

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101

14,940.00

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)
)
)
THE CITY OF PLAINVIEW,)
NEBRASKA)
)
Respondent)
)
Proceedings under Section 309(g) of the)
Clean Water Act, 33 U.S.C. § 1319(g))
_____)

Docket No. CWA-07-2009-0079

CONSENT AGREEMENT/
FINAL ORDER

09 SEP 14 PM 12:55
ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

CONSENT AGREEMENT AND FINAL ORDER

The United States Environmental Protection Agency (EPA), Region 7 (“Complainant”) and the City of Plainview, Nebraska, (“Respondent”) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of 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 (“Consolidated Rules”), 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

FACTUAL ALLEGATIONS

Jurisdiction

1. This is an administrative action for the assessment of civil penalties instituted pursuant to Section 309(g) of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act (“CWA”), 33 U.S.C. § 1319(g), and in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits, 40 C.F.R. Part 22.

2. This Consent Agreement and Final Order (“CAFO”) serves as notice that EPA has reason to believe that Respondent has violated Sections 301 and 402 of the CWA, 33 U.S.C. § 1311 and § 1342, and regulations promulgated thereunder.

Parties

3. The authority to take action under Section 309(g) of the CWA, 33 U.S.C. § 1319(g), is vested in the Administrator of EPA. The Administrator has delegated this authority to the Regional Administrator, EPA, Region 7, who in turn has delegated it to the Director of the Water, Wetlands and Pesticides Division of EPA, Region 7 (“Complainant”).

4. Respondent is the City of Plainview, Nebraska (“the City”) which owns and operates a publicly owned treatment works (“POTW”). The POTW includes a wastewater treatment facility which serves the City.

Statutory and Regulatory Framework

5. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants from a “point source” into a “navigable water” of the United States, as these terms are defined by Section 502 of the CWA, 33 U.S.C. § 1362, except in compliance with, inter alia, Section 402 of the CWA, 33 U.S.C. § 1342.

6. Section 402 of the CWA, 33 U.S.C. § 1342, provides that pollutants may be discharged only in accordance with the terms of a National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to that Section.

7. To implement Section 402 of the CWA, 33 U.S.C. § 1342, EPA promulgated regulations codified in 40 C.F.R., including Parts 122 and 136.

8. The Nebraska Department of Environmental Quality (“NDEQ”) is the state agency with the authority to administer the federal NPDES program in Nebraska pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, implementing regulations, and a Memorandum of Understanding dated June 12, 1974. EPA maintains concurrent enforcement authority with authorized states such as Nebraska for violations of the CWA.

Factual Background

9. Respondent is a “person” as defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

10. Respondent owns and operates a POTW, as defined by 40 C.F.R. § 403.3(q), which receives and treats wastewater from various domestic and industrial sources.

11. The POTW is a “point source” as defined by CWA Section 502(14), 33 U.S.C. § 1362(14).

12. The POTW causes the “discharge of pollutants” as defined by CWA Section 502(12), 33 U.S.C. § 1362(12).

13. The POTW discharges pollutants into an unnamed tributary of Dry Creek. The unnamed tributary is a "navigable waters" of the United States, as defined by Section 502(7) of the CWA, 33 U.S.C. § 1362(7) and 40 C.F.R. 122.2

14. Respondent's discharge of pollutants from its POTW requires a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

15. NDEQ granted NPDES Permit No. NE-0021741 ("Permit") to Respondent, effective August 1, 1999, through December 31, 2003, for discharges from its POTW into Dry Creek. The permit has been administratively extended until a new permit is issued.

16. On April 14-15, 2008, EPA performed an inspection of the Plainview Wastewater Treatment Facility at 537 Avenue and 863 Road in Plainview, Nebraska, under the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a). The inspection included a visual inspection of all plant unit processes in the POTW and the collection of 24-hour composite samples each day from the wastewater treatment plant effluent.

Findings of Violation

17. The facts stated in paragraphs 9 through 16 above are herein incorporated.

Effluent Limit Violations

18. Part I. C. of Respondent's NPDES permit establishes the winter season 30 day average for ammonia as nitrogen at 2.83 mg/L.

19. The EPA inspection referenced in paragraph 16 above, documented that Respondent had violated the effluent limit violations of Respondent's NPDES permit. A review of the Discharge Monitoring Reports ("DMR") revealed that Respondent's discharge exceeded the effluent limitation for nitrogen as ammonia as follows:

| <u>Date</u> | <u>Limit</u> | <u>Reported Value</u> |
|-------------|--------------|-----------------------|
| March 2008 | 2.83 mg/L | 3.03 mg/L |

20. Respondent's discharge of ammonia as nitrogen in excess of the permit limit is a violation of the terms and conditions of the Respondent's NPDES permit, and as such is a violation of Sections 301(a) and 402 of the CWA, 22 U.S.C. § 1311(a) and § 1342, and implementing regulations.

Failure to Comply with Sampling Procedure Requirements

21. Appendix A(C)1 and A(C)3 of Respondent's NPDES permit states that all sample preservation techniques and sample test procedures shall conform to the methods adopted in NDEQ, Title 121, Chapter 8. Title 121, Chapter 8 adopts by reference 40 C.F.R. Part 136, EPA's sampling and sample preservation methods.

22. The EPA inspection referenced in paragraph 16 above, revealed that proper sample preservation techniques were not being employed by the Respondent. Specifically, Respondent did not properly preserve samples while they were being transported from the POTW to the testing facility. The failure to properly preserve samples in accordance with 40 C.F.R. 136.3 is a violation of Respondent's NPDES permit.

23. The EPA inspection referenced in paragraph 16 above, revealed that pH calibration solutions were expired, in violation of required sample preservation techniques. The failure to replace expired calibration solutions and to continue to use the expired solutions in accordance with sample preservation techniques is a violation of the Respondent's NPDES permit.

24. The EPA inspection referenced in paragraph 16 above, revealed that Respondent's Carbonaceous Biochemical Oxygen Demand ("CBOD") data from the contract laboratory did not conform to the standard test method. Specifically, the laboratory test procedure did not meet the 2.0 mg/L depletion rate for dissolved oxygen. Respondent's reliance on sampling data not in conformance with the standard test method is a violation of Respondent's NPDES permit.

25. Part II of Respondent's NPDES permit, Influent Limitations and Monitoring Requirements, requires the facility to collect annually a 24-hour composite sample of the influent to calculate percent removal efficiency for CBOD.

26. The EPA inspection referenced in paragraph 16 above, documented a fourteen month gap between composite sample collections. Respondent's failure to collect composite samples every twelve months is a violation of Respondent's NPDES permit.

27. Respondent's failures to comply with sampling procedure requirements are violations of the terms and conditions of Respondent's NPDES permit, and, as such, are violations of Sections 301(a) and 402 of the CWA, 33 U.S.C. § 1311(a) and § 1342, and implementing regulations of the CWA.

Failure to Comply with Record Keeping Requirements

28. Appendix A(C)(6) of Respondent's NPDES permit contains requirements for Monitoring, Reporting, and Record Contents which require the following information to be kept for each sampling event:

Recording of Results. For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information: (a) the date, exact place, and time of sampling or measurements; (b) the name(s) of the individual(s) who performed the sampling or measurements; (c) the date(s) analyses were performed; (d) the individual(s) who performed the analyses; (e) the analytical techniques or methods used; (f) the results of such analyses; and (g) laboratory data, bench sheets and other required information.

29. The EPA inspection referenced in paragraph 16 above, documented that the records required for each sampling event were not kept prior to the April 2008 EPA inspection of the facility. Respondent's failure to document each sampling event is a violation of Respondent's NPDES permit.

30. Appendix A(C)(5) of Respondent's NPDES permit contains requirements for Monitoring and Reporting, Retention of Records, which require the Respondent to retain records of all monitoring activities for a period of at least three years.

31. The EPA inspection referenced in paragraph 16 above, revealed that the Respondent had not been retaining copies of DMRs and noncompliance reports for every month. Respondent's failure to retain records for all monitoring activities for a period of at least three years is a violation of Respondent's NPDES permit.

32. Appendix A(C)5 of Respondent's NPDES permit requires that all calibration and maintenance records be maintained for at least three years.

33. The EPA inspection referenced in paragraph 16 above, revealed that all calibration records were not being maintained by the Respondent for at least three years. Respondent's failure to maintain calibration and maintenance records is a violation of Respondent's NPDES permit.

34. Respondent's failures to record and maintain all required monitoring are violations of the terms and conditions of Respondent's NPDES permit, and as such, are violations of Sections 301(a) and 402 of the CWA, 33 U.S.C. § 1311(a) and § 1342, and implementing regulations of the CWA.

Failure to Conduct Proper Operation and Maintenance

35. Appendix A(E)1 of Respondent's NPDES permit contains requirements for the proper operation and maintenance of Respondent's POTW. Appendix A(E)1 requires that the Respondent shall, at all times, maintain any facilities or systems control in good working order.

36. The EPA inspection referenced in paragraph 16 above, documented that woody plants were growing in the lagoon system dikes at Respondent's POTW. Roots from woody vegetation can compromise lagoon dikes and cause leakage.

37. Respondent's failure to conduct proper operation and maintenance is a violation of the terms and conditions of Respondent's NPDES permit, and as such, is a violation of Sections 301(a) and 402 of the CWA, 33 U.S.C. § 1311(a) and § 1342, and implementing regulations of the CWA.

Failure to Comply with Reporting Requirements

38. Appendix A(D) of Respondent's NPDES permit contains reporting requirements for noncompliance with permit conditions. Respondent's permit requires that Respondent report

to the permitting authority within 24 hours by phone and/or within seven (7) days in writing after becoming aware of noncompliance with permit conditions.

39. The EPA inspection referenced in paragraph 16 above, documented at least seventeen noncompliance events for which proper notification was not made to the permitting authority. Respondent's failure to report noncompliance events is a violation of Respondent's NPDES permit.

40. Appendix A(D)4 of Respondent's NPDES permit requires that the Respondent shall report the monitoring results required by this permit on a DMR to the permitting authority.

41. The EPA inspection referenced in paragraph 16 above, documented that Respondent's DMRs between April 2005 and September 2007, did not report Dissolved Oxygen levels consistent with the laboratory result of analyses of these samples. Respondent's failure to accurately report monitoring results is a violation of Respondent's NPDES permit.

42. Part I of Respondent's NPDES permit requires daily calculated or metered flow monitoring and that such measurements be recorded in million gallons per day ("mgd").

43. The EPA inspection referenced in paragraph 16 above, documented that flow measurements recorded prior to August 2007 were measured and reported in gallons per day ("gpd"). Respondent's failure to properly document flow monitoring is a violation of Respondent's NPDES permit.

44. Respondent's failures to comply with reporting requirements required by Respondent's permit are violations of 40 C.F.R. § 122.41(j) and the terms and conditions of Respondent's NPDES permit, and as such, are violations of Sections 301(a) and 402 of the CWA, 33 U.S.C. § 1311(a) and § 1342, and implementing regulations of the CWA.

45. Based on the foregoing Findings of Violation, and pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), EPA, Region 7 hereby proposes to issue a Final Order assessing an administrative penalty against the Respondent for the violations cited above, in the amount of Eighteen Thousand Nine Hundred Dollars (\$18,900).

CONSENT AGREEMENT

46. Respondent and EPA agree to the terms of this CAFO and Respondent agrees to comply with the terms of the Final Order portion of this CAFO.

47. Respondent admits the jurisdictional allegations of this CAFO and agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of the Final Order portion of this CAFO.

48. Respondent neither admits nor denies the factual allegations set forth above.

49. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth above, and its right to appeal the Final Order portion of this CAFO.

50. Respondent and Complainant agree to conciliate the matters set forth in this CAFO without the necessity of a formal hearing and agree to bear their own costs and attorney's fees incurred as a result of this action.

51. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this CAFO and to execute and legally bind Respondent to it.

52. Nothing contained in the Final Order portion of this CAFO shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state and local environmental statutes and regulations and applicable permits.

53. This CAFO addresses all civil and administrative claims for the CWA violations identified above. Complainant reserves the right to take any enforcement action with respect to any other violations of the CWA or any other applicable law.

54. Respondent certifies by the signing of this CAFO that to the best of its knowledge, Respondent's facility is in compliance with all requirements of Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.

55. The effect of settlement described in paragraph 53 above is conditional upon the accuracy of the Respondent's representations to EPA, as memorialized in paragraph 54 above, of this CAFO.

56. In settlement of this matter, Respondent agrees to complete the following Supplemental Environmental Project ("SEP"), which the parties agree is intended to secure significant environmental and/or public health benefits. Respondent shall educate and assist home owners within the City in eradicating illegal sump pump connections to the City's wastewater collections system at the cost of not less than Ten Thousand Eight Hundred and Sixty Dollars (\$10,860), thereby reducing infiltration to the City's wastewater treatment plant, in accordance with the Respondent's SEP Work Plan (attached hereto as Attachment A and incorporated by reference).

57. The total expenditure for the SEP shall be not less than \$10,860 and the SEP shall be completed no later than 360 days from effective date of the final order. All work required to complete the SEP shall be performed in compliance with all federal, state, and local laws and regulations.

58. Within 90 days of the effective date of this CAFO, Respondent shall submit an Interim SEP Report to EPA. The Interim SEP Report shall provide EPA with a description of progress made toward completion of the SEP, as well as all costs expended towards completion of the SEP. Additional Interim SEP Reports shall be submitted to EPA 180 days and 270 days from the effective date of this CAFO.

59. Within thirty (30) days of completion of the SEP, Respondent shall submit a SEP Completion Report to EPA, with a copy to the state agency identified below. The SEP Completion Report shall contain the following:

- (i) A detailed description of the SEP as implemented;
- (ii) Itemized costs, documented by copies of purchase orders, receipts or canceled checks; and
- (iii) The following certification signed by Respondent / Respondents or, if Respondent is a corporation, an officer of the corporation:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

All reports shall be directed to the following:

Cynthia Sans
U.S. Environmental Protection Agency
Region 7
901 North 5th Street
Kansas City, Kansas 66101.

60. In itemizing its costs in the Interim SEP Reports and the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this paragraph, "acceptable documentation" includes invoices, purchase orders or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

61. Respondent agrees to the payment of stipulated penalties as follows: In the event the Respondent fails to comply with any of the terms or provisions of this Consent Agreement relating to the performance of the SEP as set forth in paragraph 56 of this CAFO and/or to the extent that the actual expenditures of the SEP does not equal or exceed the cost of the SEP described in paragraphs 58 and 59 of this CAFO, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

- a. Except as provided in subparagraph (ii) and (iii) of this paragraph, if the SEP is not completed satisfactorily and timely pursuant to the agreement set forth in paragraph 57 of this CAFO, Respondent shall be liable for and shall pay a stipulated penalty to the United States in the amount of Thirteen Thousand and Thirty-two Dollars (\$13,032), minus any documented expenditures determined

by EPA to be acceptable for the SEP, for a total equal to 120% of the projected costs of the SEP.

- b. If Respondent fails to timely and complete submit the Interim SEP Reports or the SEP Completion Report required by paragraphs 58 and 59, Respondent shall be liable and shall pay a stipulated penalty in the amount of Two Hundred and Fifty Dollars (\$250).
- c. If The SEP is not completed in accordance with paragraph 56 of this CAFO, but EPA determines that the Respondent: (a) made good faith and timely efforts to complete the project; and (b) certifies, with supporting documentation, that at least 90 percent of the amount of money which was required to be spent was expended on the SEP; Respondent shall not be liable for any stipulated penalty.

62. Stipulated penalties shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of the completion of the activity.

63. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions of paragraph 1 of the Final Order portion of this CAFO.

64. Respondent certifies that it is not required to perform or develop the SEP by any federal, state, or local law or regulation; nor is Respondent required to perform or develop the SEP by agreement, grant or as injunctive relief in this or any other case or to comply with state or local requirements. Respondent further certifies that Respondent has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.

65. For federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

66. Any public statement, oral or written, in print, film or other media, made by Respondent making reference to the SEP shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the United States Environmental Protection Agency."

67. Late Payment Provisions. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Respondent understands that its failure to timely pay any portion of the civil penalty described in paragraph 1 of the Final Order below or any portion of a stipulated penalty as stated in paragraph 61 above may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall accrue thereon at the applicable statutory rate on the unpaid balance until such civil or stipulated penalty and any accrued interest are paid in full. A late payment handling charge of Fifteen Dollars, (\$15) will be imposed after thirty (30) days and an additional \$15 will be charge for each subsequent thirty (30) day period. Additionally, as provided by 31 U.S.C. § 3717(e)(2), a six percent (6%) per annum penalty (late charge) may be assessed on any amount not paid within ninety (90) days of the due date.

68. Failure to pay the assessed penalty may result in the referral of this matter to the United States Department of Justice for collection. If payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. The interest will be assessed on the overdue amount from the due date through the date of payment.

FINAL ORDER

Payment Procedures

Pursuant to the authority of Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and according to terms of this CAFO, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a mitigated civil penalty of Fourteen Thousand Nine Hundred and Forty Dollars (\$14,940) within thirty (30) days of the effective date of this Final Order. Such payment shall identify the Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

This payment shall reference docket number CWA-07-2009-0079.

Copies of the check shall be mailed to:

Kristen Nazar
Assistant Regional Counsel
U.S. Environmental Protection Agency – Region 7
901 North 5th Street
Kansas City, Kansas 66101

and to

Kathy Robinson
Regional Hearing Clerk
U.S. Environmental Protection Agency - Region 7
901 North 5th Street
Kansas City, Kansas 66101.

2. Respondent shall complete the SEP in accordance with the provisions set forth in the Consent Agreement and shall be liable for any stipulated penalty for failure to complete such project as specified in the Consent Agreement.

3. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this CAFO shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.

Parties Bound

4. This Final Order portion of this CAFO shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this CAFO.

General Provisions

5. Notwithstanding any other provision of this CAFO, EPA reserves the right to enforce the terms of the Final Order portion of this CAFO by initiating a judicial or administrative action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, and to seek penalties against Respondent or to seek any other remedy allowed by law.

6. Complainant reserves the right to take enforcement action against Respondent for any future violations of the CWA and its implementing regulations and to enforce the terms and conditions of this CAFO.

7. This Order shall be entered and become effective only after the conclusion of the period of public notice and comment required pursuant to Section 309(g)(4) of the CWA, 33 U.S.C. § 1319(g)(4), and 40 C.F.R. § 22.45. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

8. Respondent and Complainant shall bear their respective costs and attorney's fees.

9. The headings in this CAFO are for convenience of reference only and shall not affect interpretation of this CAFO.

**COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY**

9/3/09
Date

William A. Spratlin
William A. Spratlin
Director
Water, Wetlands and Pesticides Division
U.S. Environmental Protection Agency
Region 7

9/3/09
Date

Kristen Nazar
Kristen Nazar
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region 7

**RESPONDENT:
CITY OF PLAINVIEW, NEBRASKA**

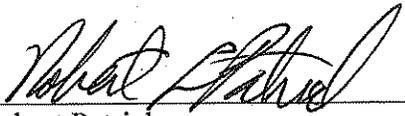
7-14-09
Date

Michael Holton

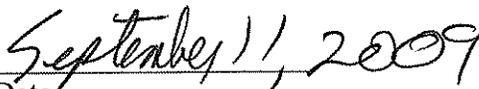
Name (Print) MICHAEL L. HOLTON

Title CITY ADMINISTRATOR

IT IS SO ORDERED. This Final Order shall become effective immediately.



Robert Patrick
Regional Judicial Officer



Date

Cynthia Sans
Water, Wetlands and Pesticide Division
U.S. Environmental Protection Agency – Region VII
901 North 5th Street
Kansas City, Kansas 66101

Dear Cynthia:

In response to putting a supplemental environmental project forward to offset some of the penalty under docket no. CWA-07-2008-0093, we are bringing forth the following proposal. While we have corrected all of the violations that were assessed by the EPA findings, the community of Plainview could benefit from more education on what caused some of the problems to begin with. In doing so, we would also be able to help many of the home owners in Plainview with corrections necessary to help them. The situation is referring to groundwater discharge in the sewer system.

OBJECTIVE

We propose to educate and help home owners in Plainview, Ne with sump pump discharge into the sewer system. This would be beneficial for the community in that it won't overwork the new wastewater lagoon, especially during the wet months. The southern half of the community lies in a low area and many of the homes require sump pump usage. While the city ordinances prohibit discharge of groundwater into the sewer system, we are aware that many of the home owners continue to do this practice and this SEP would give the city a chance to proactively educate and correct this problem.

SCOPE OF SERVICES

1. Procedures

- a. Town hall meetings (2) to educate the community in the sump pump discharge ordinances and corrections.
- b. Putting together a brochure that would be distributed throughout the community on the use of sump pumps and how to keep the discharge from entering the sewer system.
- c. Begin a door to door campaign to talk to the home owners on the corrections as we identify them. We would then offer help and parts to get the problem corrected. This would include identification of the sump pumps in the community.
- d. Upon completion of the sump pump corrections, the city will perform a free inspection to make sure that everything is in compliance. Any corrections that need to be done will be done free of charge for those who come forward requesting it.
- e. Monitor the inflow into the waste water lagoon system to see if there are any changes to the amount or toxicity levels.

BENEFITS

The main benefit with this program would be to educate the public and lessen the inflow of groundwater into the waste water lagoon. Not only would it lessen the toxicity of influents entering the waste water system, it would help with unnecessary addition of water that burdens and overflows the process. Sump pump discharges into the sewer system results in needless expenditures for the city and ultimately coming back on the citizen as well.

COSTS ASSOCIATED WITH THE PROPOSAL

| | |
|--|----------|
| #80 two-pocket folders (1500) | \$2,300 |
| Tri-fold brochures (1500) | \$750 |
| Educational materials and printouts (1500) | \$750 |
| Town hall education | \$500 |
| Parts (hoses and extensions) | \$3,000 |
| Labor (240 hours at \$12.00 an hour) | \$2,880 |
| Additional testing | \$200 |
| Approximate Total Costs We Propose | \$10,380 |

We have approximated the costs but are fully aware that this would be a \$10,000-\$12,000 project looking at costs that may not be transparent in the process.

CLOSING

I am attaching some sample brochures and sheets that would be the model that we would use in putting together the packets. I liked the way those communities put them together and hopefully it would fit the way you see the program as well.

Sincerely,

Michael L. Holton
City Administrator

Enclosure

RESPONSE

This letter correctly sets forth the understanding of the Plainview City Council.

Signature

Title

Date

From: "Michael Holton" <michaelh@plvwtelco.net>
To: Kristen Nazar/R7/USEPA/US@EPA
Date: 05/15/2009 04:54 PM
Subject:
RE: SEP thoughts

Thank you Kristen and I have been waiting for some test results to come back.

Here is our plan and that will include the incorporation of the SEP.

1. We will be using a one year time frame to complete the project so it is safe to use June 1, 2010 as an indicator of the timeline.
2. There are 660 taps that we will be looking at so that will equate to over 600 households.
3. The pollution reduction will be most seen in allowing the water to be treated longer in the lagoon ponds. We had to discharge this spring unexpectedly due to the rising infiltration of storm water. Our results in the tests indicated that we had elevated suspended solids, ecoli, and ammonia because of the early discharge so these pollutants would be the ones that we would target to reduce. As far as the storm sewer infiltration, we are not seeing pollutants directly coming into the system.
4. We have a maximum capacity of 177,000 gallons that can go into the lagoons per day and at this point we are averaging close to 250,000 gallons per day during the spring months. This is unacceptable. The gentleman that we had come in will be working with us on lining the manholes as well as incorporating the SEP plan and his estimate was that we would cut the infiltration in half with both of the processes. The SEP project should reduce the infiltration between 50,000 and 60,000 gallons alone per day.

I hope that this helps with the questions and I will incorporate this into the SEP plan as well.

IN THE MATTER OF The City of Plainview, Nebraska, Respondent
Docket No. CWA-07-2009-0079

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement/Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Kristen Nazar
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Michael L. Holton
City Administrator of Plainview
209 West Locust
PO Box 757
Plainview, Nebraska 68769-0757

Dated: 9/11/09


Kathy Robinson
Hearing Clerk, Region 7