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U.S. EPA REGION 7
HEARING CLERK

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

IN THE MATTER OF:

Joseph Coffman

)
) Docket No. CWA-07-2025-0107
)
)

) ADMINISTRATIVE ORDER
) ON CONSENT
)
)
)

Proceedings under Section 309(a)(3) of the
Clean Water Act, 33 U.S.C. § 1319(a)(3)

Preliminary Statement

1. The following Administrative Order on Consent (“Order”) is issued pursuant to the authority of Section 309(a)(3) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(a)(3). The authority to take action under Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), is vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”). The Administrator has delegated this authority to the Regional Administrator, EPA Region 7, who in turn has delegated it to the Director of the Enforcement and Compliance Assurance Division of EPA Region 7, with concurrence by the Regional Counsel.

2. The Respondent in this case is Joseph Coffman, an individual owning property in the state of Missouri (“Respondent”).

3. The EPA, together with Respondent, enters into this Section 309(a)(3) Order in order to carry 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 this agreement to address discharges of pollutants by Respondent into the waters of the United States without a permit issued pursuant to Section 404 of the CWA, 33 U.S.C. § 1344, in violation of Section 301 of the CWA, 33 U.S.C. § 1311. Specifically, Section 301 of the CWA, 33 U.S.C. § 1311, provides that except as in compliance with certain specified provisions of the CWA, the unauthorized discharge of any pollutant into the waters of the United States by any person is unlawful.

5. By entering into this Order, Respondent (1) consents to and agrees not to contest EPA’s authority or jurisdiction to issue or enforce this Order, (2) consents to personal service by

electronic mail, (3) agrees to undertake all actions required by the terms and conditions of this Order, and (4) consents to be bound by the requirements set forth herein. Respondent neither admits nor denies the specific factual allegations or Findings of Violation in this Order, except that Respondent admits the jurisdictional allegations herein. Respondent also waives any and all claims for relief and otherwise available rights or remedies to judicial or administrative review which Respondent may have with respect to any issue of fact or law set forth in this Order, including, but not limited to, any right of judicial review of this Order under the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

Statutory and Regulatory Framework

6. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants except in compliance with, *inter alia*, Section 404 of the CWA, 33 U.S.C. § 1344.

7. The CWA prohibits the discharge of “pollutants” from a “point source” into a “navigable water” of the United States, as these terms are defined by Section 502 of the CWA, 33 U.S.C. § 1362.

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

9. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines “navigable waters,” in part, as the “waters of the United States.”

10. 40 C.F.R. § 232.2 defines “dredged material” as material that is excavated or dredged from waters of the United States.

11. 40 C.F.R. § 232.2 defines the “discharge of dredged material” as any addition of dredged material into, including redeposit of dredged material other than incidental fallback within, the waters of the United States.

12. 40 C.F.R. § 232.2 defines “fill material” as material that has the effect of replacing any portion of a water of the United States with dry land or changing the bottom elevation of any portion of a water of the United States.

13. 40 C.F.R. § 232.2 defines “discharge of fill material” as the addition of fill material into waters of the United States.

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

Allegations of Facts

15. Respondent is a “person” within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

16. At all times relevant to this action, Respondent owned, operated, or otherwise controlled property bordering Saline Creek, a tributary to the Mississippi River, located in 37.7821, -90.0694 Section 32, Township 36 North, Range 9 East, St Genevieve County, Missouri (hereinafter “the Site”).

17. Starting in or around November 2023 until January 2024, Respondent and/or persons acting on his behalf, using earth moving equipment, authorized, directed, and/or placed fill material into Saline Creek, a perennial tributary to the Mississippi River, including, but not limited to, concrete blocks, gravel, and fencing, impacting the bottom elevation of Saline Creek.

18. On November 27, 2023, the U.S. Army Corps of Engineers for the St. Louis District (“Corps”) received a complaint alleging CWA violations by Respondent.

19. On January 17, 2024, the Corps received photographs via email documenting the placement of fill material by Respondent at the Site.

20. On February 14, 2024, the Corps referred the case to EPA Region 7 for potential enforcement after determining Respondent’s prior knowledge of 404 requirements and the extent and significance of the unpermitted activities in Saline Creek.

21. On May 1, 2024, the EPA and representatives of the Corps conducted a site visit and confirmed Respondent’s placement of fill and/or dredged material into Saline Creek. The EPA documented the fill material blocking the original stream channel, including the placement of concrete blocks, gravel, and the installation of fencing to stabilize the bank at the Site.

22. Respondent’s discharges of dredged/and or fill material into the tributary impacted approximately 957 linear feet of stream.

23. The dredged and/or fill material and sediment discharged by Respondent’s activities into Saline Creek are “pollutants” within the meaning of Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

24. The equipment referenced above constitutes a “point source” within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

25. The discharge of the dredged and/or fill material into Saline Creek constitutes the “discharge of a pollutant” within the meaning of Section 501(12) of the CWA, 33 U.S.C. § 1362(12).

26. Saline Creek is a “water of the United States” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

FINDINGS OF VIOLATION

27. The facts and allegations stated above are herein incorporated.

28. Respondent did not obtain a permit issued pursuant to Section 404 of the CWA, 33 U.S.C. § 1344, prior to the performance of the dredged and/or fill placement described herein.

29. Respondent's discharge of pollutants from a point source into waters of the United States occurred without permits issued pursuant to Section 404 of the CWA, 33 U.S.C. § 1344, and, therefore, violated Section 301 of the CWA, 33 U.S.C. § 1311.

ORDER FOR COMPLIANCE ON CONSENT

Based on the ALLEGATIONS OF FACT and FINDINGS OF VIOLATION 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 Respondent hereby AGREES to take, the actions described below:

30. Respondent shall comply with the CWA by immediately ceasing the placement of fill and/or dredged material into Saline Creek and taking steps to ensure that Respondent does not place fill material into Saline Creek in the future.

31. Retention of a Qualified Environmental Consultant: Respondent will retain a qualified environmental consultant to prepare a Work Plan for the full restoration of the Site, as described further below:

a. Within thirty (30) days of the Effective Date of this Order, Respondent shall provide to EPA in writing the name, address, phone number, electronic mail address and qualifications of a consultant.

b. The EPA will approve/disapprove of Respondent's consultant based upon the person's qualifications and ability to effectively perform this role. The qualifications of the persons undertaking the work for Respondent shall be subject to the EPA's review, for verification that such persons meet minimum technical background and experience requirements of the EPA. All persons under the direction and supervision of Respondent's consultant must possess all necessary professional licenses required by law.

32. Work Plan: Within 60 days of the EPA's approval of the consultant, Respondent shall submit a Work Plan prepared by the approved qualified environmental consultant to EPA for review and approval. The Work Plan shall describe Respondent's proposed full restoration of the impacted Site described herein to conditions prior to the start of Respondent's unauthorized fill material. The Work Plan shall include, at a minimum:

a. A work plan with detailed written specifications and work descriptions for the restoration project, including but not limited to: the geographic boundaries of the project; a description of the equipment to be used for the restoration work; a planting list for native trees, shrubs, and grasses for riparian planting; methods for establishing the desired plant community; plans to control invasive plant species; a proposed grading plan including elevations and slopes of substrate; soil management and erosion control measures; channel planform type, and channel form (e.g. typical channel cross-sections);

- b. A riparian buffer with native trees or shrubs, with minimum width at least 50 feet from the top of the bank along both sides of the restored channel,
- c. The seeding of all disturbed areas with native grasses and appropriate erosion control measures to ensure that sediments are not introduced into waters of the United States during the restoration. A state National Pollutant Discharge Elimination System permit may be required for this work;
- d. Ecologically based performance standards that will be used to determine success of site restoration;
- d. A description of parameters to be monitored in order to determine if the restoration site is on track to meet performance standards and if adaptive management is needed;
- e. An adaptive management plan that describes a management strategy to address unforeseen changes in site conditions or other components of the restoration project;
- g. The projected cost of the work; and
- h. A projected schedule, including milestones, for completing the work no later than six (6) months after the EPA's approval of the Work Plan and in accordance with the specifications in the Work Plan.

33. Review and Approval of Work Plan: The EPA will review and approve the Work Plan as follows:

- a. If the EPA approves the Work Plan, it shall be implemented according to the schedule for implementation in the approved Work Plan. All work shall be completed by a qualified contractor.
- b. If the EPA does not approve the Work Plan, Respondent shall address the comments and resubmit the Work Plan for review within twenty (20) days of receipt of EPA's disapproval.
- c. Upon resubmission, the EPA, in its sole discretion, may either approve the Work Plan, or if EPA determines that the Work Plan does not adequately address the comments provided by EPA, EPA may modify the Work Plan and provide Respondent with a copy of the Work Plan as modified. Respondent shall implement the modified Work Plan according to the schedule contained therein.
- d. Once approved by the EPA, the Work Plan identified above shall be incorporated by reference and fully enforceable under the terms of this Order.

34. Completion Report: Within thirty (30) days of completion of the work identified in the Work Plan, Respondent agrees to submit a completion report, which shall include photographic evidence, copies of relevant documents, and a signed statement indicating that the work is complete.

35. Annual Monitoring Reports: Respondent agrees to submit annual monitoring reports to the EPA, beginning on the date of the first anniversary of the completion of the Work Plan, for a period of five years. Monitoring shall be conducted by a qualified environmental consultant. Annual reports shall include photos of the site, a narrative description of the status of the site, and corrective actions, if any, that will be taken to correct deficiencies to maintain proper stream functions. If corrective actions are necessary, they shall be implemented within fourteen (14) days of any findings. Photographic evidence of corrective actions taken shall be submitted to the EPA within forty-five (45) days. If at the end of the five-year monitoring period, the site is providing adequate wetland and/or stream functions and values, then additional monitoring will not be required. If at the end of the five-year monitoring period, the site is not functioning as a wetland and/or stream, then corrective measures shall be implemented.

36. The submission of documents by Respondent, as identified above, shall include the following written statement, followed by signature of a duly authorized representative of Respondent:

I certify under penalty of law that 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.

- a. All documents to be submitted to the EPA under this Order shall be submitted via email to:

Stephen Pollard
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219
Pollard.Stephen@epa.gov

General Provisions

37. Respondent's failure to comply with the terms of this Section 309(a)(3) Compliance Order may result in your liability for statutory civil penalties under Section 309(d) of the Act, 33 U.S.C. § 1319(d), as modified by 40 C.F.R. Part 19. Should EPA commence an action seeking penalties for violations of this Compliance Order, a United States District Court may impose civil penalties if the court determines that Respondent has violated the Act and failed to comply with the terms of the Order.

38. This Order shall not constitute a permit under the CWA. Compliance with the terms of this Order shall not relieve Respondent of its responsibility to obtain any required local, state, and/or federal permits.

39. 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. The EPA reserves the right to enforce the terms of this Order by initiating a judicial or administrative action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319.

Access and Requests for Information

41. Nothing in this Order shall limit the EPA's right to obtain access to, and/or to inspect property owned or operated by Respondent 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

42. 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.

Parties Bound

43. This Order shall apply to and be binding upon the Respondent, his agents, successors, and assigns. Respondent shall ensure that any directors, officers, employees, contractors, consultants, firms or other persons or entities acting under or for it with respect to matters included herein comply with the terms of this Order.

Effective Date

44. The terms of this Order shall be effective and enforceable on the Effective Date, which is the date this Order is signed by EPA. All time periods herein shall be calculated therefrom unless otherwise provided in this Order.

Termination

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

Signatories

46. The undersigned for each party has the authority to bind each respective Party to the terms and conditions of this Order. The Order may be signed in part and counterpart by each Party.

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

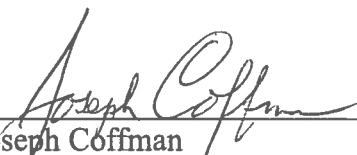
David Cozad
Director
Enforcement and Compliance Assurance Division

Date

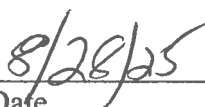
Angela Stillwagon
Assistant Regional Counsel
Office of Regional Counsel

Date

For Respondent, Joseph Coffman:



Joseph Coffman



Date

CERTIFICATE OF SERVICE

I certify that on the date noted below I delivered a true and correct copy of the finalized Administrative Order on Consent by electronic mail to:

Regional Hearing Clerk:

Amy Gonzales
U.S. Environmental Protection Agency
R7_Hearing_Clerk_Filings@epa.gov

Representatives for Complainant:

Angela Stillwagon
Office of Regional Counsel
U.S. Environmental Protection Agency Region 7
Stillwagon.Angela@epa.gov

Stephen Pollard
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency Region 7
Pollard.Stephen@epa.gov

Carrie Venerable | New Solutions Workforce
Office of Regional Counsel
U.S. Environmental Protection Agency Region 7
Venerable.Carrie@epa.gov

Representative(s) for Respondent:

Joseph Coffman, Respondent
cathycoffman75@gmail.com

Date: _____

Signature: _____