

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7

901 NORTH 5th STREET
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

IN THE MATTER OF:)
)
Victor, Iowa)
)
A Municipality)
)
Proceedings under Section 309(a)(3))
of the Clean Water Act,)
33 U.S.C. 1319(a)(3))
_____)

FINDINGS OF VIOLATION AND
ORDER FOR COMPLIANCE

Docket No. CWA-07-2011-0074

I. Preliminary Statement

1. The FINDINGS OF VIOLATION are made and the ORDER FOR COMPLIANCE is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA"), by Section 309(a)(3) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(a)(3), as delegated by the Administrator to the Regional Administrator, EPA, Region 7, and further delegated to the Director, Water, Wetlands and Pesticides Division, EPA, Region 7.

2. Respondent, the city of Victor, Iowa (hereafter "Respondent" or "Victor"), operates a Publicly Owned Treatment Works ("POTW") in the state of Iowa that treats domestic wastewater.

3. The Iowa Department of Natural Resources ("IDNR") is the state agency with the authority to administer the federal National Pollutant Discharge Elimination System ("NPDES") program in Iowa pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, implementing regulations, and a Memorandum of Understanding. EPA maintains concurrent enforcement authority with authorized state programs for violations of the CWA.

II. Jurisdiction and Finding of Fact

4. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants except in compliance with, inter alia, Section 402 of the CWA, 33 U.S.C. § 1342. Section 402 of the CWA provides that pollutants may be discharged only in accordance with the terms of a NPDES permit issued pursuant to that Section.

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

6. Victor owns and operates a POTW (hereafter "the POTW") that receives and treats wastewater from domestic sources.

7. Victor's POTW discharges to Big Bear Creek, which is a tributary of the Iowa River.

8. The POTW is a "point source" that "discharges pollutants" into "navigable waters" of the United States, as these terms are defined by Section 502 of the CWA, 33 U.S.C. § 1362.

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

10. On October 22, 2001, IDNR granted NPDES permit No. IA0058190 (hereafter "NPDES permit"), to the Respondent for discharges from the Victor Sewage Treatment Plant ("STP") to Big Bear Creek, subject to compliance with conditions and limitations set forth in the NPDES permit. The NPDES permit had an expiration date of October 21, 2006. The NPDES permit was administratively extended pursuant to the Iowa Administrative Code, 567-64.8(3).

11. Respondent's NPDES permit sets thirty-day average and seven-day average final effluent limitations for five-day Carbonaceous Biochemical Oxygen Demand (CBOD₅), and requires monitoring for these parameters at least once per week. The thirty-day average concentration limitation for CBOD₅ is 25 milligrams per liter (mg/L) and the seven-day average concentration limitation is 40 mg/L. The thirty-day average mass limitation for CBOD₅ is 42 pounds per day (lbs/day) and the seven-day average limitation is 67 lbs/day.

12. Respondent's NPDES permit sets thirty-day average and seven-day average final effluent limitations for Total Suspended Solids (TSS), and requires monitoring for these parameters at least once per month. The thirty-day average concentration limitation for TSS is 30 mg/L and the seven-day average concentration limitation is 45 mg/L. The thirty-day average mass limitation for TSS is 50 lbs/day and the seven-day average limitation is 75 lbs/day.

13. Respondent's NPDES permit sets seasonal thirty-day average and daily maximum effluent limitations for Ammonia as Nitrogen (N), and requires monitoring for these parameters at least once per week. The seasonal effluent limitations for N are as follows:

Season	Concentration Effluent Limitations		Mass Effluent Limitations	
	30-day Average	Daily Maximum	30-day Average	Daily Maximum
January	14 mg/L	21 mg/L	13 lbs/day	21 lbs/day
February	14 mg/L	21 mg/L	13 lbs/day	21 lbs/day

March	6.3 mg/L	10 mg/L	5.7 lbs/day	9.4 lbs/day
April	6.3 mg/L	10 mg/L	5.7 lbs/day	9.4 lbs/day
May	6.3 mg/L	10 mg/L	5.7 lbs/day	9.4 lbs/day
June	6.3 mg/L	10 mg/L	5.7 lbs/day	9.4 lbs/day
July	6.2 mg/L	10 mg/L	5.3 lbs/day	8.8 lbs/day
August	6.2 mg/L	10 mg/L	5.3 lbs/day	8.8 lbs/day
September	6.3 mg/L	10 mg/L	5.7 lbs/day	9.4 lbs/day
October	6.3 mg/L	10 mg/L	5.7 lbs/day	9.4 lbs/day
November	6.3 mg/L	10 mg/L	5.7 lbs/day	9.4 lbs/day
December	6.3 mg/L	10 mg/L	5.7 lbs/day	9.4 lbs/day

14. On December 13-16, 2010, EPA performed an inspection of the Victor POTW under the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a) (hereafter "Inspection").

15. During the Inspection, the EPA inspector observed the operation of the POTW, performed sampling of the POTW's discharge, and documented his findings regarding Victor's compliance with its NPDES permit and the CWA, as follows:

- (a) Based on a review of Victor's discharge monitoring reports (DMRs), Victor's POTW exceeded the NPDES permit limitations for Ammonia as N as follows:

Date of Violation	Reported Effluent Limit	Effluent Limit	Violation Type
3/6/2008	12.4 lbs/day	9.4 lbs/day	Daily Maximum
3/11/2008	22.2 lbs/day	9.4 lbs/day	Daily Maximum
3/20/2008	21.3 lbs/day	9.4 lbs/day	Daily Maximum
3/26/2008	10.7 mg/L	10 mg/L	Daily Maximum
	20.1 lbs/day	9.4 lbs/day	
3/2008	8.2 mg/L	6.3 mg/L	Monthly Average
	19.0 lbs/day	5.7 lbs/day	

4/2/2008	19.7 lbs/day	9.4 lbs/day	Daily Maximum
4/9/2008	22.1 lbs/day	9.4 lbs/day	Daily Maximum
4/16/2008	19.4 lbs/day	9.4 lbs/day	Daily Maximum
4/23/2008	16.2 lbs/day	9.4 lbs/day	Daily Maximum
4/30/2008	16.0 lbs/day	9.4 lbs/day	Daily Maximum
4/2008	6.6 mg/L	6.3 mg/L	Monthly Average
	18.7 lbs/day	5.7 lbs/day	
5/7/2008	23.1 lbs/day	9.4 lbs/day	Daily Maximum
5/21/2008	15.5 lbs/day	9.4 lbs/day	Daily Maximum
5/2008	12.7 lbs/day	5.7 lbs/day	Monthly Average
6/4/2008	13.3 lbs/day	9.4 lbs/day	Daily Maximum
6/19/2008	12.0 lbs/day	9.4 lbs/day	Daily Maximum
6/25/2008	15.8 lbs/day	9.4 lbs/day	Daily Maximum
6/2008	12.3 lbs/day	5.7 lbs/day	Monthly Average
7/2/2008	12.6 lbs/day	8.8 lbs/day	Daily Maximum
7/30/2008	11.3 lbs/day	8.8 lbs/day	Daily Maximum
7/2008	7.3 lbs/day	5.3 lbs/day	Monthly Average
8/6/2008	15.2 lbs/day	8.8 lbs/day	Daily Maximum
8/13/2008	14.8 mg/L	10.0 mg/L	Daily Maximum
	14.4 lbs/day	8.8 lbs/day	
8/20/2008	15.4 mg/L	10.0 mg/L	Daily Maximum
	15.7 lbs/day	8.8 lbs/day	
8/2008	11.1 mg/L	6.2 mg/L	Monthly Average
	12.4 lbs/day	5.3 lbs/day	
9/10/2008	26.9 mg/L	10.0 lbs/day	Daily Maximum

	26.0 lbs/day	9.4 lbs/day	
9/2008	8.2 mg/L	6.3 mg/L	Monthly Average
	8.1 lbs/day	5.7 lbs/day	
12/23/2008	17.1 mg/L	10.0 mg/L	Daily Maximum
	12.0 lbs/day	9.4 lbs/day	
12/30/2008	12.3 lbs/day	9.4 lbs/day	Daily Maximum
12/2008	8.1 mg/L	6.3 mg/L	Monthly Average
	7.5 lbs/day	5.7 lbs/day	
1/2009	18.0 mg/L	14.0 mg/L	Monthly Average
	13.5 lbs/day	13.0 lbs/day	
2/1/2009	23.8 mg/L	21 mg/L	Daily Maximum
2/4/2009	23.3 mg/L	21 mg/L	Daily Maximum
2/2009	17.9 mg/L	14.0 mg/L	Monthly Average
	16.1 lbs/day	13.0 lbs/day	
3/3/2009	20.0 mg/L	10.0 mg/L	Daily Maximum
	20.3 lbs/day	9.4 lbs/day	
3/11/2009	25.6 lbs/day	9.4 lbs/day	Daily Maximum
3/19/2009	11.1 mg/L	10.0 mg/L	Daily Maximum
	17.6 lbs/day	9.4 lbs/day	
3/26/2009	11.1 mg/L	10.0 mg/L	Daily Maximum
	15.2 lbs/day	9.4 lbs/day	
3/2009	11.7 mg/L	6.3 mg/L	Monthly Average
	19.7 lbs/day	5.7 lbs/day	
4/2/2009	11.9 lbs/day	9.4 lbs/day	Daily Maximum

4/9/2009	12.6 mg/L	10.0 mg/L	Daily Maximum
	15.0 lbs/day	9.4 lbs/day	
4/17/2009	15.6 mg/L	10.0 mg/L	Daily Maximum
	14.6 lbs/day	9.4 lbs/day	
4/22/2009	18.0 mg/L	10.0 mg/L	Daily Maximum
	16.5 lbs/day	9.4 lbs/day	
4/2009	14.0 mg/L	6.3 mg/L	Monthly Average
	14.5 lbs/day	5.7 lbs/day	
5/1/2009	16.2 lbs/day	9.4 lbs/day	Daily Maximum
5/7/2009	12.8 mg/L	10.0 mg/L	Daily Maximum
	17.6 lbs/day	9.4 lbs/day	
5/13/2009	10.2 mg/L	10.0 mg/L	Daily Maximum
	12.2 lbs/day	9.4 lbs/day	
5/21/2009	12.2 lbs/day	9.4 lbs/day	Daily Maximum
5/28/2009	13.7 lbs/day	9.4 lbs/day	Daily Maximum
5/2009	9.6 mg/L	6.3 mg/L	Monthly Average
	14.4 lbs/day	5.7 lbs/day	
6/3/2009	11.3 mg/L	10 mg/L	Daily Maximum
	18.5 lbs/day	9.4 lbs/day	
6/12/2009	11.4 mg/L	10.0 mg/L	Daily Maximum
	10.8 lbs/day	9.4 lbs/day	
6/17/2009	11.6 mg/L	10.0 mg/L	Daily Maximum
	19.3 lbs/day	9.4 lbs/day	
6/25/2009	13.1 lbs/day	9.4 lbs/day	Daily Maximum

6/2009	9.5 mg/L	6.3 mg/L	Monthly Average
	15.4 lbs/day	5.7 lbs/day	
7/9/2009	14.0 lbs/day	8.8 lbs/day	Monthly Average
7/16/2009	14.1 lbs/day	8.8 lbs/day	Daily Maximum
7/22/2009	14.0 lbs/day	8.8 lbs/day	Daily Maximum
7/2009	6.9 mg/L	6.2 mg/L	Monthly Average
	12.1 lbs/day	5.3 lbs/day	
8/1/2009	12.7 mg/L	10.0 mg/L	Daily Maximum
	13.0 lbs/day	8.8 lbs/day	
8/6/2009	17.6 mg/L	10.0 mg/L	Daily Maximum
	15.0 lbs/day	8.8 lbs/day	
8/13/2009	10.7 mg/L	10.0 mg/L	Daily Maximum
8/2009	10.7 mg/L	6.2 mg/L	Monthly Average
	11.0 lbs/day	5.3 lbs/day	
2/26/2010	21.9 mg/L	21 mg/L	Daily Maximum
3/3/2010	22.0 mg/L	10.0 mg/L	Daily Maximum
	19.4 lbs/day	9.4 lbs/day	
3/10/2010	37.2 lbs/day	9.4 lbs/day	Daily Maximum
3/18/2010	22.8 lbs/day	9.4 lbs/day	Daily Maximum
3/26/2010	10.5 mg/L	10.0 mg/L	Daily Maximum
	19.9 lbs/day	9.4 lbs/day	
3/2010	12.1 mg/L	6.3 mg/L	Daily Maximum
	24.8 lbs/day	5.7 lbs/day	
4/1/2010	12.7 mg/L	10.0 mg/L	Daily Maximum
	21.7 lbs/day	9.4 lbs/day	

4/7/2010	9.9 lbs/day	9.4 lbs/day	Daily Maximum
4/8/2010	10.8 mg/L	10.0 mg/L	Daily Maximum
	22.9 lbs/day	9.4 lbs/day	
4/15/2010	13.2 lbs/day	9.4 lbs/day	Daily Maximum
4/22/2010	11.4 mg/L	10.0 mg/L	Daily Maximum
	12.8 lbs/day	9.4 lbs/day	Daily Maximum
4/28/2010	17.0 lbs/day	9.4 lbs/day	Daily Maximum
4/2010	9.9 mg/L	6.3 mg/L	Monthly Average
	16.2 lbs/day	5.7 lbs/day	
5/5/2010	21.6 lbs/day	9.4 lbs/day	Daily Maximum
5/12/2010	21.1 lbs/day	9.4 lbs/day	Daily Maximum
5/20/2010	9.5 lbs/day	9.4 lbs/day	Daily Maximum
5/26/2010	9.7 lbs/day	9.4 lbs/day	Daily Maximum
5/2010	7.4 mg/L	6.3 mg/L	Monthly Average
	15.5 lbs/day	5.7 lbs/day	
12/15/2010	13.0 mg/L	10.0 mg/L	Daily Maximum
12/21/2010	13.7 mg/L	10.0 mg/L	Daily Maximum
	10.5 lbs/day	9.4 lbs/day	Daily Maximum
12/28/2010	18.6 mg/L	10.0 mg/L	Daily Maximum
	12.4 lbs/day	9.4 lbs/day	Daily Maximum
12/2010	10.7 mg/L	6.3 mg/L	Monthly Average
	7.2 lbs/day	5.70 lbs/day	Monthly Average
1/5/2011	21.2 mg/L	21.0 mg/L	Daily Maximum
1/12/2011	27.8 mg/L	21.0 mg/L	Daily Maximum

1/2011	24.0 mg/L	14.0 mg/L	Monthly Average
	14.1 lbs/day	13.0 lbs/day	
2/1/2011	28.2 mg/L	14.0 mg/L	Daily Maximum
2/8/2011	31.0 mg/L	21.0 mg/L	Daily Maximum
	22.7 lbs/day	21.0 lbs/day	Daily Maximum
2/2011	20.9 mg/L	14.0 mg/L	Monthly Average
	17.6 lbs/day	13.0 lbs/day	Monthly Average
3/3/2011	18.0 mg/L	10.0 mg/l	Daily Maximum
	15.8 lbs/day	9.4 lbs/day	Daily Maximum
3/10/2011	11.0 mg/L	10.0 mg/l	Daily Maximum
	18.5 lbs/day	9.4 lbs/day	Daily Maximum
3/16/2011	15.9 mg/L	10.0 mg/l	Daily Maximum
	14.9 lbs/day	9.4 lbs/day	Daily Maximum
3/23/2011	14.8 mg/L	10.0 mg/l	Daily Maximum
	20.6 lbs/day	9.4 lbs/day	Daily Maximum
3/30/2011	16.0 mg/L	10.0 mg/l	Daily Maximum
	14.7 lbs/day	9.4 lbs/day	Daily Maximum
3/2011	15.1 mg/L	6.3 mg/L	Monthly Average
	16.9 lbs/day	5.7 lbs/day	Monthly Average
4/6/2011	17.6 mg/L	10.0 mg/l	Daily Maximum
	13.9 lbs/day	9.4 lbs/day	Daily Maximum
4/13/2011	14.5 mg/L	10.0 mg/l	Daily Maximum
	10.5 lbs/day	9.4 lbs/day	Daily Maximum

4/20/2011	11.0 mg/L	10.0 mg/l	Daily Maximum
	16.5 lbs/day	9.4 lbs/day	
4/27/2011	13.6 lbs/day	9.4 lbs/day	Daily Maximum
4/2011	12.2 mg/L	6.3 mg/L	Monthly Average
	13.6 lbs/day	5.7 lbs/day	Monthly Average

(b) Based on a review of Victor's DMRs, Victor's POTW exceeded the NPDES permit limitations for CBOD₅ as follows:

Date of Violation	Reported Effluent Limit	Effluent Limit	Violation Type
2/7/2009	71.5 mg/L	40.0 mg/L	Weekly Average
2/21/2009	50.0 mg/L	40.0 mg/L	Weekly Average
2/28/2009	43 mg/L	40.0 mg/L	Weekly Average
2/2009	52.0 mg/L	25.0 mg/L	Monthly Average
3/14/2009	153.0 lbs/day	67.0 lbs/day	Weekly Average
3/28/2009	42.0 mg/L	40.0 mg/L	Weekly Average
3/2009	33.0 mg/L	25.0 mg/L	Monthly Average
	73.5 lbs/day	42.0 lbs/day	
4/14/2009	61.0 mg/L	40.0 mg/L	Weekly Average
	73.0 lbs/day	67.0 lbs/day	
4/21/2009	54.0 mg/L	40.0 mg/L	Weekly Average
4/28/2009	52 mg/L	40.0 mg/L	Weekly Average
4/2009	49.5 mg/L	25.0 mg/L	Monthly Average
	52.0 lbs/day	42.0 lbs/day	
5/28/2009	42 mg/L	40.0 mg/L	Weekly Average
	69.0 lbs/day	67.0 lbs/day	

5/2009	37.0 mg/L	25.0 mg/L	Monthly Average
	58.0 lbs/day	42.0 lbs/day	
7/28/2009	75.0 lbs/day	67.0 lbs/day	Weekly Average
8/7/2009	132.5 mg/L	40.0 mg/L	Weekly Average
	116.0 lbs/day	67.0 lbs/day	
8/2009	69.0 mg/L	25.0 mg/L	Monthly Average
	68.0 lbs/day	42.0 lbs/day	
3/7/2010	51.0 mg/L	40.0 mg/L	Weekly Average
3/14/2010	155.0 lbs/day	67.0 lbs/day	Weekly Average
3/21/2010	90.0 lbs/day	67.0 lbs/day	Weekly Average
3/2010	37.0 mg/L	25.0 mg/L	Monthly Average
	88.0 lbs/day	42.0 lbs/day	
4/7/2010	43.5 mg/L	40.0 mg/L	Weekly Average
4/2010	28.0 mg/L	25.0 mg/L	Monthly Average
	45.0 lbs/day	42.0 lbs/day	

(c) Based on a review of Victor's DMRs, Victor's POTW exceeded the NPDES permit limitations for TSS as follows:

Date of Violation	Reported Effluent Limit	Effluent Limit	Violation Type
2/7/2009	45.5 mg/L	45.0 mg/L	Weekly Average
2/21/2009	68.0 mg/L	45.0 mg/L	Weekly Average
	77.0 lbs/day	75.0 lbs/day	
2/2009	45.0 mg/L	30.0 mg/L	Monthly Average
3/14/2009	136.0 lbs/day	75.0 lbs/day	Weekly Average

3/2009	34.5 mg/L	30.0 mg/L	Monthly Average
	72.0 lbs/day	50.0 lbs/day	
4/21/2009	46.0 mg/L	45.0 mg/L	Weekly Average
4/28/2009	62.0 mg/L	45.0 mg/L	Weekly Average
4/2009	41.0 mg/L	30.0 mg/L	Monthly Average
5/7/2009	77.0 lbs/day	75.0 lbs/day	Weekly Average
5/2009	37.0 mg/L	30.0 mg/L	Monthly Average
	61.0 lbs/day	50.0 lbs/day	
8/21/2009	87.0 lbs/day	75.0 lbs/day	Weekly Average
3/14/2010	213.0 lbs/day	75.0 lbs/day	Weekly Average
3/21/2010	124.0 lbs/day	75.0 lbs/day	Weekly Average
3/2010	39.0 mg/L	30.0 mg/L	Monthly Average
	108.0 lbs/day	50.0 lbs/day	
4/7/2010	49.5 mg/L	45.0 mg/L	Weekly Average
4/2010	32.0 mg/L	30.0 mg/L	Monthly Average
6/28/2010	78.0 lbs/day	75.0 lbs/day	Weekly Average
7/7/2010	139.0 lbs/day	75.0 lbs/day	Weekly Average
7/14/2010	80.0 lbs/day	75.0 lbs/day	Weekly Average
7/2010	32.0 mg/L	30.0 mg/L	Monthly Average
	80.0 lbs/day	50.0 lbs/day	

III. Findings of Violation

16. Respondent violated its NPDES permit by failing to comply with the effluent limitations for Ammonia as N, CBOD₅, and TSS during the time periods identified in Paragraph 15, subparagraphs (a), (b), and (c), above.

17. Respondent's violations of the requirements of its NPDES Permit, as identified in Paragraph 16 above, constitute violations of Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.

IV. Order for Compliance

18. 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 described below.

19. Immediately upon the Effective Date of this Order, Respondent shall take whatever actions are 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.

20. Within thirty (30) days of the Effective Date of this Order, Respondent shall submit information to EPA, with a copy to IDNR, as follows:

- (a) An explanation of actions taken and/or plans for action to be taken to correct the violations cited herein; and
- (b) An explanation of processes and procedures developed, revised and implemented to prevent future violations and ensure compliance with the NPDES permit requirements.

21. After review of the information submitted by Respondent pursuant to Paragraph 20, above, EPA may determine that additional information is needed and/or additional corrective measures are appropriate, and may modify this Order or initiate a separate enforcement action, as appropriate.

22. For one year from the effective date of this Order, Respondent shall submit to EPA on a quarterly basis, monthly DMRs. The reports shall be submitted no later than the 28th day of the month following the end of the calendar quarter (e.g., January 28, April 28, July 28 and October 28).

23. With each submittal to EPA pursuant to the requirements of this Order the Respondent shall include a written statement signed by a principal executive officer or ranking elected official, or by a duly authorized representative of that person, that contain the following certification:

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 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.

Submissions

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

Wayne Dillard
Environmental Engineer
Water Enforcement Branch
Water, Wetlands and Pesticides Division
U.S. Environmental Protection Agency - Region 7
901 North Fifth Street
Kansas City, Kansas 66101

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

Dennis Ostwinkle
Supervisor
Iowa Department of Natural Resources, Field Office # 6
1023 West Madison Street
Washington, Iowa 52353-1623

V. General Provisions

Effect of Compliance with the Terms of this Order for Compliance

26. Compliance with the terms of this Order shall not relieve Respondent of liability for, or preclude EPA from, initiating an administrative or judicial enforcement action to correct the violations described above, including but not limited to actions to protect the health or welfare of persons or the environment, or 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.

27. This Order does not constitute a waiver or a modification of any requirements of the CWA, U.S.C. § 1251 *et seq.*, all of which remain in full force and effect. EPA retains the right to seek any and all remedies available under Section 309(b), (c), (d), or (g) of the CWA, 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 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

28. Nothing in this Order shall limit 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

29. 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.

Effective Date


30. This Order shall be effective upon receipt by Respondent of a fully executed copy hereof. All time periods herein shall be calculated there from unless otherwise provided in this Order.


Termination

31. This Order shall remain in effect until a written notice of termination is issued by an authorized representative of the U.S. Environmental Protection Agency. Such notice shall not be given until all of the requirements of this Order have been met.

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Issued this 14th day of July, 2011.


for Karen Flournoy, Acting Director
Water, Wetlands and Pesticides Division


Melissa A.C. Bagley
Assistant Regional Counsel