

INNNOVATIVE ENFORCEMENT ACTIONS

North Carolina Pretreatment Consortium
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INNOVATIVE ENFORCEMENT ACTIONS

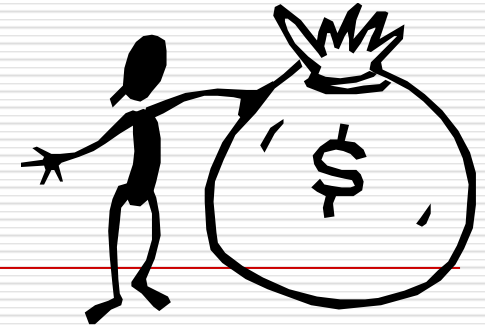
Administrative Enforcement Actions
Innovative Civil Penalties
“Enforcement Consent Agreement”

Administrative Enforcement Actions



- ☐ Required PT Training Conducted by SIU Signatory Official for all Employees
 - ☐ Required Attendance By SIU Officials at Training Seminars
 - NC Pretreatment Consortium Industrial User Training Workshops
 - ☐ Required Attendance at Seminar/Lecture/CTJM by Greensboro Industrial Waste Section!
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Innovative Civil Penalties



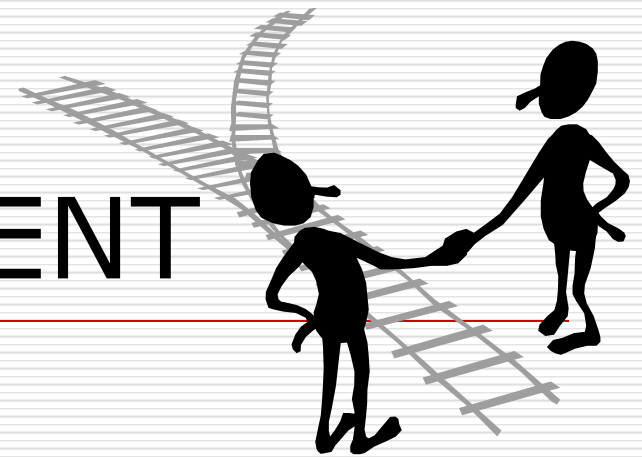
- ❑ Percentage of Civil Penalties Held in Abeyance and Returned IF:
 - Used for Additional PT/PP Processes/Equipment
 - Used for Installation of Permanent Sampling and Monitoring Equipment
 - AND Activities completed within required time frame
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ENFORCEMENT CONSENT AGREEMENT



- ☐ Agreement Between POTW and SIU Concerning Enforcement Actions for SIU Permit/SUO Violations
 - ☐ Purpose:
 - Both parties agree to “keep the lawyers out” of the enforcement process
 - ☐ Economical and amicable settlement
 - Timely/Streamlined enforcement actions
 - Public Document that includes all aspects of the situation, both bad *and good*
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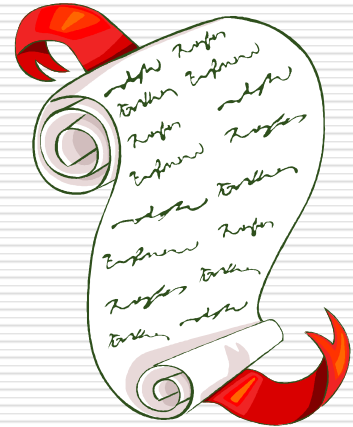
ENFORCEMENT CONSENT AGREEMENT



- ☐ This is NOT an AO
 - ☐ Strictly an enforcement tool implemented after the fact, not to bring SIU back into compliance
 - ☐ Special circumstances involved
 - Not for run-of-the-mill violations
 - ☐ Some negotiation between POTW/SIU
 - What statements will be included in document
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ENFORCEMENT CONSENT AGREEMENT CONTENTS

- ☐ Stipulated Facts
- ☐ Stipulated Violations
- ☐ Special Circumstances
- ☐ Civil Penalties
 - Calculation of Maximum Potential \$\$\$
 - Calculation of Actual Civil Penalty Issued
- ☐ Directive to Pay Civil Penalty
- ☐ Final Settlement of Issue



Stipulated Facts and Stipulated Violations

- Everyone *on both sides* agrees:
 - This is what happened...
 - This is how it happened...
 - This is who/what was at fault...
 - These are the specific violations of the permit or SUO (or both!) that occurred as a result of what happened
 - These are the “special circumstances”
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Special Circumstances (Bad and Good)

□ Examples:

- “Acts of God”
 - Acts of Employees!
 - Good Faith Efforts (and Cooperation)
 - \$\$\$\$ Advantage due to Non-Compliance
 - Previous Compliance History
 - Impact on POTW and/or the Environment
 - Negligence
 - Disciplinary Action Taken by SIU
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Civil Penalties

- ☐ Calculation of Maximum Potential Civil Penalty (\$25,000/day/violation)
 - Amount is included in document
 - ☐ Calculation of Actual Civil Penalty Issued
 - Description of Specific Violations and Specific Penalties
 - Explanation of Final \$\$\$ Decision
 - ☐ ERP Reference if applicable
 - ☐ Pay civil penalty within 30 days of signing
 - Also agree to pay civil penalties issued to City of Greensboro by the State of NC and/or EPA
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ENFORCEMENT CONSENT AGREEMENT

- ❑ Keeps a “technical” issue out of the “legal” realm [the abyss!]
 - ❑ Promotes future relationship with SIU
 - ❑ Requires good relationship (trust) prior to incident
 - PT Program continuity important
 - ❑ Documents “BPJ” enforcement decisions
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ENFORCEMENT CONSENT AGREEMENT

- *"The agreements, statements, stipulations, findings and actions taken herein are made for the purpose of settling this enforcement matter economically and amicably and they shall not be used for any other purpose, except for any proceedings to enforce the provisions of this enforcement consent agreement...."*
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ENFORCEMENT CONSENT AGREEMENT CASE STUDY

- Friday, March 27, 1992 [it had to be a Friday, of course!]
 - POTW Influent pH = 13.0
 - PT staff traced problem through collection system trunkline monitoring
 - Traced to chemical blending company
 - Inventory engineer was hysterical!
 - *"But I don't understand, the tank was full at 5:00 pm yesterday..."*
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ECA CASE STUDY

- ❑ 20,000 gallons of 50% NaOH to sewer
 - Murphy's Law at its finest...
 - pH meter malfunction for previous 2-3 wks
 - "Assumptions" by operations staff
 - NaOH into POTW via SIU air scrubber towers
 - ❑ Tank/valve did not fail
 - ❑ Air Scrubber Control system failure
 - ❑ Verbal Cease and Desist Order Issued
 - Shut Down until cause identified (3 days)
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ECA CASE STUDY

- Company President sent SIU technical staff to POTW to work for 3-4 days round the clock along side of POTW staff!
 - Built acid feed system for chlorine contact tank
 - Effluent titrations every 15 minutes X 3 days for neutralization operation
 - Drums/Tankers of H_2SO_4 from another IU
 - Increased Chlorine Feed Dramatically!
 - Investigated polymer addition for loss of biosolids to effluent
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WHAT HAPPENED AT POTW?

- ❑ Only 1 pH violation for that Friday (~30 Hr POTW DT)
 - 3 MG EQ Tank used to divert part of slug
 - Neutralization of rest of POTW effluent
 - ❑ Total kill of POTW biomass
 - Fish kill for 3 miles downstream...due to low Dissolved Oxygen NOT pH...
 - Stream could recover quicker than from pH shift
 - ❑ No other violations
 - As soon as “slug” passed through POTW, we began “reseeding” from waste activated sludge pipeline connected to other Greensboro POTW
 - Met monthly and weekly average limits for BOD, TSS and ammonia nitrogen!!! (Winter Limits)
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POTW Effluent Data the Following Week

	BOD	TSS	NH3-N
Monday	84.5	98.0	15.4
Tuesday	39.6	47.6	6.68
Wednesday	11.3	18.7	6.99
Thursday	4.72	9.4	1.31
Friday	3.07	8.6	0.14
<i>WA Value mg/l</i>	<i>28.64</i>	<i>36.46</i>	<i>n/a</i>
<i>MA Value mg/l</i>	<i>10.95</i>	<i>15.0</i>	<i>1.34</i>
WA Limit mg/l	33.0	45.0	n/a
MA Limit mg/l	22.0	30.0	6.0

WHY AN ENFORCEMENT CONSENT AGREEMENT?

- ❑ Certain Facts Not Usually Included in an Traditional NOV Needed to be Documented
 - Ultimate in cooperation by SIU
 - SIU Shut Down cost SIU ~\$500,000
 - Murphy's Law
 - NOVs/\$21,514 Civil Penalty in document
 - ❑ BPJ Decision by PT Staff
 - ❑ State did NOT issue civil penalty to COG
 - DWQ: "We cannot think of anything that you could have done to handle the situation better."
 - Fish replacement costs only [paid by SIU]
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ENFORCEMENT CONSENT AGREEMENT

- ☐ Have used it 3 other times
 - Only for large Civil Penalties
 - Amicable, quick, technical settlement
 - ☐ No lawyers!
 - ☐ Tried to use it one other time but SIU corporate headquarters lawyers insisted on being involved, so I rescinded offer....
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EVEN IN ENFORCEMENT....

☐ Remember:
“The Toes”

