



REGION 3
PHILADELPHIA, PA 19103



MAX ENVIRONMENTAL	:	
TECHNOLOGIES, INC.	:	
McCandless Corporate Center	:	
5700 Corporate Drive	:	U.S. EPA Docket No. CWA-03-2024-0087DN
Suite 425	:	
Pittsburgh, PA 15237	:	
	:	
RESPONDENT,	:	ADMINISTRATIVE ORDER ON CONSENT
	:	PURSUANT TO 33 U.S.C. § 1319(a)
MAX Environmental Technologies, Inc.	:	
233 Max Lane	:	
Yukon, PA 15698	:	
NPDES Permit # PA0027715	:	
	:	
FACILITY.	:	

I. STATUTORY AUTHORITY AND JURISDICTION

1. This Administrative Order on Consent (“Consent Order”) for compliance is issued to Max Technologies, Inc. (“Respondent”), under the authority vested in the United States Environmental Protection Agency (“EPA”) by Section 309(a) of the Clean Water Act (“CWA” or “Act”), 33 U.S.C. § 1319(a). The Administrator delegated this authority to the Regional Administrator of EPA Region 3, who further delegated it to the Director of the Enforcement and Compliance Assurance Division, EPA Region 3.
2. Section 309(a) of the Act provides, among other things, that: “Whenever, on the basis of any information available to [EPA], [EPA] finds that any person is in violation of any condition or limitation which implements section [301, 302, 306, 307, 308, 318, or 405] of this title in a permit issued . . . under section [402] of this title,” EPA shall issue an order requiring such person to comply with such section or requirement. . . .” See 33 U.S.C. § 1319(a)(1) and (a)(3).
3. The EPA has jurisdiction over the above-captioned matter, as described in Paragraphs 1 and 2, above.
4. The EPA has consulted with the Pennsylvania Department of Environmental Protection

("PADEP") regarding this action and, subsequent to the Effective Date, the EPA will provide a copy of this fully executed Consent Order to the appropriate PADEP representative.

II. GENERAL PROVISIONS

5. For purposes of this proceeding, Respondent admits to the jurisdictional allegations set forth in this Consent Order.
6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Order.
7. The provisions of this Consent Order shall apply to and be binding upon the Respondent and its officers, directors, employees, contractors, agents, trustees, successors and assigns of the Respondent.
8. Respondent shall bear its own costs and attorneys' fees in connection with this proceeding and associated with the implementation or enforcement of this Consent Order, including any costs related to resolution of any dispute arising regarding this Consent Order.
9. Issuance of this Consent Order is intended to address the allegations of fact described herein. The EPA reserves the right to commence action against any person, including Respondent, in response to any condition which the EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. The EPA also reserves any existing rights and remedies available to it under the CWA, 33 U.S.C. §1251, et seq., the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction. Further, the EPA reserves any rights and remedies available to it under the CWA, the regulations promulgated thereunder, and any other federal laws or regulations for which the EPA has jurisdiction, to enforce the provisions of this Consent Order, following the Effective Date, as defined below.
10. This Consent Order does not constitute a waiver or modification of the terms or conditions of any permit issued to Respondent. Nothing in this Consent Order shall relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local laws and regulations, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Order does not constitute a waiver, suspension or modification of the requirements of the Act, 33 U.S.C. §§ 1251 et seq., or any regulations promulgated thereunder.
11. For the purposes of this Consent Order only, Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Consent Order, including any right of judicial review pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
12. The EPA reserves all existing inspection authority otherwise available to the EPA pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, or pursuant to any other statute or law.

13. The undersigned representative of Respondent certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Consent Order and to execute and legally bind the party.
14. By signing this Consent Order, Respondent acknowledges that this Consent Order may be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Order does not contain any confidential business information or personally identifiable information from Respondent.
15. Respondent certifies that any information or representation it has supplied or made to the EPA concerning this matter was, at the time of submission, true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. The EPA shall have the right to institute further actions to recover appropriate relief if the EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Order are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that the EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

IV. STATUTORY AND REGULATORY BACKGROUND

16. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person except in compliance with sections 301, 302, 306, 307, 318, 402, and 404 of the Act, 33 U.S.C. §§ 1311, 1312, 1316, 1317, 1328, 1342, and 1344.
17. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the National Pollutant Discharge Elimination System ("NPDES") program for the discharge of pollutants from point sources to waters of the United States. The discharges are subject to specific terms and conditions as prescribed in the permit. Section 402(b) of the Act, 33 U.S.C. § 1342(b), provides for the authorization of state programs to issue NPDES permits.
18. "Discharge of a pollutant" means "[a]ny addition of any 'pollutant' or combination of pollutants to 'waters of the United States' from any 'point source'." 40 C.F.R. § 122.2, *see also* 33 U.S.C. § 1362(12).
19. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), EPA authorized PADEP to administer the NPDES program in the Commonwealth of Pennsylvania.

III. FINDINGS OF FACT AND JURISDICTIONAL ALLEGATIONS

20. Respondent is a "person" within the meaning of Section 502(4) and (5) of the Act, 33 U.S.C. § 1362(4) and (5).
21. At all times relevant to this Consent Order, Respondent owned and operated the Wastewater Treatment Plant located at 233 Max Lane, Yukon, PA ("Yukon WWTP" or "Yukon Facility"),

that treats and discharges industrial stormwater runoff, leachate, groundwater, and on lot sewage treatment effluent through Outfall 001 at the Yukon Facility into Sewickley Creek. Sewickley Creek is a relatively permanent water that connects to the Youghiogheny River, a relatively permanent water that connects to the Monongahela River, a Traditional Navigable Water.

- 22. At all times relevant to this Consent Order, the operation of the Yukon WWTP has been subject to Pennsylvania NPDES Discharge Permit No. PA0027715 (“Yukon Permit”), which was issued by PADEP, became effective on January 1, 2022 and expires on December 31, 2026.
- 23. Respondent is authorized to discharge pollutants from the WWTP to waters of the United States only in accordance with the terms and conditions of the Yukon Permit.
- 24. The Sewickley Creek, Youghiogheny River, and the Monongahela River are waters of the United States within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).
- 25. At all times relevant to this Consent Order, discharges of industrial wastewater from the WWTP into Sewickley Creek, were through a “point source,” as that term is defined at Section 502(14) of the Act, 33 U.S.C. § 1362(14).
- 26. From March 20th - 24th, 2023, EPA representatives inspected the Yukon WWTP for purposes of determining compliance with the Yukon Permit.

Effluent Limitations

- 27. Part I.A. of the Yukon Permit sets forth the effluent limits for Outfall 001 located at the Yukon Facility.
- 28. There were 20 Permit effluent limit exceedances from January 1, 2022 to July 31, 2023. A summary of those effluent exceedances is as follows in Table 1 below:

Table 1. Yukon Facility Effluent Limit Exceedances (January 31, 2022 – July 31, 2023)

Outfall #	Monitoring Period End Date	Parameter Name	DMR Value	Permit Limit	Units	Limit Type
001	07/31/2023	Cadmium, total [as Cd]	0.027	0.025	mg/L	MO AVG
001	2/28/2023	Nitrogen, ammonia total [as N]	20.63	18.9	mg/L	MO AVG
001	2/28/2023	Cadmium, total [as Cd]	0.109	0.05	mg/L	DAILY MX
001	2/28/2023	Cadmium, total [as Cd]	0.065	0.025	mg/L	MO AVG
001	2/28/2023	Zinc, total [as Zn]	1.91	0.19	mg/L	MO AVG

001	2/28/2023	Zinc, total [as Zn]	3.8	0.37	mg/L	DAILY MX
001	1/31/2023	Nitrogen, ammonia total [as N]	21.18	18.9	mg/L	MO AVG
001	12/31/2022	Nitrogen, ammonia total [as N]	20.53	18.9	mg/L	MO AVG
001	11/30/2022	Zinc, total [as Zn]	0.49	0.37	mg/L	DAILY MX
001	11/30/2022	Zinc, total [as Zn]	0.24	0.19	mg/L	MO AVG
001	9/30/2022	Zinc, total [as Zn]	0.43	0.19	mg/L	MO AVG
001	9/30/2022	Zinc, total [as Zn]	0.62	0.37	mg/L	DAILY MX
001	8/31/2022	Zinc, total [as Zn]	0.26	0.19	mg/L	MO AVG
001	8/31/2022	Zinc, total [as Zn]	0.48	0.37	mg/L	DAILY MX
001	3/31/2022	BOD, 5-day, 20 deg. C	195	140	mg/L	DAILY MX
001	3/31/2022	BOD, 5-day, 20 deg. C	62.15	37	mg/L	MO AVG
001	2/28/2022	BOD, 5-day, 20 deg. C	79.53	37	mg/L	MO AVG
001	1/31/2022	BOD, 5-day, 20 deg. C	106.93	37	mg/L	MO AVG
001	1/31/2022	BOD, 5-day, 20 deg. C	195	140	mg/L	DAILY MX
001	1/31/2022	Nitrogen, ammonia total [as N]	19.73	18.9	mg/L	MO AVG

29. Based on the allegations set forth in Paragraph 28, above, the EPA concludes that as a result of the identified effluent limitation exceedances, Respondent failed to comply with Part A of the Yukon Permit, and Section 301(a) of the Act, 33 U.S.C. § 1311(a), on at least the dates set forth above.

Report Sampling

30. Part A, Footnote 3, of the Yukon Permit states that “instantaneous maximum limitations are imposed to allow for a grab sample to be collected by the appropriate regulatory agency to determine compliance. The permittee is not required to monitor for the instantaneous maximum limitations. However, if grab samples are collected by the permittee, the results must be reported.”

31. During the March 20-24, 2023 Inspection, Inspectors determined that Respondent was taking “process control” grab samples at Outfall 001 at the Yukon Facility and Respondent was not

reporting those analytical results on its DMRs. Respondent took “process control” grab samples at Outfall 001 at the Yukon Facility on at least March 6, 2023, and October 19, 2022, and the sample results were not reported on the DMRs.

32. Based on the allegations in Paragraph 31, above, Respondent failed to comply with Part A of the Yukon Permit and Section 301(a) of the CWA, 33 U.S.C. 1311(a), by failing to report sample results on the required DMRs to PADEP as specified in the Permit.

Facility Maintenance

33. Part B.I.D. of the Yukon Permit states, “The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes, but is not limited to, adequate laboratory controls including appropriate quality assurance procedures. This provision also includes the operation of backup auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit.”
34. During the March 20-24, 2023 Inspection, the Inspection Team observed the following operation and maintenance issues at the Yukon Facility:
- (A) The facility staff was not using the pH adjustment tank for pH adjustment in the on-site industrial wastewater treatment plant. Facility staff were limiting pH adjustment in the flocculant tank to approximately 9.5 pH units..
 - (B) The weir trough in the rectangular clarifier in the on-site industrial WWTP contained holes and was not properly operated and maintained. In the on-site industrial WWTP, solids in the wastewater are removed via a rectangular clarifier. The clarifier is equipped with a weir and trough which collects the treated wastewater and routes it to the next unit process. The weir and trough were observed to have holes and to not be properly maintained.
 - (C) The Permittee was not using the neutralization tank at the Yukon Facility. Facility staff explained that the wastewater from the recycle water (6 pack) tanks is pumped into the on-site industrial WWTP with a semi portable pump and hose. The water is directed into the flocculant tank bypassing the neutralization tank. The neutralization tank, with the dosing of hydrogen peroxide, is used to control organics in the waste stream.
35. Based on the allegations in Paragraph 34, above, Respondent failed to comply with Part B.I.D. of the Yukon Permit and Section 301(a) of the CWA, 33 U.S.C. 1311(a), by failing to maintain all treatment systems at the Yukon Facility in working order, including failing to operate certain treatment tanks that are part of the WWTP processes.

Monitoring

36. Part A.I.B. of the Yukon Permit requires the Permittee to monitor continuously for flow and pH at internal monitoring point (“IMP”) 101.
37. During the Inspection, Inspectors determined that Respondent was monitoring pH at IMP 101 by pulling a grab sample immediately upon completing time composite samples instead of performing continuous monitoring for pH.
38. Following the Inspection, Respondent installed a continuous pH meter at this location and now is in compliance with its NPDES permit.
39. Based on the allegations in Paragraph 37, above, Respondent failed to comply with Part A.I.B. of the Yukon Permit and Section 301(a) of the CWA, 33 U.S.C. 1311(a), by failing to monitor continuously for flow and pH at IMP 101.

Training

40. Part C.IV.E.1.f. of the Yukon Permit states, in pertinent part, that “The permittee shall develop and implement a [preparedness, prevention, and contingency (“PPC”)] Plan in accordance with 25 Pa. Code § 91.34 following the guidance contained in [PA]DEP’s “Guidelines for the Development and Implementation of Environmental Emergency Response Plans” (DEP ID 400-2200-001), its NPDES-specific addendum and... the PPC Plan must include a plan for training employees and contractors on pollution prevention, [best management practices (“BMPs”)], and emergency response measures. This training must be conducted in accordance with paragraph C.4.c of this section.”
41. Part C.IV.C.4.c. of the Yukon Permit states, in pertinent part, that the “Permittee shall conduct periodic training, no less than annually, and document the training on the Annual Report...”
42. During the record review phase of the March 20-24, 2023 Inspection, Inspectors determined that the employee training dated 8/31/22, 9/11/20, 9/16/20 - 9/17/20 and 10/5/22 did not include training on pollution prevention, BMPs and emergency response operations as required by the Yukon Permit.
43. Based on the allegations in Paragraph 42, above, Respondent failed to comply with Part C.IV.E.1.f. and Part C.IV.C.4.c. of the Yukon Permit, and Section 301(a) of the CWA, 33 U.S.C. 1311(a), by failing to provide the necessary training to its Facility employees.

V. COMPLIANCE ORDER

Therefore, Respondent is hereby ORDERED, pursuant to Section 309(a) of the CWA, 33 U.S.C. § 1319(a), to conduct, and consents to conduct, the following activities:

44. Respondent shall operate the Yukon WWTP in accordance with the most recent NPDE Permit and Part II Permits.

45. **Project Coordinator.** Respondent shall designate a Project Coordinator(s). Respondent shall notify the EPA in writing within three (3) calendar days of the Effective Date of this Consent Order of the name, address, phone number, electronic mail address and qualifications of its Project Coordinator(s). The EPA points of contact will be Allison Gieda, Gieda.Allison@epa.gov and Edward Simas, Simas.Edward@epa.gov. The PADEP point(s) of contact shall be Stacey Greenwald, sgreenwald@pa.gov. The Project Coordinator(s) shall be responsible for overseeing the implementation of this Consent Order. The EPA, PADEP, and Respondent shall have the right to change their respective points of contact and Project Coordinator(s). The EPA must be notified in writing at least ten (10) calendar days prior to any changes to Respondent's Project Coordinator(s).
46. The Project Coordinator(s) shall be the designated representatives for the Yukon Facility. Unless otherwise provided in this Consent Order, all reports, correspondence, notices, or other submittals relating to or required under this Consent Order shall be in writing and shall be sent to the EPA and PADEP points of contact at the email addresses specified in Paragraph 45, above, unless notice is given in writing to Respondent of a change in delivery or correspondence address. Reports, correspondence, notices, or other submittals shall be delivered by electronic mail, unless otherwise directed by the EPA. All correspondence shall include a reference to the case caption EPA Docket No. CWA-03-2024-0087DN.
47. **Professional Engineer and Contractor Selection.** Respondent shall retain a Professional Engineer for work related to the WWTP evaluation, and one or more qualified environmental contractors or consultants to perform any work related to the sampling required under this Consent Order and Respondent shall, within ten (10) calendar days after the Effective Date of this Consent Order, notify the EPA of the name(s), title(s), and qualifications of such Professional Engineer and environmental contractor(s) or consultant(s). All work performed under this Consent Order shall be under the direction and supervision of one or more Professional Engineers and/or one or more environmental contractors or consultants with the technical expertise sufficient to adequately perform all aspects of the work for which it is responsible. Additionally, Respondent shall ensure that when a license is required, only licensed individuals shall be used to perform the work. The EPA retains the right to disapprove the Professional Engineer and any contractors and/or subcontractors retained by Respondent. If the EPA disapproves a selected contractor or Professional Engineer or any contractor or consultant, Respondent shall retain a different contractor or Professional Engineer and shall notify the EPA of that contractor's name and qualifications within fifteen (15) calendar days after the EPA's disapproval. The replacement contractor and Professional Engineer shall also be subject to EPA's acceptance.
48. With respect to any proposed environmental contractor or consultant, Respondent shall demonstrate that the proposed contractor maintains compliance with ASQ/ANSI E4:2014 "Quality management systems for environmental information and technology programs – Requirements with guidance for use" (American Society for Quality, February 2014), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP shall be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01/002, Mar. 2001, reissued May 2006) or equivalent

documentation as determined by the EPA. The qualifications of the person(s) undertaking the Work for Respondent shall be subject to the EPA review for verification that such person(s) meet objective assessment criteria (e.g., experience, capacity, technical expertise) and do not have a conflict of interest with respect to the project.

Sampling

49. Within thirty (30) calendar days of the Effective Date of this Consent Order, the Respondent shall have a third-party environmental contractor/consultant conduct effluent compliance monitoring sampling for Outfalls 001 and 007 and all internal monitoring points as required under the NPDES permit and submit the samples to a third-party laboratory for analysis. The third-party environmental contractor/consultant shall use best efforts related to compliance sampling for stormwater discharges to Outfall 008 pursuant to Part C.IV.F. of the Permit. Respondent may discontinue the use of the third-party environmental contractor/consultant after six (6) months of consecutive sampling by the third-party environmental contractor/consultant. During the duration of sample collection by the environmental contractor/consultant, Respondent shall submit to the EPA and PADEP, on a quarterly basis, copies of the eDMRs submitted to PADEP and lab analysis reports along with any third party consultant on-site sampling data collection forms.
50. Respondent shall propose third-party laboratories for EPA's approval (Section EPA Approvals) to perform all of the sample analysis required under this Consent Order.
51. All sample collection and analysis performed by the environmental contractor/consultant pursuant to this Consent Order shall be sent to a PADEP accredited laboratory unaffiliated with Respondent until the termination of this Consent Order or as otherwise specified by the EPA. It is the Respondent's responsibility to request any split samples from the environmental contractor/consultant at all times during the duration of this Consent Order.
52. During the duration of sample collection by the environmental contractor/consultant, Respondent shall submit to the EPA and PADEP, on a quarterly basis, copies of the eDMRs submitted to PADEP pursuant to the Facility's NPDES permit. Submission of this information will be due within ninety (90) calendar days of the Effective Day of this Consent Order, and then by the final day of every third month thereafter.

Engineering Evaluation

53. Within ninety (90) days of the Effective Date of the Consent Order, Respondent shall:
 - a. Provide to the EPA for review an Engineering Evaluation Report of the wastewater treatment plant processes and infrastructure to evaluate the potential cause of each effluent limitation exceedance identified in Paragraph 28, above. The Engineering Evaluation Report must be completed by a certified Professional Engineer.
 - b. The Engineering Evaluation Report must include an analysis of the WWTP's functionality and ability to achieve the effluent limitations in the NPDES permit

through influent (storm water and leachate) and effluent sampling at each stage of the treatment process and at the final Outfall. The Engineering Evaluation Report must include recommendations, including proposed design plan and repairs and/or upgrades to the current WWTP system for the Facility, if warranted.

54. The EPA will review the Engineering Evaluation Report and make a determination of completeness, based on the requirements described in Paragraph 50, above. If the EPA determines that the Engineering Evaluation Report is not complete or adequate, the EPA shall notify Respondent in writing and Respondent shall resubmit an updated Engineering Evaluation Report within sixty (60) days of Respondent's receipt of EPA's notice.

Corrective Action Plan

55. Within sixty (60) calendar days of receiving written notification that the EPA has completed its review of the submitted Engineering Evaluation Report and has determined that it is complete and adequate, the Respondent shall submit to the EPA for review a Corrective Action Plan ("CAP") that outlines how Respondent will: (1) implement the Professional Engineer's recommendations for corrective action in the Engineering Evaluation Report, and (2) perform all the necessary WWTP repairs and upgrades identified in the Engineering Evaluation Report, including the repair or installation of a new WWTP system as recommended by the Engineering Evaluation Report. As part of the CAP, the Respondent shall include deadlines for completing each project or milestone proposed in the CAP. Respondent shall obtain or cause their representatives to obtain all permits and approvals necessary under such laws and regulations to perform the work required under the CAP and Respondent shall submit timely applications and requests for any such permits, permit modifications and approvals.

56. After Review of the CAP:

- a. The EPA will, in writing, (a) accept the submission; (b) accept the submission upon specified conditions; (c) accept part of the submission and request resubmission of the remainder; or (d) request a new submission.
- b. If the submission is accepted pursuant to Paragraph 56
- c. (a)(above), Respondent shall take all actions required by the CAP, in accordance with the schedule and requirements of the CAP, as approved. If the CAP is conditionally accepted or accepted only in part, Respondent shall, upon written direction from EPA, take all actions required by the accepted CAP that the EPA determines are technically severable from any unacceptable portions.
- d. If the CAP is unacceptable in whole or in part, Respondent shall, within thirty (30) days or such other time as the Parties agree to in writing, correct all deficiencies and resubmit the CAP, or any unacceptable portion thereof, for approval, in accordance

with the preceding Paragraphs. If the resubmission is accepted in whole or in part, Respondent shall proceed in accordance with the preceding Paragraphs.

- e. CAP Deadlines. Within ten (10) calendar days of an approved modification of any deadline under the CAP, Respondent shall provide an updated list reflecting changes to the future schedule.
57. Respondent shall submit a notice to the EPA within thirty (30) calendar days of completing a scheduled event in the CAP until all work as identified in and required by the CAP has been completed.
58. The schedule to implement the corrective actions identified in the CAP shall be specified in the CAP and subject to EPA review.

Operations and Maintenance

59. Within ninety (90) calendar days of the Effective Date of the Consent Order, Respondent shall:
 - a. Develop and submit a standard operating procedure (SOP) for the Yukon WWTP, including a frequency schedule such as a daily, weekly or monthly for sludge solids removal.
60. Within 180 calendar days of the Effective Date of the Consent Order, Respondent shall submit to the EPA a Preventative Maintenance Plan ("PMP"). This PMP will detail the specific preventative maintenance requirements for each primary treatment, secondary treatment, and disinfection process or other equipment critical for optimal plant operation at the Yukon Facility. As part of the preventative maintenance for each treatment process, include daily, weekly, or monthly schedules to be followed by the plant operator that describe Preventative Maintenance procedures, including, at a minimum: calibration, lubrication, cleaning, and replacement of equipment. Each item identified in the Engineering Evaluation that has a corrective action shall have a corresponding corrective preventative action described in the PMP. The PMP shall also include a process for regularly inspecting and correcting any issues identified in any internal and external outfalls for any prohibited characteristics which may be present due to the facility's discharges.
61. The EPA will review the PMP and make a determination of completeness, based on the requirements described in paragraph 60, above. Upon a determination of completeness as provided in writing by the EPA to the Respondent, Respondent will begin implementation of the PMP.
62. Reporting Within thirty (30) calendar days of the Effective Date of this Consent Order, Respondent shall submit documentation of completion of pollution prevention, emergency response and stormwater best management practices training and associated training documentation. Respondent shall submit annual documentation of pollution prevention,

emergency response and stormwater best management practices training and associated training documentation for duration of this Consent Order. Submission of this information will be due within thirty (30) calendar days of the first and second anniversaries of the Effective Date of this Consent Order.

63. For the duration of this Consent Order, Respondent shall notify the EPA and PADEP in writing by email within five (5) calendar days of receiving sample analysis data that indicates a parameter exceedance or any other report of noncompliance with the Yukon Permit at the Facility. Respondent's approved Professional Engineer or qualified contractor/consultant shall perform an assessment to determine the cause of any such parameter exceedance or reportable noncompliance with the Yukon Permit and submit a written summary of the assessment via email to the EPA and PADEP within forty-five (45) calendar days of the initial notification. Respondent must submit to the EPA and PADEP via email a certification of the corrective action(s) taken to address the exceedance or report of noncompliance, including but not limited to, the nature and scope of corrective action taken, date of such corrective action, and proof of the work performed to undertake such corrective action(s) within thirty (30) calendar days of the completion of work.
64. Monthly Progress Meetings. Respondent shall participate in monthly virtual progress meetings with the EPA and PADEP during the duration of this Consent Order until termination to discuss actions taken to comply with the Consent Order, anticipated next steps, and problems anticipated or encountered during the Work being performed. Respondent agrees to participate in additional progress meetings with EPA and PADEP if needed to monitor compliance with the Order. The frequency of these progress meetings may be reduced, upon the agreement of Respondent and EPA.

VI. EPA APPROVALS

65. The EPA shall coordinate with PADEP, and the EPA shall provide Respondent with its written approval, approval with conditions, determination of completeness, and/or modifications, or disapproval for any work plan, report, specification, or schedule submitted pursuant to or required by this Consent Order.
66. Respondent shall revise any work plan, report, specification, or schedule in accordance with the EPA's written comments within thirty (30) calendar days of Respondent's receipt of the EPA's written comments unless the EPA has specified an alternative due date, in which case Respondent shall submit to the EPA any revised work plan, report, specification, or schedule in accordance with the due date specified by the EPA. Revised submittals are also subject to the EPA approval, approval with conditions, determination of completeness, and/or modifications, or disapproval. Any revised submittal that is not approved, determined to be complete, or approved with conditions and/or modifications, shall be considered noncompliant with the terms of this Consent Order.
67. Upon receipt of the EPA's written approval or determination of completeness, Respondent shall commence work and implement any approved or determined to be complete work plan in accordance with the schedule and provisions contained therein. If no schedule is contained in an approved or determined to be complete work plan, then Respondent shall commence work and implementation of the work plan within ten (10) calendar days of receipt of the EPA's written

approval or determination of completeness of the work plan.

- 68. Any EPA-approved or determined to be complete report, work plan, specification, or schedule shall be incorporated by reference into this Consent Order as if set forth fully herein. Prior to the EPA's written approval or determination of completeness, no work plan, report, specification, or schedule shall be construed as approved and final. Oral advice, suggestions, or comments given by the EPA representatives will not constitute an official approval, nor shall any oral approval or oral assurance of approval be considered binding.
- 69. Noncompliance with any requirements of this Consent Order, including reports, work plans, specifications, schedules, and attachments approved by the EPA pursuant to this Consent Order, shall be considered a violation of the requirements of this Consent Order, and shall subject Respondent to the statutory penalty provisions and enforcement actions pursuant to Section 309(b) of the CWA, 42 U.S.C. § 1319(b), and any other applicable sanctions.

VII. MODIFICATION OF THE WORK PLAN(S)

- 70. If at any time during the implementation of the Work, Respondent identifies a need for a compliance date modification or revision of a work plan, supporting plans, documents, reports, specifications, and/or schedule, Respondent shall submit a memorandum documenting the need for the modification or revision to the EPA Project Coordinators. The EPA will determine if the modification or revision is warranted and will provide written approval or disapproval. Any approved modified compliance date or work plan modification is incorporated by reference into this Consent Order.

VIII. PROCEDURES FOR SUBMISSIONS

- 71. All documents required to be submitted by this Consent Order and any Request for Termination shall be accompanied by a certification signed by a responsible officer, as defined in 40 CFR § 122.22(a), that reads as follows:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signed _____
 Title: _____
 Date: _____

- 72. Respondent may assert a business confidentiality claim covering part or all of the

information which this Consent Order requires it to submit to EPA, but only to the extent and only in the manner described in Part 2 Subpart B of Title 40 of the C.F.R. The EPA will disclose information submitted under a confidentiality claim only as provided in Part 2 Subpart B of Title 40 of the C.F.R. If, at the time any information is submitted to EPA, Respondent does not assert a confidentiality claim, EPA may make the submitted information available to the public without further notice to Respondent.

73. If Respondent is directed EPA to submit any correspondence by regular mail in writing, Respondent shall submit any submission or written communication, including any accompanying data, relating to this Consent Order to:

Mr. Edward Simas
NPDES Enforcement
Enforcement and Compliance Assurance Division
U.S. EPA, Region 3
4 Penn Center, 1600 JFK Blvd.
Philadelphia, PA 19103
and

Ms. Allison Gieda
NPDES Enforcement
Enforcement and Compliance Assurance Division
U.S. EPA, Region 3
4 Penn Center, 1600 JFK Blvd.
Philadelphia, PA 19103

Any information submitted electronically shall be submitted in a widely recognized electronic format.

IX. CERTIFICATION OF COMPLIANCE AND REQUEST FOR TERMINATION OF CONSENT ORDER

74. Upon completion of all items required under Section V (Compliance Order) and a determination of completeness of each item, Respondent shall submit to EPA a Certification of Compliance and Request for Termination of this Consent Order. Such certification and request shall include:
- a. a certification that Respondent has maintained compliance with this Consent Order for the term of this Consent Order and that Respondent has completed all items required under Section V (Compliance Order);
 - b. all necessary documentation, including photo documentation as appropriate, to support a finding that Respondent has complied with Section V (Compliance Order) of this Consent Order.
75. If, following review of any Certification of Compliance and Request for Termination of this Consent Order, the EPA agrees that Respondent has adequately complied with all

requirements of this Consent Order, then the EPA will provide written notification of termination of this Consent Order.

X. CONSENT ORDER MODIFICATIONS

76. This Consent Order may only be amended by mutual agreement of the EPA and Respondent. Such an amendment shall be in writing and shall be incorporated into this Consent Order. Respondent's submission of a written request for modification of this Consent Order shall not relieve Respondent of any obligation under this Consent Order and shall have no effect on the EPA's statutory or regulatory authority to enforce the terms of this Consent Order.
77. No informal advice, guidance, suggestion, or comment by the EPA regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondent shall relieve Respondent of its obligation to obtain such formal approval as may be required by this Consent Order, and to comply with all requirements of this Consent Order unless it is formally modified. Any deliverables, plans, technical memoranda, reports, specifications, schedules, and attachments required by this Consent Order are, upon approval by the EPA, incorporated into and enforceable under this Consent Order.

XI. CHANGE OF OWNERSHIP OR OPERATION OF THE WWTP

78. Until or unless this Consent Order is modified or terminated, in accordance with the terms of this Consent Order, Respondent shall remain responsible for compliance with the terms of this Consent Order following any transfer of ownership or operation at the Yukon WWTP.
79. At least ninety (90) calendar days prior to any transfer of ownership or operation at Yukon WWTP, Respondent shall submit a written notification to the EPA of any such anticipated change in ownership or operation of the WWTP (Notification of Change of MAX Ownership or Operation). Notification of Change of MAX Ownership or Operation shall include, at a minimum, a detailed summary of the anticipated change in ownership or operation, contact information for the proposed new owner or operator of the WWTP and a schedule for such anticipated change.
80. Respondent shall condition any sale or transfer of ownership or operation of the WWTP, in whole or in part, upon the execution by such Prospective Third-Party Purchaser, or Transferee, of an agreement, which creates an obligation that shall survive the closing of such sale or transfer, of the WWTP, whereby such Prospective Third-Party Purchaser or Transferee agrees to comply with and be bound by the terms of this Consent Order.

XII. EXTENSION OF TIME BASED ON FORCE MAJEURE

81. "Force Majeure Event," for purposes of this Consent Order, is defined as any event arising from causes beyond the control of either Respondent, of any entity controlled by Respondent or any contractor of Respondent, that delays or prevents the performance of any obligation under this Consent Order subsequent to Respondent exercising best efforts to fulfill the obligation(s) at issue. The requirement that Respondent exercises "best efforts to fulfill the obligation" includes using best efforts to anticipate any Force Majeure Event and

best efforts to address the effects of any such event: (a) as it is occurring and (b) after it has occurred, to prevent or minimize any resulting delay. Unanticipated or increased costs or expenses associated with the performance of Respondent's obligations under this Consent Order or Respondent's financial inability to perform any obligation under this Consent Order shall not constitute circumstances beyond Respondent's control nor serve as the basis for an extension of time under this Consent Order.

82. If at any time during the implementation of this Consent Order, any Force Majeure Event occurs that may delay the performance of any obligation under this Consent Order, including implementation of an EPA-approved plan or schedule, Respondent shall, within seven (7) calendar days of determining that such event may delay the performance of such obligation, provide to the EPA a written request for an extension of time to comply with any such obligation (Force Majeure Extension of Time Request). Such Extension of Time Request shall include, at a minimum, the following information for each specific obligation(s) for which an extension of time is sought.
- i. The specific obligation(s) for which an extension of time is sought, including each applicable deadline.
 - ii. A detailed explanation and description of the Force Majeure Event at issue and the reasons for the requested extension of time, including all supporting documentation.
 - iii. The amount of time for which an extension of time is sought.
 - iv. A detailed description of all actions taken to prevent or minimize the amount of time for which an extension of time is sought, including a detailed description of each Respondent's best efforts to fulfill the obligation.
 - v. A detailed description, including a schedule for implementation, of all actions to be taken to prevent or mitigate the amount of time for which an extension is sought and the effect of any delay on any other obligation pursuant to this Consent Order.
 - vi. A statement as to whether, in the opinion of Respondent, the Force Majeure Event at issue may cause or contribute to an endangerment to public health, welfare, or the environment.
83. Respondent shall be deemed to know of the occurrence of, or reasonable likelihood of an occurrence of, any circumstance or event that may delay the performance of any obligation under this Consent Order of which Respondent, any entity controlled by Respondent or any contractor of Respondent knew or reasonably should have known.
84. Any Force Majeure Extension of Time Request shall be submitted in accordance with this Consent Order and the EPA may, in its unreviewable discretion, approve or disapprove any Force Majeure Extension of Time Request.

85. EPA's approval, including conditional approval, of any Force Majeure Extension of Time Request shall not, of itself extend the time for performance of any other obligation not explicitly addressed in such approval.
86. Failure to comply with the above requirements may preclude Respondent from asserting any claim of Force Majeure or other related defense for non-compliance with the terms of this Consent Order for the time period such non-compliance is related to a reportable event.

XIII. IRS NOTICE REQUIREMENTS

87. 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 the 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." The 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 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1.

On April 22, 2024, Respondent submitted a completed IRS Form W-9 ("Request for Taxpayer Identification Number and Certification") to EPA's Cincinnati Finance Center at henderson.jessica@epa.gov. [This submittal fulfills the obligations of this IRS notification requirement.](#)

88. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 162-21(b)(2), performance of the activities in Section VIII of this Order (Work to be Performed) is restitution, remediation, or required to come into compliance with the law.

XIV. EFFECTIVE DATE

89. This Consent Order will become effective upon the Respondent's receipt of a fully-executed copy of this Consent Order ("Effective Date").

FOR MAX ENVIRONMENTAL TECHNOLOGIES, INC.

Date: 9/23/24

By: 

NAME: Robert Shawver

TITLE: Chief Executive Officer

SO ORDERED:

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY

By:

[Digital Signature and Date]
Karen Melvin, Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 3

Robert Shawver
MAX ENVIRONMENTAL
TECHNOLOGIES, INC.
McCandless Corporate Center
5700 Corporate Drive
Suite 425
Pittsburgh, PA 15237

Via Email to:

Joseph K. Reinhart, Esq.
Two Gateway Center
Pittsburgh, PA 15222
jreinhart@babstcalland.com

Louis F. Ramalho
Senior Assistant Regional Counsel
U.S. EPA, Region 3
Ramalho.Louis@epa.gov

Edward Simas
NPDES Enforcement – Water Branch Enforcement and Compliance Assurance Division
U.S. EPA, Region 3
Simas.Edward@epa.gov

Allison Gieda
NPDES Enforcement – Water Branch Enforcement and Compliance Assurance Division
U.S. EPA, Region 3
Gieda.Allison@epa.gov

[Digital Signature and Date]
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 3