

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AM 9: 37
 REGION 7
 901 NORTH FIFTH STREET
 KANSAS CITY, KANSAS 66101

ENVIRONMENTAL PROTECTION
 AGENCY REGION VII
 REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)
)
)
 Michael L. Collins)
 520 21st Avenue)
 Council Bluffs, Iowa 51501)
)
 Respondent)
)
 Proceedings under Section 309(a) of the)
 Clean Water Act, 33 U.S.C. § 1319(a))
 _____)

Docket No. CWA-07-2009-0042

AMENDMENT TO
 FINDINGS OF VIOLATION,
 ORDER FOR COMPLIANCE

A. INTRODUCTION

1. The FINDINGS OF VIOLATION are made and AMENDED 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 or the "Act"), 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. On or about April 15, 2009, EPA issued a Findings of Violation and Order for Compliance to Michael Collins pursuant to Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), for violations of Sections 301(a) and 402(p) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(p) at the housing development known as Traceview Estates in Council Bluffs, Iowa.
3. Paragraphs 4 through 13 below replace Paragraphs 29 through 36 and 41 and 42 of EPA's April 15, 2009 Findings of Violation and Order for Compliance, CWA-07-2009-0042.

B. AMENDMENT TO ORDER FOR COMPLIANCE

4. Based on the Findings of Fact and Findings of Violation set forth above, and pursuant to the authority of Sections 308(a) and 309(a)(3) of the CWA, 33 U.S.C. §§ 1318(a) and 1319(a)(3), Respondent is hereby ORDERED to take the actions described in Paragraphs 5 through 7.

5. Within thirty (30) days of the Effective Date of the Amended Order, Respondent shall submit a narrative description of each lot in the Traceview Estates subdivision to EPA. These descriptions shall describe if the lot is stabilized, how the lot is stabilized (grass, volunteer weed growth, etc.) and the status of construction activities on each lot.

6. Within sixty (60) days of the Effective Date of the Amended Order, Respondent shall submit to EPA:

- i. Identification and documentation of lots that are finally stabilized. "Final Stabilization" means that all soil disturbing activities at the site have been completed and that a uniform perennial vegetative cover with a density of 70% for the area has been established or equivalent stabilization measures have been employed. For each lot that has been finally stabilized, Respondent will have completed the compliance requirements regarding that lot.
 - a. Respondent shall also submit to EPA and the Iowa Department of Natural Resources ("IDNR") any signed statements by owners of lots that have achieved final stabilization, in which the owners agree to obtain their own permit coverage under Iowa General Stormwater Permit No. 2 when they commence any new construction or land disturbing activity on their lots. Any statements submitted for this purpose must not contain any statements regarding stabilization determinations by EPA or IDNR.
- ii. Identification and documentation of lots that have applied for and received their own National Pollutant Discharge Elimination System ("NPDES") permit coverage. To EPA's knowledge, this includes lots 23, 24, 28, 30. For each lot that has its own NPDES permit coverage, Respondent will have no compliance requirements regarding that lot.
- iii. Documentation that common areas have been finally stabilized. This documentation should include, but not be limited to, photos and invoices. Respondent shall coordinate with Pottawatomie County regarding the transfer of responsibility for the common areas in the Traceview Estates subdivision to the County, once the common areas have achieved final stabilization.
- iv. Documentation of permit coverage for each lot that either does not meet the criteria for "Final Stabilization" described in Paragraph 6.i, above, or does not have its own permit coverage as described in Paragraph 6.ii, above. Documentation shall consist of:

- a. A signed statement from the lot owner executing a valid transfer of permit responsibility from Respondent to the lot owner. Any executed transfers must be submitted to EPA and IDNR. Any transfer of permit responsibility must comply with the requirements of the Iowa General Stormwater Permit No. 2, as follows: "If the new owner(s) agree in writing to be solely responsible for compliance with the provisions of this permit for the property which has been transferred, then the existing permittee(s) shall be relieved of responsibility for compliance with this permit for the transferred property, from and after the date the IDNR receives written notice of transfer of responsibility. A copy of the notice of transfer of responsibility shall be included in the pollution prevention plan," or
- b. A statement that Respondent will maintain active NPDES permit coverage for this lot until construction is completed and the lot is finally stabilized.

7. If Respondent uses the provision of permit coverage described in Paragraph 6.iv.a or b, above for any lots in the Traceview Estates subdivision, Respondent shall submit to EPA and IDNR the following:

- i. Within sixty (60) days of the Effective Date of this Amended Order, a Notice of Intent for coverage under Iowa General Stormwater Permit No. 2.
- ii. A report every 30 days, with the first report due 90 days after the Effective Date of the Amended Order, that identifies and documents the status of stabilization and permit coverage of each lot identified in Paragraph 6.iv, above and each lot identified in Paragraph 6.i, above, for which Respondent has not used the provision in Paragraph 6.i.a, above.
- iii. When all areas of the Traceview Estates subdivision have reached Final Stabilization as defined in Part VIII of the Iowa General Stormwater Permit No. 2, notwithstanding any lots for which Respondent satisfied the provisions of 6(i)(a) or 6(ii), a Notice of Discontinuation compliant with Part II.G of Iowa General Stormwater Permit No. 2.

8. All documents required to be submitted to EPA and IDNR by this Amended Order shall be submitted by mail to:

Mr. Michael Boeglin
Water, Wetlands and Pesticides Division
U.S. Environmental Protection Agency - Region 7
901 North Fifth Street
Kansas City, Kansas 66101

and to

Ms. Holly Vandemark
Iowa Department of Natural Resources
Field Office #4
1401 Sunnyside Lane
Atlantic, Iowa 50022.

9. All submissions made by Respondent to EPA pursuant to the requirements of this Amended Order shall contain the following certification signed by an authorized official, as described at 40 CFR 122.22:

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 submissions of false information.

Approval of Submissions and Incorporation into the Amended Order

10. Upon receipt, EPA will review all documents submitted by Respondent pursuant to Paragraphs 5 through 7, and approve such submittals or require modification and resubmittal of a portion or all of the documents pursuant to Paragraph 11, below. Upon approval, documents submitted under Paragraphs 5 through 7, above, or resubmitted pursuant to Paragraph 11, below, shall be deemed incorporated into and become enforceable under this Amended Order, or at EPA's discretion, shall be incorporated into, and become enforceable under, a separate order issued under the authority of the CWA.

Modification and Resubmission of Documents

11. If required by EPA pursuant to Paragraph 10, above, Respondent shall, within fifteen (15) days of receipt of any written comments from EPA regarding the documents submitted by Respondent pursuant to this Amended Order, make modifications and changes to such documents as directed by EPA, and resubmit the documents to EPA. The parties may agree, in writing, to a longer period of time for resubmission of such documents.

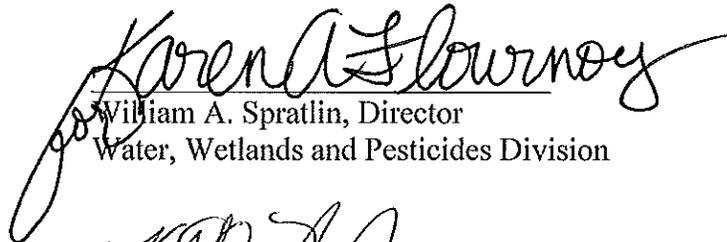
Effective Date

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

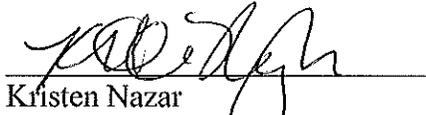
Termination

13. This Amended 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.

Issued this 21st day of July, 2010.



William A. Spratlin, Director
Water, Wetlands and Pesticides Division



Kristen Nazar
Office of Regional Counsel

CERTIFICATE OF SERVICE

I certify that on the date noted below I hand delivered the original and one true copy of this Amended 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 Amended Order by first class certified mail, return receipt requested, to:

Michael L. Collins
Developer
Traceview Estates Subdivision
520 21st Avenue
Council Bluffs, Iowa 51501

Sent via first class mail to:

Ed Tormey
Bureau Chief
Legal Services
Iowa Department of Natural Resources
502 East Ninth Street
Des Moines, Iowa 50319

Dennis Ostwinkle
Iowa Department of Natural Resources
1023 West Madison Street
Washington, Iowa 52353

Dan Stipe
Iowa Department of Natural Resources Field Office #4
1401 Sunnyside Lane
Atlantic, Iowa 50022.

8/25/10
Date

Kathy Robinson