

EPA is authorized under section 309(g) of the Act, 33 U.S.C. 1319(g), to assess a civil penalty after providing the person subject to the penalty notice of the proposed penalty and the opportunity for a hearing, and after providing interested persons notice of the proposed penalty and a reasonable opportunity to comment on its issuance. Under section 309(g), any person who without authorization discharges a pollutant to a navigable water, as those terms are defined in section 502 of the Act, 33 U.S.C. 1362, may be assessed a penalty in a "Class II" administrative penalty proceeding.

Class II proceedings under section 309(g) are conducted in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits," 40 CFR part 22 ("Consolidated Rules"), published at 64 FR 40138, 40177 (July 23, 1999). The procedures through which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty (30) days after publication of this notice.

On September 30, 1999, EPA commenced the following Class II proceeding for the assessment of penalties by filing with Danielle Carr, Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, California 94105, (415) 744-1391, the following Complaint:

In the Matter of Jaxon Enterprises, Buena Ventura Boulevard Extension, City of Redding, Shasta County, California, Docket No. CWA-09-99-0005.

The Complaint proposes a penalty of up to One Hundred Thirty Seven Thousand, Five Hundred Dollars (\$137,500) for violations of NPDES Permit No. CAS000002 (issued by the California State Water Resources Control Board (Order No. 92-08-DWQ)) and section 301(a) of the Act, 33 U.S.C. 1311(a), at the Buena Ventura Boulevard Extension, City of Redding, Shasta County, California.

Procedures by which the public may comment on a proposed Class II penalty or participate in a Class II penalty proceeding are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II penalty is thirty days after issuance of public notice. The Regional Administrator of EPA, Region

9 may issue an order upon default if the respondent in the proceeding fails to file a response within the time period specified in the Consolidated Rules.

**FOR FURTHER INFORMATION CONTACT:** Persons wishing to receive a copy of EPA's Consolidated Rules, review the Complaint or other documents filed in this proceeding, comment upon the proposed assessment, or otherwise participate in the proceeding should contact Danielle Carr, Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, California 94105, (415) 744-1391. The administrative record for this proceeding is located in the EPA Regional Office identified above, and the file will be open for public inspection during normal business hours. All information submitted by Jaxon Enterprises is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in these proceedings prior to thirty (30) days after the date of publication of this notice.

Dated: September 30, 1999.

**Alexis Strauss,**

*Director, Water Division.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-6455-6; CWA-HQ-99-008]

### Clean Water Act Class II: Proposed Administrative Settlement, Penalty Assessment and Opportunity To Comment Regarding US WEST Communications, Inc.

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has entered into a consent agreement with US WEST Communications, Inc. ("US WEST") to resolve violations of the Clean Water Act ("CWA"), and its implementing regulations. US WEST failed to prepare a Spill Prevention Control and Countermeasure ("SPCC") plan for seven (7) facilities where it stored diesel oil in above ground tanks. EPA, as authorized by CWA section 311(b)(6), 33 U.S.C. 1321(b)(6), has assessed a civil penalty for these violations. The Administrator, as required by CWA section 311(b)(6)(C), 33 U.S.C. 1321(b)(6)(C), is hereby providing

public notice of, and an opportunity for interested persons to comment on, this consent agreement and proposed final order.

**DATES:** Comments are due on or before November 12, 1999.

**ADDRESSES:** Mail written comments to the Enforcement & Compliance Docket and Information Center (2201A), Docket Number EC-1999-008, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. (Comments may be submitted on disk in WordPerfect 8.0 or earlier versions.) Written comments may be delivered in person to: Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW, Washington, DC. Submit comments electronically to [doCKET.oeca@epa.gov](mailto:doCKET.oeca@epa.gov). Electronic comments may be filed online at many Federal Depository Libraries.

The consent agreement, the proposed final order, and public comments, if any, may be reviewed at the Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW, Washington, DC. Persons interested in reviewing these materials must make arrangements in advance by calling the docket clerk at 202-564-2614. A reasonable fee may be charged by EPA for copying docket materials.

**FOR FURTHER INFORMATION CONTACT:** Davis Jones, Multimedia Enforcement Division (2248-A), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; telephone (202) 564-6035; fax: (202) 564-0010; e-mail: [jones.davis@epa.gov](mailto:jones.davis@epa.gov).

**SUPPLEMENTARY INFORMATION:** *Electronic Copies:* Electronic copies of this document are available from the EPA Home Page under the link "Laws and Regulations" at the **Federal Register** Environmental Documents entry (<http://www.epa.gov/fedrgstr>).

## I. Background

US WEST Communications, Inc., 1801 California Street, Suite 390, Denver, CO 80202, pursuant to the EPA "Incentives for Self-Policing: Discovery, Disclosures, Correction and Prevention of Violations" ("Audit Policy"), 60 FR 66706 (December 22, 1995), disclosed to EPA that it failed to prepare SPCC plans for seven facilities where it stored diesel oil in above ground storage tanks, in violation of the CWA section 311(b)(3) and 40 CFR part 112. EPA determined that US WEST met the criteria set out

in the Audit Policy for a 100% waiver of the gravity component of the penalty. As a result, EPA waived the gravity based penalty (\$59,813) and proposed a settlement penalty amount four thousand seven hundred seventeen dollars (\$4,717). This is the amount of the economic benefit gained by US WEST attributable to its delayed compliance with the SPCC regulations. US WEST has agreed to pay this amount in civil penalties. EPA and US WEST negotiated and signed an administrative consent agreement, following the Consolidated Rules of Procedure, 40 CFR 22.13, on September 30, 1999 (*In Re: US WEST Communications, Inc.* Docket No. CWA-HQ-99-008). This consent agreement is subject to public notice and comment under CWA section 311(b)(6), 33 U.S.C. 1321(b)(6).

Under CWA section 311(b)(6)(A), 33 U.S.C. 1321 (b)(6)(A), any owner, operator, or person in charge of a vessel, onshore facility, or offshore facility from which oil is discharged in violation of the CWA section 311 (b)(3), 33 U.S.C. 1321 (b)(3), or who fails or refuses to comply with any regulations that have been issued under CWA section 311 (j), 33 U.S.C. 1321(j), may be assessed an administrative civil penalty of up to \$137,500 by EPA. Class II proceedings under CWA section 311(b)(6) are conducted in accordance with 40 CFR part 22.

The procedures by which the public may comment on a proposed Class II penalty order, or participate in a Clean Water Act Class II penalty proceeding, are set forth in 40 CFR 22.45. The deadline for submitting public comment on this proposed final order is November 12, 1999. All comments will be transferred to the Environmental Appeals Board ("EAB") of EPA for consideration. The powers and duties of the EAB are outlined in 40 CFR 22.04(a).

Pursuant to CWA section 311(b)(6)(C), EPA will not issue an order in this proceeding prior to the close of the public comment period.

#### List of Subjects

Environmental protection.

Dated: September 30, 1999.

**Rosemarie A. Kelley,**

*Acting Director, Multimedia Enforcement Division, Office of Enforcement and Compliance Assurance.*

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#### ENVIRONMENTAL PROTECTION AGENCY

[FRL-6455-9; CWA-HQ-99-007]

#### Clean Water Act Class II: Proposed Administrative Settlement, Penalty Assessment and Opportunity To Comment Regarding Western Wireless Corporation and VoiceStream Wireless Corporation

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has entered into a consent agreement with Western Wireless Corporation ("Western Wireless") and VoiceStream Wireless Corporation ("VoiceStream Wireless") to resolve violations of the Clean Water Act ("CWA"), and its implementing regulations. Western Wireless and VoiceStream Wireless failed to prepare Spill Prevention Control and Countermeasure ("SPCC") plans for four facilities where they stored diesel oil in above ground tanks. EPA, as authorized by CWA section 311(b)(6), 33 U.S.C. 1321(b)(6), has assessed a civil penalty for these violations. The Administrator, as required by CWA section 311(b)(6)(C), 33 U.S.C. 1321(b)(6)(C), is hereby providing public notice of, and an opportunity for interested persons to comment on, this consent agreement and proposed final order.

**DATES:** Comments are due on or before November 12, 1999.

**ADDRESSES:** Mail written comments to the Enforcement & Compliance Docket and Information Center (2201A), Docket Number EC-1999-010, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. (Comments may be submitted on disk in WordPerfect 8.0 or earlier versions.) Written comments may be delivered in person to: Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW, Washington, DC. Submit comments electronically to [docket.oeca@epa.gov](mailto:docket.oeca@epa.gov). Electronic comments may be filed online at many Federal Depository Libraries.

The consent agreement, the proposed final order, and public comments, if any, may be reviewed at the Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW, Washington, DC. Persons interested in reviewing these materials must make

arrangements in advance by calling the docket clerk at 202-564-2614. A reasonable fee may be charged by EPA for copying docket materials.

**FOR FURTHER INFORMATION CONTACT:** Philip Milton, Multimedia Enforcement Division (2248-A), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; telephone (202) 564-2235; fax: (202) 564-0010; e-mail: [milton.philip@epa.gov](mailto:milton.philip@epa.gov).

**SUPPLEMENTARY INFORMATION:** *Electronic Copies:* Electronic copies of this document are available from the EPA Home Page under the link "Laws and Regulations" at the **Federal Register**—Environmental Documents entry (<http://www.epa.gov/fedrgstr>).

#### I. Background

Western Wireless and VoiceStream Wireless, both located at 3650 131st Avenue, S.E., Suite 400, Bellevue, Washington 98006, disclosed, pursuant to the EPA "Incentives for Self-Policing: Discovery, Disclosures, Correction and Prevention of Violations" ("Audit Policy"), 60 FR 66706 (December 22, 1995), that they failed to prepare SPCC plans for four facilities where they stored diesel oil in above ground storage tanks, in violation of the CWA section 311(b)(3) and 40 CFR Part 112. EPA determined that Western Wireless and VoiceStream Wireless met the criteria set out in the Audit Policy for a 100% waiver of the gravity component of the penalty. As a result, EPA waived the gravity based penalty (\$30,525) and proposed a settlement penalty amount one thousand, five hundred and ninety-three dollars (\$1,593). This is the amount of the economic benefit gained by Western Wireless and VoiceStream Wireless, attributable to their delayed compliance with the SPCC regulations. Western Wireless and VoiceStream Wireless have agreed to pay this amount in civil penalties. EPA and Western Wireless and VoiceStream Wireless negotiated and signed an administrative consent agreement, following the Consolidated Rules of Procedure, 40 CFR. 22.13, on October 6, 1999 (*In Re: Western Wireless and VoiceStream Wireless*, Docket No. CWA-HQ-99-007). This consent agreement is subject to public notice and comment under CWA section 311(b)(6), 33 U.S.C. 1321(b)(6).

Under CWA section 311(b)(6)(A), 33 U.S.C. 1321 (b)(6)(A), any owner, operator, or person in charge of a vessel, onshore facility, or offshore facility from which oil is discharged in violation of the CWA section 311 (b)(3), 33 U.S.C. 1321 (b)(3), or who fails or refuses to comply with any regulations that have been issued under CWA section 311 (j),