

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY 8:13
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.)

Docket No. CWA-07-2009-0074
CONSENT AGREEMENT AND
FINAL ORDER

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

CONSENT AGREEMENT AND FINAL ORDER

This proceeding for the assessment of civil penalties was initiated on or about January 15, 2010, pursuant to Section 309(a) of the Clean Water Act (CWA), 33 U.S.C. § 1319, when the United States Environmental Protection Agency (Complainant or EPA) issued to Michael L. Collins, Council Bluffs, Iowa (Respondent) a First Amended Complaint and Notice of Opportunity for Hearing (Amended Complaint).

The Amended Complaint alleged Respondent discharged stormwater without NPDES permit coverage, in violation of Sections 301(a) and 402(p) of the CWA, 33 U.S.C. § 1311(a) and § 1342(p).

The Amended Complaint proposed a penalty up to the statutory maximum of One Hundred and Fifty-Seven Thousand Five Hundred Dollars (\$157,500). The Complainant and Respondent subsequently entered into negotiations in an attempt to settle the allegations in the Amended Complaint. Respondent has documented to Complainant that he has no ability to pay the proposed penalty.

This Consent Agreement and Final Order (CAFO) is a result of the above negotiations and resolves all issues relating to the administrative claims arising from the allegations in the Amended Complaint.

CONSENT AGREEMENT

1. The terms of this CAFO shall not be modified except by a subsequent written agreement between the parties.
2. Respondent admits the jurisdictional allegations of the Amended Complaint and this CAFO and agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of the Final Order.

3. Respondent neither admits nor denies the factual allegations and legal conclusions set forth in the Amended Complaint.

4. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth above, and its right to appeal the Final Order.

5. Respondent and Complainant agree to conciliate the matters set forth in the Amended Complaint without the necessity of a formal hearing and agree to bear their own costs and attorney's fees.

6. This CAFO resolves all civil and administrative claims for the CWA violations specifically alleged in the Amended Complaint.

7. Nothing contained in this CAFO shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

8. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this CAFO and to execute and legally bind Respondent to it.

9. Respondent certifies by the signing of this CAFO that he will comply with the Amendment to the Findings of Violation, Order for Compliance, CWA-07-2009-0042.

10. The effect of settlement described in paragraph 6 is conditional upon the accuracy of the Respondent's representations to EPA, as memorialized in paragraph 9, above, of this CAFO.

11. Respondent consents to the issuance of a Final Order as set forth in paragraph 1 of the Final Order.

FINAL ORDER

Pursuant to the authority of Section 309 of the CWA, 33 U.S.C. § 1319, and according to terms of the Consent Agreement, IT IS HEREBY ORDERED THAT:


1. Respondent shall pay \$0 civil penalty in settlement of this action, due to Respondent's documented inability to pay the proposed penalty.

2. By signing this CAFO, Respondent is certifying compliance with the Amended Findings of Violation and Administrative Compliance Order, CWA-07-2009-0042, within the timeframes set forth therein.

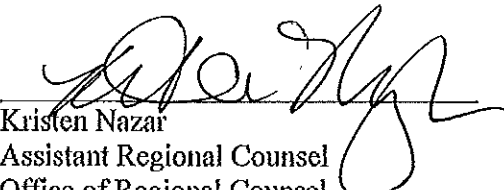
3. Respondent and Complainant shall bear their respective costs and attorney's fees.

COMPLAINANT:
United States Environmental Protection Agency

Date 8/17/10


William A. Spratlin
Director
Water, Wetlands and Pesticides Division

Date 8/16/2010


Kristen Nazar
Assistant Regional Counsel
Office of Regional Counsel

RESPONDENT:
Michael L. Collins

8/10/10
Date


Signature

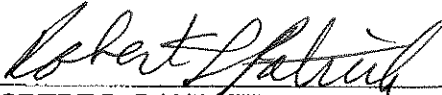
Name: Mike Collins

Address: 520 21st Ave
Council Bluffs, IA
51501

IT IS SO ORDERED.

This Order shall become effective immediately.

Date: Aug. 24, 2010



ROBERT L. PATRICK
Regional Judicial Officer

IN THE MATTER OF Michael L. Collins, Respondent
Docket No. CWA-07-2009-0074

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order and Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Kristen Nazar
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Mr. Mark Rater
221 S Main St
Council Bluffs, Iowa 51503

Copy by Facsimile and
First Class Pouch Mail to:

The Honorable Susan L. Biro
Chief Administrative Law Judge
U. S. Environmental Protection Agency
Office of Administrative Law Judges
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, D. C. 20005

and

Spencer Nissen
Administrative Law Judge
U. S. Environmental Protection Agency
Office of Administrative Law Judges
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, D. C. 20005

Dated: 8/25/10



Kathy Robinson
Hearing Clerk, Region 7