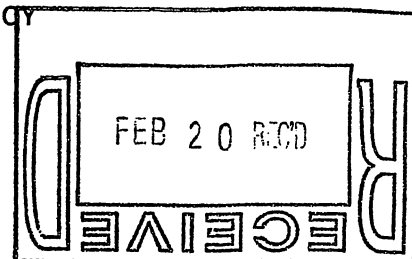




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

FEB 10 2012

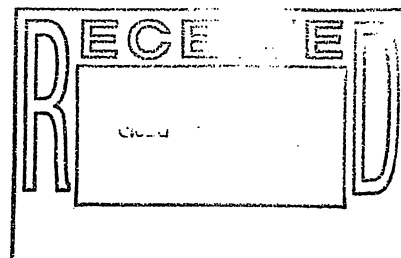


REPLY TO THE ATTENTION OF :

WC-15J

CERTIFIED MAIL 7009 1680 0000 7672 4524
RETURN RECEIPT REQUESTED

Mr. Rick Konopasek
Director of Public Works
111 North Broad Street
Griffith, Indiana 46319-2294



Subject: Town of Griffith, Indiana Order for Compliance and
Request for Information Pursuant to 33 U.S.C. §§ 1318(a) and 1319(a)(3)
Docket No. V-W-12-AO- 08

Dear Mr. Konopasek:

Protecting water quality is a high priority of the U. S. Environmental Protection Agency. Pollutants such as pathogens discharged to waterways from sanitary sewer overflows contribute to poor water quality and impairment of uses of those waterways.

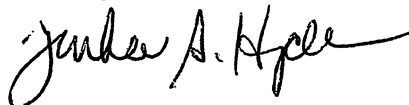
EPA is issuing this Administrative Order (Order) to the Town of Griffith (Town), pursuant to Sections 308(a) and 309(a) of the Clean Water Act (CWA), 33 U.S.C. §§ 1318(a) and 1319(a). In the Order, EPA asserts that the Town has violated the CWA and seeks to bring the Town back into compliance with the CWA.

In April of 2010, EPA received a response to the Wet Weather/Sanitary Sewer System Information Request sent to the Town. Information gathered during the review of the response and in EPA's June 2011 inspection demonstrates that the Town has discharged untreated sanitary waste in the form of sanitary sewer overflows on numerous occasions to waters of the United States, in violation of the CWA. This Order requires you to immediately cease all sanitary sewer discharges and take any necessary action to comply with the CWA.

Please send your written responses to the addresses specified in the Order with the certification language provided in Paragraph 27 of the Order. Please note that within five days of this Order's receipt, the Town of Griffith may request a conference with EPA to discuss the terms of the Order or any other information you feel we should consider. Paragraph 26 of the Order includes details regarding how and when to request a conference.

If you have any questions or concerns, please contact Jennifer Jungmann of my staff at (312) 353-4627 or jungmann.jennifer@epa.gov, or your legal counsel may contact Robert Guenther, Associate Regional Counsel, at (312) 886-0566 or guenther.robert@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Tinka G. Hyde". The signature is fluid and cursive, with a long horizontal stroke at the end.

Tinka G. Hyde
Director, Water Division

Enclosure

cc: Mark Stanifer, IDEM
Paul Higginbotham, IDEM

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	DOCKET NO.: V-W-12-AO- 68
)	
TOWN OF GRIFFITH, INDIANA)	PROCEEDING UNDER
)	SECTIONS 308(a) AND 309(a)
RESPONDENT.)	OF THE CLEAN WATER ACT
<hr/>		

ORDER

STATUTORY AUTHORITY

1. The Director of the Water Division, U.S. Environmental Protection Agency (EPA) Region 5, is making the following **FINDINGS** and is issuing the following **ORDER** pursuant to the authority of the Administrator of the EPA under Sections 308(a) and 309(a) of the Clean Water Act (CWA), 33 U.S.C. §§ 1318(a) & 1319(a). The Administrator delegated this authority to the Regional Administrator, EPA, Region 5, who then redelegated the authority to the Director of the Water Division, EPA, Region 5.
2. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants to the waters of the United States by any person except in compliance with a permit issued under the authority of the CWA.
3. Section 502(12) of the CWA, 33 U.S.C. § 1362(12), defines "discharge of a pollutant" to mean, among other things, "any addition of any pollutant to navigable waters from any point source."
4. Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), states that whenever the Administrator finds a person in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a), she may issue an order requiring that person to comply with the provisions of the CWA.
5. Section 308(a) of the CWA, 33 U.S.C. § 1318(a), authorizes the Administrator to require the owner or operator of any point source to establish and maintain records, make reports, install, use and maintain monitoring equipment, sample effluent and provide any other information she may reasonably require to carry out the objectives of the CWA.

FINDINGS

6. "Pollutant" means any type of industrial, municipal, and agricultural waste discharged into water (e.g., dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954 (42 U.S.C. §§ 2011-2114)), heat, wrecked or discarded equipment, rock, sand, and cellar dirt).
7. "Sanitary Sewer Overflow" or "SSO" means an overflow, spill, release, or diversion of wastewater from a sanitary sewer system, including interceptor sewers. A SSO includes overflows that result in a discharge to waters of the United States and overflows of wastewater, including a wastewater backup into a building (other than a backup caused solely by a blockage or other malfunction in a privately owned sewer or building lateral), even if that overflow does not reach waters of the United States.
8. "Satellite Community" means a community that owns and operates a sanitary sewerage system that is tributary to a different legal entity or community but does not own or operate a wastewater treatment plant.
9. Town of Griffith ("Respondent" or "Town") is a satellite community to the Hammond Sanitary District. Respondent owns and operates a completely separate storm and sanitary sewer system which collects sanitary flow from the Town and transports it to the Hammond Sanitary District sewerage system for treatment at a wastewater treatment plant operated by the Hammond Sanitary District under NPDES permit number IN0023060.
10. Respondent is a "person" as that term is defined at Section 502(5) of the Act, 33 U.S.C. §1362(5) and 40 C.F.R. Part 122.2.
11. On August 2, 1993, the United States, on behalf of EPA, filed a complaint alleging that Town of Griffith violated the CWA. On or about June 6, 1994, the State of Indiana, filed cross claims against the Town of Griffith in the same matter. This matter was docketed as Civil Action 2:93 CV 225.
12. On June 19, 1997, the United States, the State of Indiana, and the Town of Griffith entered into a Consent Decree in the action described above.
13. On March 10, 2010, as authorized under Section 308(a) of the CWA, 33 U.S.C. § 1318(a), EPA issued an Information Request to the Town of Griffith under Docket Number V-W-10-308-17.
14. On April 14, 2010, EPA received the Town's response. The Town reported 10 SSOs since 2006 in the response. During an August 15, 2011 inspection, the Town reported four additional SSOs since the submittal of the Information

Request response. Dates and locations of SSOs are indicated in Attachment A to this Order. All SSOs documented were the result of bypass pumping from an equalization basin to the swamp just north of the Cline Avenue Pump Station.

15. The discharges listed in the preceding paragraph constitute discharges of pollutants from point sources to the waters of the United States without a permit issue under section 402 of the CWA, 42 U.S.C § 1342, and consequently violate section 301(a) of the CWA, 33 U.S.C. § 1311(a).

COMPLIANCE REQUIREMENTS

16. **BASED ON THE FOREGOING FINDINGS** and the authority vested in the undersigned Director, Water Division, **IT IS HEREBY ORDERED** in accordance with sections 308(a) and 309(a)(3) of the CWA, 33 U.S.C. §§ 1318(a) & 1319(a)(3), that Respondent complete the actions detailed in the following paragraphs.
17. Within 14 calendar days of receipt of this Order, Respondent must submit a written certification of its intent to comply with this Order.
18. Respondent must continuously manage, operate, and maintain all parts of its sanitary sewer system in accordance with the CWA. This includes, but is not limited to:
 - a. Providing adequate capacity to convey base flows and peak flows for all parts of the sewer system;
 - b. Eliminating all known SSOs and continuing to monitor for the existence of new SSOs for all parts of the sewer system;
 - c. Taking all feasible steps to stop SSOs and to mitigate the impact of SSOs from the sewer system; and
 - d. Providing notification to all parties with a reasonable potential for exposure to pollutants associated with any overflow event.
19. Within 14 calendar days of receipt of this Order, Respondent must implement a procedure to report all SSOs from its sewers. This procedure must include:
 - a. Verbal notification to the Lake County Health Department (1-219-755-3655) within one hour of learning of the SSO. Verbal notification must include location of the SSO, the receiving water, if any, and an estimate of the volume of the SSO.
 - b. A written report to the Indiana Department of Environmental Management (IDEM) by fax at 1-317-232-8637 or by e-mail at

wwreports@IDEM.IN.gov within five calendar days of the date Respondent became aware of the overflow. The written report must contain:

- i. The location of the SSO;
 - ii. The receiving water, if any;
 - iii. An estimate of the volume of the SSO;
 - iv. A description of the sewer component from which the release occurred;
 - v. The estimated date and time when the overflow began and stopped or will be stopped;
 - vi. The cause or suspected cause of the overflow;
 - vii. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the overflow and a schedule of major milestones for those steps; and
 - viii. Steps taken or planned to mitigate the impact(s) of the overflow and a schedule of milestones for those steps.
- c. A copy of any notification made to IDEM regarding the discharges of sanitary sewage from its collection system to EPA. All copies should be mailed to the following address:

Water Enforcement and Compliance Assurance Branch (WC-15J)
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604-3590
Attention: Jennifer Jungmann, PE, Environmental Engineer

20. Within 60 calendar days of receipt of this Order, Respondent must submit to EPA for approval an Overflow Emergency Response Plan that identifies measures to mitigate the impacts of any SSO, and protect public health and the environment. This plan must include, but is not be limited to:
- a. A mechanism to ensure that Respondent is made aware of all SSOs from the sewer system;
 - b. Procedures and an implementation plan to ensure responses to SSOs, including ensuring that reports of overflows are immediately dispatched to personnel for investigation and response;

- c. Procedures and an implementation plan to ensure that personnel are aware of, trained on, and follow the Overflow Emergency Response Plan;
 - d. Procedures and an implementation plan for emergency operations; and
 - e. A public notification plan for SSO events through the local news media, internet postings, billing inserts, or other means, including signs or barricades to restrict access to areas potentially impacted by SSOs.
21. Within 30 calendar days of approval by EPA, Respondent must implement the approved Overflow Emergency Response Plan.
22. Within 180 calendar days of receipt of this Order, Respondent must perform an alternatives analysis of infrastructure improvements to eliminate SSOs from the Cline Avenue equalization basin and must submit to EPA a report documenting the findings and recommendations from the alternatives analysis. This analysis must include, at a minimum:
- a. An engineering analysis of proposed alternatives to eliminate SSOs from the Cline Avenue equalization basin;
 - b. Cost estimation information for each evaluated alternative; and
 - c. The recommended alternative for eliminating SSOs from the Cline Avenue equalization basin and an implementation schedule for the construction and achievement of full operational status of the recommended alternative.
23. If EPA, in consultation with IDEM, determines that the alternatives analysis or its included implementation schedule is unacceptable, EPA will notify Respondent and provide corrective comments as appropriate. Respondent must make the necessary revisions, incorporating EPA's comments, within 30 calendar days of the date of the notification from EPA.
24. Within 30 calendar days of EPA's approval of the alternatives analysis, Respondent must begin implementing the recommendations of the analysis on the schedule contained in the approved analysis. This Order will incorporate the implementation schedule after approved by EPA.
25. Commencing for the calendar year 2012, Respondent will prepare annual reports for submission to EPA. The annual report will convey the following information:
- a. Respondent's progress on the projects described in the alternatives analysis implementation schedule, including specific references to the projects in that

schedule. Respondent must identify any deficiencies and all steps that have been taken or will be taken to correct the deficiencies.

- b. An inventory of all SSOs from Respondent's sanitary sewers for the previous year, identifying the dates, sources, estimated volumes, receiving waters and principal pollutants contained in the discharges. Respondent must also issue a press release informing the public of the availability of the inventory and make the inventories available on its principal webpage.

The annual reports must be postmarked by January 31 of the year following the year subject to reporting to the Water Enforcement and Compliance Branch Chief at the address provided in Order Paragraph 19, above.

26. This Order will become effective immediately on the date the Respondent receives it, **unless within five days** of receipt Respondent requests an informal conference to discuss the Order and to present any information it wishes EPA to consider regarding this document. Unless it is withdrawn or modified based on information presented in the informal conference, the Order will become effective five days from the informal conference. If an informal conference is requested, it will be held at EPA's Region 5 offices at 77 West Jackson Boulevard, Chicago, Illinois. Alternatively, it can be conducted by telephone at Respondent's request. Respondent may be represented by counsel at the informal conference, but the conference will not take the form of a hearing. To request an informal conference, Respondent should contact Jennifer Jungmann at (312) 353-4627, or Respondent's attorney may contact Robert Guenther of our Office of Regional Counsel at (312) 886-0566.

GENERAL PROVISIONS

27. Respondent must submit all information required by this Order under an authorized signature, by a person with the authority to sign NPDES permit applications and reports described in 40 C.F.R. § 122.22, using the following certification:

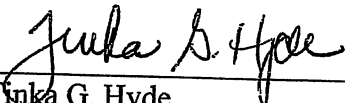
I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage 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.

28. Should the signatory find that any portion of its response is false or incorrect, Respondent must notify EPA Region 5 immediately. Knowing submittal of false information to EPA in response to this request may subject you to criminal prosecution under section 309(c) of the CWA, 33 U.S.C. § 1319(c), as well as 18 U.S.C. §§ 1001 and 1341.
29. Pursuant to 40 C.F.R. part 2, subpart B, Respondent is entitled to assert a claim of business confidentiality regarding any portion of the information submitted in response to this Order, except effluent data, as defined at 40 C.F.R. § 2.302(a)(2). If Respondent fails to assert a claim of business confidentiality, EPA may make all submitted information available to the public without further notice. Information subject to a claim of business confidentiality is available to the public only to the extent provided in 40 C.F.R. part 2, subpart B.
30. This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520, because it seeks collection of information by an Agency in an enforcement action or investigation from specific individuals or entities.
31. Any information submitted in response to this Order may be used by EPA in support of an administrative, civil, or criminal action against Respondent. Respondent's failure to fully comply with this Order may subject Respondent to an enforcement action under section 309 of the CWA, 33 U.S.C. § 1319. The CWA includes provisions for administrative penalties, for civil injunctive relief and penalties, and for criminal sanctions for violations of the CWA.
32. Compliance with this Order does not restrict EPA's authority to enforce section 301(a), 33 U.S.C. § 1311(a), or any other section of the CWA, nor does it limit EPA's authority to seek appropriate relief, including penalties under section 309 of the CWA, 33 U.S.C. § 1319, for the violations cited in this order, any other violations of the CWA, or to enforce this Order.

CERTIFICATION OF COMPLETION

33. After Respondent concludes that it has complied with all requirements of this Order, Respondent may submit to EPA a written certification of completion describing the actions taken to comply with the requirements of this Order.

34. After review of Respondent's certification of completion submitted pursuant to Paragraph 33, EPA will notify Respondent whether it has satisfied the requirements of the Order. If EPA determines that not all of the requirements of the Order have been satisfied, the Order will remain in effect. If EPA determines that all of the requirements of the Order have been satisfied, EPA will provide written notification to Respondent of termination of the Order.



Tinka G. Hyde
Director, Water Division

Date: 2/10/2012

ATTACHMENT A. SSO occurrences between 4/17/2006 and 6/10/2011

Violation number	Date	Sanitary Sewer Overflow Location	Receiving Water
1	4/17/2006	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station
2	9/14/2006	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station
3	8/20/2007	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station
4	1/8/2008	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station
5	8/5/2008	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station
6	9/13/2008	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station
7	12/27/2008	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station
8	3/8/2009	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station
9	4/6/2009	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station
10	10/30/2009	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station
11*	6/23/2010	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station
12*	4/26/2011	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station
13*	5/27/2011	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station
14*	6/10/2011	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station

*SSO reported to US EPA in August 15, 2011 inspection.

Attachment

AUTHORITY AND CONFIDENTIALITY PROVISIONS

Authority

Information requests are made under authority provided by Section 308 of the Clean Water Act, 33 U.S.C. 1318. Section 308 provides that: "Whenever required to carry out the objective of this Act, ...the Administrator shall require the owner or operator of any point sources to (i) establish and maintain such records, (ii) make such reports, (iii) install, use and maintain such monitoring equipment and methods (including where appropriate, biological monitoring methods), (iv) sample such effluent... and (v) provide such other information as he may reasonably require; and the Administrator or his authorized representative, upon presentation of his credentials, shall have a right of entry to...any premises in which an effluent source is located or in which any records...are located, and may at reasonable times have access to and copy any records...and sample any effluents..."

Please be advised that the submission of false statements is subject to federal prosecution under 18 U.S.C. §1001 and that this or any other failure to comply with the requirements of Section 308 as requested by U.S. EPA may result in enforcement action under the authority of Section 309 of the Clean Water Act, which provides for specified civil and/or criminal penalties.

Confidentiality

U.S. EPA regulations concerning confidentiality and treatment of business information are contained in 40 CFR Part 2, Subpart B. Information may not be withheld from the Administrator or his authorized representative because it is viewed as confidential. However, when requested to do so, the Administrator is required to consider information to be confidential and to treat it accordingly, if disclosure would divulge methods or processes entitled to protection as trade secrets (33 U.S.C. §1318(b) and 18 U.S.C. §1905), except that effluent data (as defined in 40 CFR §2.302(a)(2)) may not be considered by U.S. EPA as confidential.

The regulations provide that one may assert a business confidentiality claim covering part or all of any trade secret information furnished to U.S. EPA at the time such information is provided to the Agency. The manner of asserting such claims is specified in 40 CFR §2.203(b). In the event that a request is made for release of information covered by such claim of confidentiality or the Agency otherwise decides to make determination as to whether or not such information is entitled to such confidential treatment, notice will be provided to the claimant prior to any release of the information. However, if no claim of confidentiality is made when information is furnished to U.S. EPA, any information submitted to the Agency may be made available to the public without prior notice.

Note: This information request is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 et seq.