

required by the terms and conditions of this Order on Consent, and (4) consents to be bound by the requirements set forth herein. Respondent neither admits nor denies the specific factual allegations or Findings of Violation in this Order on Consent, except that Respondent admits the jurisdictional allegations herein. Respondent also 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 Order on Consent, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

Statutory and Regulatory Framework

6. 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 in accordance with the terms of an NPDES permit issued pursuant to that Section.

7. The CWA 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.

8. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines “navigable waters,” in part, as the “waters of the United States.”

9. To implement 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, an NPDES permit is required for the discharge of pollutants from any point source into waters of the United States.

10. As defined by 40 C.F.R. § 403.3(q), a Publicly Owned Treatment Works (“POTW”) includes, but is not limited to, devices and systems for storage and treatment of municipal sewage and sewers, pipes, and other conveyances of wastewater.

11. The Kansas Department of Health and Environment (“KDHE”) is the state agency in Kansas with the authority to administer the federal NPDES program, pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and applicable implementing regulations. The EPA retains concurrent enforcement authority with authorized state programs for violations of the CWA.

EPA’s General Allegations

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

13. Respondent is the owner and/or operator of a POTW in Bonner Springs, Kansas, that includes a wastewater treatment facility (“WWTF”) that treats domestic wastewater from the city of Bonner Springs.

14. The POTW discharges effluent through Outfall 001 to the Kansas River.

15. The Kansas River is a traditional navigable water.
16. The Kansas River is a “water of the United States” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).
17. The POTW is a “point source” that “discharges pollutants” to “navigable waters” of the United States, as these terms are defined by Section 502(14), (12) and (7) of the CWA, 33 U.S.C. § 1362(14), (12) and (7), respectively.
18. At all times relevant to this Order, the City’s NPDES Permit No. KS0082881 authorized discharges from the WWTF in accordance with the effluent limitations and other terms and conditions of the permit (“NPDES Permit”).
19. Section A of the NPDES Permit prohibits the discharge of floating solids or visible foam other than in trace amounts.
20. Section A of the NPDES Permit requires a minimum removal of 85% of total suspended solids be accomplished.
21. Standard Condition 4 of the NPDES Permit requires the permittee to conform to the requirements of 40 C.F.R. Part 136 when conducting laboratory analyses required under the permit.
22. Standard Condition 6 of the NPDES Permit requires the permittee to properly operate and maintain all facilities and systems of treatment and control, which includes taking all necessary steps to minimize or prevent any adverse impact to human health or the environment resulting from noncompliance with any effluent limits specified by the permit.
23. From May 13-16, 2024, the EPA performed a Compliance Sampling Inspection of the POTW (“Inspection”) under the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a).
24. During the Inspection, EPA representatives reviewed documents, including Discharge Monitoring Reports and other monitoring data collected for the period of November 2021 to April 2024, observed the WWTF, outfalls, and collected influent and effluent samples. A Notice of Preliminary Findings (“NOPF”) was provided to the City at the close of the inspection on May 16, 2024.
25. During the Inspection, the Collection Systems Operator of Respondent’s facility told EPA representatives that after a lift station (“Lift Station 2”) collapse, approximately 150,000 gallons of untreated wastewater discharged into Spring Creek from May 21 to May 23, 2022. This Lift Station 2 failure led to nine additional incidents in 2022 that may have resulted in further discharges to Spring Creek. The location of Lift Station 2 is not a numbered outfall identified in Respondent’s NPDES Permit.
26. Spring Creek is a tributary of Wolf Creek, a perennial stream that flows into the Kansas River.

27. Spring Creek has continuous flow for at least six months of the year.

28. Spring Creek and Wolf Creek are relatively permanent waters that are connected to a traditionally navigable water, the Kansas River.

29. Spring Creek and Wolf Creek are “waters of the United States” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

30. The City provided information to the inspector, in response to the NOPF by letter dated May 21, 2024, following the Inspection.

31. A copy of the Inspection Report was transmitted to the City on or about July 24, 2024.

EPA’s Findings

Count 1

Unauthorized Discharge from Sanitary Sewer System

32. The paragraphs above are re-alleged and incorporated herein by reference.

33. Section A of Respondent’s NPDES Permit allows the Respondent to discharge pollutants in compliance with the permit’s effluent limitations only at Outfall 001.

34. From May 21 to May 23, 2022, after Lift Station 2 collapsed, Respondent’s sanitary sewer system discharged approximately 150,000 gallons of untreated sewage into Spring Creek as described in Paragraph 25 above. Respondent is not authorized to discharge pollutants from Lift Station 2.

35. Unauthorized discharges are violations of the conditions and limitations of Respondent’s NPDES Permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and/or are violations of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

Count 2

Failure to Comply with Effluent Limitations

36. The paragraphs above are re-alleged and incorporated herein by reference.

37. Section A of Respondent’s NPDES Permit contains the effluent limits and monitoring requirements for the City’s POTW at Outfall 001, as described in Paragraphs 19 and 20 above.

38. During the Inspection, EPA representatives observed sludge particles adhering to the walls of the Outfall 001 structure, sludge flowing out of Outfall 001, and deposits of sludge in the receiving stream. The discharge of sludge was likely caused by improper wasting which led to a buildup of excessive sludge passing over the clarifier weir, buildup on surfaces in the UV channel, buildup on the sampling station surfaces, and sludge chunks on the effluent weir. The

discharge of solids from Outfall 001 is prohibited in Section A of Respondent's NPDES Permit, and the sludge discharge observed is a violation of that section.

39. On May 14, 2024, EPA representatives measured a 60.6% removal of TSS. The removal of less than 85% TSS is a violation of Section A.1. of Respondent's NPDES Permit.

40. Failure to comply with effluent limitations is a violation of the terms and conditions of Respondent's NPDES Permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and, as such, is also a violation of Section 301(a) of the CWA, 33 U.S.C. §§ 1311(a).

**Count 3
Failure to Operate and Maintain Facility Equipment**

41. The paragraphs above are re-alleged and incorporated herein by reference.

42. Standard Condition 6 (Facilities Operation), of Respondent's NPDES Permit requires proper operation and maintenance of "all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance..." In addition, 40 C.F.R. 122.41(e) requires that, "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."

43. During the Inspection, EPA representatives observed and documented many operation and maintenance issues at Respondent's facility, including, but not limited to:

- a. Improper wasting of sludge, which caused excessive buildup of sludge and led to the discharge of solids from Outfall 001 in violation of Section A of Respondent's NPDES Permit.
- b. The Respondent does not have a written procedure on how to respond to a sanitary sewer overflow ("SSO") or other types of wastewater emergencies. Respondent failed to take all necessary steps to minimize or prevent impact to the environment after the collapse of Lift Station 2. The Respondent did not take additional actions to contain or redirect the raw sewage which led to the discharge of approximately 150,000 gallons into Spring Creek as described in Paragraphs 25 and 34 in violation of the Permit and Section 301(a) of the CWA, 33 U.S.C. § 1311(a).
- c. Respondent's grit classifier is not able to prevent solids and trash from entering the secondary clarifier, and no records of maintenance of the classifier were provided to EPA representatives during the Inspection.

44. The failure to operate and maintain the Facility's equipment, as described in the paragraphs above, is a violation of the terms and conditions of Respondent's NPDES Permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

Count 4
Failure to Meet Hold Times During Analysis of E.coli

45. The paragraphs above are re-alleged and incorporated herein by reference.

46. Standard Condition 4 of Respondent's NPDES Permit requires the City to conform to the requirements of 40 C.F.R. Part 136 when conducting laboratory analyses required by the permit. 40 C.F.R. Part 136 requires E.coli samples to be analyzed no later than eight hours after collection of the sample.

47. All of Respondents laboratory reports reviewed by EPA representatives indicated that the samples for E.coli had been analyzed more than eight hours after collection of the samples.

48. The failure to meet the hold times when analyzing effluent for E.coli is a violation of the terms and conditions of Respondent's NPDES Permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

Reasonable Time to Achieve Compliance

49. Pursuant to Section 309(a)(5)(A) of the CWA, 33 U.S.C. § 1319(a)(5)(A), and after accounting for the seriousness of the violations, the EPA finds that two (2) years is a reasonable time for Respondent to achieve compliance with its NPDES Permit.

Order for Compliance on Consent

50. Based on the EPA Findings set forth above, and pursuant to Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), the EPA hereby ORDERS the Respondent, and the Respondent hereby AGREES, to take the actions described below.

51. In accordance with this Order, the Respondent shall take all necessary actions to correct the deficiencies and eliminate and prevent recurrence of the violations cited above, and to come into compliance with all the requirements of its NPDES Permit.

52. *Operating and Maintenance Manual.* Within 120 calendar days of the Effective Date of this Order, Respondent shall develop and submit to EPA an Operating and Maintenance ("O&M") Manual for the wastewater treatment facility. The O&M Manual shall describe in detail the standard operating procedures and scheduled routine maintenance for all activity at the wastewater treatment facility.

53. *Compliance Plan and Schedule.* Within 120 calendar days of the Effective Date of this Order, Respondent shall develop and submit to EPA a Compliance Plan that describes the procedures and implementation timetable for the POTW to achieve compliance with the requirements of the NPDES permit and the CWA as soon as possible, but no later than two years from the Effective Date of this Order. The Compliance Plan shall:

- a. Describe in detail the actions to be taken or work to be completed, and how such actions or work will enable Respondent to achieve compliance.
- b. Include a schedule identifying key dates in the Compliance Plan with a final completion date no later than two years from the Effective Date of this Order.
- c. Identify the author, licensed engineer, or other consultant who has created the plan to achieve compliance.
- d. Identify the commissioners, board, or other party who has approved the plan and will implement the required facility changes.

54. Respondent shall implement the Compliance Plan in accordance with the proposed schedule.

55. If Respondent believes it needs additional time to complete, prepare, revise, or implement the Compliance Plan, it shall submit a request by mail or email to the EPA contact at the address identified below, indicating the basis for the request and the period of additional time requested. Any decision by the EPA to grant such request shall be in writing and delivered to Respondent by mail or email.

56. *Reporting the EPA and KDHE.* Within 60 days of the Effective Date of this Order, and on the first working day of each calendar quarter (January, April, July, October) thereafter until termination of this order, Respondent shall submit completed work orders, signed receipts, or other documentation of actions taken. Respondent shall also include a summary narrative documenting work completed during the prior three months.

57. *Compliance Plan Completion.* Within thirty (30) days of completion of the final scheduled corrective action, the City shall submit a written certification to the EPA, with a copy to the KDHE, that it has completed all actions required pursuant to this Order on Consent and achieved compliance with its NPDES Permit.

58. The EPA will promptly review submittals from Respondent. If, after review of Respondent's submittals pursuant to this Order on Consent, the EPA determines that additional corrective measures or alternative deadlines are appropriate, the EPA may seek to modify this Order on Consent pursuant to the provisions of the Modification section below or terminate this Order on Consent and initiate a separate enforcement action, as appropriate.

Reports/Submissions

59. *Submittals.* All documents required to be submitted to EPA by this Order, including the certification statement in Paragraph 62 below, shall be submitted by electronic mail to:
nichols.beckett@epa.gov

60. Electronic submissions to the EPA will be deemed submitted on the date they are transmitted electronically. Any report, notification, certification, or other communication that

cannot be submitted electronically to the EPA shall be submitted in hard copy to the address provided below:

Beckett Nichols, or successor
U.S. Environmental Protection Agency – Region 7
Enforcement and Compliance Assurance Division
11201 Renner Boulevard
Lenexa, Kansas 66219.

61. All documents required to be submitted pursuant to this Order shall also be submitted electronically or by mail to KDHE at the address provided below:

Anthony.Lewis@ks.gov
Anthony Lewis, Water Programs Regulatory Specialist
Kansas Department of Health and Environment, Northeast District Office
800 West 24th Street
Lawrence, Kansas 66046

62. Each submission requirement of this Order shall contain the following certification signed by an authorized official, as described at 40 C.F.R. § 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 violations.

General Provisions

Effect of Compliance with the Terms of this Order for Compliance

63. 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.

64. This Order does not constitute a waiver or a modification of any requirements of the CWA, 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 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 the EPA to forgo any civil or criminal action to seek penalties, fines, or other appropriate relief under the CWA for any violation whatsoever.

Access and Requests for Information

65. 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

66. If any provision or authority of this Order, or the application of this Order to Respondent, is held by federal judiciary 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

67. The terms of this Order shall be effective and enforceable against Respondent on the Effective Date, which is the date this Order is signed by the EPA.

Modification

68. At the EPA's sole discretion, extensions of the compliance schedule/deadlines required by this Order may be made by the EPA by written notice to Respondent, without further formal amendment to the Order. The EPA's consent for a requested extension will not be unreasonably withheld. All other modifications to this Order may only be made by mutual agreement of the Parties, pursuant to a written amendment signed by each Party.

Termination

69. This Order shall remain in effect until a written notice of termination is issued by an authorized representative of the EPA.

For the Complainant, U.S. Environmental Protection Agency:

Issued this _____ day of _____, 2025.

**CANDACE
BEDNAR** Digitally signed by
CANDACE BEDNAR
Date: 2025.06.10
14:57:19 -05'00'

David Cozad
Director
Enforcement and Compliance Assurance Division

**SAMANTHA
A PAPPAS** Digitally signed by
SAMANTHA PAPPAS
Date: 2025.06.11
07:49:38 -05'00'

Samantha Pappas
Attorney
Office of Regional Counsel

For the Respondent, City of Bonner Springs:



Signature

06/04/2025

Date

Amber Vogán

Name

City Manager

Title

Certificate of Service

I certify that on the date noted below I delivered the original and one true copy of this Findings of Violation and Administrative Order for Compliance on Consent to the Regional Hearing Clerk, via electronic mail to:

R7_Hearing_Clerk_Filings@epa.gov

I further certify that on the date noted below I sent a copy of the foregoing Order for Compliance on Consent by electronic mail, receipt confirmation requested, to:

stephens@bonnersprings.org
The Honorable Tom Stephens
Mayor, City of Bonner Springs
200 East Third Street, P.O. Box 38
Bonner Springs, Kansas 66012

Anthony.Lewis@ks.gov
Anthony Lewis, Water Programs Regulatory Specialist
Kansas Department of Health and Environment, Northeast District Office
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Carrie Venerable | National Experienced Workforce Solutions
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Date

Signature