

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

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)	
)	Docket No. CWA-07-2016-0081
THE CITY OF BLOOMFIELD, IOWA)	
)	ADMINISTRATIVE ORDER FOR
Respondent)	COMPLIANCE ON CONSENT
)	
Proceedings under Section 309(a) of the)	
Clean Water Act, 33 U.S.C. § 1319(a))	
_____)	

Preliminary Statement

1. This Administrative Order for Compliance on Consent (“Order”) is issued by the U.S. Environmental Protection Agency (“EPA”) pursuant to the authority vested in the Administrator of the EPA by Sections 308 and 309(a) of the Clean Water Act (“CWA”), 33 U.S.C. §§ 1318 and 1319(a)(3), as amended. This Authority has been delegated by the Administrator of the EPA to the Regional Administrator, EPA, Region 7 and further delegated to the Director of Region 7’s Water, Wetlands and Pesticides Division.

2. Respondent is the City of Bloomfield, Iowa (“Respondent” or “City”), a municipality chartered under the laws of the State of Iowa (“Iowa”). Respondent is the owner and/or operator of a Publicly Owned Treatment Works (“POTW”), as defined by 40 C.F.R. § 403.3(q), located in Bloomfield, Davis County, Iowa.

3. The EPA, together with the City 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 City in violation of its National Pollutant Discharge Elimination System (“NPDES”) permit. As set forth in this Order, the Parties have amicably reached agreement regarding the time frames for the City to attain compliance with the CWA and its NPDES permit.

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) agrees to undertake all actions required by the terms and conditions of this Order on Consent, and (3) 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.

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, 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” 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, except in compliance with, *inter alia*, Section 402 of the CWA, 33 U.S.C. § 1342.

7. Section 402 of the CWA provides that pollutants may be discharged only in accordance with the terms of a NPDES permit issued pursuant to that Section. To implement Section 402 of the CWA, EPA promulgated regulations thereunder, including 40 CFR Part 122. Under 40 C.F.R. Part 122.1, a NPDES permit is required for the discharge of pollutants from any point source into waters of the United States.

8. The Iowa Department of Natural Resources (“IDNR”) is the state agency with the authority to administer the federal NPDES program in Iowa pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, the implementing regulations, and a Memorandum of Understanding. The EPA maintains concurrent enforcement authority with authorized state programs for violations of the CWA.

9. Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), authorizes the EPA to issue administrative orders to require persons to take those actions necessary to comply with the requirements of the CWA.

EPA’s General Allegations and Findings of Fact

10. The City of Bloomfield is a “person” for purposes of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

11. As defined by 40 C.F.R. § 403.3(q), a 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.

12. The City owns and operates a POTW that receives and treats wastewater from various domestic, commercial and industrial sources. The POTW includes a wastewater collection system, various pump stations and a three-cell wastewater treatment lagoon consisting of two aerated cells operated in series followed by one facultative cell, located at 703 South East Street in Bloomfield, Iowa in Section 30, Township 69 North, Range 13 West.

13. The City's POTW discharges to Dry Run, a tributary to the Fox River, which is a "navigable water" and "water of the United States" as defined by CWA Section 502(7), 33 U.S.C. § 1362(7), and its implementing regulation 40 C.F.R. § 122.2.

14. The effluent from the City's POTW is a "pollutant" as defined by Section 502(6) of the Act, 33 U.S.C. § 502(6).

15. The City's POTW is a "point source" that "discharges pollutants" into a "navigable water" of the United States, as these terms are defined by Section 502 of the CWA, 33 U.S.C. § 1362.

16. The City's discharge of pollutants from its POTW into a "water of the United States" requires a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

17. The IDNR issued NPDES Permit No. IA-0047929 ("Permit") to the City for discharges from its POTW to Dry Run. The Permit became effective December 22, 1997, with an expiration date of December 22, 2002. The City filed a timely application for reissuance of NPDES Permit No. IA-0047929, which has been administratively extended by IDNR pursuant to the Iowa Administrative Code, Chapter 567-64.8(455B).

18. On June 22 – 25, 2015, an EPA representative performed a Compliance Sampling Inspection (hereafter "EPA inspection") of the City's wastewater treatment facility under the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a), to evaluate the City's compliance with its NPDES permit and the CWA.

19. During the EPA inspection, the inspector collected wastewater samples from the treatment facility influent and Outfall 001 effluent, reviewed the City's records related to the NPDES permit, and observed the wastewater treatment facility and the receiving stream to which Outfall 001 discharges. The EPA inspector's observations regarding the City's POTW for the period from January 2012 through the date of the EPA inspection included, but were not limited to:

- a. Discharges of effluent in violation of its NPDES permit limitations on numerous occasions;
- b. Failure to provide accurate effluent concentrations on the Monthly Operation Reports ("MORs");
- c. Influent flow in excess of the treatment facility design capacity; and
- d. Improper sample collection and maintenance of monitoring and equipment calibration records.

20. On or about November 16, 2015, EPA issued the City an Information Request pursuant to Section 308 of the CWA. On or about December 3, 2015, the City responded to such request.

EPA's Specific Allegations

21. The facts stated in paragraphs 1 through 20, above, are herein incorporated.

Count 1

Failure to Comply with Effluent Limitations

22. The Effluent Limitations and Monitoring Requirements section of the City's NPDES permit establishes effluent limitations for Outfall 001, including the following:

- a. pH – maintained at or above 6.0000 and below 9.0000 pH units; and
- b. Ammonia as N – daily maximum mass of 2.40 to 5.70 lbs/cfs/day and monthly average mass of 1.60 to 3.80 lbs/cfs/day varying by month.

23. The EPA inspection, review of the City's monthly monitoring reports submitted to IDNR, review of the City's contract laboratory reports and review of the City's responses to the Section 308 Information Request identified that between January 1, 2012 and October 31, 2015, the City violated the effluent limitations of its NPDES permit 50 times as follows:

- a. The City exceeded the daily maximum pH limit of 9.0000 SUs 34 times between July 2, 2012 and October 28, 2015;
- b. The City exceeded the permitted maximum daily ammonia mass limit of 2.40 lbs/cfs/day 12 times between March 14, 2012 and April 23, 2014 and the daily ammonia mass limit of 5.70 lbs/cfs/day on February 18, 2015; and
- c. The City exceeded the permitted monthly average ammonia mass limit in March 2012, March 2013 and April 2015.

24. The City's failure to comply with the City's NPDES permit effluent limitations as described above, is a violation of the terms and conditions of a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and as such, is a violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

Count 2

Failure to Correctly Report Monitoring Data

25. The Monitoring and Reporting Requirements section of the City's NPDES permit stipulates (a) the frequency, method and location of sample collection, (b) that the City is required to report all data including calculated results needed to determine compliance with the

limitations contained in the permit and (c) that results of all monitoring shall be recorded on forms provided by and submitted to the IDNR by the fifteenth day following the close of the reporting period.

26. Standard Condition 23 of the City's NPDES permit stipulates that analyses of the wastewater samples required to be submitted to IDNR be performed by a laboratory certified by the State of Iowa.

27. The EPA inspection, review of the City's monthly monitoring reports submitted to IDNR, review of the City's contract laboratory reports and review of the City's responses to the Section 308 Information Request identified the City incorrectly reported or failed to report data from laboratory reports of analyses of wastewater samples and failed to monitor and report at the required frequency on the MORs submitted to IDNR a total of 159 times between January 2012 and October 2015, as follows:

- a. Effluent CBOD₅ concentrations reported on the MORs for samples collected on September 11, 2012, April 24, July 30, July 31 and August 27, 2013, May 14, 2014, and March 31, 2015 were different than the concentrations reported on the laboratory reports for those samples;
- b. Effluent TSS concentrations reported on the MORs for samples collected on July 17 and September 11, 2012, June 12 and August 27, 2013, and February 17, 2015 were different than the concentrations reported on the laboratory reports for those samples;
- c. Effluent TSS concentrations were not reported on the MORs for samples collected and reported on the laboratory reports for November 20 and December 4, 12, 19 and 27, 2012; February 27, March 14 and 19, April 24, June 5 and 11, July 17 and 31, August 7 and December 11, 2013; January 15, February 18 and 26, March 5, 12, 19 and 26, April 16, May 21, June 25, July 9, 23 and 30, August 5 and 20, October 1 and 29, and December 10, 17 and 22, 2014; and January 21, February 11, March 4, 18 and 25, April 1, 15 and 29, May 27, August 5 and 26, September 2, and October 14 and 28, 2015;
- d. Effluent TSS concentrations were neither monitored nor reported on the MOR for February 2013 at the required frequency;
- e. Effluent Ammonia as N mass values reported on the MORs for nine samples collected in January and three in February 2012; two samples in January, six in February, eight in March and nine in April, 2013; two samples in January, eight in February, seven in March, six in April and five in December 2014; and eight samples in January, eight in February, nine in March, two in April, four in May and one in August 2015 were different from the mass values calculated from the laboratory report concentrations and the reported receiving stream flow for those sample dates; and

- f. Effluent Ammonia as N mass values were neither monitored nor reported on the MOR for April 2014 at the required frequency.

28. The City's failure to properly report effluent concentrations as described above, is a violation of the terms and conditions of a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and as such, is a violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

**Count 3
Unpermitted Discharges**

29. The City's NPDES permit authorizes discharges from Outfall 001 – Discharge from a Three Cell Aerated Lagoon, and prohibits discharge of pollutants except in compliance with the effluent limits listed for Outfall 001.

30. The EPA inspection, review of the City's monthly monitoring reports submitted to IDNR and review of the City's responses to the Section 308 Information Request demonstrate that the City discharged pollutants at locations other than Outfall 001 a total of 68 times between May 25, 2011 and November 27, 2015.

31. The City's discharge of pollutants at locations other than the permitted Outfall 001 as described above, is a violation of the terms and conditions of a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and as such, is a violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

Order for Compliance

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

33. In accordance with this Order, the City shall take whatever actions are necessary to correct the deficiencies and eliminate and prevent recurrence of the violations cited above, and to come into compliance with all of the applicable requirements of its NPDES permit.

34. Within Fourteen (14) days of the receipt of this Order, the City shall submit to the EPA, with a copy to IDNR, a report certifying that the City has implemented appropriate corrective measures or procedures to ensure data is accurately and correctly transcribed from laboratory reports to MORs, including obtaining appropriate corrected reports from the laboratory when reported laboratory data are considered incorrect.

35. As soon as possible, but no later than Two-Hundred and Seventy (270) days following receipt of this Order, the City shall submit to the EPA, with a copy to the IDNR, a detailed Plan of Action ("POA") to identify and eliminate excess flows and/or increase treatment capacity sufficient to prevent future exceedances of the treatment facility design capacity and bring the wastewater system into compliance with the effluent limits contained in the City's

NPDES permit and to eliminate, to the extent feasible, illegal discharges of untreated wastewater from the collection system component of the City's POTW. The POA shall describe in detail actions deemed necessary to eliminate and prevent recurrence of the violations cited above as expeditiously as possible, but no later than July 31, 2021.

36. Consistent with the City's NPDES Permits, Standard Condition 14 and 16, the City acknowledges that reports made to IDNR are available to the public. The City also acknowledges the necessity for transparency of such noncompliance; therefore the City will make available to the public via the City's website, cityofbloomfield.org, information describing the date and location of any SSO event which occurs within the City's POTW that discharges to a water of the United States as soon as practicable, but no later than five (5) business days of knowledge of the event.

37. As soon as possible, but no later than July 31, 2021, the City shall certify that it has taken all measures necessary to achieve compliance with its NPDES permit. The City shall submit semi-annual reports in compliance with the Submissions section, below, describing progress made toward achieving compliance.

38. After review of the information submitted by the City pursuant to the above Paragraphs, the 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.

Submissions

39. *Reporting to EPA and IDNR:* In addition to the submittals required above, the City shall submit to the EPA, with a copy to the IDNR, semi-annual reports describing the actions the City has taken to comply with the terms of this Order. These reports are due every April 28 and October 28 until termination of this Order; the first report is due October 28, 2016. The City's report shall include, at a minimum:

- a. A listing of NPDES permit violations, if any, that occurred during the reporting period;
- b. A description of the actions taken by the City to mitigate and minimize or prevent future recurrences of permit violations, if any, that occurred during the reporting period;
- c. A description of the status of activities scheduled to be underway or completed during the reporting period;
- d. A description of activities scheduled for the next reporting period;
- e. Actions proposed or completed to address schedule slippages anticipated or experienced; and

- f. For submittal to the EPA only, a copy of that reporting period's MORs. The City must submit MORs to IDNR as required by its NPDES permit.

40. All submissions to the EPA pursuant to the requirements of this Order shall contain the following certification signed by an authorized official, as described at 40 C.F.R. § 122.22:

I certify that the City of Bloomfield has complied with all the applicable requirements of the Order for Compliance. I also 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.

41. All documents required to be submitted to the EPA by this Order, shall, whenever possible, be submitted electronically to:

dillard.wayne@epa.gov

Documents that cannot be submitted electronically shall be submitted to:

Wayne Dillard, P.E., or his successor
Environmental Engineer
Water, Wetlands and Pesticides Division
U.S. Environmental Protection Agency - Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

42. A copy of documents required to be submitted to the IDNR by this Order, shall be submitted to:

Ted Petersen, or his successor
Environmental Program Supervisor
Iowa Department of Natural Resources
Field Office # 5
7900 Hickman Rd, Suite 200
Windsor Heights, Iowa 50324-4432.

General Provisions

Effect of Compliance with the Terms of this Order

43. Compliance with the terms of this Order shall not relieve the City 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.

44. 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

45. Nothing in this Order shall limit the EPA's right to obtain access to, and/or to inspect the City's facility, and/or to request additional information from the City, pursuant to the authority of Section 308 of the CWA, 33 U.S.C. § 1318 and/or any other authority.

Severability

46. If any provision or authority of this Order, or the application of this Order to the City, is held by federal judicial authority to be invalid, the application to the City of the remainder of this Order shall remain in full force and effect and shall not be affected by such a holding.

Effective Date

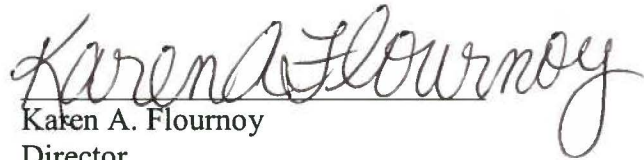
47. This Order shall be effective upon signature of the EPA Region 7 Director, Water, Wetlands and Pesticides Division. All time periods herein shall be calculated therefrom unless otherwise provided in this Order.

Termination

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

**FOR THE COMPLAINANT,
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 7:**

Issued this 16th day of August, 2016.



Karen A. Flournoy
Director
Water, Wetlands and Pesticides Division



Melissa A. C. Bagley
Assistant Regional Counsel
Office of Regional Counsel

**FOR THE RESPONDENT,
CITY OF BLOOMFIELD, IOWA:**

Chris Miller
Signature

8/10/16
Date

Chris Miller
Name

Mayor
Title

CERTIFICATE OF SERVICE

I certify that on the date noted below I hand delivered the original and one true copy of this Administrative Order for Compliance on Consent to the Regional Docket Clerk, United States Environmental Protection Agency, 11201 Renner Blvd., Lenexa Kansas 66219.

I further certify that on the date noted below I sent a copy of the foregoing Order for Compliance on Consent by first class mail to:

The Honorable Chris Miller
Mayor, City of Bloomfield
111 West Franklin Street
Bloomfield, Iowa 52537

and:

Ted Petersen
Environmental Program Supervisor
Iowa Department of Natural Resources
Field Office # 5
7900 Hickman Rd, Suite 200
Windsor Heights, Iowa 50324-44322.

9/19/2016
Date


Signature