scum, foam, sheen, and substances in concentrations of amounts sufficient to be, or creating a danger of being, inimical to the water used to be protected or to human, animal, plant, or aquatic life.
52. In failing to comply with the requirements contained in Parts B.I.D.2. and A.I.C.1. of the Permit, Respondent violated Section 301 of the CWA, 33 U.S.C. § 1311, and is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

Count 5

Failure to Notify PADEP of Unanticipated Noncompliance with the Permit

53. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
54. Part A.III.C.3.a. of the Permit states, in pertinent part, that if there is there is a toxic substance (or a substance which would endanger those downstream, or otherwise result in pollution, create danger of pollution, or damage property), the Respondent shall immediately notify PADEP by telephone of the location and nature of the danger. If possible, the Respondent should also notify downstream users of the affected waters of the commonwealth with the location and nature of the danger.
55. In December 2021, the Facility experienced an upset due to a toxic slug of white/gray wastewater which entered the WWTP through a CSS system that was believed to have come from an industrial user in the Rush Township sewer system that connects to the Tamaqua CSS.
56. Tamaqua never notified PADEP of the toxic slug discharge in December 2021, nor did they notify any downstream users of water likely to be affected by the slug.
57. Based on the allegations in Paragraphs 55 and 56, Respondent violated Part A.III.C.3.a. of the Permit and Section 301(a) of the CWA, 33 U.S.C. 1311(a), by failing to notify PADEP of the release of a toxic slug from the Facility.
58. In failing to comply with the requirements contained in Part A.III.C.3.a. of the Permit, Respondent violated Section 301 of the CWA, 33 U.S.C. § 1311, and is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

Count 6

Failure to Properly Sample

59. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
60. Part A.III.A.4. of the Permit states, in pertinent part, that facilities that test or analyze environmental samples to demonstrate compliance with permit requirements shall be in compliance with the laboratory accreditation requirements of 27 Pa. C.S. §§4101-4113. Test procedures must be approved under 40 CFR Part 136, unless other test procedures have been specified in the permit.
61. Part A.II. defines “Composite Samples” as a combination of individual samples (at least eight for 24-hour periods, or four for 8-hour periods) of at least 100mL, each obtained at spaced

time intervals during the compositing period. The composite must be flow proportioned, meaning the volume of each individual ample is proportional to discharge rates, or the sampling intervals are proportional to the flow rates over the time period used to produce the composite.

62. During the February 14 and 15, 2022 Inspection, the Inspection Team observed no effluent sampler or effluent flow meters by which composite samples could be taken proportioned to the flow as required under the Permit.
63. Based on the allegations in Paragraph 62, Respondent violated Part A.III.A.4. of the Permit and Section 301(a) of the CWA, 33 U.S.C. 1311(a), by failing to take the required composite flow-proportioned effluent samples for outflow from the Facility.
64. In failing to comply with the requirements contained in Part A.III.A.4. of the Permit, Respondent violated Section 301 of the CWA, 33 U.S.C. § 1311, and is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

Count 7
Failure to Provide Information

65. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
66. Part B.I.C.1. of the Permit states, in pertinent part, that the Respondent shall furnish to PADEP, within a reasonable time, any information which PADEP may request to determine cause exists for modifying, revoking and reissuing, or terminating the permit, or to determine compliance with the Permit.
67. During the December 15 and 16, 2021 PADEP Inspection, PADEP officially required Tamaqua to conduct 1) daily effluent 24-hour composite samples for analysis of, at least, Total Suspended Solids and CBOD5, 2) daily effluent grab samples for analysis of Fecal coliform, and 3) 24-hour composite samples of the effluent for pollutant groups 1-6 listed in the NPDES Application for Individual Permit to Discharge Sewage Effluent for Major Sewage Facilities Instructions (3800-PM-BCW0009a).
68. During the February 14 and 15, 2022 Inspection, the Inspection Team observed that Tamaqua failed to implement PADEP's additional sampling request as described in Paragraph 67, above.
69. Based on the allegations in Paragraphs 67 and 68, above, Respondent violated Part B.I.C.1. of the Permit and Section 301(a) of the CWA, 33 U.S.C. 1311(a), by failing to provide the information PADEP requested from sampling within a reasonable time.

70. In failing to comply with the requirements contained in Part B.I.C.1. of the Permit, Respondent violated Section 301 of the CWA, 33 U.S.C. § 1311, and is subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

CIVIL PENALTY

71. In settlement of EPA’s claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **Ten Thousand Dollars (\$10,000.00)**, which Respondent shall be liable to pay in accordance with the terms set forth below.
72. The civil penalty is based upon EPA’s consideration of a number of factors, including the penalty criteria (“statutory factors”) set forth in Section 309(g) of the CWA, 33 U.S.C. § 1319(g), including, the following: the nature, circumstances, extent and gravity of the violation(s), and the violator’s ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings resulting from the violation, and such other matters as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA’s Interim Clean Water Act Settlement Penalty Policy dated March 1, 1995, which reflects the statutory factors set forth in in Section 309(g) of the CWA, and adjusted in accordance with the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA’s civil penalty policies to account for inflation.
73. Respondent agrees to pay a civil penalty in the amount of **Ten Thousand Dollars (\$10,000.00)** (“Assessed Penalty”) within thirty (30) days of the Effective Date of this Consent Agreement and Final Order.
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 Consent Agreement, CWA-03-2024-0126,
 - b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve Proof of Payment simultaneously **by email** to the following person(s):

Louis F. Ramalho
Senior Assistant Regional Counsel
Ramalho.Louis@epa.gov

and

U.S. EPA Region III Regional Hearing Clerk
R3_Hearing_Clerk@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 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Consent Agreement, EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts.

a. Interest. Interest begins to accrue from the Effective Date of this Consent Agreement. 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 any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States, the rate of interest is set at the IRS “**standard**” underpayment rate, any lower rate would fail to provide Respondent adequate incentive for timely payment.

b. Handling Charges. Respondent will be assessed monthly a charge to cover EPA’s costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Consent Agreement, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Effective Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.

c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Effective Date.

77. 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 Consent 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. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.
78. 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.
79. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Consent Agreement shall not be deductible for purposes of federal taxes.
80. Payment of the civil penalty is due and payable immediately upon the Effective Date of this Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed as of the effective date of this Consent Agreement and Final Order by Respondent in accordance with 40 C.F.R. § 13.9(a).
81. The parties consent to service of the Final Order by e-mail at the following valid email addresses: ramalho.louis@epa.gov (for Complainant), and Briconn01@gmail.com (for Respondent).
82. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, 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). 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. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- 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 henderson.jessica@epa.gov, within 30 days after the Final Order ratifying this Consent Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the effective date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:
 - i. notify EPA’s Cincinnati Finance Center of this fact, via email, within 30 days after the 30 days after the Effective Date of the Final Order per Paragraph 89, below; and
 - ii. provide EPA’s Cincinnati Finance Center with Respondent’s TIN, via email, within five (5) days of Respondent’s issuance and receipt of the TIN.

V. GENERAL SETTLEMENT CONDITIONS

83. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent’s knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.

84. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about Respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

VI. CERTIFICATION OF COMPLIANCE

85. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with the Permit conditions and terms.

VII. OTHER APPLICABLE LAWS

86. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the Clean Water Act, 33 U.S.C. § 1251 et seq., or any regulations promulgated thereunder.

VIII. RESERVATION OF RIGHTS

87. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under the Clean Water Act, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date. Respondent reserves whatever rights or defenses it may have to defend itself in any such action.

IX. EXECUTION /PARTIES BOUND

88. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

X. EFFECTIVE DATE

89. Pursuant to 40 C.F.R. § 22.45(b), this Consent Agreement and Final Order shall be issued only after a 40-day public notice and comment period is concluded. This Consent Agreement and Final Order will become final and effective thirty (30) days after having been signed by the Regional Administrator or his delegate, the Regional Judicial Officer, and filed with the Regional Hearing Clerk.

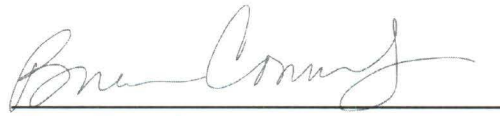
XI. ENTIRE AGREEMENT

90. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent:

Borough of Tamaqua

By:

A handwritten signature in cursive script, appearing to read "Brian Connely", written over a solid horizontal line.

Brian Connely
Tamaqua Borough Authority Chairman

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

By: _____.
[*Digital Signature and Date*]
Karen Melvin, Division Director
Enforcement and Compliance Assurance Division
U.S. EPA Region 3

By: _____.
[*Digital Signature and Date*]
Louis F. Ramalho
Senior Assistant Regional Counsel
U.S. EPA Region 3

EPA’s civil penalty policies to account for inflation.

NOW, THEREFORE, PURSUANT TO Section 309(g) of the Clean Water Act, 33 U.S.C. Section 1319(g), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **Ten Thousand Dollars (\$10,000.00)** in accordance with the payment provisions set forth in the Consent Agreement, and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent’s obligation to comply with all applicable provisions of the Clean Water Act and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is thirty (30) days after the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: _____

By: _____

[Digital Signature and Date]

Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III

Christopher McGowan, Esq.
cmcgowan@goldbergsegall.com

Louis F. Ramalho
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U.S. EPA, Region III
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Steve Maslowski
NPDES Section, Water Branch, Enforcement and Compliance Assurance Division
U.S. EPA, Region III
Maslowski.Steve@epa.gov

[Digital Signature and Date]

Bevin Esposito
Regional Hearing Clerk
U.S. EPA, Region III