

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)
)
Swain Construction, Inc.) Docket No. CWA-07-2020-0135
)
Respondent) FINDINGS OF VIOLATION AND
) ORDER FOR COMPLIANCE ON
) CONSENT
Proceedings under Section 309(a)(3))
of the Clean Water Act,)
33 U.S.C. § 1319(a)(3))
_____)

Preliminary Statement

1. The following Findings of Violation and Administrative Order for Compliance on Consent (“Order”) are made and issued pursuant to Section 309(a)(3) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(a)(3). This Authority has been delegated by the Administrator of the U.S. Environmental Protection Agency (“EPA”) to the Regional Administrator, EPA Region 7 and further delegated to the Director of Region 7’s Enforcement and Compliance Assurance Division.

2. Respondent is Swain Construction, Inc. (“Respondent”), a corporation under the laws of the state of Nebraska. Respondent is the owner and/or operator of a facility located at 6002 North 89th Circle, Omaha, Nebraska (“Facility”).

3. The EPA, together with the Respondent enter into this Section 309(a)(3) Order for the purpose of carrying out the goals of the CWA, 33 U.S.C. § 1251 *et seq.*, to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”

4. It is the Parties’ intent through entering into this Order to address noncompliance by the Respondent for unauthorized discharges of stormwater, process wastewater, and fill material without permits issued pursuant to Sections 402 and 404 of the CWA, 33 U.S.C §§ 1342 and 1344. As set forth in this Order on Consent, the Parties have amicably reached agreement regarding the timeframes for Respondent to attain compliance with the CWA.

5. By entering into this Order, Respondent (1) consents to and agrees not to contest the EPA’s authority or jurisdiction to issue and enforce this Section 309(a) Order on Consent, (2) consents to personal service by electronic mail, (3) agrees to undertake all actions 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*, Sections 402 and 404 of the CWA, 33 U.S.C. §§ 1342, 1344.

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 404 of the CWA, 33 U.S.C. § 1344, specifically requires a person to obtain a permit from the Secretary of the Army acting through the Chief of Engineers, commonly referred to as the United States Army Corps of Engineers (hereinafter “Corps”), for any discharge of “dredged or fill material” into the “navigable waters” of the United States.

9. 40 C.F.R. § 232.2 defines “discharge of fill material” as “the addition of fill material into waters of the United States.”

10. 40 C.F.R. § 232.2 defines “fill material” as material that “replaces any portion of the waters of the United States with dry land” or which “changes the bottom elevation of a water of the United States.”

11. Section 402 of the CWA provides that pollutants may be discharged in accordance with the terms of a National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to that Section.

12. 40 C.F.R. § 122.2 defines “process wastewater” to mean “any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.”

13. 40 C.F.R. § 122.21(a) requires dischargers of process wastewater from industrial facilities to apply for an NPDES permit.

14. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), sets forth requirements for the issuance of NPDES permits for the discharge of stormwater. Pursuant to Section 402(p) of the CWA, the EPA promulgated regulations setting forth the NPDES permit requirements for stormwater discharges at 40 C.F.R. § 122.26.

15. 40 C.F.R. §§ 122.26(a)(1)(ii) and 122.26(c) require dischargers of stormwater associated with industrial activity to apply for an individual permit or to seek coverage under a promulgated stormwater general permit.

16. 40 C.F.R. § 122.26(b)(14) defines “stormwater discharge associated with industrial activity,” as “the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw material storage areas at an industrial plant,” and includes “storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at part 401 of this chapter); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and final products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water.” Further, 40 C.F.R. § 122.26(b)(14) defines “material handling activities” to “include storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, by-product or waste product.”

17. Included in the categories of facilities considered to be engaging in “industrial activity” are facilities under Standard Industrial Classifications (“SIC”) Code 1422. *See* 40 C.F.R. §122.26(b)(14)(iii). SIC code 1422 specifically includes establishments primarily engaged in mining or quarrying crushed and broken limestone, including related rocks, such as dolomite, cement rock, marl, travertine, and calcareous tufa, and in the grinding or pulverizing of limestone.

18. The Nebraska Department of Environment and Energy (“NDEE”), formerly NDEQ, is the state agency within the state of Nebraska that has been authorized by the EPA to administer the federal NPDES program pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and applicable implementing regulations.

19. Pursuant to Section 402(i) of the CWA, 33 U.S.C. § 1342(i), the EPA retains concurrent enforcement authority with authorized states for violations of the CWA.

20. Section 309(a) of the CWA, 33 U.S.C. § 1319(a), authorizes the issuance of an order against any person who violates Section 301 of the CWA, 33 U.S.C. § 1311, requiring such person to comply.

EPA’s General Allegations

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

22. At all times relevant for this action, Respondent is and was the owner and/or operator of property consisting of 13 acres located at 6002 North 89th Circle, Omaha, Nebraska, and the

Facility at that location engaged in recycled concrete crushing, aggregate and sand storage, loading and unloading of material, and diesel fuel storage.

23. The Facility is bordered by Thomas Creek, which runs along the west and south perimeters of the Facility, and Little Papillion Creek, which runs along the east perimeter of the Facility.

24. Stormwater, snow melt, surface drainage and runoff water leave Respondent's Facility at its borders with Thomas Creek and Little Papillion Creek, and flow into the Creeks, or flow to the municipal separate storm sewer system ("MS4") inlet on North 87th Circle and through the MS4 outlet into Little Papillion Creek.

25. Thomas Creek and Little Papillion Creek are "navigable waters" as defined by Section 502(7) of the CWA, 33 U.S.C § 1362(7).

26. Thomas Creek is on the 303d list as impaired for aquatic life without an EPA-approved total maximum daily load ("TMDL"). Little Papillion Creek is on the 303d list as impaired for recreation with an EPA-approved TMDL for *E. coli*.

27. Earth moving and other mechanized equipment including front loaders and trucks constitute a "point source" within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

28. Concrete, cement, rock, and asphalt or similar material constitute "fill material" and its placement or release in Thomas Creek and Little Papillion Creek constitutes the "discharge of fill material" as defined by 40 C.F.R. § 232.2.

29. The Facility is an industrial facility that requires an NPDES permit to authorize discharges of process wastewater pursuant to 40 C.F.R. §122.21 and is a "point source" as defined by Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

30. The Facility's activities to suppress dust resulted in pollutants washing off in process wastewater.

31. Stormwater from the site contains "pollutants" as defined by Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

32. The Facility has alleged "stormwater discharges associated with industrial activity" as defined by 40 C.F.R. § 122.26(b)(14).

33. Stormwater discharges associated with industrial activity are "point sources" as defined by Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

34. Process wastewater and stormwater runoff from industrial activity at Respondent's Facility results in the addition of pollutants from a point source to navigable waters, and thus is the "discharge of a pollutant" as defined by CWA Section 502(12), 33 U.S.C. § 1362(12).

35. Respondent's discharge of pollutants, including discharges of stormwater associated with an industrial activity, as defined by 40 C.F.R. § 122.26(b)(14)(ii), requires a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

36. On May 16, 2019, the Corps of Engineers, Omaha District performed an onsite investigation ("Corps Investigation") and determined that an unauthorized discharge of fill material occurred in Thomas Creek due to moving, placing and/or pushing crushed rock and cement rubble over the bank with mechanized equipment, impacting approximately 950 linear feet of the stream channel and 0.043 acres of abutting wetlands.

37. On June 11, 2019, the Corps issued a Notice of Violation and Cease and Desist Order to Respondent.

38. On July 16 and 17, 2019, the EPA performed an Industrial Stormwater Inspection ("EPA Stormwater Inspection") of Respondent's site under the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a), to evaluate Respondent's compliance with the CWA.

39. During the EPA Stormwater Inspection, the EPA inspector toured the Facility, observed discharge locations, photographed various stormwater-related areas, and observed and documented unauthorized discharges and fill material in Thomas Creek and Little Papillion Creek.

40. A Notice of Potential Violation ("NOPV") was issued by the EPA inspector at the conclusion of the Stormwater Inspection.

41. A copy of the Stormwater Inspection report was sent to Respondent by the EPA by letter dated August 15, 2019.

42. On July 24, 2019, the EPA performed an inspection to confirm the extent to which waters of the United States were impacted by Respondent's fill activities ("EPA 404 Inspection").

43. During the EPA 404 Inspection, the inspector toured the Facility, conducted an assessment of Thomas Creek and Little Papillion Creek, and photographed various areas of the Facility and bordering creeks. The inspector observed and documented unauthorized discharges and fill material in Thomas Creek and Little Papillion Creek, including within approximately 950 linear feet of Thomas Creek, crushed concrete lining the majority of the left descending bank of Thomas Creek, and approximately 353 linear feet of the right descending bank of Little Papillion Creek, along the perimeter of the Facility. The inspector also observed the unauthorized discharge of process wastewater from the Facility into Thomas Creek.

44. A copy of the 404 Inspection report was delivered to Respondent on January 6, 2020.

45. By letter dated October 23, 2019, Respondent provided information in response to the Corps' NOV and EPA's Stormwater Inspection NOPV (hereinafter "NOPV Response").

46. At all times relevant herein, Respondent did not have or obtain a permit issued pursuant to Section 404 of the CWA, 33 U.S.C. § 1344, or an NPDES permit pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

47. Following the inspections and events described above, on December 4, 2019, Respondent submitted a Notice of Intent for coverage under the Nebraska General Permit for discharges of stormwater runoff to Thomas and Little Papillion Creeks, subject to compliance with conditions and limitations set forth in the permit, and the NDEE granted authorization to the Facility on December 11, 2019, pursuant to NPDES Permit NER910903 ("NPDES Permit").

48. Under the NPDES Permit, Respondent has developed a stormwater pollution prevention plan ("SWPPP"), installed some stormwater controls, conducted routine inspections, initial employee training, and a comprehensive annual inspection. Additional stormwater control measures are needed in certain areas of the Facility and Quarterly Visual Assessments need to be conducted. SWPPP revisions and additional training will be needed following completion of the additional measures, and another comprehensive annual inspection must be conducted following full permit implementation and documented in a report with a signed certification statement.

EPA's Findings of Violation

Count 1

Unauthorized Fill

49. The facts stated above are re-alleged and incorporated herein by reference.

50. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of fill material, unless such discharge is in compliance with a CWA Section 404 permit.

51. Based on the evidence collected and observations made during the Corps Investigation, EPA Stormwater Inspection, and EPA 404 Inspection, Respondent has moved, placed, and/or pushed significant amounts of crushed rocks, concrete rubble, crushed concrete, brick, asphalt, construction debris and/or similar material into Thomas Creek and Little Papillion Creek along the perimeter of Respondent's Facility using front loaders and trucks or other mechanized equipment on multiple occasions.

52. Respondent's alleged discharges of fill material into Thomas Creek and Little Papillion Creek are not authorized by a permit issued pursuant to Section 404 of the CWA, and, therefore, these discharges violated Section 301 of the CWA, 33 U.S.C. § 1311.

Count 2
Unauthorized Process Wastewater Discharges

53. The facts stated above are re-alleged and incorporated herein by reference.

54. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants, unless such discharge is in compliance with a CWA Section 402 NPDES permit.

55. Respondent discharged sediment-laden water into Thomas Creek on July 24, 2019, as observed by the inspector during the EPA 404 Inspection and described by the Facility representative as water used for dust suppression. Respondent had no permit authorizing such discharge.

56. Respondent's alleged unauthorized discharge of process wastewater was in violation of Section 301 of the CWA, 33 U.S.C. § 1311.

Count 3
Unauthorized Stormwater Discharges

57. The facts stated above are re-alleged and incorporated herein by reference.

58. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants, unless such discharge is in compliance with a CWA Section 402 NPDES permit.

59. During the EPA Stormwater Inspection, the inspector confirmed that the Facility did not have an NPDES permit to authorize discharges of pollutants in stormwater associated with industrial activity.

60. During the EPA Stormwater Inspection, the inspector observed and documented flow from the MS4 outfall into Little Papillion Creek, a lack of structural controls or other best management practices at the Facility to prevent or reduce pollutants in stormwater, and evidence that runoff leaves the site at the Facility's borders on Thomas Creek and Little Papillion Creek.

61. Based on observations and information collected from the EPA Stormwater Inspection and evidence that past process wastewater discharges from the Facility reached Thomas Creek and Little Papillion Creek, EPA alleges that, during significant precipitation events, stormwater from the Facility discharges pollutants into Thomas Creek and Little Papillion Creek.

62. Respondent's alleged unauthorized discharges of stormwater pollutants are in violation of Section 301 of the CWA, 33 U.S.C. § 1311.

Order for Compliance on Consent

63. 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.

64. Respondent shall comply with the CWA by immediately ceasing unauthorized discharges of pollutants and/or fill material into Thomas Creek and Little Papillion Creek and taking steps to ensure that such discharges do not occur in the future.

Section 404 Work Plan

65. By no later than forty-five (45) days from the Effective Date of this Order, Respondent shall submit a Work Plan to EPA for review and approval that shall describe Respondent's proposed removal of fill material in its Entirety in Thomas Creek and Little Papillion Creek and restoration of the area to its Original Elevation, as follows:

- a. The Work Plan must include, at a minimum: the projected work and materials necessary to restore the site, including characterization of the soil, plant, and hydric conditions and best management practices that will be used to control soil erosion and sediment runoff; visual representations of proposed alteration to the stream and banks; information about any planned vegetation that will be planted, including species information, size, and quantities; the projected cost of the work; a projected schedule for completing the work; and a monitoring plan to maintain and document proper wetland and/or stream functions.
- b. If EPA approves the Work Plan, it shall be implemented according to the schedule for implementation in the approved work plan.
- c. If EPA does not approve the Work Plan, Respondent shall address the comments and resubmit the work plan for review within thirty (30) days of receipt of EPA's disapproval.
- d. Upon resubmission, EPA, in its sole discretion, may either approve the Work Plan, or if EPA determines that the Work Plan does not adequately address the comments provided by EPA, EPA may modify the work plan and will provide Respondent with a copy of the work plan as modified. Respondent shall implement the modified Work Plan according to the schedule contained therein.
- e. Once approved by EPA, the Work Plan shall be incorporated by reference and fully enforceable under the terms of this Order.
- f. For purposes of this Order, the Parties agree to the following definitions:
 - i. "Entirety" shall mean removal of such material of a size and characteristic in the Creeks (as described and limited in paragraph 43) which is able to

practically be removed without causing damage to the stream's beneficial characteristics.

- ii. "Original Elevation" shall mean that condition as reasonably determined to be the configuration and contours of the creek prior to Respondent's fill material and consistent with upstream and downstream elevations.

Section 402 Compliance with Stormwater NPDES Permit

66. In accordance with this Order, Respondent shall take all necessary actions to come into compliance with all of the applicable requirements of its industrial stormwater NPDES Permit, including, but not limited to:

- a. Install or modify appropriate stormwater management controls to prevent the discharge of pollutants as required by the NPDES Permit;
- b. To the extent it is impracticable to install and maintain final stormwater management controls prior to the completion of work identified in the Work Plan pursuant to Paragraph 65, above, Respondent shall take interim measures to comply with the NPDES Permit requirements and, as soon as possible, but no later than thirty (30) days after completion of the Work Plan, install final stormwater management controls to prevent the discharge of pollutants;
- c. Revise the SWPPP for the Facility following installation or modification of controls or other additional measures, including measures to eliminate non-stormwater discharges such as process wastewater from dust suppression activities, if appropriate;
- d. Conduct and document routine facility inspections, quarterly visual assessments, and annual comprehensive site inspections in accordance with the NPDES Permit, including completing a certification statement by an appropriate signatory; and
- e. Conduct employee training in accordance with the NPDES Permit.

Reports/Submissions

67. *Monthly Reports.* From the Effective Date of this Order until completion of the work identified in the Work Plan pursuant to Paragraph 65, above, Respondent shall submit monthly reports to EPA, with a copy to NDEE, with the following items:

- a. Description of the actions the Facility has taken to comply with the terms of this Order, including a description of interim stormwater control measures taken, Work Plan activities completed, those scheduled for the next reporting period, and milestones met during the reporting period;

- b. Copies of routine facility inspection reports, quarterly visual assessment records, and any annual comprehensive site inspection reports conducted during the reporting period;
- c. A copy of documentation of any employee training conducted during the reporting period; and
- d. A written description and photo documentation, if appropriate, of any other actions taken during the reporting period to achieve compliance with the NPDES Permit.

68. *Completion Report.* Once the work identified in the Work Plan has been completed, Respondent agrees to submit a completion report to EPA, with a copy to NDEE, within thirty (30) days, to include the following:

- a. Photographic evidence, copies of relevant documents, and a signed statement indicating that the Section 404 Work Plan work is complete;
- b. A written description and photographic documentation of measures taken to install or modify stormwater management controls following completion of work under the Section 404 Work Plan;
- c. A written description and photo documentation, if appropriate, of any other actions taken following completion of the Section 404 Work Plan to achieve compliance with the NPDES Permit; and
- d. A copy of any updated or revised SWPPP.

69. *Post-Completion Annual Reports.* Respondent agrees to submit reports to EPA annually for five (5) years following completion of the Section 404 Work Plan, including photos of the site of the work, a narrative description of the status of the site, and the corrective actions, if any, that will be taken to correct identified deficiencies to maintain proper vegetation, stabilization, and/or stream functions; provided, however, that after submission of the third annual report, Respondent may request to cease annual reporting pursuant to this Paragraph, subject to EPA's approval in its sole discretion.

70. All documents required to be submitted to EPA by this Order, including the certification statement in Paragraph 73 below, shall be submitted by electronic mail to:

Aaron.Mark@epa.gov

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

71. 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 above.

72. All documents required to be submitted to NDEE pursuant to this Order shall be submitted by electronic mail to:

reuel.anderson@nebraska.gov

Mr. Reuel Andersen, Unit Chief
NPDES Permits and Compliance Unit
Water Quality Division
Nebraska Department of Environment and Energy
1200 N Street, Suite 400
PO Box 98922
Lincoln, NE 68509-8922

73. 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.

74. The EPA may, after review of the reports and records submitted by Respondent pursuant to the above Paragraphs, provide written comments and suggestions regarding such submittals. Review and comment on the submissions by the EPA does not relieve Respondents of the responsibility to comply with its Permit, the CWA, applicable State law, or this Order.

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

General Provisions

Effect of Compliance with the Terms of this Order for Compliance

76. 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.

77. 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

78. 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

79. 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

80. 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

81. 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

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

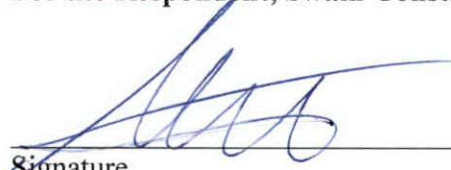
For the Complainant, U.S. Environmental Protection Agency:

Issued on _____.

David Cozad
Director
Enforcement and Compliance Assurance Division

Shane E. C. McCoin
Assistant Regional Counsel
Office of Regional Counsel

For the Respondent, Swain Construction, Inc.:



Signature

Dec-2-20
Date

Greg Armstrong
Name

owner - President
Title

Certificate of Service

I certify that on the date noted below I delivered a true and correct copy of this Findings of Violation and Administrative Order for Compliance on Consent by electronic mail, to:

Regional Hearing Clerk:

R7_Hearing_Clerk_Filings@epa.gov

For Respondent, Swain Construction, Inc.:

Greg Armstrong, Registered Agent
annette@swainomaha.com

Michael J. Linder, attorney for Swain Construction, Inc.
Michael.Linder@koleyjessen.com

For Complainant, U.S. Environmental Protection Agency Region 7:

Mark Aaron, Enforcement and Compliance Assurance Division
aaron.mark@epa.gov

Shane McCoin, Office of Regional Counsel
mccoin.shane@epa.gov

For Nebraska Department of Environment and Energy:

Mr. Reuel Andersen, NPDES Permits and Compliance Unit
reuel.anderson@nebraska.gov

Date

Signature