



ERIE COUNTY WATER AUTHORITY
INTEROFFICE MEMORANDUM

To: Jerome D. Schad, Chair
Peggy A. LaGree, Vice Chair
Michele M. Iannello, Treasurer

Cc: Jennifer L. Hibit Secretary to the Authority
Joyce A. Tomaka, Chief Financial Officer
Charles E. Eaton, Chief Operating Officer
Leonard F. Kowalski, Executive Engineer

From: Mark S. Carney, General Counsel

Date: September 4, 2026

Subject: United States EPA Expedited Settlement Agreement

On June 12, 2025, the EPA conducted an onsite inspection of the Authority's Van de Water Water Treatment Plant regarding the Authority's compliance with regulations required under the Clean Air Act Risk Management Program (40 CFR Part 68). Following the EPA's inspection, on May 20, 2026, the EPA notified the Authority of five (5) areas of non-compliance with the Clean Air Act Risk Management Program regulations. Immediately following such notification, the Authority, along with its consultant, Arcadis, worked to rectify these compliance concerns. By August 3, 2026, the Authority was fully in compliance.

On August 19, 2026, the Authority received the attached Expedited Settlement Agreement as a proposed final resolution of the alleged compliance violations

In an effort to resolve all outstanding issues with the EPA, the Legal Department now recommends that the Board approve the settlement of \$5,400 and execute the attached Settlement Agreement. Please feel free to contact me with any questions regarding the terms of the Settlement Agreement.

MSC:kag

**ERIE COUNTY WATER AUTHORITY
AUTHORIZATION FORM
For Approval/Execution of Board Meeting Documents**

Document Name: _____ **Project No.:** _____

Description: _____

Item Description:

Choose one: _____

Other: _____

Action Requested:

Choose one _____

Other: _____

Approvals Required:

APPROVED AS TO CONTENT:

Chief Financial Officer



Date: 9/8/2026

Chief Operating Officer



Date: 09/05/2026

Claims Rep. – Risk Manager

Date: _____

Comptroller

Date: _____

Director of Administration

Date: _____

Director of Distribution

Date: _____

Director of Human Resources

Date: _____

Director of IT

Date: _____

Sr. Director of Operations & Infra

Date: _____

Director of Planning & Water Supply

Date: _____

Director of Production

Date: _____

Director of Water Quality

Date: _____

Executive Engineer



Date: 9/4/2026

General Counsel (Legal)

Date: 9/4/2026

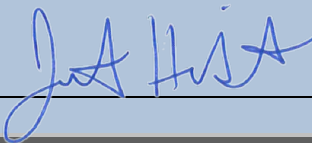
Other: _____



Date: _____

APPROVED FOR BOARD RESOLUTION:

Secretary to the Authority



Date: 9/8/26

Remarks: _____

Resolution Date: _____ Item No: _____



REGION 2

NEW YORK, N.Y. 10007

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: CAA-02-2026-1006

This ESA is issued to: Erie County Water Authority

This Expedited Settlement Agreement (“ESA”) is being entered into by the U.S. Environmental Protection Agency, Region 2 (“EPA”), by its duly delegated official, and the Erie County Water Authority (“Respondent”) pursuant to Sections 113(a)(3) and (d) of the Clean Air Act (the “Act”), 42 U.S.C. §7413(a)(3) and (d), and 40 C.F.R. §22.13(b). EPA and the United States Department of Justice have jointly determined that EPA may pursue this type of case as an administrative penalty action under Section 113(d)(1) of the Act, 42 U.S.C. §7413(d)(1).

ALLEGED VIOLATIONS

On June 12, 2025, EPA conducted an onsite inspection at Respondent’s Van de Water, Water Treatment Plant facility, located at 3750 River Road, Tonawanda, New York, to determine compliance with the Act’s Risk Management Program regulations, promulgated at 40 C.F.R. Part 68 pursuant to Section 112(r) of the Act. Pursuant to the inspection, EPA has determined that Respondent violated the Risk Management Program regulations as described in the attached Risk Management Program Findings (“Findings”). EPA described the violations in a letter sent by email to a facility representative dated December 30, 2025.

SETTLEMENT

In consideration of the penalty assessment factors set forth in Section 113(e) of the Act, 42 U.S.C. §7413(e), and upon consideration of the entire record, the parties enter into the ESA in order to settle the violations described in the Findings for the total penalty amount of **five thousand, four hundred dollars (\$5,400)**.

For purposes of this proceeding, Respondent agrees to the following: it waives any objections that it may have regarding jurisdiction; it neither admits nor denies the specific factual allegations contained in the Findings; it consents to the assessment of the penalty as stated herein; and it waives its rights to contest the allegations contained herein, or 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 costs and fees, if any.

Respondent also certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent has corrected the violations described in the Findings.

After signature, a scanned copy of the signed ESA must be sent by email to Jonathan Orozco Lopez at the following email address: OrozcoLopez.Jonathan@epa.gov. The original, signed ESA must be sent by certified mail to:

Jonathan Orozco Lopez, Physical Scientist
Air Compliance Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 2
290 Broadway, 21st Floor
New York, NY 10007-1866

The ESA, when executed by both parties and the Regional Judicial Officer and filed with the Regional Hearing Clerk, is binding on EPA and Respondent. Upon such filing and Respondent's timely payment of the penalty, EPA agrees it will not take any further civil penalty action against Respondent for the alleged violations of the Act referenced herein.

Nothing in this ESA shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This ESA does not relieve, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the Act and regulations promulgated or permits issued thereunder.

If the signed ESA is not returned to EPA Region 2 as instructed herein by Respondent within forty-five (45) days of the date of Respondent's receipt of it (or within ninety (90) days if an extension is requested and granted), the proposed ESA is withdrawn, without any prejudice regarding EPA's ability to file an enforcement action for the alleged violations identified herein.

Respondent agrees to submit a payment in full of five thousand, four hundred dollars (\$5,400) within thirty (30) days of the filing of a fully executed copy of this ESA with the Regional Hearing Clerk.

PAYMENT INSTRUCTIONS

EPA requests that payments be made through the <https://Pay.gov> website using the following link: <https://www.pay.gov/public/form/start/11751879>.

Please ensure that the following information is included on the payment form:

- i. Amount of payment: \$5,400
- ii. Name of Respondent: Erie County Water Authority
- iii. Docket No.: CAA-02-2026-1006

To ensure your payment is recorded properly, you are required to notify EPA contemporaneously with

the payment. Please send an email message or letter, preferably electronically, that references the date of the payment, the payment amount, the docket number, and your name and address to the following: Jonathan Orozco Lopez, at his email or address, shown above, and to:

Jean Regna
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency - Region 2
290 Broadway, 17th Floor
New York, NY 10007-1866
email: Regna.Jean@epa.gov

Milton Wise
U.S. Environmental Protection Agency
26 W. Martin Luther King Drive
Attention: FINANCE
MS: NWD
Cincinnati, OH 45268
emails: Wise.Milton@epa.gov and cinwd_acctsreceivable@epa.gov

and

Karen Maples
Regional Hearing Clerk
Office of Regional Counsel
U.S. Environmental Protection Agency - Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
email: Region2_RegionalHearingClerk@epa.gov

Failure to pay the penalty when due may subject Respondent to a civil action pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. §7413(d)(5), to collect the penalty, including accrued interest, attorney's fees, collection costs, and nonpayment penalties.

For purposes of the requirements of 26 U.S.C. §162(f) of the Internal Revenue Code, the cost of actions taken to come into compliance with the violations identified herein are "restitution or paid to come into compliance with law."

Tax Reporting. 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 (“Request for Taxpayer Identification Number and Certification”) or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. §§ 6723 and 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 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 Wise.Milton@epa.gov, within thirty (30) days after the Effective Date of this ESA, 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 thirty (30) days after the Effective Date, then Respondent, using the same email address identified in Subparagraph c., shall further:
 - i. notify EPA’s Cincinnati Finance Center of this fact, via email, within thirty (30) days after the Effective Date of this ESA; 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.

By signing this ESA (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 this ESA (consent agreement and final order).

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

FOR RESPONDENT:

Signature: _____

Date: _____

Name (print): _____

Title (print): _____

FOR COMPLAINANT:

Douglas McKenna
Director
Enforcement and Compliance Assurance Division
U.S. EPA, Region 2

I hereby ratify the ESA and incorporate it herein by reference. It is so ORDERED.

Dana Friedman
Regional Judicial Officer
U.S. EPA, Region 2

Risk Management Program Findings
CAA §112(r) Violations
Erie County Water Authority - Van de Water, Water Treatment Plant
3750 River Road
Tonawanda, New York. 14150

COMPLETE THIS FORM AND RETURN IT WITH THE ESA

<u>VIOLATION</u>	<u>PENALTY AMOUNT</u>
<u>Subpart D Prevention Program</u>	
<i>Process Safety Information [68.65(d)(1)(vi)]</i> The owner or operator failed to compile information pertaining to equipment in its chlorine process, specifically design codes and standards employed.	\$600
<i>Process Hazard Analyses [68.67(g)]</i> The owner or operator failed to retain process hazard analyses and updates or revalidations for its chlorine process, as well as the resolution of the process hazard analyses' recommendations for the life of the process.	\$600
<i>Operating Procedures [68.69(a)(2)(i)]</i> The operating procedures developed by the owner or operator failed to address, for operating limits, the consequences of deviations.	\$1,200
<i>Operating Procedures [68.69(c)]</i> The owner or operator failed to certify at least annually that its operating procedures for activities involved in its chlorine process are current and accurate.	\$1,200
<i>Management Of Change [68.75(b)(2)]</i> The owner or operator failed to evaluate the impact of the change on safety and health for the management of change regarding a 2023 change to its chlorine process.	\$300
<i>Management Of Change [68.75(b)(3)]</i> The owner or operator failed to evaluate modifications to operating procedures for the management of change regarding a 2023 change to its chlorine process.	\$300
<i>Management Of Change [68.75(b)(5)]</i> The owner or operator failed to implement authorization requirements for the management of change regarding a 2023 change to its chlorine process.	\$300

Contractors [68.87(b)(1)]

\$900

The owner or operator failed to evaluate the contract owner or operator's safety performance and programs when selecting contractors who would perform work on or adjacent to its chlorine process.

Total Penalty

\$5,400

The approximate cost to correct the above items: \$_____

Compliance staff name: _____

Signed: _____ Date: _____