

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

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)
)
) Docket No. CWA-07-2015-0050
)
THE CITY OF GRANBY, MISSOURI,)
)
)
) ADMINISTRATIVE ORDER FOR
) COMPLIANCE ON CONSENT
)
Respondent,)
)
)
)
Proceeding under Section 309(a)(3) of the)
Clean Water Act, 33 U.S.C. § 1319(a)(3))
)
_____)

Preliminary Statement

1. This Administrative Order for Compliance on Consent (“Order”) is issued by the United States Environmental Protection Agency (“EPA”) to the City of Granby, Missouri (“City” or “Respondent”), pursuant to the authority vested in the Administrator of 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 redelegated by the Administrator to the Regional Administrator of EPA, Region 7, and further delegated to the Director of Region 7’s Water, Wetlands and Pesticides Division.

2. EPA, together with the City, enter into this Section 309(a)(3) Order for Compliance on Consent 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.”

3. It is the parties’ intent through this agreement to address discharges of pollutants by the City into the waters of the United States in violation of its National Pollutant Discharge Elimination System (“NPDES”) permit. 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.

4. 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) 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 on Consent, including, but not limited to, any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

Statutory and Regulatory Framework

5. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants except in compliance with, *inter alia*, Section 402 of the CWA, 33 U.S.C. § 1342. 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.

6. 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.

7. To implement Section 402 of the CWA, EPA promulgated regulations codified at 40 C.F.R. 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 Missouri Department of Natural Resources ("MDNR") is the state agency with the authority to administer the federal NPDES program in Missouri pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, the implementing regulations, and a Memorandum of Understanding between EPA and MDNR. EPA maintains concurrent enforcement authority with authorized state NPDES 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 Findings

Findings of Fact and Law

10. The City of Granby is a political subdivision of the state organized under the laws of Missouri, and as such is a "person" for purposes of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

11. The City owns and operates a wastewater treatment facility (or “WWTF”) and its associated sewer collection and transmission systems, which receive and treat wastewater from residential, commercial, and industrial connections within Granby, Missouri, and which together are a Publicly Owned Treatment Works (“POTW”), as defined by 40 C.F.R. § 403.3(q).

12. The City’s POTW discharges to an unnamed tributary to Shoal Creek, which are both “navigable waters” as defined by CWA Section 502(7), 33 U.S.C. § 1362(7).

13. 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).

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

15. The City’s discharge of pollutants from its POTW requires a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

16. MDNR issued NPDES Permit No. MO-0107581 (hereafter “NPDES permit”) to the City for discharges from its POTW to the unnamed tributary to Shoal Creek. The NPDES permit became effective December 30, 2011, and will expire December 29, 2016.

17. On September 29 through October 2, 2014, an EPA representative performed a Compliance Sampling Inspection (hereafter “the 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.

18. During the EPA inspection, the inspector collected wastewater samples from the City’s WWTF influent and effluent, reviewed the City’s records related to the NPDES permit, and observed the WWTF and the receiving stream to which Outfall 001 discharges. The EPA inspector’s observations included, but were not limited to, the following:

- a. evidence of routine discharges through the outfall of sludge during the sequencing batch reactor decant cycle;
- b. monitoring records that did not accurately track sludge application or cumulative pollutant loading;
- c. improper sampling practices and monitoring and test procedures, including issues related to holding times, type of sample (composite versus grab), container type, calibration of equipment, and test procedures;

- d. improper reporting practices, including most significantly the apparent falsification of results for certain parameters on the Discharge Monitoring Reports, as well as other inconsistencies;
- e. a failure to implement the City's capacity, management, operation and maintenance ("CMOM") plan;
- f. evidence of hydraulic overload leading to a significant bypass event, as well as a dry weather sanitary sewer overflow due to failure of a lift station to properly operate; and
- g. instances of noncompliance with effluent limitations contained in the NPDES permit, including noncompliance identified through analysis of samples collected during the EPA inspection.

Findings of Violation

19. The facts stated in Paragraphs 10 through 18, above, are herein incorporated.

Unauthorized Discharges

20. Part A of the City's NPDES permit, which sets out effluent limitations and monitoring requirements, authorizes discharges from wastewater treatment facility outfalls as specified in the permit. Part A authorizes discharges from outfall 001, Effluent at Composite Sampler.

21. Part A of the City's NPDES permit, which sets out effluent limitations and monitoring requirements, also specifies that there shall be no discharge of floating solids or visible foam in other than trace amounts.

22. Part D of the City's NPDES permit, which sets out special conditions, specifies in Paragraph 6(b) that no water contaminant, by itself or in combination with other substances, shall prevent the waters of the state from meeting specified conditions. One such condition (Paragraph 6(b)(1)) is that waters shall be free from substances in sufficient amounts to cause the formation of putrescent, unsightly or harmful bottom deposits or prevent full maintenance of beneficial uses; another condition (Paragraph 6(b)(3)) is that waters shall be free from substances in sufficient amounts to cause unsightly color or turbidity, offensive odor or prevent full maintenance of beneficial uses; yet another condition (Paragraph 6(b)(4)) specifies that waters shall be free from substances or conditions in sufficient amounts to result in toxicity to human, animal or aquatic life.

23. During the EPA inspection referenced in Paragraph 17, above, the inspector observed activated sludge deposition within the receiving stream. Much of the sludge was located along

the stream's benthic zone, resulting in the formation of putrescent, unsightly or harmful bottom deposits, while some was floating on the water surface. The City representative indicated that some of this was from a December 2013 incident, and additionally mentioned a January 2012 incident, both of which stemmed from faulty treatment system equipment and both of which were the basis of Notices of Violation from MDNR. The inspector's observation of the loss of mixed liquor during the decant cycle and deposition of solids in the UV channels, as well as the information that only a limited quantity of sludge is being land-applied by the City, indicate that loss of activated sludge is routine. Information obtained during the inspection and review of the City's sludge management records indicate that approximately 90 dry tons of activated sludge was discharged to the stream over the last three years. These discharges of activated sludge contain substances in sufficient amounts to cause unsightly color or turbidity, and on at least the two occasions described above, could result in toxicity to animal or aquatic life.

24. As a result of the City's discharge of activated sludge, EPA finds that the City is in a state of noncompliance with the requirements of Parts A and D of its NPDES permit.

25. The discharge of activated sludge described in Paragraph 23 constitutes a violation of the terms and conditions of the City's NPDES 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).

Failure to Properly Operate and Maintain Facility

26. Part B of the City's NPDES permit, titled Standard Conditions, incorporates the attached Standard Conditions dated October 1, 1980 and August 15, 1994, and makes the permit subject to those Standard Conditions.

27. Paragraph 3 of Section B of the 1980 Standard Conditions portion of the City's NPDES permit requires the City to operate and maintain its facilities to comply with the Missouri Clean Water Law and applicable permit conditions.

28. Part D of the City's NPDES permit, which sets out special conditions, specifies in Paragraph 7 that the permittee must develop and implement a program for maintenance and repair of the collection system.

29. The EPA inspection referenced in Paragraph 17, above, revealed that the City had developed a CMOM plan, but had not implemented the plan. The CMOM plan requires the City to include and address employee training on the sewage collection system, sewer line and manhole inspection procedures, lift station inspections, responses to citizen complaints, a preventive maintenance schedule, corrective action requirements, an infiltration and inflow ("I&I") assessment and reduction program, sanitary sewer overflow and bypass tracking and reporting, and a capital improvement program. The City representative indicated the sewer lines are cleaned only when needed; the City owns a smoke tester and sewer camera, but these are not

being used. The representative indicated that the sewage lift stations are checked daily for proper operation, but the other portions of the CMOM plan have not been implemented.

30. The EPA inspection referenced in Paragraph 17, above, also revealed that one of the City's sewage lift stations failed to operate correctly, resulting in a sanitary sewer overflow from a nearby manhole. Approximately 3,000 gallons of untreated wastewater was discharged to a field and within a residence.

31. As a result of the City's failure to operate and maintain its facilities to comply with the permit conditions, EPA finds that the City is in a state of noncompliance with the requirements of Paragraph 7 of Section D and Paragraph 3 of Section B of the Standard Conditions of its NPDES permit.

32. Each of the operations and maintenance issues particularly described in Paragraphs 29 and 30 constitutes a violation of the terms and conditions of the City's NPDES 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).

Bypass

33. Paragraph 9 of Section D, Special Conditions, of the City's NPDES permit prohibits bypasses.

34. Section B of the City's NPDES permit, titled Standard Conditions, incorporates the attached Standard Conditions dated October 1, 1980 and August 15, 1994, and makes the permit subject to those Standard Conditions.

35. Paragraph 5 of Section B of the 1980 Standard Conditions portion of the City's NPDES permit prohibits bypasses except under circumstances not applicable here.

36. Information obtained during the EPA inspection revealed that the City shut down the treatment system on one occasion in May 2012 to allow wastewater to pass through due to hydraulic overload in order to preserve the mixed liquor in the sequencing batch reactor units, resulting in the discharge of 0.537 million gallons of untreated wastewater to the receiving stream.

37. As a result of Respondent's bypass of untreated wastewater, EPA finds that Respondent is in a state of noncompliance with the requirements of the Special and Standard Conditions provisions of its NPDES permit.

38. Each unpermitted discharge, as particularly described in Paragraph 36, constitutes a violation of the terms and conditions of the City's NPDES permit issued pursuant to Section 402

of the CWA, 33 U.S.C. § 1342, and a violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

Failure to Comply with Effluent Limitations

39. The City's NPDES permit authorizes the City to discharge from the WWTF in accordance with the effluent limitations and monitoring requirements set forth in the permit. Part A, the Effluent Limitations and Monitoring Requirements section of the City's NPDES permit, establishes effluent limitations for Outfall 001, including the following final effluent limitations:

- a. Ammonia as N - a monthly average concentration limitation of 1.0 milligrams per Liter ("mg/L") from April through September, and of 2.3 mg/L from October through March; and a daily maximum concentration limitation of 5.2 mg/L from April through September, and of 12.1 mg/L from October through March; and
- b. total suspended solids ("TSS") - a weekly average concentration limitation of 45 mg/L, and a monthly average concentration limitation of 30 mg/L.

40. The EPA inspection referenced in Paragraph 17, above, and review of the City's monitoring reports submitted to MDNR, revealed that the City discharged wastewater from Outfall 001 containing concentrations of ammonia and TSS in excess of its permitted limitations for those parameters, including the following:

- a. Ammonia as N. The City discharged concentrations of ammonia in excess of the NPDES permit's monthly average and daily maximum concentration limitations during at least the months of November and December 2013, and February and April 2014, and discharged concentrations of ammonia in excess of the NPDES permit's monthly average concentration limitation during at least the month of January 2014.
- b. TSS. The City discharged concentrations of TSS in excess of the NPDES permit's monthly average concentration limitation during the EPA inspection referenced in Paragraph 17, above.

41. As a result of the City's failure to control its pollutants in order to comply with the effluent limitations of its NPDES permit, EPA finds that the City is in a state of noncompliance with the requirements of Part A of its NPDES permit.

42. Each of the City's discharges described in Paragraph 40 constitutes a violation of the terms and conditions of the City's NPDES 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).

Reasonable Time to Achieve Compliance

43. 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 three years is a reasonable time for the City to comply with the terms and conditions of its NPDES Permit.

Order for Compliance on Consent

Based on the FINDINGS 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), EPA hereby ORDERS, and Respondent hereby AGREES to take, the actions described below:

44. 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.

45. *Operations and Maintenance.* Within 30 days of the effective date of the Order, Respondent shall take necessary actions to remedy the violations noted in Paragraphs 29 and 30, while additional actions are performed by the City to achieve long-term compliance with its NPDES permit. Within 60 days of the effective date of the Order, Respondent shall submit completed work orders, signed receipts, and a summary narrative documenting completion of the work necessary to remedy the violations noted in Paragraphs 29 and 30.

46. *Compliance Plan and Schedule.* The City shall update the 2014 Engineering Report and describe corrective measures for achieving compliance with the City's NPDES permit (the "Compliance Plan"). This Compliance Plan shall incorporate influent and effluent monitoring data collected April through June 2015. EPA will review and may provide comments on the City's Compliance Plan. The City shall begin implementation of the corrective measures in accordance with the schedule it submits; all corrective measures shall be completed as soon as practicable, but no later than July 1, 2018, unless EPA approves a written request for extension. The Compliance Plan shall be submitted to EPA, with a copy to MDNR, in the following manner:

- a. No later than October 31, 2015, the City shall submit the Compliance Plan that includes a definitive schedule, with interim milestones, describing the actions required to eliminate causes of permit violations and the dates the actions will be completed.
- b. No later than July 1, 2018, the City shall submit a written certification stating that the City has completed all corrective actions necessary to comply with its NPDES permit.

47. The City shall at all times comply with requirements established by the state of Missouri regarding the repair, construction, and operation of facilities associated with the City's POTW, including, but not limited to, any requirements for work to be performed by certified or licensed professional engineers, submission and approval of plans and specifications, and construction and operation permitting. In developing plans and schedules required by this Order, the City shall allocate adequate time and resources to comply with applicable state requirements.

48. *Monthly Monitoring Reports.* Beginning April 28, 2015, and continuing until this Order is terminated, Respondent shall submit to EPA copies of the monthly monitoring reports that are required to be sent to MDNR, signed and certified as required by the regulations at 40 C.F.R. § 122.22. The monthly monitoring reports are due to EPA on a quarterly basis: the reports for January-March are due on April 28; those for April-June, on July 28; those for July-September, on October 28; and those for October-December, on January 28.

49. After review of the information submitted by Respondent pursuant to Paragraph 46, 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.

50. All submissions by the City to EPA pursuant to the requirements of this Order shall contain the following certification signed by an authorized official:

I certify that the City of Granby has complied with all the applicable requirements of the Order for Compliance on Consent. 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.

51. All documents required to be submitted to EPA by this Order, shall be submitted by mail to:

Jodi Bruno
Water, Wetlands and Pesticides Division
U.S. Environmental Protection Agency - Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

52. A copy of all documents required to be submitted to MDNR by this Order, shall be submitted by mail to:

Paul Dickerson, Environmental Manager
Missouri Department of Natural Resources
Water Protection Program
P.O. Box 176
Jefferson City, Missouri 65102

and to

Cindy Davies, Director
Southwest Regional Office
Missouri Department of Natural Resources
2040 W. Woodland
Springfield, Missouri 65807-5912.

General Provisions

Reservation of Rights

53. Compliance with the terms of this Order shall not relieve Respondent of liability for, or preclude EPA from initiating, an enforcement action to recover penalties for any violations of the CWA, or to seek additional injunctive relief, as authorized by Section 309 of the CWA, 33 U.S.C. § 1319. Section 309(g)(6) of the CWA, 33 U.S.C. § 1319(g)(6), addresses the effect of this Order on Consent on subsequent actions by the EPA or the State and with respect to citizen suits.

54. 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, nor does it otherwise affect the EPA's ability to enforce or implement the CWA.

55. Failure to comply with the terms of the Order may result in Respondent's 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 Order, a United States District Court may impose civil penalties if the court determines that Respondent has violated the CWA and failed to comply with the terms of the Order.

56. Subject to the limitations of Paragraph 4, above, Respondent reserves the right to contest liability in any subsequent action filed by EPA to seek penalties for violation of this Order, and reserves the right to contest liability in any subsequent action filed by EPA for any violations alleged in the Findings, above.

57. With respect to matters not addressed in this Order, EPA reserves the right to take any

enforcement action pursuant to the CWA, or any other available legal authority, including without limitation, the right to seek injunctive relief, monetary penalties and/or other legal remedies allowed by law.

Access and Requests for Information

58. Nothing in this Order shall limit 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

59. 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.

Modification

60. At EPA's sole discretion, extensions of the compliance schedule/deadlines required by this Order may be made by EPA by written notice to Respondent, without further formal amendment to the Order. All other modifications to this Order may only be made by mutual agreement of the Parties, pursuant to a written amendment signed by each Party.

Effective Date

61. 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

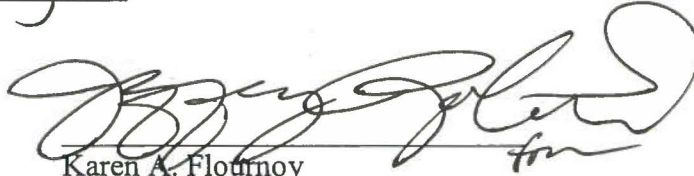
62. This Order shall remain in effect until a written notice of termination is issued by an authorized representative of EPA. Such notice shall not be given until the City has corrected the deficiencies identified by this Order and demonstrated compliance with the terms of its NPDES permit.

Signatories

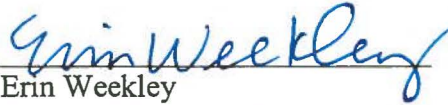
63. The undersigned for each party has the authority to bind each respective Party to the terms and conditions of this Order. The Order may be signed in part and counterpart by each Party.

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

Issued this 13 day of May, 2015.

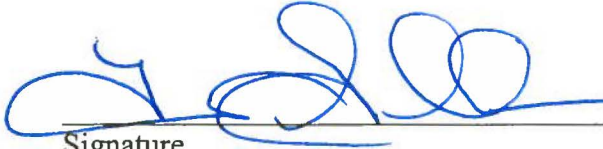


Karen A. Flourney
Director
Water, Wetlands and Pesticides Division
U.S. Environmental Protection Agency – Region 7



Erin Weekley
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency – Region 7

For Respondent, City of Granby, Missouri:

 _____
Signature Date April 30 2015

Name Travis Gamble

Title Mayor

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 Boulevard, 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 certified mail, return receipt requested, to:

The Honorable Richard Eutsler
Mayor of Granby
302 North Main Street
Granby, Missouri 64844,

and by first class mail to:

Paul Dickerson, Environmental Manager
Missouri Department of Natural Resources
Water Protection Program
P.O. Box 176
Jefferson City, Missouri 65102; and

Cindy Davies, Director
Southwest Regional Office
Missouri Department of Natural Resources
2040 W. Woodland
Springfield, Missouri 65807-5912.

5/13/15
Date

Brenda F. Terrell