



BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: 6/3/2025

**= Mandatory, information must be provided*

Click or tap the boxes to enter text. If not applicable, indicate "N/A".

***Title:**

Regular Session, Regional Wastewater Reclamation Department

***Introduction/Background:**

Staff recommends that the Board of Supervisors approve the following pretreatment Negotiated Settlement Agreement. The Negotiated Settlement Agreement is a result of enforcement actions by Pima County's Regional Wastewater Reclamation Department's Industrial Control Group. Pursuant to A.R.S. § 49-391, the Board of Supervisors held a public comment period starting on April 1, 2025, and Pima County did not receive any public comments during the public comment period regarding the pretreatment Negotiated Settlement Agreement listed below.

***Discussion:**

The Negotiated Settlement Agreement settles violations of the County's wastewater discharge limitations at Busy D Pumping's facility located at 3255 East District Street, Tucson, AZ 85714. As part of the Negotiated Settlement Agreement, Busy D Pumping will pay a total of \$1,500.00.

***Conclusion:**

If approved, the Negotiated Settlement Agreement will be ratified in accordance with the requirements of A.R.S. § 49- 391 and the pretreatment violations will be resolved as set forth in the Agreement.

***Recommendation:**

That the Board of Supervisors approve the Pretreatment Negotiated Settlement Agreement.

***Fiscal Impact:**

None.

***Board of Supervisor District:**

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☒ All

Department: Pima County Attorney's Office

Telephone: 520-724-5700

Contact: Chief Civil Deputy Sam Brown

Telephone: 520-724-5700

Department Director Signature: _____

Date: 5/06/2025

Deputy County Administrator Signature: _____

Date: _____

County Administrator Signature: _____

Date: 5/6/2025

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This Negotiated Settlement Agreement (“Agreement”) is made and entered between Pima County, Arizona, a political subdivision of the State of Arizona (“Pima County”), and Busy D Pumping Inc., a domestic for-profit corporation (“Busy D”) pursuant to A.R.S. § 49-391(C).

1. Pima County is a political subdivision of the State of Arizona with authority under A.R.S. § 11-264 to establish and maintain a wastewater treatment system.
2. Pima County's wastewater treatment system discharges treated wastewater into designated waters of the United States and is therefore subject the Arizona Discharge Elimination System (AZPDES) permitting requirements of the Clean Water Act.
3. As required by its AZPDES permit and as authorized by A.R.S. § 49-391(A), Pima County has enacted an Industrial Wastewater Ordinance, which is included in Pima County Code, Title 13, Chapter 36 ("P.C.C.") and regulates the industrial users of Pima County's wastewater treatment system.
4. Busy D is an "Industrial User" of Pima County's wastewater treatment system as defined in P.C.C. § 13.36.040(Z).
5. Busy D is a centralized waste treatment source that accepts wastewater with some combination of metals and oily wastes subject to the categorical pretreatment

standards under Code of Federal Regulations (“C.F.R.”), Title 40, Chapter I, Subchapter N, Part 437.

6. Under A.R.S. § 49-391(C), Pima County has the authority to enter into this Agreement with Busy D with regard to the local enforcement of wastewater pretreatment requirements.
7. The parties acknowledge that final approval of this Agreement is subject to a mandatory 30 day public notice and comment period under A.R.S. § 49-391(C).

II. FINDINGS

8. Busy D operates a facility located at 3255 East District Street, Tucson, AZ 85714 (“Facility”) that discharges industrial wastewater and septage into Pima County’s wastewater treatment system under the authority of Industrial Wastewater Discharge Permit 12738 (the “Permit”).
9. The Permit requires that Busy D monitor its industrial wastewater for the parameter of antimony.
10. Both 40 C.F.R. § 437.47(b) and the Permit sets the maximum daily limit for discharges of antimony at 0.249 milligrams per liter (“mg/l”).
11. P.C.C. § 13.36.130(A) requires industrial users to “comply with all applicable Federal rules, regulations, or Pretreatment standards, or any applicable more stringent State or local rules, regulations or standards, whether or not contained in a permit.”
12. On October 1, 2024, Busy D exceeded the maximum daily limit for antimony in violation of the Permit and 40 C.F.R. § 437.47(b).
13. On January 9, 2025, the Pima County Industrial Wastewater Control Section (“IWC”) issued Busy D Notification of Violation, No. 2025-NOV-0005 for exceeding the maximum daily limit for antimony.

1 14. In Notice of Violation No. 2025-NOV-0005, IWC determined that Busy D
2 discharged antimony that failed to meet applicable Federal rules, regulations, or
3 Pretreatment standards, or any applicable more stringent State or local rules,
4 regulations, or standards, whether or not contained in a permit, as defined in
5 P.C.C. § 13.36.130(A).

6 15. Busy D is a small, locally-owned company and it has made good faith efforts with
7 IWC to resolve this enforcement action.

8 16. Busy D and IWC have negotiated the terms of a Negotiated Settlement Agreement
9 (“NSA”) with a reduction of monetary penalty as authorized by section 2.4(C) of
10 Pima County’s Enforcement Response Plan.¹

11 17. Busy D’s violation of the Permit and federal regulations, as documented in Notice
12 of Violation No. 2025-NOV-0005, subjects Busy D to administrative orders and
13 civil penalties consistent with the federal Clean Water Act.

14 **III. TERMS AND CONDITIONS**

15 18. Settlement. Pima County and Busy D have entered into this Agreement in order to
16 resolve all identified disputes between them according to the following terms and
17 conditions:

- 18 a. Busy D agrees to pay a penalty of \$1,500.00 for the daily limit exceedance
19 of antimony as provided in Attachment A to this agreement.

20 The payment of the \$1,500.00 penalty and the NSA represents the full settlement of
21 penalties imposed by Pima County under P.C.C., Title 13, Chapter 13.36 for the
22 violations alleged in the Notification of Violation.

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24 ¹ The Enforcement Response Plan was approved by the Board of Supervisors on June 18,
25 2013 and is available online at: <https://content.civicplus.com/api/assets/4450a3c5-f4ff-4b04-9003-6a135e9a561c>
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1 19. Failure of Compliance. The parties agree that it is the responsibility of Busy D to
2 achieve and maintain compliance with all applicable Federal, State, and local laws,
3 regulations and permits. Compliance with this Agreement shall not be a defense to
4 any enforcement actions commenced pursuant to said laws, regulations, or permits
5 and based on Busy D activities or omissions occurring after the date of this
6 agreement.

7 20. Entire Agreement. This Agreement contains the entire agreement between Pima
8 County and Busy D, and the terms, conditions, and provisions of this Agreement
9 are contractual and not a mere recital.

10 21. Attorney Fees. In the event that either Pima County or Busy D finds it necessary
11 to employ legal counsel to bring an action at law or other proceeding against the
12 other party to enforce any of the terms, conditions, or provisions of this
13 Agreement, the party prevailing in such action shall be paid all reasonable attorney
14 fees by the other party, and in the event that any judgment is secured by the
15 prevailing party in such action or proceeding, all reasonable attorney fees shall be
16 included in said judgment. The amount of reasonable attorney fees shall be
17 determined by the court and not by a jury.

18 22. Authority. The persons executing this Agreement expressly represent and warrant
19 that they are authorized to execute the same. Further, Pima County and Busy D
20 expressly acknowledge that they have been given the opportunity to be
21 represented by their respective attorneys in the negotiation of this Agreement. The
22 terms, conditions, and provisions of this Agreement shall be construed only
23 according to their fair import.

24 23. Form of Notice. Unless otherwise provided for in this Agreement, any notice or
25 communication between the parties shall be deemed submitted on the date they are
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1 postmarked and sent by certified mail, return receipt requested, and shall be
2 addressed as follows:

3 To Pima County:	To Busy D:
4 Steve King	Paul Edwards
5 Regional Wastewater Reclamation Department	Busy "D" Pumping, Inc.
6 Industrial Wastewater Control	3255 East District Street
2955 West Calle Agua Nueva	Tucson, AZ 85714
Tucson, AZ 85745	

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- 8 24. Non-Waiver Provisions. This Agreement in no way relieves Busy D of its
9 responsibility to comply with all applicable Federal, State, local laws, or permit
10 conditions in operating the Facility in Pima County.
- 11 25. Severability. The provisions of this Agreement shall be severable, and should any
12 provision be declared by a court of competent jurisdiction to be inconsistent with
13 Federal or State law, and therefore unenforceable, the remaining provisions of this
14 Agreement shall remain in full force and effect.
- 15 26. Good Faith. The parties agree that each of them shall take such further action and
16 execute such further documents, if any, which may be necessary or appropriate to
17 implement this Agreement according to all of its terms and conditions.
- 18 27. Limitations. It is the intent of the parties that this Agreement shall not be used in
19 any judicial proceedings or in any other manner against Busy D.
- 20 28. Binding Effect. The provisions of this Agreement shall be binding upon the
21 parties, their officers, directors, agents, servants, employees, successors, assigns
22 and all persons, firms, and corporations in active concert with them.
- 23 29. Governing Law. The terms and conditions of this Agreement shall be governed by
24 the law of the State of Arizona.
- 25 30. Date of Public Notice. Public notice of the thirty-day comment period shall be
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given at a Pima County Board of Supervisors' Meeting.

PIMA COUNTY

ATTEST:

By Rex Scott
Chair, Board of Supervisors

By Melissa Manriquez
Clerk of the Board of Supervisors

Date _____

Date _____

APPROVED AS TO FORM:

By Bobby Yu
Bobby Yu
Deputy Pima County Attorney

BUSY "D" PUMPING, INC.

By Paul Edwards
Paul Edwards, President

Date 3-5-25

STATE OF ARIZONA)
) ss
COUNTY OF PIMA)

The foregoing signature was acknowledged before me this 5th day of March, 2025, by Paul Edwards, a Owner with authority to enter into this contract on behalf of Busy "D" Pumping, Incorporated an Arizona corporation.

Tanaya Y McKinney
Notary Public

My Commission Expires:



Attachment A
Negotiated Settlement Agreement (NSA) No. 2025-NOV-0005
Busy D Pumping, Inc.

Daily Limit Exceedance

Penalty amount equivalent to Base Fee of \$2000.00 with a Significant Industrial User adjustment Factor [0.5] of \$1000.00. Total daily limit exceedance = \$3000.00.

Good Faith Efforts

Busy D has demonstrated good faith efforts with the purchase of new equipment to address the antimony exceedance at a cost of over \$23,000.00. Good faith efforts adjustment factor [- 0.5] from the total of the daily limit exceedance = \$1,500.00

Total Negotiated Penalty = \$1,500.00