

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

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)	
)	Docket No. CWA-07-2019-0049
Coffeyville Resources Refining &)	
Marketing, LLC)	
Coffeyville, Kansas)	
Respondent)	FINDINGS OF VIOLATION AND
)	ORDER FOR 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 Section 309(a)(3) of the Clean Water Act (“CWA”), 33 U.S.C. § 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, Coffeyville Resources Refining & Marketing, LLC (“Respondent” or “CRRM”) is and was at all relevant times a corporation established under the laws of the state of Delaware and licensed to conduct business in Kansas.

3. The EPA, together with Respondent (hereafter collectively referred to as the “Parties”) 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 alleged noncompliance by Respondent 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 timeframes for Respondent 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, (2) agrees to undertake all actions required by the terms and conditions of this Order, and (3) consents to be bound by the requirements set forth 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, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

6. Respondent neither admits nor denies the factual allegations or legal conclusions asserted by the EPA set forth in this Order.

Statutory and Regulatory Framework

7. 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.

8. Section 402(a) of the CWA, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States. Any such discharge is subject to all applicable requirements of the CWA, and regulations promulgated thereunder, as expressed in the specific terms and conditions prescribed in the applicable permit.

9. The Kansas Department of Health and Environment (“KDHE”) is the state agency with the authority to administer the NPDES program in Kansas pursuant to Section 402 of the CWA. The EPA maintains concurrent enforcement authority with authorized states for violations of the CWA.

Wastewater and Stormwater

10. As required by the CWA, the EPA promulgated regulations to implement the NPDES program under Section 402 of the CWA, including 40 CFR Parts 122 and 419.

11. 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. Section 402(p) of the CWA requires, in part, that a discharge of stormwater associated with an industrial activity must comply with the requirements of an NPDES permit issued pursuant to Sections 301 and 402 of the CWA.

12. Regulations promulgated pursuant to Section 402(p) of the CWA at 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.

13. 40 C.F.R. § 122.26(b)(14)(ii) defines “stormwater discharge associated with industrial activity,” in part, as discharges from facilities classified within Standard Industrial Classification (“SIC”) 29, which includes SIC 2911, Petroleum Refining.

14. Regulations at 40 CFR Part 419, Subpart B, establish the Petroleum Refinery Point Source Category, Cracking Subcategory, NPDES effluent limitation guidelines applicable to all discharges from any facility that produces petroleum products by the use of topping and cracking.

General Allegations

15. Respondent is and was at all times relevant to this action the owner and/or operator of a petroleum refinery facility (“Facility”), located at 400 North Linden Street, Coffeyville, Kansas 67337.

16. Respondent’s Facility is primarily engaged in Petroleum Refining activities classified under SIC 2911.

17. Industrial wastewater and stormwater are discharged from Respondent’s Facility through several outfalls to the Verdigris River or to a ditch that discharges to the Verdigris River.

18. The Verdigris River is a “navigable water” as defined by Section 502(7) of the CWA, 33 U.S.C § 1362(7).

19. Discharges of industrial wastewater from Respondent’s Facility are subject to the Petroleum Refinery Point Source Category, Cracking Subcategory, effluent guidelines at 40 CFR Part 419, Subpart B.

20. Stormwater runoff, snow melt runoff, and surface runoff and drainage from Respondent’s Facility are “storm water” as defined by 40 C.F.R. § 122.26(b)(13).

21. Stormwater contains “pollutants” as defined by Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

22. The Facility has “stormwater discharges associated with industrial activity” as defined by 40 C.F.R. § 122.26(b)(14)(ii).

23. Each outfall at Respondent’s Facility is a “point source” that “discharges pollutants” as defined by Section 502 of the CWA, 33 U.S.C. § 1362, and 40 CFR § 122.2.

24. Respondent’s discharges of pollutants from the Facility require a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

25. Upon receipt of a timely application for an NPDES permit, KDHE issued NPDES Permit No. KS0000248 (“Permit”) to the Facility, effective from December 1, 2012 through

November 30, 2017. The Permit authorizes discharges of industrial wastewater and stormwater associated with industrial activity, subject to conditions and limitations set forth in the Permit.

26. Upon receipt of timely application for renewal of the Permit on June 6, 2017, KDHE administratively extended coverage under the Permit to Respondent until such time as a new NPDES permit is issued.

27. Respondent has operated under NPDES Permit No. KS0000248 at all times relevant to this action.

28. On or about April 3 through 7, 2017, the EPA National Enforcement Investigations Center (“NEIC”) performed a Multimedia Compliance Investigation (“Investigation”) of Respondent’s Facility. The Investigation was performed, in part, under the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a), to evaluate Respondent’s compliance with its Permit and the CWA.

29. During the Investigation, the EPA inspectors reviewed Respondent’s records relating to the Permit and observed the Facility and the locations from which wastewater and industrial stormwater are discharged. Respondent also provided copies of requested records to the EPA inspectors during the Investigation and in correspondence following the Investigation.

30. By letter dated, January 16, 2018, the EPA provided Respondent a copy of the Investigation report.

Specific Allegations of Violation

COUNT I

Violations of Limitations and Conditions for Outfall 02EA1

31. The allegations stated above are re-alleged and incorporated herein by reference.

32. Section A, Effluent Limitations and Monitoring Requirements, of Respondent’s Permit identifies Outfall 02EA1, which is an emergency discharge from the Stormwater Surge Ponds to the Verdigris River. Discharges from Outfall 02EA1 are not allowed unless flow through Outfall 001A1, the Facility’s discharge from the final clarifier and/or oxidation ponds to the Verdigris River, exceeds the permitted design capacity of 2.2 million gallons per day (“MGD”) and other conditions are documented and submitted to KDHE that prevent the entire 2.2 MGD from being treated. Discharges from Outfall 02EA1 are also subject to Paragraphs 9 and 10 of the Standard Conditions and effluent concentration limitations identified in the Permit.

33. Section B of the Permit requires compliance with the Standard Conditions attached to the Permit. Paragraphs 6, 7, 9 and 10 of the Standard Conditions provide, in pertinent part:

- a. Paragraph 6, Facility Operations, requires the permittee, at all times, to 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 requirements of this permit and Kansas and Federal law. Proper operation and maintenance also include adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the requirements of this permit. The permittee shall take all necessary steps to minimize or prevent any adverse impact to human health or the environment resulting from noncompliance with any effluent limits specified in this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge. When necessary to maintain compliance with the permit requirements, the permittee shall halt or reduce those activities under its control which generate wastewater routed to this facility.

- b. Paragraph 7, Incidents, defines "In-Plant Diversion" as routing the wastewater around any treatment unit in the treatment facility through which it would normally flow.
- c. Paragraph 9, Prohibition of an In-Plant Diversion, prohibits any in-plant diversion from facilities necessary to maintain compliance with the Permit, "except: (a) where the in-plant diversion was unavoidable to prevent loss of life, personal injury, or severe property damage; (b) where there were no feasible alternatives to the in-plant diversion, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime; and (c) the permittee submitted a notice as required in the Incident Reporting paragraph below. The Director [of KDHE] may approve an anticipated in-plant diversion, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above."
- d. Paragraph 10, Incident Reports, requires the permittee to report any unanticipated collection system diversion, in-plant diversion, in-plant flow through occurrence, spill, upset or any violation of a permitted daily maximum limit within 24 hours from the time the permittee became aware of the incident. The permittee must also provide a written submission within 5 days of the time the permittee became aware of the incident that contains a description of the noncompliance and its cause, the period of noncompliance, including exact dates and times; and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

34. Section C, Schedule of Compliance, Paragraph 3, of Respondent's Permit required Respondent to conduct a stormwater bypass study and submit a report by December 1, 2014 (within two years of the effective date of the Permit) to evaluate flow capacities, estimated flow rates and measurements, and wastewater treatment facility operational flows, bypass flows and capacities. The study was required to make recommendations to minimize or eliminate the magnitude, frequency and duration of bypasses to all or portions of the wastewater treatment system.

35. On or about December 1, 2014, Respondent submitted the stormwater bypass study to KDHE as required by the Permit. The study documented the treatment and storage capacity of the Facility. The study also modeled the point at which storm-related discharges from Outfall 02EA1 would occur, assuming the following underlying conditions: (1) a single 24-hour precipitation event occurs; (2) that commences when Tank 14A2 and the Stormwater Surge Ponds are operating at maximum available storage capacity. Premised on these assumptions, the study made the following observations:

- a. Equalization Tank 14A2 has a design storage capacity of 6.0 million gallons (“MG”), and the Stormwater Surge Pond has an estimated detention capacity of 9.5 MG. Therefore, if Respondent used its 8” recovery pump to pump accumulated water from the Stormwater Surge Ponds back through the gravity sewer to the wastewater treatment plant between precipitation events, discharges from the Stormwater Surge Ponds through Outfall 02EA1 (referred to as Diversion Four and Outfall 002 in the report) would not occur if precipitation was equal to or less than a 5-year storm event, or 4.5” of precipitation in a 24-hour period.
- b. During a 10-year storm event of 5.7” of precipitation in a 24-hour period, the report projected that the Stormwater Surge Ponds would discharge for approximately 6 hours for a total flow of just over 800,000 gallons. Projections were also provided for 25, 50 and 100-year storm events.
- c. The report recommended that Respondent increase the facility stormwater surge storage. The study suggested that increasing the capacity of the Stormwater Surge Ponds by an additional 4 MG would eliminate discharges up to a 50-year storm event, or 7.5” of precipitation in a 24-hour period.
- d. The report documented that three in-plant diversion structures within the Facility were inoperable due to line blockages and/or failed valves, and therefore could not be used to address precipitation-related flows.

36. Section A of the Permit, Effluent Limitations and Monitoring Requirements, requires that any discharge through Outfall 02EA1, as authorized by the Permit subject to the limitations described in Paragraphs 32 through 35, above, may not exceed the pollutant concentrations listed in the Permit, based on a minimum of daily sampling, including the following:

Outfall 02EA1 - Emergency Discharge from the Stormwater Surge Ponds to Verdigris River Effluent Limitations for Contaminated Runoff 40 CFR 419.22(e)(2) and 40 CFR 419.23(f)(2)			
Effluent Parameters	Units	30 Day Average	Daily Maximum
Total Suspended Solids (“TSS”)	mg/l	21.0	33.0
Oil & Grease	mg/l	8.0	15.0
Phenolic (4AAP)	mg/l	0.17	0.35

37. The NEIC inspectors observed the Facility’s wastewater and stormwater collection, storage and treatment systems and collected documentation from Respondent on the layout,

capacity and operation of the systems. Observations documented during the NEIC Investigation, review of information provided by the Facility, effluent monitoring data for the Facility, and other relevant information indicate that:

- a. Discharges from Outfall 02EA1 occurred during precipitation events of equal to or less than a 5-year storm event, as calculated in the 2014 stormwater bypass study;
- b. Each of the precipitation-related discharge events from Outfall 02EA1 from September 2014 through October 2018 had a duration longer than, and a magnitude greater than, the expected discharge rates identified in the 2014 stormwater bypass study;
- c. Respondent had not implemented feasible alternatives to the in-plant diversion, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime;
- d. Respondent had not increased the size of the Stormwater Surge Ponds as recommended by the 2014 stormwater bypass study;
- e. Each discharge from Outfall 02EA1 from September 2014 through October 2018 violated one or more effluent limitations; and
- f. Each incident report for discharges from Outfall 02EA1 stated that “[b]ooms were placed to eliminate any possible debris or sheen from entering the Verdigris River.” However, discharge from Outfall 02EA1 continued to violate effluent limits and Respondent’s incident reports failed to identify any further corrective actions that would be taken to reduce, eliminate, and prevent recurrence of the noncompliance.

38. Based on observations documented during the NEIC Investigation, review of information provided by the Facility, effluent monitoring data for the Facility, and other relevant information, the EPA alleges that the Facility violated the effluent limitations and conditions for discharges from Outfall 02EA1 set forth in its NPDES Permit during at least nine months from September 2014 through October 2018, as set forth in Appendix A of this Order. The violations include, but are not limited to:

- a. Daily maximum limit exceedances for TSS on 21 of the 22 days during which there was a discharge from Outfall 02EA1, and periodic violations of the daily maximum limits for Oil and Grease, and Phenolic;
- b. 30-day average limit exceedances for TSS in each month during which there was a discharge from Outfall 02EA1, and periodic violations of the 30-day average limits for Oil and Grease, and Phenolic;

- c. Failure to operate and maintain all facilities and systems of treatment and control installed or used to achieve compliance with the Permit by maximizing storage for precipitation-related flows and minimizing discharges from the Stormwater Surge Ponds through Outfall 02EA1; and
- d. Failure to implement additional feasible alternatives to achieve compliance with the effluent limits for Outfall 02EA1, such as, but not limited to, increasing stormwater surge storage capacity or installing wastewater treatment controls.

39. Each alleged incident of Respondent's failure to comply with the limitations and conditions for discharges from Outfall 02EA1, as described above, is a violation of Respondent's Permit and Section 402 of the CWA, 33 U.S.C. § 1342.

COUNT II
Violations of Limitations and Conditions for Outfalls 001A1 and 001L1

40. The allegations stated above are re-alleged and incorporated herein by reference.

41. Section A of Respondent's Permit, Effluent Limitations and Monitoring Requirements, authorizes discharge through Outfall 001A1, the discharge from the final clarifier and/or oxidation ponds to the Verdigris River. Discharges from Outfall 001A1 are subject to the pollutant concentrations listed in the Permit, based on a minimum of weekly sampling, including the following:

Outfall 001A1 - Discharge From The Final Clarifier and/or Lagoons To The Verdigris River			
Effluent Parameters	Units	Monthly Average	Daily Maximum
TSS	lbs/day	1176	1845
Phenolic	lbs/day	7.0	19.8

42. Section A of Respondent's Permit authorizes discharge through Outfall 001L1, which is an internal monitoring location of the discharge from the oxidation ponds to the Verdigris River prior to commingling with any discharge from the final clarifier. Discharges from Outfall 001L1 are subject to the pollutant concentrations listed in the Permit, based on a minimum of weekly sampling, including the following:

Outfall 001L1 - Discharge From the Final Lagoons to Verdigris River			
Effluent Parameters	Units	Monthly Average	Daily Maximum
TSS	mg/l	80	120

43. Section B of the Permit, Standard Conditions, Paragraph 10 requires the permittee to report, among other things, any violation of a permitted daily maximum limit within 24 hours from the time the permittee became aware of the incident. The permittee must also provide a written submission within 5 days of the time the permittee became aware of the incident, that contains a description of the noncompliance and its cause, the period of noncompliance, including exact dates and times; and if the noncompliance has not been corrected, the anticipated

time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

44. Based on observations documented during the NEIC Investigation, review of information provided by the Facility, effluent monitoring data for the Facility, and other relevant information, the EPA finds that the Facility violated the effluent limitations for Outfalls 001A1 and 001L1 set forth in its NPDES Permit for TSS and Phenolic on the following occasions:

- a. Outfall 001A1:
 - i. Phenolic:
 - a) Monthly Ave.: November 2015
 - b) Daily Max.: November 12, 2015
 - ii. TSS:
 - a) Daily Max.: October 13, 2016
- b. Outfall 001L1:
 - i. TSS:
 - a) Daily Max.: June 8, 2017

45. Based on observations documented during the NEIC Investigation and a review of information provided by the Facility, effluent monitoring data for the Facility, and other relevant information, the EPA alleges that Respondent failed to comply with the requirement of Paragraph 10 of the Standard Conditions of the Permit to submit incident reports within 5 days of violations of the daily maximum limits for Outfall 001A1 on the following dates:

- a. November 12, 2015; and
- b. October 13, 2016.

46. Based on observations documented during the NEIC Investigation and a review of information provided by the Facility, effluent monitoring data for the Facility, and other relevant information, the EPA alleges that Respondent failed to comply with the monitoring requirement set forth in its NPDES Permit for Outfall 001A1 in April 2016.

47. Each alleged incident of Respondent's failure to comply with the limitations and conditions for discharges from Outfalls 001A1 and 001L1, as described above, is a violation of Respondent's Permit and Section 402 of the CWA, 33 U.S.C. § 1342.

COUNT III

Failure to Develop and Implement an Adequate Stormwater Pollution Prevention Plan

48. The allegations stated above are re-alleged and incorporated herein by reference.

49. Section C of the Permit, Schedule of Compliance, requires the Respondent to submit to KDHE a revised and up-to-date Stormwater Pollution Prevention Plan ("SWPPP") developed and sealed by a Kansas licensed Professional Engineer within one year of the effective date of

the Permit. The SWPPP must include, among other provisions, an evaluation of the frequency and magnitude of WWTP bypasses, the flow capacity of the wastewater treatment and pond system, planned modes of operation based on anticipated flow and rainfall projections, and improvements to the wastewater system that can be implemented to minimize wastewater treatment system bypasses, including separating portions of uncontaminated stormwater runoff and stormwater runoff with minimized or eliminated pollution potential for diversion to the oxidation pond system and/or direct discharge.

50. Section D of the Permit, Supplemental Conditions, Paragraph 17, authorizes the discharge of industrial stormwater from the facility, as defined in 40 C.F.R. § 122.26(b)(14), and requires all such discharges to be in conformance with a facility SWPPP that is developed in accordance with Attachment A of the Permit.

51. Attachment A of Respondent's Permit, Stormwater Pollution Prevention Plan Requirements and Guidelines, requires the Respondent to develop and fully implement a SWPPP that is specific to the industrial activities and site characteristics occurring at the location described in the permit. Relevant provisions and requirements of Attachment A include, but are not limited to:

- a. The purpose of the SWPPP is to ensure the design, implementation, management, and maintenance of Best Management Practices ("BMPs") in order to reduce the amount of pollutants in stormwater discharges associated with the industrial activities at the facility; and
- b. The SWPPP must include provisions described in Attachment A, that include, but are not limited to, a description of potential pollutant sources and stormwater management measures and controls appropriate for the facility.

52. Section A of Respondent's Permit, Effluent Limitation and Monitoring Requirements, authorizes infrequent discharge through Outfall 03SA1, which is a stormwater discharge of potentially contaminated runoff from the East Tank Farm firewater pond to the Verdigris River. Any discharge from Outfall 03SA1 is subject to the pollutant limitation and conditions listed in the Permit, including:

- a. The outfall may discharge without further effluent limitations if it does not exceed 15 mg/l oil and grease and 110 mg/l total organic carbon ("TOC") based on an analysis of any single grab or composite sample; and
- b. If the discharge exceeds 15 mg/l oil and grease and 110 mg/l TOC, the discharge shall not exceed the concentrations listed in the Permit, based on a minimum of daily sampling.

53. Attachment A of Respondent's Permit, Stormwater Pollution Prevention Plan Requirements and Guidelines, Paragraph 3, requires the SWPPP to include measures and controls for stormwater management that are appropriate for the facility, including but not limited to:

- a. Good housekeeping, requiring the maintenance of areas in a clean, orderly manner including handling and storage areas (exposed to precipitation) for raw metals, scrap metals, fuels, paints and other process areas;
- b. Identification of all unauthorized non-stormwater (dry weather) discharges directed to surface or groundwater; and
- c. Management of runoff, that describes existing and/or proposed stormwater management practices, other than those which control the generation or source(s) of pollutants, to divert, infiltrate, reuse or otherwise manage stormwater runoff in a manner that reduces pollutants in stormwater discharges from the site.

54. Respondent developed a SWPPP for the Facility, dated November 8, 2013, which was in effect and made available to NEIC during the Investigation.

55. Respondent's SWPPP includes a description of the potential pollutant sources and control measures associated with the East Tank Farm firewater pond. Section 3.2.4. of the SWPPP states that an overflow from the firewater pond at Outfall 03SA1 would enter the Storm Water Collection Ditch drainage basin, which discharges to the Verdigris River. Potential pollutant sources within the drainage area for Outfall 03SA1 include, but are not limited to, storage/equipment areas that are located around the edge of the East Tank Farm firewater pond.

56. Section 3.4 of Respondent's SWPPP indicates that the firewater pond is designed as a collection system and only discharges under emergency overflow conditions, and that in the event that discharges occur, data from such events will be maintained and kept on file by Respondent.

57. Section 4.3 of Respondent's SWPPP, Spill Prevention and Response Procedures, includes a table that lists appropriate spill prevention and response procedures and guidelines for specific areas within the Facility. For areas used as equipment storage, the recommended procedures are, "good housekeeping maintained," "stored in covered areas or on gravel," and "routine inspections." For receiving, unloading and storage areas and raw material storage areas, the recommended procedures are good housekeeping, secondary containment system, run-off directed to the wastewater treatment plant, spill response equipment, and routine inspections.

58. During the Investigation, NEIC inspectors observed the firewater pond and the inlet and outlet for Outfall 03SA1, and the stormwater controls within the East Tank Farm, and noted the following:

- a. There was no valve or other physical control at the stand pipe for Outfall 03SA1 to regulate discharges from the firewater pond;

- b. On the day of the Investigation, there was a small discharge from Outfall 03SA1; and
- c. The equipment stored around the edge of the firewater pond was not covered and was placed on gravel.

59. Based on observations and information collected during the Investigation and review of Respondent's SWPPP and other relevant information, at the time of the Investigation, the EPA alleges that Respondent had failed to identify and implement adequate stormwater measures and controls for Outfall 03SA1 as follows:

- a. Stormwater control measures around the storage/equipment areas to prevent potential pollutants from entering the East Tank Farm firewater pond;
- b. Discharge control measures at the stand pipe for Outfall 03SA1 to ensure compliance with Permit limitations prior to allowing discharges from the fire pond; and
- c. The SWPPP did not contain an evaluation of the frequency and magnitude of WWTP bypasses, the flow capacity of the wastewater treatment and pond system, planned modes of operation based on anticipated flow and rainfall projections, and improvements to the wastewater system that can be implemented to minimize wastewater treatment system bypasses, as required by Section C, Paragraph 1 of the Permit.

60. Respondent represents that in June 2018, Respondent updated its dike draining procedures for the East Tank Farm (also known as the Sunflower Tank Farm) and procedures for sampling effluent from the firewater pond; in November 2018, Respondent updated its SWPPP; and after the NEIC Investigation but prior to the effective date of this Order, Respondent commenced removing equipment stored on the gravel area next to the firewater pond and will by no later than March 15, 2019, complete removal of all equipment from the gravel area next to the firewater pond.

61. Respondent's alleged failure to develop an adequate SWPPP and implement stormwater control measures as required by the Permit at the time of the NEIC Investigation, as described above, was a violation of Respondent's Permit and Section 402(p) of the CWA, 33 U.S.C. § 1342(p).

Reasonable Time to Achieve Compliance

62. Pursuant to Section 309(a)(5)(A) of the CWA, 33 U.S.C. § 1319(a)(5)(A), and having taken into account the seriousness of the violations, the EPA finds that one (1) year is a reasonable time for Respondent to comply with the terms and conditions of its NPDES Permit, KS0000248.

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 Respondent, and Respondent hereby AGREES, to take the actions described below.

64. In accordance with this Order, Respondent shall immediately 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 of the applicable requirements of its Permit, NPDES Permit No. KS0000248, including, but not limited to:

- a. Take all measures necessary to ensure that discharges from all Outfalls comply with applicable effluent limitations and conditions in the Permit;
- b. Perform and submit a comprehensive evaluation of process wastewater and stormwater at the Facility to determine appropriate controls and wastewater management system changes necessary to maintain compliance with Permit limitations and conditions and minimize discharges of pollutants in stormwater (herein referred to as the “Study”), as follows:
 - i. The Study shall identify necessary measures to ensure that Outfall 002EA1 only discharges as specifically authorized by the applicable limitations of the Permit;
 - ii. As part of the Study, Respondent shall prepare a system map that includes sources of process and storm water, diversion flow paths, individually identified valves, pumps, storage structures and ponds, with the capacity of storage structures and ponds and the operational plan to maximize storage and treatment, and minimize discharges; and
 - iii. The Study shall include a recommended corrective measures implementation plan and schedule for completing actions necessary to ensure compliance with Permit limitation and conditions for Outfall 02EA1.
- c. Re-evaluate and modify the Facility’s SWPPP in a timely manner, as appropriate and in accordance with its Permit and Section 7.1 of the SWPPP, based on good engineering practices to meet all applicable requirements of the Permit;
- d. Identify and install appropriate structural and non-structural stormwater management controls to prevent the discharge of pollutants from the Facility, as required by the Permit and described in the SWPPP, as it may be modified; and
- e. Implement proper operation, preventative maintenance, good housekeeping practices for stormwater management, inspections and employee training as required by the Permit and described in the SWPPP, as it may be modified.

Reports/Submissions

65. By no later than May 1, 2019, Respondent shall submit a written report to the EPA, with a copy to KDHE, that provides the following:

- a. A description, with photographs and other documentation, as appropriate, of all actions taken to date to comply with the requirements of Paragraph 64, above;
- b. A copy of all DMRs and any incident reports required by Paragraph 9 of the Standard Conditions to the Permit for the period from October 2018 through March 2019;
- c. A status update regarding the Study being prepared pursuant to Paragraph 64.b; and
- d. A copy of reports for all stormwater inspections, visual monitoring of stormwater quality, rosters for employee training that have been conducted at the Facility since the date of the EPA Investigation, and documentation to confirm removal of all equipment stored on the gravel area next to the firewater pond, as described in Paragraph 60.

66. By no later than February 15, 2020, Respondent shall submit a written report to the EPA, with a copy to KDHE, that includes a copy of the Study, described above, a corrective measures implementation plan and schedule for completing necessary actions to ensure compliance with effluent limitations applicable to Outfall 02EA1.

67. *Semiannual Reporting.* In addition to the report required by Paragraphs 65 and 66, above, Respondent shall submit semiannual reports to the EPA, with a copy to KDHE, describing the actions it has taken in the six months following submission of the previous report to ensure continued compliance with the terms of its Permit and this Order. The first report is due November 1, 2019 (for the period from April through September 2019), and subsequent reports shall be submitted no later than May 1 and November 1 until this Order is terminated in accordance with Paragraph 80, below. Each report shall include, at a minimum:

- a. A description of any actions taken to change or revise wastewater and/or stormwater controls and processes to achieve compliance with the limitations and conditions of the Permit, including but not limited to controls or processes that affect discharges from Outfalls 001A1, 001L1, 02EA1 and 03SA1;
- b. A description of actions taken to implement the SWPPP, including but not limited to actions taken to construct or maintain structural controls, implement good housekeeping practices, identify and address non-stormwater discharges, conduct inspections, and provide employee training;
- c. A copy of any modifications made to the SWPPP; and

- d. Copies of all relevant documentation regarding the activities described in subparagraphs a and b, including, but not limited to, DMRs, incident reports, SWPPP inspection reports and visual monitoring reports, and employee training rosters.

68. *Submittals.* All documents required to be submitted to EPA by this Order, including the certification statement in Paragraph 71, below, shall be submitted by electronic mail to:

draper.seth@epa.gov

Seth Draper
U.S. Environmental Protection Agency – Region 7
Water, Wetlands and Pesticides Division
11201 Renner Boulevard
Lenexa, Kansas 66219

69. 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.

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

Ms. Jaime Gaggero, Director
Kansas Department of Health and Environment
Bureau of Water
1000 SW Jackson Street, Suite 420
Topeka, Kansas 66612-1367

71. 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.

72. The EPA may, after review of information and documents submitted by Respondent pursuant to this Order, request additional information and/or provide written comments and suggestions regarding such submittals. Respondent shall have an opportunity to respond to the

EPA's comments and suggestions. If the EPA determines that additional corrective measures or deadlines are appropriate, the EPA may seek to modify this Order or initiate a separate enforcement action, as appropriate.

General Provisions

Effect of Compliance with the Terms of this Order

73. 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.

74. 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.

Modification

75. Any decision by the EPA regarding a request for a modification by Respondent or a determination by the EPA that a modification is appropriate will be made in writing and, if granted, will set forth the new compliance date for the action(s) in question. All other actions shall be completed and submitted as required by Paragraph 63 through 72. The decision by the EPA regarding the extension shall not be subject to appeal; however, the EPA will not unreasonably withhold approval.

Access and Requests for Information

76. 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

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

Section 162(f)(2)(A)(ii) of the Internal Revenue Service Code

78. For purposes of the identification requirements of Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), performance of Paragraph 63 through 72 of this Order is restitution or required to come into compliance with the law.

Effective Date

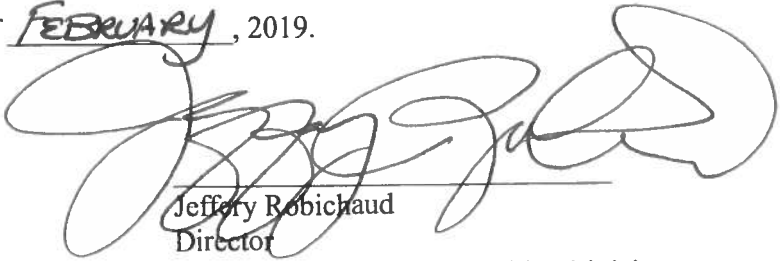
79. This Order shall be effective upon receipt by Respondent of a fully executed copy hereof. All time periods herein shall be calculated therefrom unless otherwise provided in this Order.

Termination

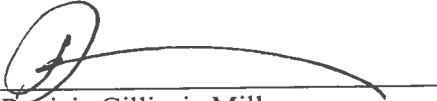
80. Respondent may submit a request for termination to the EPA stating that the Order's obligations have been completed. This Order shall remain in effect until a written notice of termination is issued by an authorized representative of the EPA.

For the Complainant, United States Environmental Protection Agency, Region 7:

Issued this 22ND day of FEBRUARY, 2019.



Jeffrey Robichaud
Director
Water, Wetlands and Pesticides Division



Patricia Gillispie Miller
Senior Counsel
Office of Regional Counsel

For Respondent, Coffeyville Resources Refining & Marketing, LLC:

Brent Traxel
Signature

2-15-2019
Date

BRENT TRAXEL
Name

VP & GM REFINING
Title

CERTIFICATE OF SERVICE

I certify that on the date noted below I hand delivered the original and one true copy of this Findings of Violation and 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 as follows:

By email to:

Janice DeVelasco
Vice President
Environment, Health and Safety
CVR Energy
2277 Plaza Drive, Suite 500
Sugar Land, Texas 77479
jtdevelasco@cvrenergy.com

Alexandra Magill Bromer
Perkins Coie
700 13th Street, NW, Suite 600
Washington, DC 20005-3960
ABromer@perkinscoie.com

and by first class mail to:

Ms. Jaime Gaggero, Director
Kansas Department of Health and Environment
Bureau of Water
1000 SW Jackson Street, Suite 420
Topeka, Kansas 66612-1367.

3-25-19
Date


Signature

APPENDIX A
EPA Docket No. CWA-07-2019-0049

Coffeyville Resources Refining & Marketing, LLC
Coffeyville, Kansas
NPDES Permit No. KS0000248
Violations for Outfall 02EA1

Date	Outfall	Parameter	Unit	Permit Limit 30-day ave	30-Day Ave. violation	Permit Limit daily max	Daily Max violation	Monitored Percent Exceedance	* 02EA1 MGD Flow
9/2/2014	02EA1	Phenolics, Total Recoverable	mg/l			0.35	0.69	97.14%	5.464
9/2/2014	02EA1	Total Suspended Solids (TSS)	mg/l			33	152	360.61%	
9/3/2014	02EA1	Phenolics, Total Recoverable	mg/l			0.35	0.43	22.86%	7.632
9/4/2014	02EA1	Total Suspended Solids (TSS)	mg/l			33	34	3.03%	6.360
30-Day Ave.	02EA1	Phenolics, Total Recoverable	mg/l	0.17	0.41			141.18%	
30-Day Ave.	02EA1	Total Suspended Solids (TSS)	mg/l	21	71.67			241.29%	19.456
10/10/2014	02EA1	Phenolics, Total Recoverable	mg/l			0.35	0.45	28.57%	7.314
10/10/2014	02EA1	Total Suspended Solids (TSS)	mg/l			33	304	821.21%	
10/11/2014	02EA1	Total Suspended Solids (TSS)	mg/l			33	53	60.61%	2.871
10/12/2014	02EA1	Total Suspended Solids (TSS)	mg/l			33	39	18.18%	6.480
10/13/2014	02EA1	Total Suspended Solids (TSS)	mg/l			33	85	157.58%	6.471
10/14/2014	02EA1	Oil & Grease (HEM)	mg/l			15	54	260.00%	
10/14/2014	02EA1	Total Suspended Solids (TSS)	mg/l			33	44	33.33%	2.588
30-Day Ave.	02EA1	Oil & Grease (HEM)	mg/l	8	12.32			54.00%	
30-Day Ave.	02EA1	Phenolics, Total Recoverable	mg/l	0.17	0.184			8.24%	25.724
30-Day Ave.	02EA1	Total Suspended Solids (TSS)	mg/l	21	105			400.00%	
5/24/2015	02EA1	Phenolics, Total Recoverable	mg/l			0.35	0.48	37.14%	3.896
5/24/2015	02EA1	Total Suspended Solids (TSS)	mg/l			33	163	393.94%	
5/25/2015	02EA1	Total Suspended Solids (TSS)	mg/l			33	74	124.24%	7.088
5/26/2015	02EA1	Oil & Grease (HEM)	mg/l			15	16	6.67%	
5/26/2015	02EA1	Total Suspended Solids (TSS)	mg/l			33	62	87.88%	2.651
30-Day Ave.	02EA1	Phenolics, Total Recoverable	mg/l	0.17	0.244			43.53%	
30-Day Ave.	02EA1	Total Suspended Solids (TSS)	mg/l	21	99.67			374.62%	13.635
6/15/2015	02EA1	Total Suspended Solids (TSS)	mg/l			33	97	193.94%	0.477
6/16/2015	02EA1	Total Suspended Solids (TSS)	mg/l			33	97	193.94%	7.502
6/17/2015	02EA1	Total Suspended Solids (TSS)	mg/l			33	56	69.70%	6.018
30-Day Ave.	02EA1	Total Suspended Solids (TSS)	mg/l	21	83.3			296.67%	13.997
8/19/2015	02EA1	Total Suspended Solids (TSS)	mg/l			33	162	390.91%	3.259
30-Day Ave.	02EA1	Phenolics, Total Recoverable	mg/l	0.17	0.31			82.35%	
30-Day Ave.	02EA1	Total Suspended Solids (TSS)	mg/l	21	162			671.43%	3.259
11/27/2015	02EA1	Phenolics, Total Recoverable	mg/l			0.35	0.7	100.00%	1.685
11/27/2015	02EA1	Total Suspended Solids (TSS)	mg/l			33	408	1136.36%	
11/28/2015	02EA1	Phenolics, Total Recoverable	mg/l			0.35	0.6	71.43%	0.955
11/28/2015	02EA1	Total Suspended Solids (TSS)	mg/l			33	138	318.18%	
30-Day Ave.	02EA1	Phenolics, Total Recoverable	mg/l	0.17	0.65			282.35%	
30-Day Ave.	02EA1	Total Suspended Solids (TSS)	mg/l	21	273			1200.00%	2.640
10/6/2016	02EA1	Total Suspended Solids (TSS)	mg/l			33	250	657.58%	1.673
10/7/2016	02EA1	Total Suspended Solids (TSS)	mg/l			33	157	375.76%	3.289
30-Day Ave.	02EA1	Total Suspended Solids (TSS)	mg/l	21	203.5			869.05%	4.865
5/3/2017	02EA1	Total Suspended Solids (TSS)	mg/l			33	42	27.27%	2.343
5/4/2017	02EA1	Oil & Grease (HEM)	mg/l			15	21.6	44.00%	1.287
5/4/2017	02EA1	Total Suspended Solids (TSS)	mg/l			33	68	106.06%	
30-Day Ave.	02EA1	Oil & Grease (HEM)	mg/l	8	12.05			50.63%	3.630
30-Day Ave.	02EA1	Total Suspended Solids (TSS)	mg/l	21	55			161.90%	
10/9/2018	02EA1	Total Suspended Solids (TSS)	mg/l			33	68.6	107.78%	5.260
30-Day Ave.	02EA1	Total Suspended Solids (TSS)	mg/l	21	68.6			226.67%	5.260

* 02EA1 flow information from September 2014 to current was derived from DMRs and Incident Reports