

5. Pursuant to the authority of Section 402 of the CWA, the EPA promulgated regulations codified at 40 C.F.R. Part 122. Under 40 C.F.R. Part 122.1, a NPDES permit is required for the discharge of pollutants from any point source into waters of the United States.

6. The Missouri Department of Natural Resources (MDNR) is the state agency with the authority to administer the federal NPDES program in Missouri pursuant to Section 402 of the Act, 33 U.S.C. § 1342, implementing regulations, and a 1987 Memorandum of Understanding. The EPA maintains concurrent enforcement authority with delegated states for violations of the CWA.

III. Findings of Fact

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

8. Respondent owns and operates a publicly owned treatment works (POTW) which receives and treats wastewater from a variety of domestic and commercial sources, including an estimated population of 1,950 and one major industry, Specialty Brands, Inc.(Specialty Foods), which produces onion rings and other frozen vegetables.

9. Respondent's POTW is a "point source" as defined by Section 502(14) of the CWA, 33 U.S.C. § 1362(14). The design flow of Respondent's POTW is 1,000,000 gallons per day and the facility is classified as a "major" facility.

10. Respondent's POTW causes the "discharge of pollutants" as defined by Section 502(12) of the CWA, 33 U.S.C. § 1362(12).

11. Respondent's POTW discharges pollutants into the McKenzie Creek (Lower Black River Basin). The Lower Black River Basin is a "navigable water" as defined by Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

12. Respondent's discharge of pollutants from its POTW requires a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

13. On June 18, 1999, MDNR issued a NPDES permit (Permit No. MO-0047341) to Respondent which established conditions for discharges from its POTW into the Lower Black River Basin. On June 18, 2001, MDNR reissued a NPDES permit (Permit No. MO-0047341) to Respondent.

14. On September 20, 2000, MDNR issued Respondent a notice of non-compliance that documented Respondent had violated limits in the 1999 NPDES permit for Biochemical Oxygen

Demand (BOD) in February 2000, and for Total Suspended Solids (TSS) for March, April, May, July and August 2000. Additionally, Respondent was notified of a variety of sampling and operations and maintenance compliance issues.

15. On January 27, 2003, MDNR notified Respondent that it had failed to comply with the 2001 NPDES permit's limits for BOD for December 2002.

16. On February 27, 2003, MDNR notified Respondent that it had failed to comply with the 2001 NPDES permit's limits for BOD for January 2003.

17. On December 8 through 11, 2003, the EPA performed an inspection of the Piedmont WWTF wastewater treatment facility (December 2003 Inspection). During EPA's December 2003 Inspection, the EPA's inspector observed that the POTW had never removed sludge from its lagoon system and that aerators within the lagoon system were not properly operating. The EPA's inspector also observed that the Parshall flume for the POTW had not been properly calibrated.

18. The EPA's inspection also documented the Respondent failed to have documentation of procedures for proper operation and maintenance (O&M), as required by Missouri regulation 10 CSR 20-8.110.

19. The discharges from Specialty Foods to Respondent's POTW are subject to an Industrial User Permit, issued by Respondent to Specialty Foods, which establishes effluent limitations of 300 lbs. per day for BOD, 125 lbs. per day for TSS and 45 lbs. per day for Fats, Oils and Grease (FOG). At the time of the EPA's inspection, the EPA documented that for the previous 13 months, Specialty Foods had regularly exceeded the effluent limits for BOD and TSS within the Industrial User Permit, and that a correlation existed between Specialty Foods exceedances and Respondent's violations of the NPDES permit. During this time period, the loadings of BOD and TSS to the POTW also regularly exceeded the design capacity of the POTW.

IV. Findings of Violation

Count I

Failure to Comply with NPDES Permit Effluent Limits

20. The facts stated above in Paragraphs 7 through 19 are hereby incorporated by reference.

21. Respondent's 2001 NPDES permit states that discharges of Biochemical Oxygen Demand (BOD) shall be limited to a weekly average of 65 mg/l and a monthly average of 45 mg/l.

22. Respondent's 2001 NPDES permit states that discharges Total Suspended Solids (TSS) shall be limited to a monthly average of 70 mg/l.

23. Part I, Section B.2 of Respondent's 2001 NPDES permit states that notice of non-compliance with the effluent limits set forth in the permit shall be submitted to MDNR "in writing within five (5) days of becoming aware of such conditions."

24. Part I, Section C.4 of Respondent's NPDES permit states that notice shall be provided to MDNR as soon as Respondent has knowledge that the effluent limits set forth in Part A of the permit have been exceeded.

25. For the month of January 2003, the City of Piedmont failed to comply with the NPDES permit's limits for BOD with reported weekly average value of 72.1 mg/l, and a reported monthly average of 61.85 mg/l.

26. For the month of November 2003, the City of Piedmont failed to comply with the NPDES permit's limits for BOD with reported weekly average values of 67.7 mg/l and 78.2 mg/l, and a reported monthly average of 73 mg/l.

27. For the month of November 2003, the City of Piedmont failed to comply with the permit's limits for TSS with discharges with a reported monthly average of 88.0 mg/l TSS.

28. Respondent failed to notify MDNR of the November 2003 violations of the NPDES permit's effluent limits for BOD and TSS, as required by Part I Section B.2 and Part I, Section C.4 of the NPDES permit.

29. Respondent's failure to meet and report the effluent limitations set forth in the NPDES permit is a violation of 40 C.F.R. § 133.102 and the terms and conditions of the NPDES permit for the City of Piedmont 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.

Count II

Failure to Comply with NPDES Permit's Removal Efficiency Requirements

30. The facts stated above in Paragraphs 7 through 29 are hereby incorporated by reference.

31. Part I, Section A of Respondent's NPDES permit requires that Respondent meet removal efficiencies of 65% for both TSS and BOD.

32. In January, February and May of 2003, Respondent failed to meet the removal efficiency for BOD required by the NPDES permit.

33. In January, February, April, May, October and November 2003, Respondent failed to meet the removal efficiency for TSS required by the NPDES permit.

34. Respondent failure to meet and report removal efficiency requirements set forth in the NPDES permit are violations of 40 C.F.R. § 133.102 and the terms and conditions of the NPDES permit for the City of Piedmont 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.

V. Order For Compliance

35. Based on the Findings of Fact and Findings of Violation set forth above, and pursuant to Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), Respondent is hereby ORDERED to take the actions set forth below:

36. Within thirty (30) days of the effective date of this Order, Respondent shall take the corrective actions necessary to correct the deficiencies and eliminate and prevent recurrence of the violations cited above, and to come into compliance with all of the applicable requirements of its NPDES permit. These actions shall include, but not be limited to, appropriate actions to address the following:

a. The development and establishment of a operations and maintenance plan for the POTW, which shall specify the actions necessary to address:

- i. Routine and proper maintenance of all equipment, including lift stations;
- ii. Maintenance of blowers and the lagoon aeration system; and
- iii. Inspection of aerator heads and periodic inspection of sludge levels in lagoon;

b. An analysis of the impact of the wastewater discharges from Specialty Foods on Respondent's ability to comply with the NPDES permit, and the performance of all actions necessary to properly treat (and/or pretreat) the discharges of Specialty Foods to achieve compliance with the NPDES permits.

37. Within forty (45) days of the effective date of this Order, the Respondent shall submit a written report detailing the specific actions taken to correct the violations cited herein and explaining why such actions are anticipated to be sufficient to prevent recurrence of these or similar violations.

38. In the event that Respondent believes complete correction of the violations cited herein is not possible within thirty (30) days of the effective date of this Order, Respondent shall, within those thirty (30) days, submit a comprehensive written plan to the EPA for the elimination of the cited violations. Such plan shall describe in detail the specific corrective actions to be taken and shall provide an analysis of why actions are sufficient to correct the violations. The plan shall include a detailed schedule for the elimination of the violations within the shortest possible time, as well as measures to prevent these or similar violations from recurring.

39. Within thirty (30) days of receipt of this Order, Respondent shall submit documentation to EPA that all sampling required by the permit is accurate, representative and in compliance with the sampling requirements of Respondent's NPDES permit. Additionally, Respondent shall submit documentation to the EPA that the sampling performed to determine the characteristics of Specialty Foods discharges to the POTW is accurate and representative of Specialty Foods' discharges to the POTW.

40. Beginning with the effective date of this Order, Respondent shall submit to the EPA on a quarterly basis a Quarterly Compliance Report (due on November 15, February 15, May 15 and August 15) that contains copies of all monthly monitoring and sampling information required by Respondent's NPDES permit, including bench sheets, and sludge application logs with supporting documentation. A copy of the Compliance Report shall also be submitted to MDNR. This reporting obligation shall continue until Respondent is notified by the EPA that the quarterly reporting may cease.

Submissions

41. All documents required to be submitted to the EPA by this Order, shall be submitted by mail to:

Berla J. Johnson
Water, Wetlands and Pesticides Division
U.S. Environmental Protection Agency - Region 7
901 North Fifth Street
Kansas City, KS 66101

42. A copy of documents required to be submitted to MDNR by this Order, shall be submitted by mail to:

Mr. Kevin Mohammadi, Chief
Enforcement Section
Missouri Department of Natural Resources
Post Office Box 176
Jefferson City, Missouri 65102

VI. General Provisions

Effect of Compliance with the Terms of this Order for Compliance

43. Compliance with the terms of this Order shall not relieve Respondent of liability for, or preclude the EPA from initiating an administrative or judicial enforcement action to recover penalties for any violations of the CWA, or to seek additional injunctive relief, pursuant to Section 309 of the CWA, 33 U.S.C. § 1319.

44. This Order does not constitute a waiver or a modification of any requirements of the Clean Water Act, 33 U.S.C. § 1251 et seq., all of which remain in full force and effect. The EPA retains the right to seek any and all remedies available under Sections 309(b), (c), (d) or (g) of the Act, 33 U.S.C. § 1319(b), (c), (d) or (g), for any violation cited in this Order. Issuance of this Order shall not be deemed an election by the EPA to forgo any civil or criminal action to seek penalties, fines, or other appropriate relief under the Act for any violation whatsoever.

Access and Requests for Information

45. Nothing in this Order shall limit the EPA's right to obtain access to, and/or to inspect Respondent's facility, and/or to request additional information from Respondent, pursuant to the authority of Section 308 of the CWA, 33 U.S.C. § 1318 and/or any other authority.

Severability

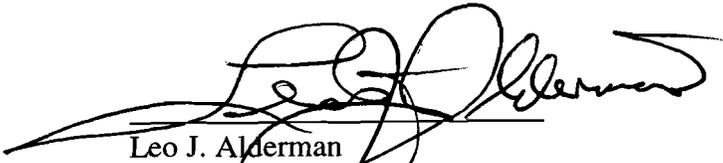
46. If any provision or authority of this Order, or the application of this Order to Respondent, is held by federal judicial authority to be invalid, the application to Respondent of the remainder of this Order shall remain in full force and effect and shall not be affected by such a holding.

In the matter of
The City of Piedmont, Missouri

Effective Date

47. The terms of this Order shall be effective and enforceable against Respondent upon its receipt of an executed copy of the Order.

Issued this 20th day of September, 2004.



Leo J. Alderman
Director, Water, Wetlands and Pesticides Division
U.S. Environmental Protection Agency
Region VII
901 North Fifth Street
Kansas City, Kansas 66101



Howard Bunch
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region VII
901 North Fifth Street
Kansas City, Kansas 66101

*In the matter of
The City of Piedmont, Missouri*

CERTIFICATE OF SERVICE

I certify that on the date noted below I hand delivered the original and one true copy of this Findings of Violation and Administrative Order for Compliance to the Regional Hearing Clerk, United States Environmental Protection Agency, 901 North Fifth Street, Kansas City, Kansas 66101.

I further certify that on the date noted below I sent a copy of the foregoing Order for Compliance by first class certified mail, return receipt requested, to:

The Honorable Jaylon Watson
Mayor of the City of Piedmont
Highway HH
Piedmont, Missouri 63957

Mr. Kevin Mohammadi, Chief
Enforcement Section
Missouri Department of Natural Resources
Post Office Box 176
Jefferson City, Missouri 65102

9/21/04
Date

