UNITED STATES ENVIROMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF:	)	
	)	
	)	**CONSENT AGREEMENT**
The City of Helena, Montana	)	
	)	Docket No. CWA-08-2021-0017
	)	
Respondent	)	

In this Consent Agreement (Agreement), the undersigned complainant (Complainant), on behalf of Region 8 of the United States Environmental Protection Agency (EPA), and the City of Helena, Montana (Respondent), agree as follows:

1. On September 3, 2021, the Complainant issued a Complaint and Notice of Opportunity for Hearing (Complaint) alleging that the Respondent had violated or was violating certain provisions of the EPA's pretreatment regulations at 40 C.F.R. part 403 and certain provisions of a National Pollutant Discharge Elimination System Permit MT0022641, which was issued by the Montana Department of Environmental Quality to the Respondent. The Complaint proposed that the Respondent pay a civil administrative penalty for its alleged violations, pursuant to section 309(g) of the Clean Water Act (Act), 33 U.S.C. § 1319(g). Complaint also unilaterally issued an Administrative Order for Compliance (UAO) to Respondent on September 3, 2021. Respondent sought federal judicial review

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of the UAO, in federal district court. Respondent filed a Motion to Stay the administrative Complaint pending federal judicial review of Complainant's UAO. A Temporary Stay of Proceedings was granted January 28, 2022.

2. For purposes of this proceeding, the Respondent admits the jurisdictional allegations of the Complaint. ~~and neither admits nor~~ Respondent denies the ~~specific factual allegations~~ the Alleged Violations of the Complaint.

3. The Respondent waives its rights to contest the ~~allegations~~ Alleged Violations in the Complaint and to appeal any final order (Final Order) an EPA Regional Judicial Officer or Regional Administrator may issue to ratify this Agreement.

~~3.~~4. The Complainant admits Respondent has fulfilled the requirements of the September 3, 2021 UAO, agrees to terminate or withdraw the UAO within 30 days of Respondent's payment, and waives its rights to use the September 3, 2021 UAO including its allegations as factors in any future EPA action against Respondent.

~~4.~~5. The Respondent agrees to pay **$~~32,000~~8,000**, ~~and agrees to the EPA's assessment of, an administrative civil penalty~~ in this amount, as described below:

a. Payment shall be due no later than 30 calendar days after the date of the Final Order;

b. Payment shall be made using any method provided on the following website: https://www.epa.gov/financial/makepayment;

c. The check or other means of payment shall indicate the name and docket number of this matter, i.e., In the Matter of the City of Helena, Montana, Docket No. CWA-082021-0017;

d. Within 24 hours of payment, a copy of the check or other proof of payment shall be sent by U.S. mail or email to each of the following:

Emilio Llamozas, Environmental Engineer
U.S. EPA Region 8 (R08-ECAD-WEB)
1595 Wynkoop Street
Denver, CO 80202-1129
Email: llamozas.emilio@epa.gov

and

Shea Love, Regional Hearing Clerk
U.S. EPA Region 8 (8RC)
1595 Wynkoop Street
Denver, CO 80202-1129
Email: [HYPERLINK "mailto:love.shea@epa.gov"]

5. Any failure by the Respondent to comply with this Agreement shall constitute a breach of this Agreement and may result in referral of the matter to the United States Department of Justice for enforcement of this Agreement and such other relief as may be appropriate.

6. Nothing in this Agreement shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of any failure by the Respondent to comply with this Agreement.

7. Nothing in this Agreement shall relieve the Respondent of the duty to comply with all applicable provisions of the Act, any regulation, ~~order,~~ or permit issued pursuant to the Act, and any other federal, state, or local laws.

8. This Agreement, upon ratification by the Final Order and full satisfaction by the Respondent, shall resolve the Respondent's potential liability only for federal civil penalties for the violations alleged in the Complaint.

9. Nothing in this Agreement shall be construed to limit the power of the EPA to pursue injunctive or other equitable relief, or criminal sanctions for any violations of law or to undertake any action against the Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

10. The parties agree to submit this Agreement to the EPA Region 8 Regional Judicial Officer or the EPA Region 8 Regional Administrator, with a request it be ratified by a Final Order.

11. Except as qualified by paragraph 6, above, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

12. The undersigned representative of the Respondent certifies s/he is fully authorized to enter into and bind the Respondent to this Agreement.

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13. The parties agree to service of the executed Final Order via email at the following addresses: livingston.peggy@epa.gov for the Complainant and cathyl@bkbh.com for the Respondent.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Date: _____ _____

Colleen Rathbone, Chief
Water Enforcement Branch
U.S. EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202
Complainant

CITY OF HELENA, MONTANA
Respondent

Date: _____ _____

~~Thomas Jodoin~~Tim Burton
Interim City Manager

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