

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

Received by
EPA Region VIII
Hearing Clerk

<p>IN THE MATTER OF:</p> <p>The Town of Fowler, Colorado,</p> <p style="text-align: center;">Respondent</p> <p>NPDES Permit No. CO0021571</p>	<p>Docket No. CWA-08-2022-0003</p> <p>ADMINISTRATIVE ORDER FOR COMPLIANCE ON CONSENT</p> <p>Proceeding under Section 309(a)(3) of the Clean Water Act, 33 U.S.C. § 1319(a)(3)</p>
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INTRODUCTION

1. This Administrative Order on Consent (Consent Order) is entered into voluntarily by the United States Environmental Protection Agency (EPA) and the Town of Fowler, Colorado (Respondent). The EPA has authority to issue this Consent Order pursuant to section 309(a)(3) of the Clean Water Act (Act), 33 U.S.C. § 1319(a)(3).
2. The Findings of Fact and Violation (Findings) in paragraphs 20 through 44, below, are made solely by the EPA. In signing this Consent Order, Respondent neither admits nor denies the Findings. Without any admission of liability, Respondent consents to the issuance of this Consent Order and agrees to abide by all of its conditions. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review Respondent may have with respect to any issue of fact or law set forth in this Consent Order, including any right of judicial review of this Consent Order under the Administrative Procedure Act, 5 U.S.C. §§ 701-706. Respondent further agrees not to challenge the jurisdiction of the EPA or any of the Findings in any proceeding to enforce this Consent Order or in any action under this Consent Order.

STATUTORY AND REGULATORY BACKGROUND

The NPDES Program

3. The Act prohibits the discharge of pollutants into navigable waters, except as in compliance with other sections of the Act, including section 402, 33 U.S.C. § 1342, which allows discharges authorized by National Pollutant Discharge Elimination System (NPDES) permits. 33 U.S.C. § 1311(a).
4. The Act defines “discharge of a pollutant” to include “any addition of any pollutant to navigable waters from any point source.” 33 U.S.C. § 1362(12).
5. The Act defines “pollutant” to include “sewage . . . chemical wastes, biological materials . . . and industrial, municipal, and agricultural waste discharged into water.” 33 U.S.C. § 1362(6).
6. The Act defines “navigable waters” as the “waters of the United States.” 33 U.S.C. § 1362(7).
7. “Waters of the United States” are defined in 40 C.F.R. § 122.2.
8. The Act defines “point source” to include any “discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure [or] container . . . from which pollutants are or may be discharged.” 33 U.S.C. § 1362(14).
9. The EPA, and states with NPDES programs approved by the EPA, may issue NPDES permits that authorize discharges of pollutants into waters of the United States, subject to conditions and limitations set forth in such permits. 33 U.S.C. § 1342.
10. Among the types of dischargers that can receive NPDES permits authorizing pollutants to be discharged into waters of the United States are publicly owned treatment works, or POTWs. The term “POTW” encompasses a treatment works itself and a municipality with jurisdiction over discharges to and from such a treatment works. 40 C.F.R. § 403.3(q).

The EPA's Pretreatment Program

11. Pollutants from non-domestic sources that are introduced into a POTW are subject to the EPA's pretreatment regulations at 40 C.F.R. chapter I, subchapter N, parts 400 through 471 (the Pretreatment Regulations) and section 307 of the Act, 33 U.S.C. § 1317.
12. Non-domestic sources that introduce pollutants into POTWs are known as "Industrial Users" or "IUs," as defined in 40 C.F.R. § 403.3(j).
13. The introduction of pollutants from an IU to a POTW is known as "Indirect Discharge" or "Discharge," as defined in 40 C.F.R. § 403.3(i). Unless otherwise stated, any reference to a "discharge" in this Consent Order shall be the introduction of pollutants from an IU to a POTW, as distinguished from the POTW's discharge of pollutants to waters of the United States.
14. The Pretreatment Regulations include regulations containing pollutant discharge limits. These regulations are known as Pretreatment Standards. 40 C.F.R. § 403.3(l). Other requirements relating to pretreatment are known as Pretreatment Requirements. 40 C.F.R. § 403.3(t).
15. The Pretreatment Regulations also include requirements for IUs in specific industrial categories, as described in 40 C.F.R. § 403.6 and parts 405-471. In this Consent Order, these regulations are referenced as the Categorical Pretreatment Standards.
16. According to 40 C.F.R. § 403.3(v), the term "Significant Industrial User," also referenced as "SIU," includes, with exceptions provided in 40 C.F.R. §§ 403.3(v)(2) and 403.3(v)(3):
 - (i) Any IU subject to the Categorical Pretreatment Standards (a Categorical Industrial User, or "CIU"); and
 - (ii) Any other IU that discharges an average of at least 25,000 gallons per day of process wastewater (excluding sanitary, non-contact cooling and boiler blowdown water) to a POTW; contributes a process wastestream that makes up five or more

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percent of the average dry weather hydraulic or organic capacity of the POTW's treatment plant; or is designated as an SIU by the relevant Control Authority (defined in 40 C.F.R. § 403.3(f)) on the basis of having a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement (in accordance with 40 C.F.R. § 403.8(f)(6)).

17. The Pretreatment Regulations require certain POTWs to establish EPA-approved pretreatment programs. An NPDES permit issued to a POTW must, among other things, incorporate the requirements of the POTW's approved pretreatment program as enforceable terms of the permit. 40 C.F.R. §§ 122.44(j) and 403.8(c).
18. According to 40 C.F.R. § 403.8, a POTW with an approved pretreatment program must develop and implement procedures to ensure compliance with its pretreatment program. These procedures must ensure the POTW is able, among other things:
 - a) to operate pursuant to enforceable legal authority that authorizes or enables the POTW to apply and to enforce the requirements of sections 307(b) and (c) and 402(b)(8) of the Act and any regulations implementing those sections (40 C.F.R. § 403.8(f)(1));
 - b) to issue permits, orders, or other control mechanisms to control Indirect Discharges by IUs, which include specific information required by 40 C.F.R. § 403.8(f)(1)(iii);
 - c) to identify IUs that may be subject to the pretreatment program (40 C.F.R. § 403.8(f)(2)(i));
 - d) to identify the character and volume of pollutants contributed to the POTW by these IUs (40 C.F.R. § 403.8(f)(2)(ii));

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- e) to notify IUs of applicable Pretreatment Standards and any applicable requirements under sections 204(b) and 405 of the Act, 33 U.S.C. §§ 1284(b) and 1345, and subtitles C and D of the Resource Conservation and Recovery Act (40 C.F.R. § 403.8(f)(2)(iii));
- f) to receive and analyze the self-monitoring reports and other notices that 40 C.F.R. § 403.12 requires IUs to submit (40 C.F.R. § 403.8(f)(2)(iv));
- g) to randomly sample and analyze the effluent from IUs and conduct surveillance activities in order to identify, independent of information supplied by IUs, occasional and continuing noncompliance with Pretreatment Standards and to inspect and sample the effluent from each SIU at least once a year (40 C.F.R. § 403.8(f)(2)(v));
- h) to evaluate SIUs for the need to develop a plan or other actions to control Slug Discharges, as defined in 40 C.F.R. § 403.8(f)(2)(vi) (40 C.F.R. § 403.8(f)(2)(vi));
- i) to investigate instances of noncompliance by IUs with Pretreatment Standards and Requirements and to perform sampling and inspections with sufficient care to produce admissible evidence in enforcement proceedings (40 C.F.R. § 403.8(f)(2)(vii));
- j) to develop and implement a procedure to evaluate and provide annual public notices of any Significant Non-Compliance (SNC), as defined in 40 C.F.R. § 403.8(f)(2)(viii), by any IUs (40 C.F.R. § 403.8(f)(2)(viii));
- k) to have sufficient resources and qualified personnel to carry out its authorities and procedures (40 C.F.R. § 403.8(f)(3));
- l) to develop and effectively enforce specific limits, known as “local limits,” as required by 40 C.F.R. § 403.5(c)(1), to ensure IUs comply with the prohibitions in 40 C.F.R. § 403.5(a)(1) and (b) (40 C.F.R. § 403.8(f)(4)); and

m) to develop and implement an enforcement response plan for investigating and responding to instances of noncompliance by IUs (40 C.F.R. § 403.8(f)(5)).

19. Permits that POTWs issue to IUs or SIUs to authorize discharges of pollutants into POTWs are known as “IU permits” or “SIU permits,” respectively.

FINDINGS OF FACT AND VIOLATION

The following Findings apply at all times relevant to this proceeding.

Respondent’s POTW

20. Respondent is a “municipality” as defined by section 502(4) of the Act, 33 U.S.C. § 1362(4), and a “person” as defined by section 502(5) of the Act, 33 U.S.C. § 1362(5).
21. Respondent owns and operates a wastewater treatment facility (WWTF) located at 34692 N. Highway 96, Fowler, Colorado 81039.
22. The WWTF discharges treated wastewater into the Arkansas River.
23. The Arkansas River is navigable in fact.
24. The Arkansas River is a “water of the United States” as defined in 40 C.F.R. § 122.2 and a “navigable water” as defined in section 502(7) of the Act, 33 U.S.C. § 1362(7).
25. The WWTF and the sewers, pipes, and other conveyances leading to it are part of Respondent’s POTW.
26. As a municipality with jurisdiction over discharges to and from its treatment works, Respondent itself is a “POTW” as defined in 40 C.F.R. §§ 122.2 and 403.3(q).
27. Unless otherwise stated, any references to “the POTW” below in this Consent Order shall mean the POTW owned and operated by Respondent, or Respondent itself, as the context requires.

28. The SIU that currently discharges to the POTW is Jensen's Blue Ribbon Processing, a slaughterhouse and meat processing facility, located at 208 East Santa Fe Avenue, Fowler, Colorado 81039.

Respondent's 2019 NPDES Permit

29. The State of Colorado, Department of Public Health and Environment (CDPHE), issued NPDES Permit Number CO0021571 (NPDES Permit), effective October 1, 2019, and expiring September 30, 2024.
30. The NPDES Permit authorizes Respondent to discharge from the WWTF into the Arkansas River.
31. The State of Colorado is an "NPDES State" because the EPA has approved the State of Colorado's NPDES program pursuant to section 402(b) of the Act, 42 U.S.C. § 1342(b).
32. The State of Colorado has not, however, received EPA's approval for a pretreatment program. Therefore, the State of Colorado does not have an "Approved POTW Pretreatment Program" as defined in 40 C.F.R. § 403.3(d).
33. The EPA is the "Approval Authority" as defined in 40 C.F.R. § 403.3(c).
34. The NPDES Permit requires Respondent to submit an IU inventory by March 31, 2020. NPDES Permit, Part I.A.4.a. Respondent submitted an IU inventory on July 8, 2020. The EPA provided comments on the IU inventory and Respondent resubmitted its IU inventory on July 21, 2020, which the EPA approved on July 21, 2020.
35. The NPDES Permit requires Respondent to develop and submit a pretreatment program to the EPA, to control the nature or volume of pollutants from non-domestic sources which pass-through or interfere with the operation of the POTW, as required in 40 C.F.R. Part 403.8(a), by September 30, 2020. NPDES Permit, Part I.A.4.a.

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36. On August 24, 2020, the Respondent submitted a Modification Application to Request Changes to an Existing Individual Permit to CDPHE in order to extend the compliance date for Respondent's development of a pretreatment program to August 31, 2021, to provide Respondent additional time to perform sampling to develop local limits. On September 30, 2020, CDPHE issued a Denial of Permit Modification Request for the compliance schedule extension.
37. In email correspondence with the Town in April and May 2021, EPA's Pretreatment Coordinator, Al Garcia, requested an update on the Town's submittal and provided additional compliance assistance to the Town. On May 18, 2021, the Town's consultant, Nicholaus Marcotte, emailed the EPA an update, including a commitment to provide documentation of the Town's POTW authority to carry out the pretreatment program by June 11, 2021. The Town, however, did not submit the documents to the EPA by June 11, 2021.
38. On July 19, 2021, the EPA sent a letter to Respondent reiterating the requirement to develop and submit a pretreatment program to the EPA for approval; and, the EPA, as the Approval Authority, extended the pretreatment program requirement from September 30, 2020, until September 30, 2021 (July 2021 Letter).
39. On September 23, 2021, Mr. Marcotte emailed the EPA and indicated Respondent was developing a pretreatment program. He also indicated that Respondent had received all sampling and flow monitoring data and was working on the local limit analysis.
40. Finally, on January 4, 2022, Josh Fortenbaugh, one of Respondent's consultants, sent an email to the EPA to reiterate its continued efforts toward developing a pretreatment program and continued delays on the local limit analysis.
41. On January 20, 2022, the EPA sent a Notice of Violation and Opportunity to Confer Letter (NOVOC Letter) to Respondent for failure to develop and submit a pretreatment program.

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42. On February 18, 2022, Respondent sent a written response to the NOVOC Letter explaining Respondent's progress toward developing a pretreatment program.
43. On February 28, 2022, Respondent submitted a draft pretreatment ordinance to the EPA for its review.
44. To date, Respondent failed to develop and submit a pretreatment program as required by 40 C.F.R. §403.8(a) and (b) that includes the following, in accordance with 40 C.F.R. §403.9(b) and NPDES Permit, Part I.A.4.a:

(a) A statement from the City Solicitor or a City official acting in a comparable capacity (or the attorney for those POTWs which have independent legal counsel) that the POTW has authority adequate to carry out the programs described in 40 C.F.R.

§403.8. This statement shall:

- i. Identify the provision of the legal authority under 40 C.F.R. §403.8(f)(1), which provides the basis for each procedure under 40 C.F.R. §403.8(f)(2);
- ii. Identify the manner in which the POTW will implement the program requirements set forth in 40 C.F.R. §403.8, including the means by which Pretreatment Standards will be applied to individual IUs (e.g., by order, permit, ordinance, etc.); and
- iii. Identify how the POTW intends to ensure compliance with Pretreatment Standards and Requirements, and to enforce them in the event of noncompliance by IUs;

(b) A sewer use ordinance, statutes, regulations, agreements, series of contracts or joint powers agreements, which the POTW is authorized to enact, enter into or implement, and which are authorized by State law or other authorities relied upon by the POTW

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for its administration of the pretreatment program. This submission shall include a statement reflecting the endorsement or approval of the local boards or bodies responsible for supervising and/or funding the POTW pretreatment program if approved;

- (c) A description (including organization charts) of the POTW organization which will administer the pretreatment program. If more than one agency is responsible for administration of the program the responsible agencies should be identified, their respective responsibilities delineated, and their procedures for coordination set forth;
- (d) A description of the funding levels and full- and part-time manpower available to implement the program;
- (e) An Enforcement Response Plan (with monitoring and inspection program procedures); and
- (f) Local limitations developed pursuant to 40 C.F.R. §403.5(c) and the EPA guidance document Local Limits Development Guidance EPA 833-R04-002A (July 2004).

Count I: Failure to Submit a Statement of Authority Described in 40 C.F.R. §403.8

45. Respondent is required to submit to the EPA a statement, from the City Solicitor or a City official acting in a comparable capacity (or the attorney for those POTWs which have independent legal counsel), that the POTW has authority adequate to carry out the programs described in 40 C.F.R. § 403.8. 40 C.F.R. §403.9(b)(1); NPDES Permit, Part I.A.4.a. This statement must:

- a. Identify the provision of the legal authority under 40 C.F.R. §403.8(f)(1), which provides the basis for each procedure under 40 C.F.R. §403.8(f)(2);
- b. Identify the manner in which the POTW will implement the program requirements set forth in 40 C.F.R. §403.8, including the means by which Pretreatment Standards will

be applied to individual IUs (e.g., by order, permit, ordinance, etc.); and

- c. How the POTW intends to ensure compliance with Pretreatment Standards and Requirements, and to enforce them in the event of noncompliance by IUs.

46. The NPDES Permit required Respondent to prepare and submit a pretreatment program by September 30, 2020.
47. In the July 2021 Letter, the EPA extended the compliance date for submittal of a pretreatment program to September 30, 2021.
48. Respondent's failure to develop and submit the statement required by paragraph 45 violated and continues to violate 40 C.F.R. §403.9(b)(1) and the NPDES Permit, Part I.A.4.a.

Count II: Failure to Develop and Submit Legal Authority

49. Respondent is required to submit to the EPA, a copy of a sewer use ordinance, statutes, regulations, agreements, series of contracts or joint powers agreements, which the POTW is authorized to enact, enter into or implement, and which are authorized by State law or other authorities relied upon by the POTW for its administration of the pretreatment program. 40 C.F.R. §403.9(b)(2) and in NPDES Permit, Part I.A.4.a. This submission must include a statement reflecting the endorsement or approval of the local boards or bodies responsible for supervising and/or funding the POTW pretreatment program if approved. *Id.*
50. Respondent's legal authority must, at a minimum, enable Respondent to exercise all functions enumerated in 40 C.F.R. §403.8(f)(1)(i) through (vi).
51. The NPDES Permit required Respondent to prepare and submit a pretreatment program by September 30, 2020.
52. In the July 2021 Letter, the EPA extended the compliance date for submittal of a pretreatment program to September 30, 2021.

53. Respondent's failure to develop and submit the documents required by paragraph 49 violated and continues to violate 40 C.F.R. §403.9(b)(2) and the NPDES Permit, Part I.A.4.a.

Count III: Failure to Submit a Description of the POTW Organization

54. Respondent is required to submit to the EPA a description (including organization charts) of the POTW organization which will administer the pretreatment program. 40 C.F.R. §403.9(b)(3), NPDES Permit, Part I.A.4.a. If more than one agency is responsible for administration of the program the responsible agencies should be identified, their respective responsibilities delineated, and their procedures for coordination set forth. *Id.*
55. The NPDES Permit required Respondent to prepare and submit a pretreatment program by September 30, 2020.
56. In the July 2021 Letter, the EPA extended the compliance date for submittal of a pretreatment program to September 30, 2021.
57. Respondent's failure to develop and submit the description required by paragraph 54 violated and continues to violate 40 C.F.R. §403.9(b)(3) and the NPDES Permit, Part I.A.4.a.

**Count IV: Failure to Submit a Description of the Funding Levels
to Implement the Pretreatment Program**

58. Respondent is required to submit to the EPA a description of the funding levels and full- and part-time manpower available to implement the program. 40 C.F.R. §403.9(b)(4), NPDES Permit, Part I.A.4.a.
59. The NPDES Permit required Respondent to prepare and submit a pretreatment program by September 30, 2020.
60. In the July 2021 Letter, the EPA extended the compliance date for submittal of a pretreatment program to September 30, 2021.

61. Respondent's failure to develop and submit the description required by paragraph 58 violated and continues to violate 40 C.F.R. § 403.9(b)(4) and the NPDES Permit, Part I.A.4.a.

Count V: Failure to Develop and Submit an Enforcement Response Plan

62. Respondent is required to submit an Enforcement Response Plan with monitoring and inspection program procedures. 40 C.F.R. §403.8(f)(5), NPDES Permit, Part I.A.4.a.
63. The NPDES Permit required Respondent to prepare and submit a pretreatment program by September 30, 2020.
64. In the July 2021 Letter, the EPA extended the compliance date for submittal of a pretreatment program to September 30, 2021.
65. Respondent's failure to develop and submit the Enforcement Response Plan required by paragraph 62 violated and continues to violate 40 C.F.R. §403(f)(5) and the NPDES Permit, Part I.A.4.a.

Count VI: Failure to Develop Local Limits

66. Respondent is required to submit and develop local limits pursuant to 40 C.F.R. §403.5(c) and the EPA's guidance document Local Limits Development Guidance, EPA 833-R04-002A, July 2004. 40 C.F.R. §403.8(f)(4), NPDES Permit, Parts I.A.4.a. and I.B.7.c.
67. In developing and enforcing local limits, Respondent is required to provide notice to persons who have requested notice and an opportunity to respond. 40 C.F.R. §403.5(c)(3).
68. The NPDES Permit required Respondent to prepare and submit a pretreatment program by September 30, 2020.
69. In the July 2021 Letter, the EPA extended the compliance date for submittal of a pretreatment program to September 30, 2021.

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70. Respondent's failure to develop and submit its local limits violated and continues to violate 40 C.F.R. §§403.5(c) and 403.8(f)(4) and NPDES Permit, Parts I.A.4.a. and I.B.7.c.

CONSENT ORDER

The EPA orders, and Respondent agrees:

71. Upon the effective date of this Consent Order (see paragraph 88, below), unless this Consent Order specifically provides a later deadline for compliance, Respondent shall:
- a. comply with all requirements of the NPDES Permit and 40 C.F.R. part 403; and
 - b. implement the Respondent's approved pretreatment program in accordance with the NPDES Permit and 40 C.F.R. part 403.
72. Within 120 days after the effective date of this Consent Order, Respondent shall submit the proposed ordinance to the EPA for public notice and approval, as required by 40 C.F.R. §§ 403.9 and 403.11. This submission shall include a statement reflecting the endorsement or approval of the local boards or bodies responsible for supervising and/or funding the POTW pretreatment program if approved, as required by 40 C.F.R. §403.9(b)(2). Upon EPA approval of the pretreatment program submitted pursuant to paragraph 77, Respondent shall implement the approved ordinance.
73. Within 90 days after the effective date of this Consent Order, Respondent shall submit to the EPA a description (including organization charts) of the POTW organization, which will administer the pretreatment program. If more than one agency is responsible for administration of the pretreatment program the responsible agencies should be identified, their respective responsibilities delineated, and their procedures for coordination set forth.

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74. Within 90 days after the effective date of this Consent Order, Respondent shall submit to the EPA a description of the funding levels and full-and part-time manpower available to implement the pretreatment program.
75. Within 120 days after the effective date of this Consent Order, Respondent shall submit to the EPA an Enforcement Response Plan with monitoring and inspection program procedures. Upon EPA approval of the pretreatment program submitted pursuant to paragraph 77, Respondent shall implement the approved Enforcement Response Plan.
76. Within 180 days after the effective date of this Consent Order, Respondent shall submit a set of local limits to EPA for approval. Prior to submission, the Respondent shall provide the public an opportunity to comment on the proposed local limits and shall conduct a technical evaluation in compliance with 40 C.F.R. §403.5(c)(3) and the NPDES Permit, Part I.B.7.C. Upon EPA approval of the pretreatment program submitted pursuant to paragraph 77, Respondent shall implement the approved local limits.
77. Within 240 days after the effective date of this Consent Order, Respondent shall submit a pretreatment program to the EPA. The pretreatment program submittal shall include the final documents submitted to the EPA pursuant to paragraphs 72-76. This submittal shall also include a statement from the Town Solicitor or a Town official acting in a comparable capacity (or the attorney for those POTWs which have independent legal counsel), that the POTW has authority adequate to carry out the programs described in 40 C.F.R. §403.8. This statement shall:
 - a. Identify the provision of the legal authority under 40 C.F.R. §403.8(f)(1), which provides the basis for each procedure under 40 C.F.R. §403.8(f)(2);

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- b. Identify the manner in which the POTW will implement the program requirements set forth in 40 C.F.R. § 403.8, including the means by which Pretreatment Standards will be applied to individual IUs (e.g., by order, permit, ordinance, etc.); and
 - c. Identify how the POTW intends to ensure compliance with Pretreatment Standards and Requirements, and to enforce them in the event of noncompliance by IUs.
- 78. No later than 270 days after the effective date of this Consent Order, Respondent shall submit an itemized list of all costs incurred to implement the actions specified in paragraphs 71 through 77, above. The itemized lists of costs shall include at a minimum:
 - a. the cost of any fulltime equivalent staff added to Respondent's budget to comply with this Consent Order, not including the cost of any reassignments of existing non-pretreatment employees to the pretreatment program;
 - b. the cost of contractor support in order to comply with this Consent Order; and
 - c. any other itemized costs incurred to implement the required actions.
- 79. At the EPA's sole discretion, the EPA may extend deadlines required by this Consent Order or change the identity of the notification recipient in paragraph 81 with written notice to Respondent, without further formal amendment of this Consent Order. All other modifications to this Consent Order may be made only by written agreement of the parties.
- 80. The time periods in this Consent Order are calendar days unless otherwise specified. If any due date specified in this Consent Order falls on a weekend or federal holiday, the relevant deadline shall be the first business day following that date.

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81. All notices and reports required by the Consent Order to be given to the EPA shall be sent to:

Emilio Llamozas
Environmental Engineer
U.S. EPA Region 8
1595 Wynkoop Street
8ENF-W-NW
Denver, Colorado 80202
llamozas.emilio@epa.gov
Phone: 303-312-6407

82. All reports and information required by this Consent Order shall include the following certification statement, signed and dated by an individual meeting the definition in 40 C.F.R. §122.22(a)(3) of a principal executive officer or ranking elected official:

I hereby 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 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 or imprisonment for knowing violations.

83. Any failure to comply with the requirements of this Consent Order shall constitute a violation of this Consent Order and may subject Respondent to penalties as provided under section 309 of the Act, 33 U.S.C. §1319.

84. This Consent Order is not a permit and does not constitute a waiver or modification of the terms and conditions of the NPDES Permit, which remains in full force and effect.

85. This Consent Order does not constitute a waiver or election by the EPA to forego any civil or criminal action to seek penalties, fines, or other relief as it may deem appropriate under the Act. Section 309(d) of the Act, 33 U.S.C. §1319(d), authorizes civil penalties of up to \$59,973 (as

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adjusted for inflation by 40 C.F.R. part 19) per day for each violation of the Act. The Act also authorizes fines and imprisonment for willful or negligent violations. 33 U.S.C. §1319(c).

86. Compliance with the terms and conditions of this Consent Order shall not be construed to relieve Respondent of its obligation to comply with any applicable federal, state, or local law or regulation.
87. Each undersigned individual has the authority to bind the respective party to this Consent Order. This Consent Order may be signed in part and counterpart by any party.
88. This Consent Order shall be effective immediately upon Respondent's receipt of a fully executed copy.
89. The parties consent to service of this Consent Order by e-mail at the following valid email addresses: jackson.laurianne@epa.gov (for EPA), and town_clerk@fowlercolorado.com (for Respondent).

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**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8,
Complainant.**

Date: March 24, 2022

By: _____
Colleen Rathbone, Chief
Water Enforcement Branch
Enforcement and Compliance Assurance Division

**TOWN OF FOWLER
Respondent**

Date: 3-24-22

By: 
Lucas Flanscha, Mayor

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CERTIFICATE OF SERVICE

I certify the foregoing Administrative Order for Compliance on Consent was sent or delivered on this day as follows:

Copy by email with read receipt to:
Kate Tribbett
Regional Hearing Clerk
U.S. Environmental Protection Agency (8RC)
Region 8
1595 Wynkoop Street
Denver, Colorado 80202
r8_hearing_clerk@epa.gov

Copy by email with read receipt to:
Town of Fowler

Date

By: _____
Laurianne Jackson
Senior Assistant Regional Counsel
Region 8, U.S. EPA
1595 Wynkoop Street (08 ORC-R)
Denver, Colorado 80202
(303) 312-6950
jackson.laurianne@epa.gov