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west virginia department of environmental protection

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Division of Water and Waste Management  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304  
Phone: (304) 926-0470  
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Earl Ray Tomblin, Governor  
Randy C. Huffman, Cabinet Secretary  
[www.dep.wv.gov](http://www.dep.wv.gov)

**CONSENT ORDER  
ISSUED UNDER THE  
WATER POLLUTION CONTROL ACT  
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 11**

TO: City of Logan  
Hon. Serafino Nolletti  
219 Dingess Street  
Logan, WV 25601

DATE: July 28, 2016

ORDER NO.: 8499

**INTRODUCTION**

This Consent Order is issued by the Director of the Division of Water and Waste Management (hereinafter "Director"), under the authority of West Virginia Code, Chapter 22, Article 11, Section 1 et seq. to City of Logan.

**FINDINGS OF FACT**

In support of this Order, the Director hereby finds the following:

1. City of Logan operates a combined wastewater collection system and a 0.53 million gallons per day oxidation ditch wastewater treatment plant located in Logan, Logan County, West Virginia. City of Logan was reissued WV/NPDES Water Pollution Control Permit No. WV0033821 on July 25, 2012.
2. On April 26, 2005, a consolidation committee meeting of the West Virginia Infrastructure and Jobs Development Council (IJDC) was held to review City of Logan's application to upgrade its existing system. The IJDC rejected City of Logan's application and recommended that its services be consolidated with Logan County PSD.
3. On January 15, 2015, West Virginia Department of Environmental Protection (WVDEP) personnel conducted an inspection of the facility and collection system. During the inspection, violations of the following sections of WV Legislative Rules and City of Logan's WV/NPDES permit were observed and documented:

- a. 47CSR2 Section 3.2.b-City of Logan caused conditions not allowable in waters of the State by creating deposits or sludge banks in the creek at Combined Sewer Overflow (CSO) Outlet No. C004.
- b. Section E.01- City of Logan allowed a dry weather discharge at CSO Outlet No. C004.
- c. Appendix A.II.1-City of Logan failed to properly operate and maintain all facilities and systems of treatment and control. Specifically:
  - i. City of Logan failed to keep the trash net in place at CSO Outlet No. C004 to prevent solids from entering the receiving stream.
  - ii. The main pump station generator was low on fuel and had not been run or tested since September 2014.
  - iii. Only one oxidation ditch rotor at a time was run for treatment.
  - iv. There was a layer of white foam in the oxidation ditch.
  - v. There were sludge masses and denitrifying sludge in the clarifier.
  - vi. The sludge digester had no air being supplied to it due to a broken motor that had been removed.
  - vii. There was a large amount of sludge in the drying bed that had potential to spill over onto the ground.
  - viii. The grit removal device was broken and had been removed from the plant.
  - ix. One (1) of the three (3) oxidation ditch rotor motors was broken at the time of inspection.
  - x. The sludge digester motor was broken and had been removed. No air was being supplied to the digester.
- d. Section F.2.b.2-City of Logan failed to submit the formalin log for industrial user Collins-Slater Funeral Home.
- e. Section A.001 – Upon review of facility records from the time period of October 2014 through December 2014, exceedances of City of Logan’s permit parameters were observed and documented.

As a result of the aforementioned violations, Notice of Violation (NOV) Nos. W15-23-006-CJN, W15-23-007-CJN, W15-23-008-CJN, W15-23-009-CJN, W15-23-011-CJN, and W15-23-010-CJN were issued to City of Logan.

4. On February 11, 2015, City of Logan and WVDEP entered into Order No. 8157. The Order was issued in response to City of Logan’s WV/NPDES permit and WV Legislative Rules violations and included Discharge Monitoring Report (DMR) exceedances through the time period of September 30, 2014. Order for Compliance No. Two (2) of the Order required submittal, within fifteen (15) days of the effective date, of a Plan of Corrective Action (POCA) outlining action items and completion dates for how and when the City of Logan would achieve compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules.
5. On April 15, 2015, WVDEP issued Order No. 8275 to City of Logan. The Order was issued in response to City of Logan’s failure to submit an approvable CSO Long Term Control Plan (LTCP).

6. On May 22, 2015, WVDEP personnel conducted an inspection of the facility. During the inspection, a violation of the following section of WV State Code was observed and documented:
  - a. 22-11-1 et seq.-City of Logan failed to comply with Order No. 8157 by failing to submit a POCA.

As a result of the aforementioned violation, NOV No. W15-23-050-CJN was issued to City of Logan.

7. On June 9, 2015, WVDEP personnel received correspondence from Dunn Engineers, Inc. regarding City of Logan's exploration of the feasibility of refurbishing, upgrading, or converting the aforementioned wastewater treatment plant to a CSO treatment facility. The correspondence stated that these possibilities were being discussed with WVDEP personnel and the Logan County Public Service District.
8. On June 15, 2015, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following section of City of Logan's WV/NPDES permit were observed and documented:
  - a. Appendix A.II.1-City of Logan failed to properly operate and maintain all facilities and systems of treatment and control. Specifically:
    - i. Only one oxidation ditch rotor at a time was run for treatment.
    - ii. There were sludge masses and denitrifying sludge in the clarifier.
    - iii. The sludge digester was beginning to turn septic.
    - iv. The grit removal device was broken and had been removed from plant.
  - b. Section A.001-Upon review of facility records from the time period of January 2015 through April 2015 exceedances of City of Logan's permit parameters were observed and documented.

As a result of the aforementioned violations, NOV Nos. W15-23-067-CJN and W15-23-066-CJN were issued to City of Logan.

9. On July 8, 2015, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV State Code and City of Logan's WV/NPDES permit were observed and documented:
  - a. Section A.001-Outfall No. 001 had a Total Residual Chlorine result of 1.62 mg/l during this inspection, which exceeds the Maximum Daily limit of 0.057 mg/l.
  - b. Appendix A.II.1-City of Logan failed to properly operate and maintain the facility. Specifically:
    - i. The grit unit was out of service due to an out of service pump.
    - ii. There was no organized process control program in place for the facility.
    - iii. The sludge decant tank was septic (black in color with a sulfide odor).
    - iv. Vacuum Bed No. 2 was unable to pull a vacuum as designed.
    - v. Only one of the three pumps was operational at the Main Lift Station.
    - vi. Calibration records for the pH and Dissolved Oxygen meters were not completed.

- c. Appendix A.III.6-City of Logan failed to retain records. Specifically:
  - i. The operator was only able to provide the latest Discharge Monitoring Report (DMR) and laboratory records during inspection. No other DMRs or accompanying records were available for review.
  - ii. The daily operation log was last completed in April 2015.
  - iii. The lift station log was last completed in October 2014.
  - iv. No maintenance records were kept.
- d. Appendix A.III.1-The sludge amounts included on the Sludge Management Reports were estimated, inconsistent, and not representative of the monitored activity.
- e. Section F.2.b.2-No quarterly formalin logs could be located for industrial user Collins-Slater Funeral Home during the time period of 2014 and 2015.
- f. Chapter 22-11-1 et seq.-City of Logan failed to comply with Order No. 8157 by failing to submit a POCA.

As a result of the aforementioned violations, NOV No. CM-DAK-07-09-15-NOV1 was issued to City of Logan.

- 10. On December 8, 2015, in correspondence to City of Logan, WVDEP discussed concerns regarding the interpretation that the City's bond covenants would not allow for use of the existing wastewater treatment facility as a CSO treatment facility with the daily flow being treated at the Logan County PSD facility. Based upon a review of existing bond covenants, City of Logan is required to maintain the system in good condition, operate it as a revenue-producing enterprise, and make expenditures for equipment, renewal, repair, and replacement as required for the economical operation and maintenance thereof. This does not specifically require that the existing plant be in use as a primary treatment facility for the life of the bonds; therefore, the City can contract for the treatment of its sewage at the Logan County PSD wastewater treatment facility, as recommended during the aforementioned April 26, 2005 IJDC consolidation committee meeting. In addition, the correspondence reflected that this course of action would allow City of Logan to resolve its WV/NPDES permit exceedances in an expedient manner, make a good faith effort to comply with CSO WV/NPDES requirements, and share operation and maintenance expenditures with Logan County PSD. Lastly, the letter requested that City of Logan work with WVDEP personnel to obtain approval of its LTCP.
- 11. On January 26, 2016, WVDEP personnel conducted a review of facility records from the time period of October 2014 through December 2015. During this review, the following violations of the terms and conditions of City of Logan's WV/NPDES permit were observed:
  - a. Section A.001 – Forty-four (44) exceedances of City of Logan's permit parameters were observed and documented (Table 1). These exceedances can be further defined as:
    - i. Minor violations-nineteen (19)
    - ii. Moderate violations-eight (8)
    - iii. Major violations-seventeen (17)

- b. Section F.2.b.2-No quarterly formalin logs were submitted for industrial user Collins-Slater Funeral Home for the previous eight (8) quarters.
12. On April 6, 2016, WVDEP personnel met with representatives of City of Logan to discuss the terms and conditions of the Order.
13. On June 1, 2016, City of Logan submitted financial documents to WVDEP. The information was used to perform an economic analysis which evaluated the City of Logan's ability to pay a civil administrative penalty.

**ORDER FOR COMPLIANCE**

Now, therefore, in accordance with Chapter 22, Article 11, Section 1 et seq. of the West Virginia Code, it is hereby agreed between the parties, and ORDERED by the Director:

1. City of Logan shall immediately take all measures to initiate compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules.
2. Within fifteen (15) days of the effective date of this Order, City of Logan shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when City of Logan will achieve compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules. The plan of corrective action shall make reference to WV/NPDES Permit No. WV0033821 and Order No. 8499. The plan of corrective action shall be submitted to:

**Chief Inspector  
Environmental Enforcement - Mail Code #031328  
WVDEP  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304**

Upon approval, the plan of corrective action and schedule shall be incorporated into and become part of this Order, as if fully set forth herein. Failure to submit an approvable plan of corrective action and schedule or failure to adhere to the approved schedule is a violation of this Order.

3. Within ninety (90) days of the effective date of this Order, due to the aforementioned April 26, 2005 IJDC determination that services should be consolidated and in consideration of the violations in this Order and previously issued Order Nos. 8157 and 8275, City of Logan shall provide written notification to WVDEP regarding its plan to tie its collection system into Logan County Public Service District's wastewater treatment plant. The notification shall include an approvable plan and schedule, which shall be submitted to:

**Chief Inspector  
Environmental Enforcement - Mail Code #031328  
WVDEP  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304**

Upon approval, the facility plan and schedule shall be incorporated into and become part of this Order, as if fully set forth herein. Failure to submit an approvable facility plan and schedule or failure to adhere to the approved schedule is a violation of this Order.

4. Because of City of Logan's West Virginia Code, Legislative Rule and permit violations, City of Logan shall be assessed a civil administrative penalty of thirty thousand dollars (\$30,000) to be paid to the West Virginia Department of Environmental Protection for deposit in the Water Quality Management Fund in accordance with the following schedule:

Payment 1 in the amount of \$5000.00 due on or before September 1, 2016.  
Payment 2 in the amount of \$5000.00 due on or before October 1, 2016.  
Payment 3 in the amount of \$5000.00 due on or before November 1, 2016.  
Payment 4 in the amount of \$5000.00 due on or before December 1, 2016.  
Payment 5 in the amount of \$5000.00 due on or before January 1, 2017.  
Payment 6 in the amount of \$5000.00 due on or before February 1, 2017.

Payments made pursuant to this paragraph are not tax-deductible for purposes of State or federal law. **Payment shall include a reference to the Order No. and shall be mailed to:**

**Chief Inspector  
Environmental Enforcement - Mail Code #031328  
WV-DEP  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304**

#### **OTHER PROVISIONS**

1. City of Logan hereby waives its right to appeal this Order under the provisions of Chapter 22, Article 11, Section 21 of the Code of West Virginia. Under this Order, City of Logan agrees to take all actions required by the terms and conditions of this Order and consents to and will not contest the Director's jurisdiction regarding this Order. However, City of Logan does not admit to any factual and legal determinations made by the Director and reserves all rights and defenses available regarding liability or responsibility in any proceedings regarding City of Logan other than proceedings, administrative or civil, to enforce this Order.
2. The Director reserves the right to take further action if compliance with the terms and conditions of this Order does not adequately address the violations noted herein and reserves all rights and defenses which he may have pursuant to any legal authority, as well as the right to raise, as a basis for supporting such legal authority or defenses, facts other than those contained in the Findings of Fact.
3. If any event occurs which causes delay in the achievement of the requirements of this Order, City of Logan shall have the burden of proving that the delay was caused by circumstances beyond its reasonable control which could not have been overcome by due diligence (i.e., force majeure). Force majeure shall not include delays caused or

contributed to by the lack of sufficient funding. Within three (3) working days after City of Logan becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and City of Logan shall, within ten (10) working days of initial notification, submit a detailed written explanation of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and a timetable by which City of Logan intends to implement these measures. If the Director agrees that the delay has been or will be caused by circumstances beyond the reasonable control of City of Logan (i.e., force majeure), the time for performance hereunder shall be extended for a period of time equal to the delay resulting from such circumstances. A force majeure amendment granted by the Director shall be considered a binding extension of this Order and of the requirements herein. The determination of the Director shall be final and not subject to appeal.

4. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving City of Logan of the obligation to comply with any applicable law, permit, other order, or any other requirement otherwise applicable. Violations of the terms and conditions of this Order may subject City of Logan to additional penalties and injunctive relief in accordance with the applicable law.
5. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall remain in full force and effect.
6. This Order is binding on City of Logan, its successors and assigns.
7. This Order shall terminate upon City of Logan's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.

  
\_\_\_\_\_  
Hon. Serafino Nolletti  
City of Logan

8-16-16  
\_\_\_\_\_  
Date

Public Notice begin:

\_\_\_\_\_  
Date

Public Notice end:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Scott G. Mandirola, Director  
Division of Water and Waste Management

\_\_\_\_\_  
Date

RECEIVED

SEP 07 2016

ENVIRONMENTAL  
ENFORCEMENT

Table One: City of Logan DMR Exceedance Summary

Outlet 001 DMR Exceedances - AVG. MONTHLY - Oct. 2014 through December 2015						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
						-	-	-
Oct. 2014	Total Kjeldahl Nitrogen	mg/l	18	18.8	4%	X	-	-
Nov. 2014	Fecal Coliform	cnts/100m	400	7200	1700%	-	-	X
Jan. 2015	Fecal Coliform	cnts/100m	200	8400	4100%	-	-	X
Jan. 2015	BOD, 5-Day 20 Deg. C	mg/l	30	34.4	15%	X	-	-
Jan. 2015	BOD, 5-Day 20 Deg. C	Lbs/Day	133	173	30%	X	-	-
Jan. 2015	Total Suspended Solids	Lbs/Day	133	145.4	9%	X	-	-
Jan. 2015	Total Kjeldahl Nitrogen	Lbs/Day	80	96.4	21%	X	-	-
Jan. 2015	Total Kjeldahl Nitrogen	mg/l	18	19.9	11%	X	-	-
Feb. 2015	Fecal Coliform	cnts/100m	200	4000	1900%	-	-	X
Mar. 2015	Fecal Coliform	cnts/100m	200	1320	560%	-	-	X
Apr. 2015	Fecal Coliform	cnts/100m	200	22000	10900%	-	-	X
May 2015	Fecal Coliform	cnts/100m	200	2000	900%	-	-	X
August 2015	Fecal Coliform	cnts/100m	200	441000	220400%	-	-	X
Sept 2015	Fecal Coliform	cnts/100m	200	308000	153900%	-	-	X
Sept 2015	Total Kjeldahl Nitrogen	mg/l	18	20.1	12%	X	-	-
Oct 2015	Fecal Coliform	cnts/100m	200	1000	400%	-	-	X
Oct 2015	Total Residual Chlorine	mg/l	0.028	0.17	507%	-	-	X

Outlet 001 DMR Exceedances - MAX. DAILY - Oct. 2014 through December 2015						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
						-	-	-
Nov. 2014	Fecal Coliform	cnts/100m	400	7200	1700%	-	-	X
Jan. 2015	Fecal Coliform	cnts/100m	400	8400	2000%	-	-	X
Feb. 2015	Fecal Coliform	cnts/100m	400	4000	900%	-	-	X
Mar. 2015	Fecal Coliform	cnts/100m	400	1320	230%	-	X	-
Apr. 2015	Fecal Coliform	cnts/100m	400	22000	5400%	-	-	X
May 2015	Fecal Coliform	cnts/100m	400	2000	400%	-	X	-
August 2015	Fecal Coliform	cnts/100m	400	441000	110150%	-	-	X
Sept 2015	Fecal Coliform	cnts/100m	400	308000	76900%	-	-	X
Oct 2015	Fecal Coliform	cnts/100m	400	1000	150%	-	X	-
Oct 2015	Total Residual Chlorine	mg/l	0.057	0.17	198%	-	X	-

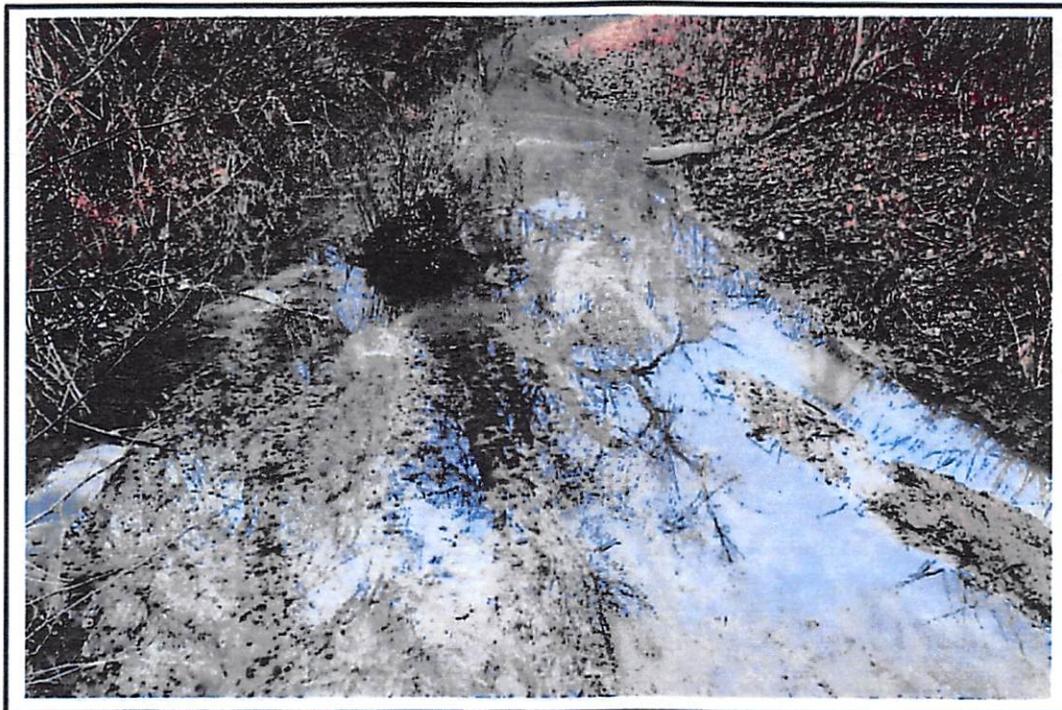
Outlet 001 Exceedances - Minimum 85% Removal - Oct. 2014 through December 2015						Degree of non-compliance		
Date	Parameter	Units	Permitted Minimum % Removal	Reported % Removal	% Exceedance	Min	Mod	Maj
						-	-	-
Nov. 2014	BOD Removal Dry	%	85.0	82.5	2.9%	X	-	-
Nov. 2014	TSS Removal Dry	%	85.0	83.5	1.8%	X	-	-
Dec. 2014	BOD Removal Dry	%	85.0	80	5.9%	X	-	-
Jan. 2015	BOD Removal Wet	%	65.0	44.5	31.5%	X	-	-
Jan. 2015	BOD Removal Dry	%	85.0	44.5	47.6%	-	X	-
Jan. 2015	TSS Removal Dry	%	85.0	82.9	2.5%	X	-	-
Feb. 2015	BOD Removal Wet	%	65.0	64	1.5%	X	-	-
Feb. 2015	TSS Removal Wet	%	65.0	37	43.1%	-	X	-
Feb. 2015	TSS Removal Dry	%	85.0	37	56.5%	-	X	-
Feb. 2015	BOD Removal Dry	%	85.0	64	24.7%	X	-	-
Mar. 2015	BOD Removal Dry	%	85.0	83	2.4%	X	-	-
Mar. 2015	TSS Removal Dry	%	85.0	76.3	10.2%	X	-	-
June 2015	TSS Removal Dry	%	85.0	71	16.5%	X	-	-
Nov. 2015	BOD Removal Dry	%	85.0	78	8.2%	X	-	-
Nov. 2015	TSS Removal Dry	%	85.0	10	88.2%	-	-	X
Dec. 2015	BOD Removal Dry	%	85.0	54	36.5%	-	X	-
Dec. 2015	TSS Removal Dry	%	85.0	81	4.7%	X	-	-

Outlet 001 Totals		Degree of non-compliance		
		Min	Mod	Maj
		19	8	17

Photo Attachment



1/15/2015 – Sludge banks and debris in creek at C004.

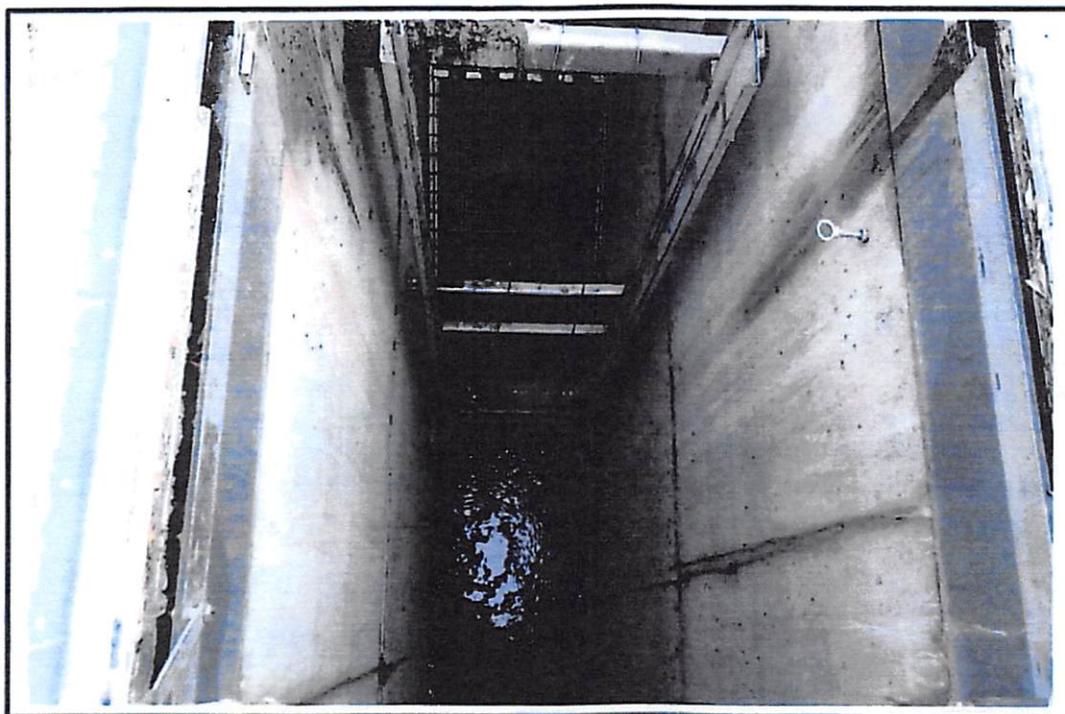


1/15/2015 – Sludge banks and debris in creek at C004.

Photo Attachment

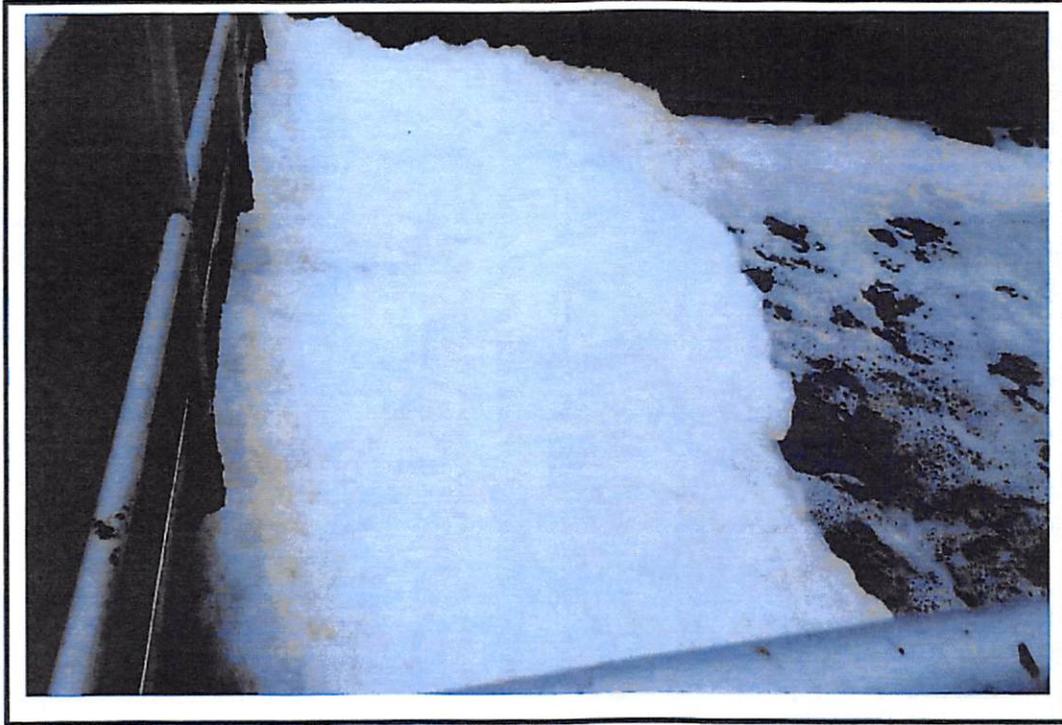


1/15/2015 – Sludge banks and debris in creek at C004.

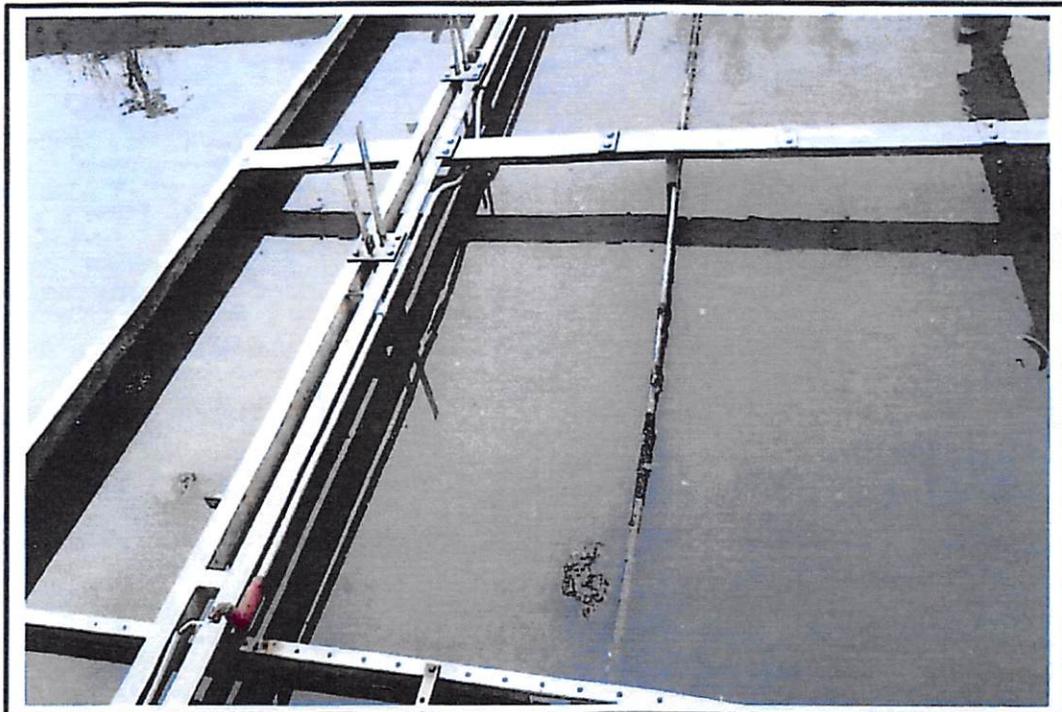


1/15/2015 – No trash net in place at C004.

Photo Attachment



1/15/2015 – White foam in oxidation ditch.



1/15/2015 – Clarifier with no clarity and floating sludge masses.

Photo Attachment



1/15/2015 – Sludge holding tank.



1/15/2015 – Sludge drying bed.

Photo Attachment

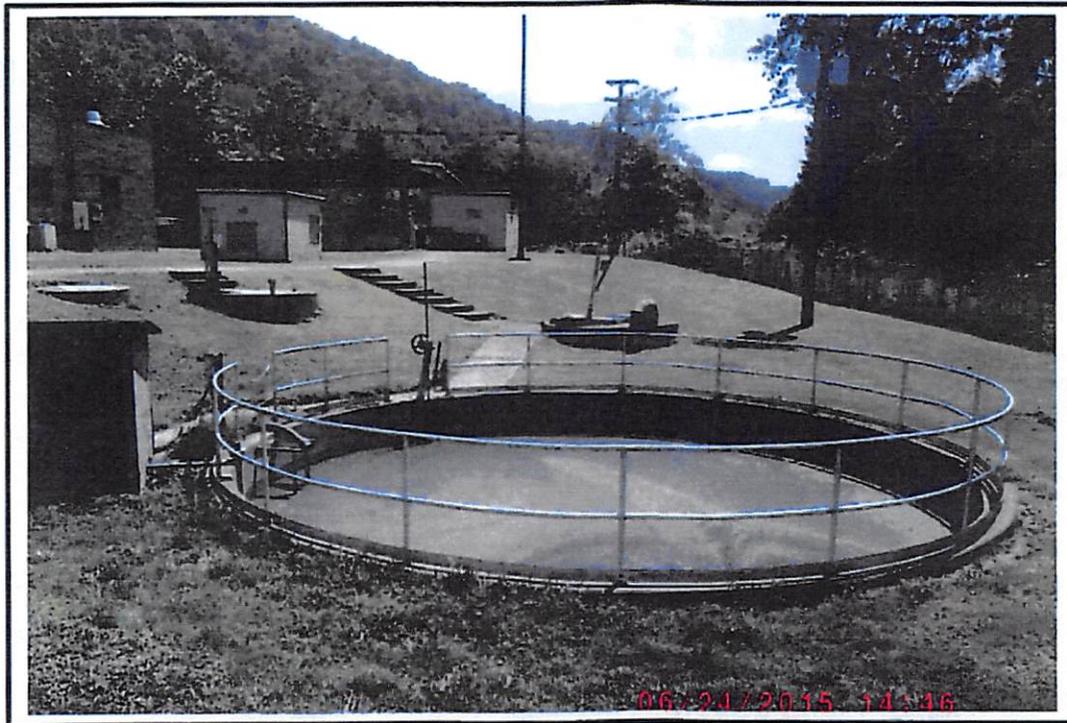


6/24/2015 – Oxidation ditch.

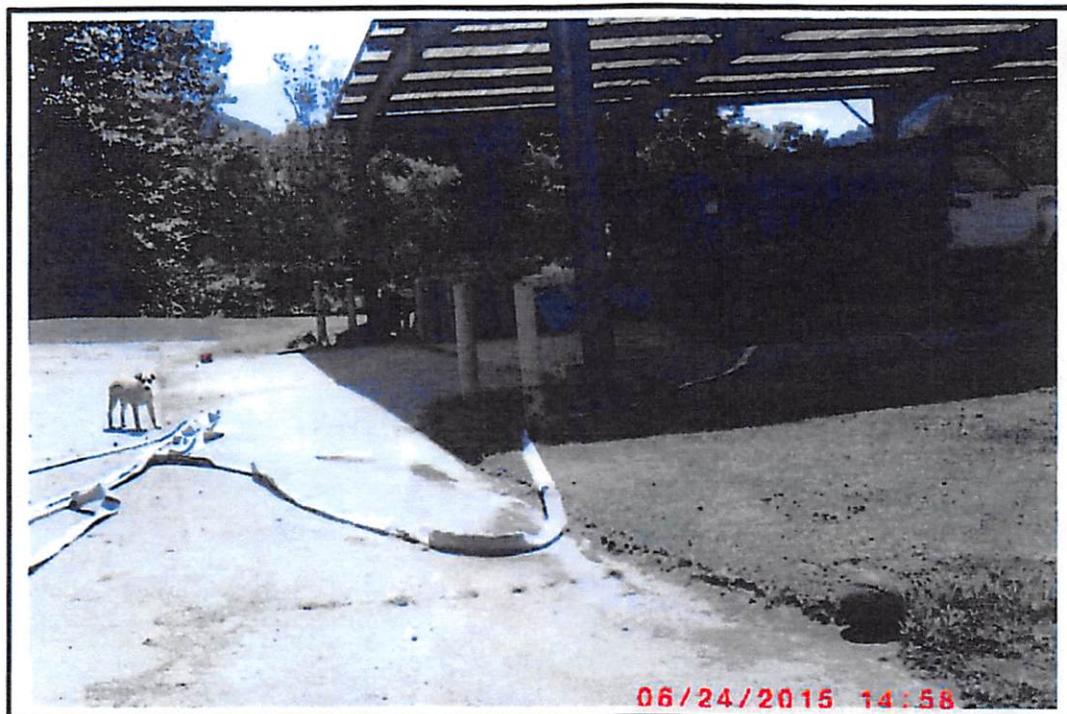


6/24/2015 – Sludge buildup in clarifier.

Photo Attachment



6/24/2015 – Sludge holding tank.



6/24/2015 – Hoses lying around plant.

Photo Attachment



6/24/2015 – Hoses lying around plant.

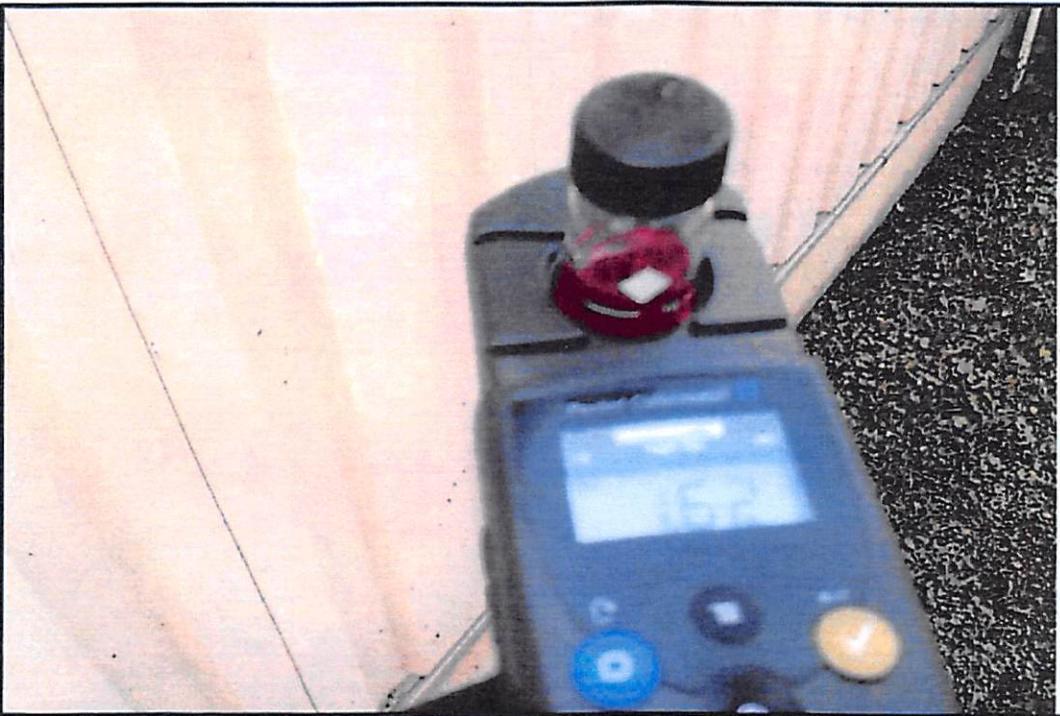


7/8/15- Unchained cylinders.

Photo Attachment

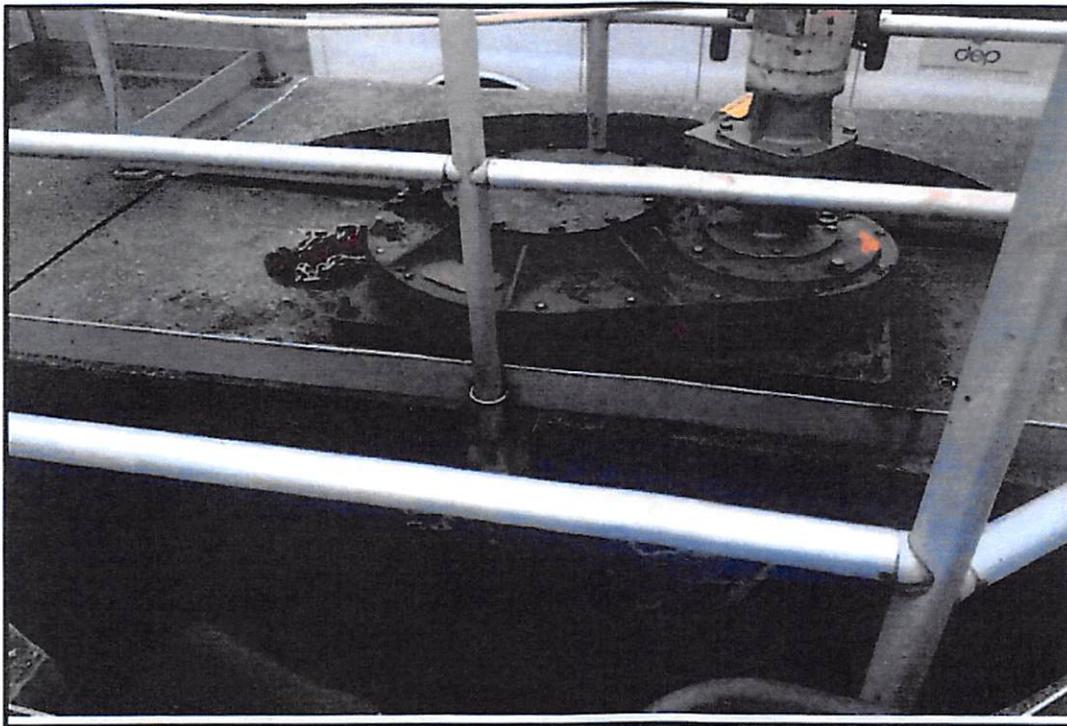


7/8/2015 – Fountain Place Lift Station



7/9/2015 – TRC sample result.

Photo Attachment

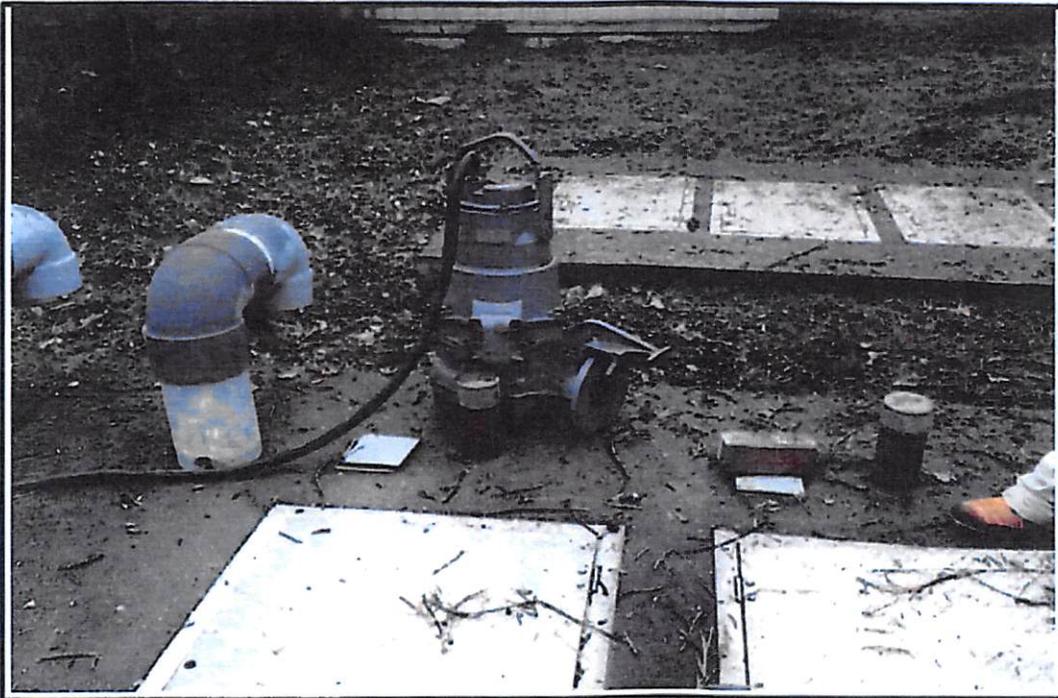


7/9/2015 – Out of service grit unit.

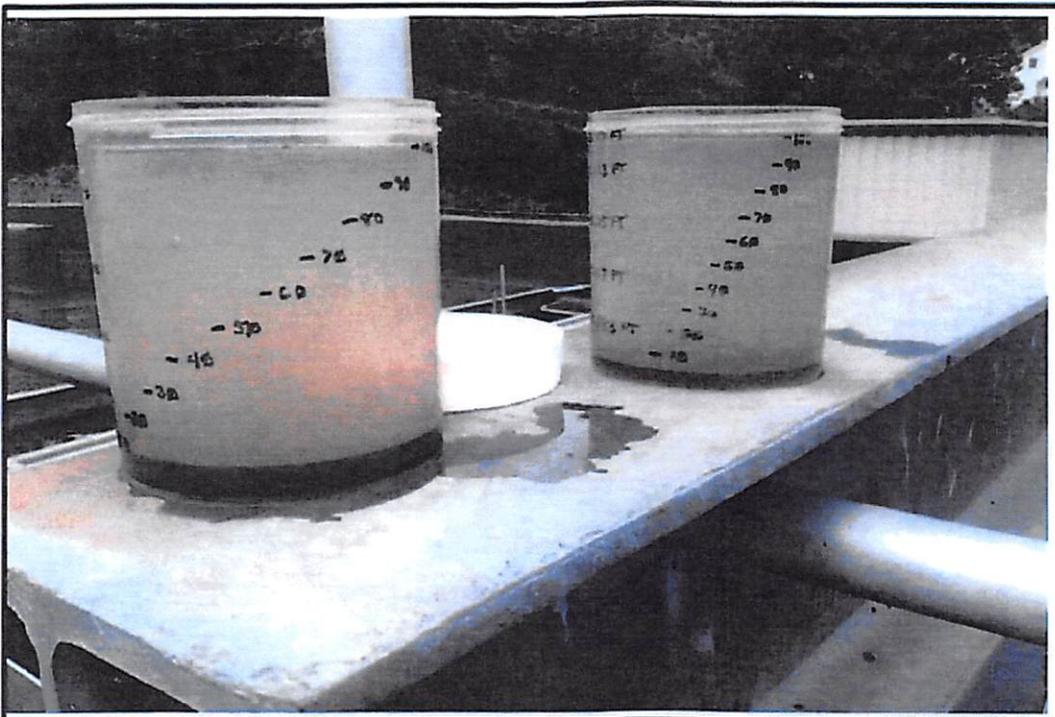


7/8/2015 – Sludge decant tank.

Photo Attachment

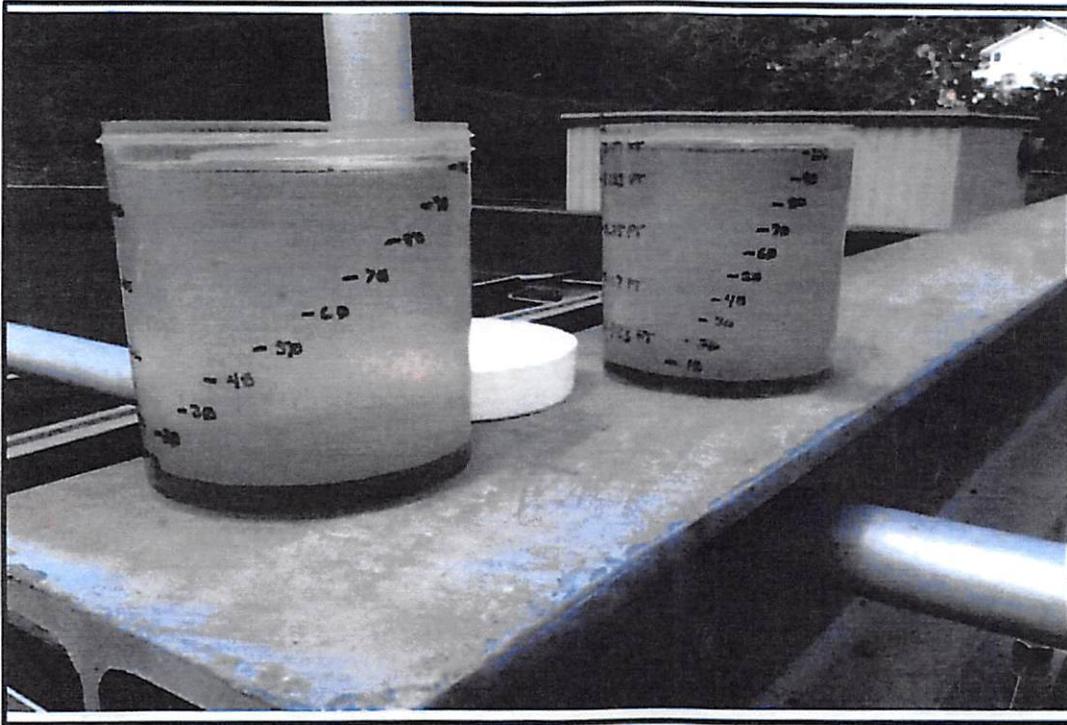


7/8/2015 – Main Lift Station Pump out of service.



7/9/2015 – Settleometer-5 minutes

Photo Attachment



7/9/2015 – Settleometer- 30 minutes

## Base Penalty Calculation

(pursuant to 47CSR1-6.1)

Responsible Party: City of Logan Receiving Stream:  

Treatment System Design Maximum Flow: 0.53 MGD

Treatment System Actual Average Flow:   MGD (if known)

Enter FOF# and rate each finding as to Potential and Extent.

1)	Potential for Harm Factor	Factor Range	FOF#												
			3a	3b	3c	6a	8a	9a	9b	9c	9d	9f	11ai	11aii	11aiii
a)	Amount of Pollutant Released	1 to 3	1	1	1	1	1	1	1	1	1	1	1	1	1
b)	Toxicity of Pollutant	0 to 3	1	1	1	0	1	1	1	0	0	0	1	1	1
c)	Sensitivity of the Environment	0 to 3	1	1	1	0	1	1	1	0	0	0	1	1	1
d)	Length of Time	1 to 3	1	1	1	1	2	1	3	1	1	2	1	1	1
e)	Actual Exposure and Effects thereon	0 to 3	1	1	1	0	1	1	1	0	0	0	1	1	1
<b>Average Potential for Harm Factor</b>			1	1	1	0.4	1.2	1	1.4	0.4	0.4	0.6	1	1	1
2)	<b>Extent of Deviation Factor</b>	<b>Factor Range</b>													
	Degree of Non-Compliance	1 to 3	3	3	3	3	3	3	3	3	3	3	1	2	3

**Potential for Harm Factors:**

- 1)c - Sensitivity of the Environment Potentially Affected (0 for "dead" stream)
- 1)d - Length of Time of Violation
- 1)e - Actual Human/Environmental Exposure and Resulting Effects thereon

**Examples/Guidance:**

**Note:** Rate as 1 for Minor, 2 for Moderate and 3 for Major. Rate as 0 if it does not apply.

**Minor** = exceedance of permit limit by <=40% for Avg. Monthly or <=100% for Daily Max., exceed numeric WQ standard by <= 100%, or report doesn't contain some minor information.

**Moderate** = exceedance of permit limit by >= 41% and <= 300% for Avg. Monthly, >= 101% and <= 600% for Daily Max., exceed numeric WQ standard by >= 101% and <= of 600% or report doesn't fully address intended subject matter.

**Major** = exceedance of permit limit by >= 301% for Avg. Monthly, >= 601% for Daily Max., exceed numeric WQ standard by >= 601%, failure to submit a report, failure to obtain a permit, failure to report a spill, etc. Note that a facility in SNC should be rated as major for length of time and degree of non-compliance.

Narrative WQ standard violations - case-by-case.



		Extent of Deviation from Requirement		
		Major	Moderate	Minor
Potential for Harm to Human Health or the Environment	Major	\$8,000 to \$10,000	\$6,000 to \$8,000	\$5,000 to \$6,000
	Moderate	\$4,000 to \$5,000	\$3,000 to \$4,000	\$2,000 to \$3,000
	Minor	\$1,500 to \$2,000	\$1,000 to \$1,500	Up to \$1,000

FOF #	Potential for Harm	Extent of Deviation	Penalty	Multiple Factor	Base Penalty
3a	Minor	Major	\$2,000	1	\$2,000
3b	Minor	Major	\$2,000	1	\$2,000
3c	Minor	Major	\$2,000	1	\$2,000
6a	Minor	Major	\$1,700	1	\$1,700
8a	Moderate	Major	\$4,200	1	\$4,200
9a	Minor	Major	\$2,000	1	\$2,000
9b	Moderate	Major	\$4,400	1	\$4,400
9c	Minor	Major	\$1,700	1	\$1,700
9d	Minor	Major	\$1,700	1	\$1,700
9f	Minor	Major	\$1,800	1	\$1,800
11ai	Minor	Minor	\$1,000	7	\$7,000
11aii	Minor	Moderate	\$1,500	4	\$6,000
11aiii	Minor	Major	\$2,000	16	\$32,000
11b	Minor	Minor	\$400	8	\$3,200
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
<b>Total Base Penalty</b>					<b>\$71,700</b>

## Penalty Adjustment Factors

(pursuant to 47CSR1-6.2)

### Penalty Adjustment Factor

6.2.b.1 - Degree of or absence of willfulness and/or negligence - 0% to 30% increase

6.2.b.4 - Previous compliance/noncompliance history - 0% to 100% increase - based upon review of last three (3) years - Warning = maximum of 5% each, N.O.V. = maximum of 10% each, previous Order = maximum of 25% each - Consistent DMR violations for <1 year = 10% maximum, for >1 year but <2 years = 20% maximum, for >2 years but <3 years = 30% maximum, for >3 years = 40 % maximum

6.2.b.6 - Economic benefits derived by the responsible party (increase to be determined)

6.2.b.7 - Public Interest (increase to be determined)

6.2.b.8 - Loss of enjoyment of the environment (increase to be determined)

6.2.b.9 - Staff investigative costs (increase to be determined)

6.2.b.10 - Other factors

**Size of Violator: 0 - 50% decrease**

**NOTE:** This factor is not available to discharges that are causing a water quality violation. This factor does not apply to a commercial or industrial facility that employees or is part of a corporation that employees more than 100 individuals.

Avg. Daily WW Discharge Flow (gpd)	% Reduction Factor
< 5,000	50
5,000 to 9,999	40
10,000 to 19,999	30
20,000 to 29,999	20
30,000 to 39,999	10
40,000 to 99,999	5
> 100,000	0

**Additional Other factors to be determined for increases or decreases on a case-by-case basis.**

Public Notice Costs (cost for newspaper advertisement)

6.2.b.2 - Good Faith - 10% decrease to 10% increase

6.2.b.3 - Cooperation with the Secretary - 0% to 10% decrease

6.2.b.5 - Ability to pay a civil penalty - 0% to 100% decrease

## Base Penalty Adjustments

(pursuant to 47CSR1-6.2)

Penalty Adjustment Factor	% Increase	% Decrease	Base Penalty Adjustments
6.2.b.1 - Willfulness and/or negligence -	10		\$7,170
6.2.b.4 - Compliance/noncompliance history	50		\$35,850
6.2.b.6 - Economic benefits - (flat monetary increase)			\$0
6.2.b.7 - Public Interest - (flat monetary increase)			\$0
6.2.b.8 - Loss of enjoyment - (flat monetary increase)			\$0
6.2.b.9 - Investigative costs - (flat monetary increase)			\$0
6.2.b.10 - Other factors (size of violator)			\$0
6.2.b.10 - Additional Other Factors - Increase (flat monetary increase)			\$0
6.2.b.10 - Additional Other Factors - Decrease (flat monetary decrease)			\$0
Public Notice Costs (flat monetary increase)	\$30		\$30
6.2.b.2 - Good Faith - Increase			\$0
6.2.b.2 - Good Faith - Decrease		10	(\$7,170)
6.2.b.3 - Cooperation with the Secretary		10	(\$7,170)
6.2.b.5 - Ability to Pay		98.2008	(\$70,410)
<b>Penalty Adjustments</b>			<b>(\$41,700)</b>
<b>Penalty =</b>			<b>\$30,000</b>

Estimated Economic Benefit Item	Estimated Benefit (\$)
Monitoring & Reporting	
Installation & Maintenance of Pollution Control Equipment	
O&M expenses and cost of equipment/materials needed for compliance	
Permit Application or Modification	
Competitive Advantage	
<b>Estimated Economic Benefit</b>	<b>\$0</b>
<b>Comments:</b> Economic benefit considered but not applied.	