

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jun 26, 2025

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

SPOKANE RIVERKEEPER,

Plaintiff,

v.

TOWN OF SPANGLE,

Defendant.

No. 2:21-CV-00275-SAB

**ORDER GRANTING MOTION
FOR ENTRY OF CONSENT
DECREE**

Before the Court is the parties' Joint Motion for Entry of Consent Decree, ECF No. 25. Plaintiff is represented by Richard Smith, Katelyn Kinn, and Savannah Rose. Defendant is represented by Megan Clark and Michael Connelly. The motion was considered without oral argument.

The parties notified the Court they have reached a settlement and request the Court enter the following Consent Decree in this matter.

Accordingly, **IT IS HEREBY ORDERED:**

1. The parties' Joint Motion for Entry of Consent Decree, ECF No. 25, is **GRANTED.**

2. All deadlines, motions, hearings, and the trial date are **STRICKEN.**

The Court enters the stipulated Consent Decree as follows:

ORDER GRANTING MOTION FOR ENTRY OF CONSENT DECREE ~ 1

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I. STIPULATIONS

WHEREAS, Plaintiff Spokane Riverkeeper (“Riverkeeper”) filed a complaint on September 14, 2021, ECF No. 1, against defendant Town of Spangle (“Spangle”) alleging violations of the Clean Water Act, 33 U.S.C. § 1251, et seq., relating to discharges of stormwater and other pollutants from Spangle’s wastewater treatment plant at or about 47.4341°N, 117.3845°W (the “Facility”), and any contiguous or adjacent properties owned or operated by Spangle, to Spangle Creek, and seeking declaratory and injunctive relief, civil penalties, and attorneys’ fees and costs.

WHEREAS, Riverkeeper and Spangle (the “Parties”) agree that settlement of these matters is in the best interest of the Parties and the public, and that entry of this Consent Decree is the most appropriate means of resolving this action.

WHEREAS, the Parties stipulate to the entry of this Consent Decree without trial, adjudication, or admission of any issues of fact or law regarding Riverkeeper’s claims or allegations set forth in its complaint and its sixty-day notice.

II. ORDER AND DECREE

THIS MATTER came before the Court upon the Parties’ Joint Motion for Entry of Consent Decree and the foregoing Stipulations of the Parties. Having considered the Stipulations and the promises set forth below, the Court hereby **ORDERS, ADJUDGES, and DECREES** as follows:

1. This Court has jurisdiction over the Parties and subject matter of this action.
2. Each signatory for the Parties certifies for that party that he or she is authorized to enter into the agreement set forth herein and to legally bind the party or parties, their successors in interest, and assigns of the Parties.
3. This Consent Decree applies to and binds the Parties and their successors and assigns.

1 4. This Consent Decree and any injunctive relief ordered within applies
2 to the operation, oversight, or both by Spangle of the Facility.

3 5. This Consent Decree is a full and complete settlement and release of
4 all the claims in the complaint and the sixty-day notice and all other claims known
5 or unknown existing as of the date of entry of the Consent Decree that could be
6 asserted under the Clean Water Act, 33 U.S.C. §§ 1251–1387, arising from
7 operation of the Facility. Upon termination of this Consent Decree, these claims
8 are released and dismissed with prejudice. Spangle’s payment of attorney’s fees
9 and litigation costs set forth in paragraph 9 of the Consent Decree will be in full
10 and complete satisfaction of any claims Riverkeeper and Smith & Lowney, PLLC
11 have or may have, either legal or equitable, known or unknown, and of any kind or
12 nature whatsoever, for fees, expenses, and costs incurred in the Litigation.
13 Enforcement of this Consent Decree is Riverkeeper’s exclusive remedy for any
14 violation of its terms.

15 6. This Consent Decree is a settlement of disputed facts and law. It is not
16 an admission or adjudication regarding any allegations by Riverkeeper in this case
17 or of any fact or conclusion of law related to those allegations, nor evidence of any
18 wrongdoing or misconduct on the part of Spangle or its contractors, customers, or
19 other third parties. Spangle agrees to the terms and conditions identified below in
20 paragraphs 7–9 in full and complete satisfaction of all the claims covered by this
21 Consent Decree:

22 7. Upon entry of the Consent Decree, Spangle will implement the
23 following injunctive relief:

24 a. Spangle will adhere to the requirements of the Clean Water Act
25 at the Facility and the terms and conditions of NPDES Permit
26 No. WA0991010 (the “Permit”) and any successor or modified
27 versions of the NPDES permits.

28 b. For a period of five (5) years from the date of entry of this

1 Consent Decree, Spangle will, on a quarterly basis,
2 electronically forward to Riverkeeper copies of all
3 communications or documents provided to and/or received
4 from Ecology related to the Facility's compliance with the
5 Permit on a quarterly basis for the life of the Consent Decree.

6 c. Spangle will comply with the following Permit deadlines, as set
7 forth below, unless otherwise modified by the Washington State
8 Department of Ecology, submitting reports and verifications of
9 compliance to Washington State Department of Ecology and
10 sending a copy of the same to Riverkeeper:

- 11 i. S1.A. Submit a Best Management Plan no later than
12 January 31, 2027.
- 13 ii. S4.E. Infiltration and Inflow Evaluation: Submit report
14 summarizing results of evaluation and including
15 recommendations for corrective actions no later than
16 February 1, 2027.
- 17 iii. S4.E.3 Submit I&I Capital Improvement Plan and
18 Construction Schedule no later than July 31, 2026.
- 19 iv. S5.A Submit Operator Certification Renewal Card no
20 later than May 15 each year.
- 21 v. S5.G Submit Operations and Maintenance Manual
22 Update no later than March 1, 2026.
- 23 vi. S9.1 Submit Engineering Docs no later than March 1,
24 2029.
- 25 vii. S10 Task 1: Install Effluent Temperature Thermistor no
26 later than March 1, 2026.
- 27 viii. S10 Task 2: Install Effluent Dissolved Oxygen Probe no
28 later than March 1, 2026.

- ix. S11 Task 1: Submit Annual Temperature Limit Compliance Report no later than March 1, 2026.
- x. S11 Task 2: Submit Annual Dissolved Oxygen Compliance Report no later than March 1, 2026.
- xi. S12.4 Receiving Water Study Final Report no later than March 1, 2029.
- xii. Comply with Effluent Limit for Temperature 7DADMax Final Average Monthly (June 18.2 °C, July 21.5 °C, Aug 17.7 °C) no later than March 1, 2035.
- xiii. Comply with Effluent Limit for Dissolved Oxygen Average Monthly Minimum Limit (8 mg/L) no later than March 1, 2035.
- d. Spangle will comply with the following accelerated deadline:
 - i. S12.1 Submit Receiving Water Study QAPP no later than September 1, 2025.
- e. Budget allocations. For each deadline described above, Spangle will complete its budget allocation for that item no later than eight months prior to the deadline.
- f. Requests for Proposals: For each deadline described above for which a Request for Proposal (“RFP”) is required, Spangle will issue the RFP to prospective contractors no later than six months prior to the deadline.
- g. Construction Permits: For each deadline described above for which a construction permit is required, Spangle will ensure that it has submitted all necessary permit application materials no later than one year prior to the deadline, and thereafter must agree to respond promptly to all requests for additional information from permitting authority within 14 days.

1 8. Payment of Civil Penalties: Within thirty (30) days of entry of this
2 Consent Decree, Spangle will pay \$2,500 (TWO THOUSAND FIVE HUNDRED
3 DOLLARS) to the United States Treasury. Spangle will notify the Joseph
4 Manning, Joseph.Manning@usdoj.gov, and Bryn Bowen,
5 Bryn.Bowen@usdoj.gov, at the United States Department of Justice when the
6 consent decree is entered in order to receive instructions on how to submit payment
7 to the Treasury. Payment will include the following reference in a cover letter or
8 on the check: "Consent Decree, Spokane Riverkeeper v. Town of Spangle. E.D.
9 Wash. No. 2:21- cv-00275-SAB." Spangle will send a copy of the check and cover
10 letter, if any, to Riverkeeper and its counsel, pursuant to the notice provisions in
11 paragraph 18.

12 9. Within ten (10) days of entry of this Consent Decree by the Court,
13 Spangle will pay \$29,000 (TWENTY-NINE THOUSAND DOLLARS) to
14 Riverkeeper to cover Riverkeeper's litigation fees, expenses, and costs (including
15 reasonable attorneys and expert witness fees) by check payable and mailed to
16 Smith & Lowney, PLLC, 2317 East John St., Seattle, WA 98112, attn: Richard
17 Smith.

18 10. A force majeure event is any event outside the reasonable control of
19 Spangle that causes a delay in performing tasks required by this Consent Decree
20 that cannot be cured by due diligence. Delay in performance of a task required by
21 this Consent Decree caused by a force majeure event is not a failure to comply
22 with the terms of this Consent Decree, provided that Spangle timely notifies
23 Riverkeeper of the event, the steps that Spangle will take to perform the task, the
24 projected time that will be needed to complete the task, and the measures that have
25 been taken or will be taken to prevent or minimize any impacts to stormwater
26 quality resulting from delay in completing the task.

27 11. Spangle will notify Riverkeeper of the occurrence of a force majeure
28 event as soon as reasonably possible but, in any case, no later than fifteen (15) days

1 after Spangle becomes aware of the event. In such event, the time for performance
2 of the task will be extended for a reasonable period of time following the force
3 majeure event.

4 By way of example and not limitation, force majeure events include

- 5 a. Acts of God, war, insurrection, or civil disturbance;
- 6 b. Earthquakes, landslides, fire, floods;
- 7 c. Actions or inactions of third parties over which Spangle has no
8 or limited control;
- 9 e.¹ Restraint by court order or order of public authority; and
- 10 f. Strikes.

11 12. This Court retains jurisdiction over this matter, while this Consent
12 Decree remains in force. While this Consent Decree remains in force, this case
13 may be reopened without filing fees so that the Parties may apply to the Court for
14 any further order that may be necessary to enforce compliance with this Consent
15 Decree or to resolve any dispute regarding the terms or conditions of this Consent
16 Decree. In the event of a dispute regarding implementation of, or compliance with,
17 this Consent Decree, the Parties must first attempt to resolve the dispute by
18 meeting to discuss the dispute and any suggested measures for resolving the
19 dispute. Such a meeting will be held as soon as practical but must be held within
20 thirty (30) days after notice of a request for such a meeting to the other Party and
21 its counsel of record. If no resolution is reached at that meeting or within thirty
22 (30) days of the Notice, either Party may file a motion with this Court to resolve
23 the dispute. The provisions of section 505(d) of the Clean Water Act, 33 U.S.C. §
24 1365(d), regarding awards of costs of litigation (including reasonable attorney and
25 expert witness fees) to any prevailing or substantially prevailing party, will apply
26 _____

27 ¹ The Court notes the original Consent Decree signed by the parties also omits a
28 letter “d” for purposes of the list.

1 to any additional court proceedings necessary to enforce the terms and conditions
2 of this Consent Decree.

3 13. The Parties recognize that, pursuant to 33 U.S.C. § 1365(c)(3), no
4 consent judgment can be entered in a Clean Water Act suit in which the United
5 States is not a party prior to forty-five (45) days following the receipt of a copy of
6 the proposed consent judgment by the U.S. Attorney General and the
7 Administrator of the U.S. Environmental Protection Agency (“EPA”). Therefore,
8 upon the filing of this Consent Decree by the parties, Riverkeeper will serve copies
9 of it upon the Administrator of the U.S. EPA and the U.S. Attorney General.

10 14. This Consent Decree will take effect upon entry by this Court. The
11 Consent Decree terminates ten (10) years after that date or upon completion of all
12 requirements (whichever is later).

13 15. Both Parties have participated in drafting this Consent Decree.

14 16. This Consent Decree constitutes the entire agreement between the
15 Parties. There are no other or further agreements, either written or verbal. This
16 Consent Decree may be modified only upon a writing signed by both Parties and
17 the approval of the Court.

18 17. If for any reason the Court should decline to approve this Consent
19 Decree in the form presented, this Consent Decree is voidable at the discretion of
20 either Party. The Parties agree to continue negotiations in good faith to cure any
21 objection raised by the Court to entry of this Consent Decree.

22 18. Notifications required by this Consent Decree must be in writing and
23 via email. For a notice or other communication regarding this Consent Decree to
24 be valid, it must be sent to the receiving Party at the one or more email addresses
25 listed below or to any other address designated by the receiving Party in a notice in
26 accordance with this paragraph.

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1 **If to Spokane Riverkeeper:**

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3 Katelyn Scott
4 Spokane Riverkeeper
5 katy@spokaneriverkeeper.org
6

7 **And to:**

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9 Richard Smith
10 Katelyn Kinn
11 Smith & Lowney PLLC
12 richard@smithandlowney.com
13 katelyn@smithandlowney.com
14

15 **If to Town of Spangle:**

16
17 Melissa Holling
18 Mayor, Town of Spangle
19 mcholling@gmail.com
20

21 Peggy Mangis
22 Clerk, Town of Spangle
23 Townofspangle@gmail.com
24

25 **And to:**

26 Megan C. Clark
27 Etter, McMahon, Lamberson, Van Wert & Oreskovich, P.C.
28 mclark@ettermcmahon.com

1 Any party identified in the notice provisions above may affect a change in
2 the notice address by providing a notice complying with these provisions to all
3 other parties listed. A notice or other communication regarding this Consent
4 Decree will be effective the day it is transmitted. An email is effective the day it is
5 sent so long as it is sent by 5:00 p.m. and on a business day, or else it is effective
6 the following business day.

7 **IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter
8 this Order, provide copies to counsel, and **close** the file.

9 **DATED** this 26th day of June 2025.



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14 Stan Bastian
15 Chief United States District Judge
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