



west virginia department of environmental protection

Division of Water and Waste Management
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Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
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**CONSENT ORDER
ISSUED UNDER THE
WATER POLLUTION CONTROL ACT
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 11**

TO: City of Ravenswood
Hon. Michael Ihle, Mayor
212 Walnut St.
Ravenswood, WV 26164

DATE: April 1, 2014
ORDER NO.: 8004

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 Ravenswood (hereinafter "Ravenswood").

FINDINGS OF FACT

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

1. Ravenswood operates a sewage treatment facility located in Ravenswood, Jackson County, West Virginia. Ravenswood was reissued WV/NPDES Water Pollution Control Permit No. WV0021989 on January 31, 2008 and December 31, 2012.
2. On March 12, 2010, West Virginia Department of Environmental Protection (WVDEP) personnel conducted an inspection of the facility. During the inspection, a violation of the following section of the terms and conditions of Ravenswood's WV/NPDES permit was observed and documented:
 - a. Appendix A.IV.2-The permittee failed to report noncompliance at the Sand St. Lift Station which may have endangered the health or the environment immediately after becoming aware of the circumstances by using the Agency's designated spill alert telephone number.

3. On March 15, 2013, WVDEP personnel conducted an inspection of the facility. During the inspection, a violation of the following section of WV Legislative Rules was observed and documented:
 - a. 47CSR11 Section 2.2.a-Ravenswood failed to give immediate notification of spills or accidental discharges into waters of the State at the Old Sewer Plant, Utah Rd., Sand St., and Park Edition Lift Stations by using the Office of Water Resources' Emergency Notification Number.

As a result of the aforementioned violation, Notice of Violation (NOV) No. W13-18-018-GMP was issued to Ravenswood.

4. On September 27, 2013, WVDEP personnel conducted an inspection of the facility. During the inspection, a violation of the following section of the terms and conditions of Ravenswood's WV/NPDES permit was observed and documented:
 - a. Appendix A.IV.2-The permittee failed to report noncompliance at the Gibbs St. Lift Station which may have endangered the health or the environment immediately after becoming aware of the circumstances by using the Agency's designated spill alert telephone number.

As a result of the aforementioned violation, NOV No. W13-18-064-MAZ was issued to Ravenswood.

5. On October 23, 2013, WVDEP personnel conducted a review of facility records from the time period of October 2011 through September 2013. During this review, the following violations of the terms and conditions of Ravenswood's WV/NPDES permit were observed:
 - a. Section A-Twenty-six (26) exceedances of Ravenswood's permit parameters were observed and documented (Table 1). These exceedances can be further defined as:
 - i. Minor violations-Sixteen (16) exceedances
 - ii. Moderate violations-Seven (7) exceedances
 - iii. Major violations-Three (3) exceedances
6. On January 23, 2014, WVDEP personnel and representatives of Ravenswood met to discuss the terms and conditions of this Order.
7. On February 6, 2014, Ravenswood submitted financial documents to WVDEP. The provided information was used to perform an economic analysis which evaluated Ravenswood'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. Ravenswood 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 thirty (30) days of the effective date of this Order, Ravenswood shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Ravenswood 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. WV0021989 and Order No. 8004. The plan of corrective action shall be submitted to:

**WVDEP Environmental Inspector Supervisor
SW Regional Environmental Enforcement Office
PO Box 662
Teays, WV 25569**

A copy of this plan shall be submitted to:

**Chief Inspector
Environmental Enforcement - Mail Code #031328
WVDEP
601 57th 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. Because of Ravenswood's Legislative Rule and permit violations, Ravenswood shall be assessed a civil administrative penalty of thirty-two thousand thirty dollars (\$32,030) to be paid to the West Virginia Department of Environmental Protection for deposit in the Water Quality Management Fund within thirty (30) days of the effective date of this Order. 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 57th Street SE
Charleston, WV 25304**

OTHER PROVISIONS

1. Ravenswood 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, Ravenswood 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, Ravenswood 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 Ravenswood 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, Ravenswood 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 Ravenswood becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and Ravenswood 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 Ravenswood 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 Ravenswood (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 Ravenswood 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 Ravenswood 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 Ravenswood, its successors and assigns.

7. This Order shall terminate upon Ravenswood's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.

Michael Ihle

Hon. Michael Ihle, Mayor
City of Ravenswood

4/9/13

Date

Public Notice begin:

Date

Public Notice end:

Date

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

Date

Table One:
Ravenswood DMR Exceedance Summary

Outlet 001 DMR Exceedances - AVG. MONTHLY Oct. 2011 - September 2013						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
April 2013	BOD	mg/L	30	39	30%	X	-	-
Feb 2013	TSS	mg/L	30	36	20%	X	-	-
March 2013	TSS	lbs/day	187.7	230.3	23%	X	-	-
March 2013	TSS	mg/L	30	56	87%	-	X	-
April 2013	TSS	mg/L	30	70	133%	-	X	-
Feb 2013	NH3N	mg/L	15	15.3	2%	X	-	-
March 2013	NH3N	mg/L	15	18.1	21%	X	-	-

Outlet 001 DMR Exceedances - MAX. DAILY Oct. 2011 - September 2013						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
April 2013	TSS	mg/L	60	70	17%	X	-	-

Outlet 001 Exceedances - Minimum 85% Removal - AVG. MONTHLY Oct. 2011 - September 2013						Degree of non-compliance		
Date	Parameter	Units	Permitted Minimum % Removal	Reported % Removal	% Exceedance	Min	Mod	Maj
Feb 2013	TSS removal	mg/l	85.0	76.0	10.6%	X	-	-
March 2013	TSS removal	mg/l	85.0	62	14%	X	-	-
April 2013	TSS removal	mg/l	85.0	71	2%	X	-	-

Outlet 002 DMR Exceedances - AVG. MONTHLY Oct. 2011 - September 2013						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
Feb 2012	TSS	mg/L	30	38	27%	X	-	-
March 2012	TSS	mg/L	30	43	43%	-	X	-
May 2012	TSS	mg/L	30	43	43%	-	X	-
Jan 2012	Free Cyanide	mg/L	0.0041	0.007	71%	-	X	-
Oct 2012	Free Cyanide	mg/L	0.0041	0.005	22%	X	-	-
Nov 2012	Free Cyanide	mg/L	0.0041	0.005	22%	X	-	-
Dec 2012	Free Cyanide	mg/L	0.0041	0.008	95%	-	X	-
Jan 2013	Free Cyanide	mg/L	0.0041	0.008	95%	-	X	-
Jun 2012	Tot.Rec. Cadmium	mg/L	0.0009	0.004	344%	-	-	X
Oct 2011	Hex. Tot. Chromium	mg/L	0.008	1	12400%	-	-	X

Outlet 002 DMR Exceedances - MAX. DAILY - Oct. 2011 - September 2013						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
Oct 2011	Hex. Tot. Chromium	mg/L	0.016	1	6150%	-	-	X

Outlet 002 Exceedances - Minimum 85% Removal - AVG. MONTHLY - Oct. 2011 - September 2013						Degree of non-compliance		
Date	Parameter	Units	Permitted Minimum % Removal	Reported % Removal	% Exceedance	Min	Mod	Maj
March 2012	TSS removal	mg/l	85.0	52	28%	X	-	-
April 2012	TSS removal	mg/l	85.0	78	8%	X	-	-
May 2012	TSS removal	mg/l	85.0	62	14%	X	-	-
Oct 2012	TSS removal	mg/l	85.0	84	16%	X	-	-

Totals						Degree of non-compliance		
						Min	Mod	Maj
						16	7	3



Figure 1 - 03/12/13: Sand St. lift station bypass outlet



Figure 2 - 03/12/10: Sand St. lift station outlet marker



Figure 3 - 03/25/08: Outlet at Gibbs St. lift-station



Figure 4 - 09/27/13: Gibbs St. lift-station, outlet & debris



Figure 5 - 09/27/13: Overflow in Gibbs St. lift station. Water mark above outlet



Figure 6 - 09/27/13: Debris on top of pipes in Gibbs St. lift station



Figure 7 - 09/27/13: Overflow debris near the bar screen



Figure 8 - 09/27/13: Overflow debris behind building

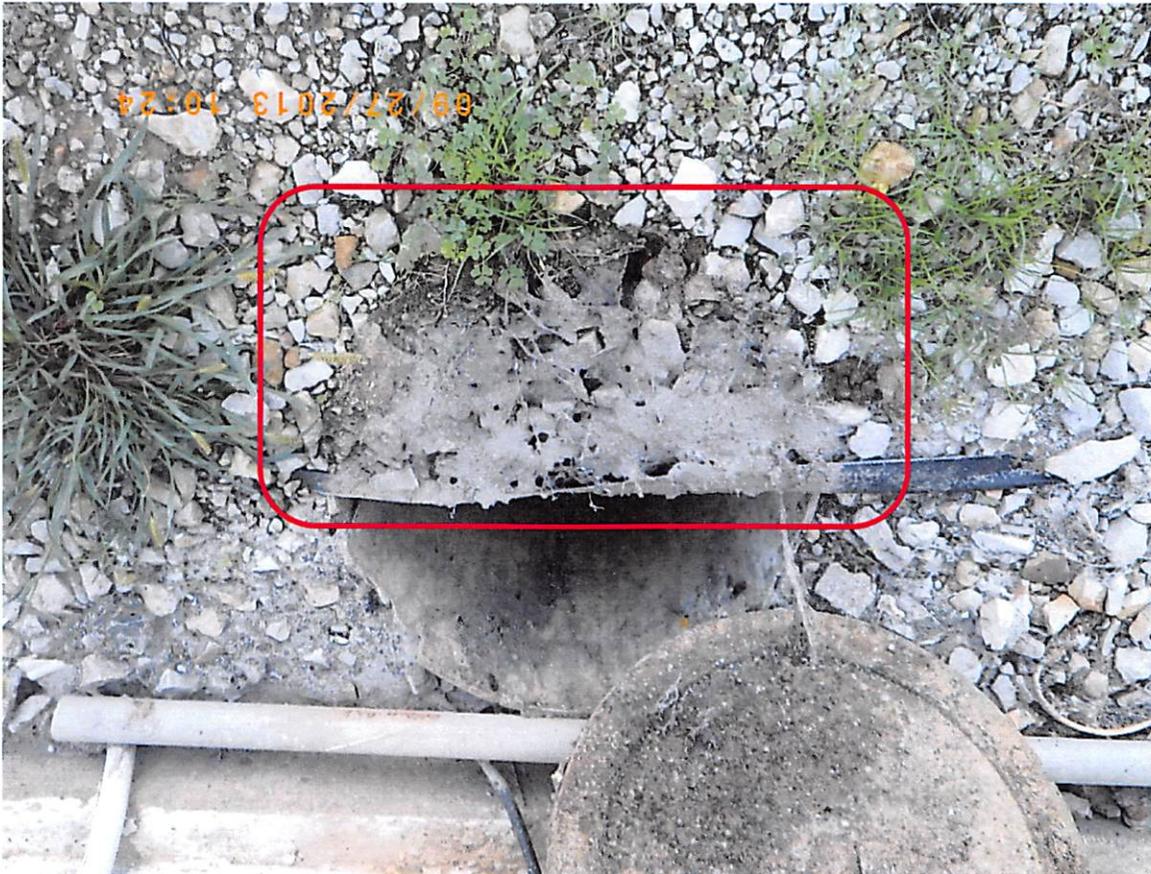


Figure 9 - 09/27/13: Meter pit behind building (near bar screen), rags caught in construction fabric

STATION NAME: OLD SEWER PLANT
 Date: 1-3-5-8-10-12
 Work crew: B.S. B. 0101650-01

Weather Conditions: Rain Sunny Cloudy Snow

#1 pump hours: N/A
 #2 pump hours: N/A
 Wetwell Level (inches): 40
 Alarm Light Status: N/A

Overflow pipe active:	<input checked="" type="radio"/> Yes	<input type="radio"/> No
Sump pump working:	<input checked="" type="radio"/> Yes	<input type="radio"/> No
Air compressor working:	<input checked="" type="radio"/> Yes	<input type="radio"/> No

Condition of wet well: OK

09/27/2013 10:43

Figure 10 - 09/27/13: Lift station check sheet indicates bypasses have been found

Base Penalty Calculation

(pursuant to 47CSR1-6.1)

Responsible Party: City of Ravenswood **Receiving Stream:** Ohio River

Treatment System Design Maximum Flow: 0.75 MGD

Treatment System Actual Average Flow: 0.351 MGD (if known)

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

1)	Potential for Harm Factor	Factor Range	FOF#													
			3a	4a	5ai	5aii	5aiii									
a)	Amount of Pollutant Released	1 to 3	1	1	1	1	1									
b)	Toxicity of Pollutant	0 to 3	0	0	1	1	1									
c)	Sensitivity of the Environment	0 to 3	0	0	1	1	1									
d)	Length of Time	1 to 3	1	2	1	1	1									
e)	Actual Exposure and Effects thereon	0 to 3	0	0	1	1	1									
Average Potential for Harm Factor			0.4	0.6	1	1	1	No								
2)	Extent of Deviation Factor	Factor Range														
	Degree of Non-Compliance	1 to 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.

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		\$3,200
6.2.b.4 - Compliance/noncompliance history			\$0
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	(\$3,200)
6.2.b.3 - Cooperation with the Secretary			\$0
6.2.b.5 - Ability to Pay			\$0
Penalty Adjustments			\$30
Penalty =			\$32,030

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	
Estimated Economic Benefit	\$0
Comments:	