



west virginia department of environmental protection

Division of Water and Waste Management
601 57th 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

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

TO: Town of Rowlesburg
Honorable Barbara Banister
PO Box 458
Rowlesburg, WV 26425

DATE: April 12, 2016

ORDER NO.: 8432

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 Town of Rowlesburg.

FINDINGS OF FACT

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

1. Town of Rowlesburg operates a wastewater collection system and lagoon sewage treatment system located in Rowlesburg, Preston County, West Virginia. Town of Rowlesburg was reissued WV/NPDES Water Pollution Control Permit No. WV0027481 on December 30, 2010.
2. On May 6, 2015, West Virginia Department of Environmental Protection (WVDEP) personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the terms and conditions of Town of Rowlesburg's WV/NPDES permit were observed and documented:
 - a. Section A-Upon review of the previous six (6) months of Discharge Monitoring Reports (DMRs), WVDEP personnel determined that Town of Rowlesburg had multiple exceedances of its discharge limitations for Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), BOD removal, TSS removal, ammonia nitrogen and chlorine.

Promoting a healthy environment.

- b. Appendix A.II.1 – Town of Rowlesburg failed to properly operate and maintain the facility. Specifically, there was a hole in the chlorine contact chamber.

As a result of the aforementioned violations, NOV No. W-15-39-30-202 was issued to Town of Rowlesburg.

3. On November 19, 2015, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the terms and conditions of Town of Rowlesburg’s WV/NPDES permit were observed and documented:
 - a. Appendix A.IV-Town of Rowlesburg failed to immediately report a spill to the WVDEP spill alert telephone number. Specifically, WVDEP personnel observed and documented a grey and odorous Sanitary Sewer Overflow (SSO) discharge into Cheat River. In accordance with the provisions of the federal Clean Water Act and the state Water Pollution Control Act, SSOs are not acceptable discharges. Resultant to procedural changes directed by the United States Environmental Protection Agency in the implementation of the state SSO program, specific SSOs are no longer identified in WV/NPDES Water Pollution Control Permits.
 - b. Appendix A.II.1 – Town of Rowlesburg failed to properly operate and maintain the facility. Specifically, there was a hole in the chlorine contact chamber.

As a result of the aforementioned violations, NOV No. W-15-39-62-202 was issued to Town of Rowlesburg.

4. On November 20, 2015, WVDEP personnel conducted a review of facility records from the time period of October 1, 2013 through September 30, 2015. During this review, the following violations of the terms and conditions of Town of Rowlesburg’s WV/NPDES permit were observed:
 - a. Section A.001 - One hundred fifteen (115) exceedances of Town of Rowlesburg’s permit parameters were observed and documented at Outlet 001 (Table 1). These exceedances can be further defined as:
 - i. Minor violations-thirteen (13)
 - ii. Moderate violations-thirteen (13)
 - iii. Major violations-eighty-nine (89)
 - b. Section A.IU01 – Sixteen (16) major exceedances of Town of Rowlesburg’s permit parameters were observed and documented at Outlet IU01 – Town of Rowlesburg Water Treatment Plant (Table 2).
5. On January 28, 2016, WVDEP personnel met with representatives of the Town of Rowlesburg to discuss the terms and conditions of the Order.
6. On February 16, 2016, the Town of Rowlesburg submitted financial documents to WVDEP. The information was used to perform an economic analysis which evaluated the Town of Rowlesburg’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. Town of Rowlesburg shall immediately take all measures to initiate compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules.
2. Upon the effective date of this Order, unless approved via the procedures outlined in Order for Compliance No. Three (3) of this Order, Town of Rowlesburg shall immediately cease and desist any further service connections to its sewage collection system, with the exception of individual homes. This prohibition includes, but is not limited to, additional or expanded flows from nondomestic sources of wastewater and multiple individual homes within a subdivision/community.
3. Upon the effective date of this Order, Town of Rowlesburg shall obtain written approval from WVDEP prior to any new connections to the collection system, as described in Order for Compliance No. Two (2) of this Order. Any connection requests shall include all necessary supporting documentation that reflects fulfillment of the following criteria, and requests will be denied should the necessary information fail to be submitted. Two (2) gallons of extraneous infiltration and inflow per month must be removed from the system for the addition of one (1) gallon of sewage or nondomestic flow per month. Flows removed from the system shall be based on actual measurements and not expectations, estimations, or predictions.
4. Upon the effective date of this Order, Town of Rowlesburg's operator shall re-attend the next available Class I certification for Wastewater Treatment Plant Operators course, as referenced in section C.03 of the WV/NPDES permit.
5. Within thirty (30) days of the effective date of this Order, Town of Rowlesburg shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Town of Rowlesburg will achieve compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules. The plan shall include, but not be limited to, provisions for identifying the cause of effluent exceedances, operational changes that will be implemented in order to bring the system into compliance with its effluent limitations, and the elimination of SSOs. The plan of corrective action shall make reference to WV/NPDES Permit No. WV0027481 and Order No. 8432. The plan of corrective action 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.

6. Because of Town of Rowlesburg's permit violations, Town of Rowlesburg shall be assessed a civil administrative penalty of two thousand five hundred dollars (\$2,500) 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

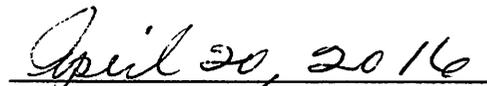
1. Town of Rowlesburg hereby waives its right to appeal this Order under the provisions of Chapter 22, Article 11, Section 21 of the Code of West Virginia. Under this Order, Town of Rowlesburg agrees to take all actions required by the terms and conditions of this Order and consents to and will not contest the Director's jurisdiction regarding this Order. However, Town of Rowlesburg 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 Town of Rowlesburg 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, Town of Rowlesburg 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 Town of Rowlesburg becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and Town of Rowlesburg 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 Town of Rowlesburg 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 Town of Rowlesburg (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 Town of Rowlesburg 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 Town of Rowlesburg 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 Town of Rowlesburg, its successors and assigns.
7. This Order shall terminate upon Town of Rowlesburg's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.



Honorable Barbara Banister
Town of Rowlesburg



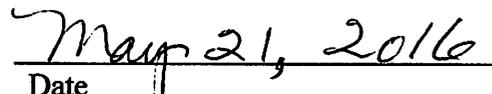
Date

Public Notice begin:



Date

Public Notice end:



Date

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

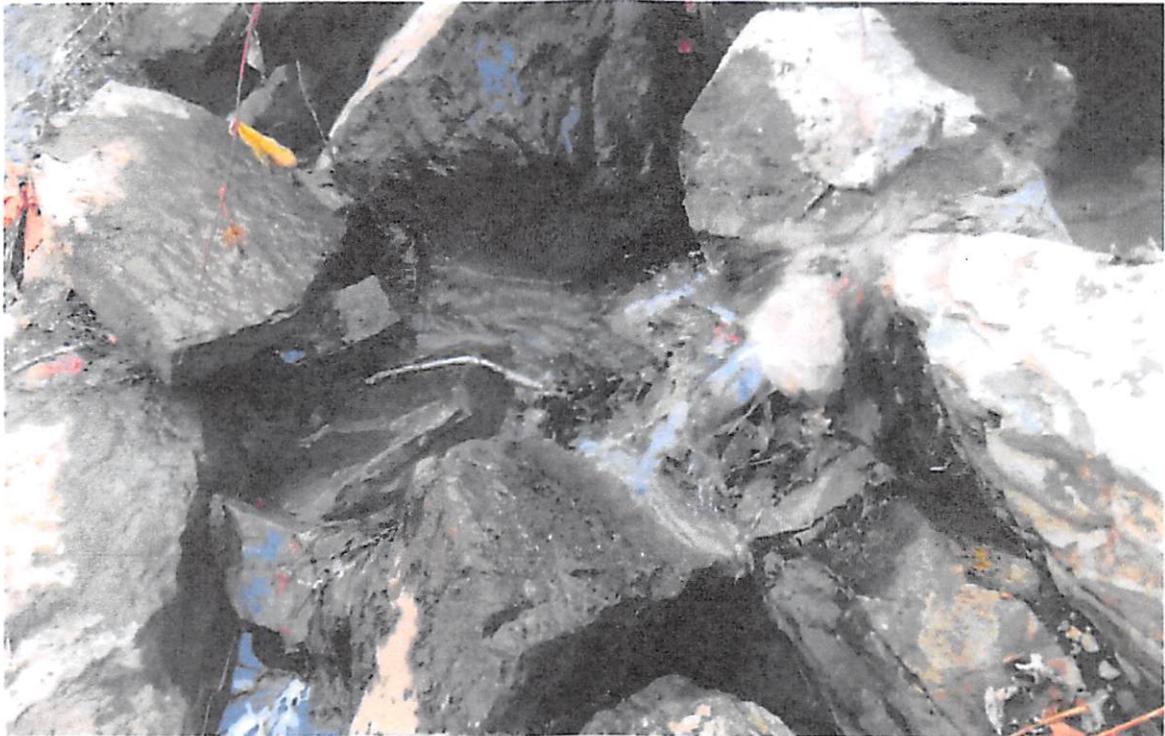
Date

revised March 2013

RECEIVED

APR 22 2016

ENVIRONMENTAL
ENFORCEMENT



SSO discharge

Table One: Town of Rowlesburg DMR Exceedance Summary

Outlet 001 DMR Exceedances - AVG. MONTHLY - 10/2013 through 9/2015						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
						-	-	-
10/30/14	BOD 5-Day	lbs/day	28.79	888.4	2986%	-	-	X
11/30/14	BOD 5-Day	lbs/day	28.79	427	1383%	-	-	X
12/31/14	BOD 5-Day	lbs/day	28.79	3619	12470%	-	-	X
2/28/15	BOD 5-Day	lbs/day	28.79	6239	21571%	-	-	X
3/31/15	BOD 5-Day	lbs/day	28.79	3904	13460%	-	-	X
4/30/15	BOD 5-Day	lbs/day	28.79	1907	6524%	-	-	X
5/31/15	BOD 5-Day	lbs/day	28.79	1940	6638%	-	-	X
6/30/15	BOD 5-Day	lbs/day	28.79	2426	8327%	-	-	X
7/31/15	BOD 5-Day	lbs/day	28.79	1583	5398%	-	-	X
10/31/14	Total Suspended Solids	lbs/day	28.79	1225	4155%	-	-	X
11/30/14	Total Suspended Solids	lbs/day	28.79	1537	5239%	-	-	X
12/31/14	Total Suspended Solids	lbs/day	28.79	4762	16440%	-	-	X
2/28/15	Total Suspended Solids	lbs/day	28.79	14777	51227%	-	-	X
3/31/15	Total Suspended Solids	lbs/day	28.79	6507	22502%	-	-	X
4/30/15	Total Suspended Solids	lbs/day	28.79	2383	8177%	-	-	X
5/31/15	Total Suspended Solids	lbs/day	28.79	2027	6941%	-	-	X
6/30/15	Total Suspended Solids	lbs/day	28.79	3831	13207%	-	-	X
7/31/15	Total Suspended Solids	lbs/day	28.79	4748	16392%	-	-	X
10/31/14	Ammonia Nitrogen	lbs/day	14.4	496	3344%	-	-	X
11/30/14	Ammonia Nitrogen	lbs/day	14.4	27	88%	-	X	-
12/31/14	Ammonia Nitrogen	lbs/day	14.4	657	4463%	-	-	X
2/28/15	Ammonia Nitrogen	lbs/day	14.4	378	2525%	-	-	X
3/31/15	Ammonia Nitrogen	lbs/day	14.4	130	803%	-	-	X
4/30/15	Ammonia Nitrogen	lbs/day	14.4	60	317%	-	-	X
5/31/15	Ammonia Nitrogen	lbs/day	14.4	60.8	322%	-	-	X
6/30/15	Ammonia Nitrogen	lbs/day	14.4	217	1407%	-	-	X
7/31/15	Ammonia Nitrogen	lbs/day	14.4	52.76	266%	-	X	-
10/31/13	Chlorine, Total Residue	mg/l	0.028	1040	3714186%	-	-	X
11/30/13	Chlorine, Total Residue	mg/l	0.028	0.2	614%	-	-	X
2/28/14	Chlorine, Total Residue	mg/l	0.028	1230	4392757%	-	-	X
4/30/14	Chlorine, Total Residue	mg/l	0.028	0.03	7%	X	-	-
5/31/14	Chlorine, Total Residue	mg/l	0.028	1.25	4364%	-	-	X
6/30/14	Chlorine, Total Residue	mg/l	0.028	1.52	5329%	-	-	X
7/31/14	Chlorine, Total Residue	mg/l	0.028	1.18	4114%	-	-	X
8/31/14	Chlorine, Total Residue	mg/l	0.028	1.45	5079%	-	-	X
9/30/14	Chlorine, Total Residue	mg/l	0.028	0.77	2650%	-	-	X
10/31/14	Chlorine, Total Residue	mg/l	0.028	1240	4428471%	-	-	X
11/30/14	Chlorine, Total Residue	mg/l	0.028	1.19	4150%	-	-	X
12/31/14	Chlorine, Total Residue	mg/l	0.028	0.38	1257%	-	-	X
1/31/15	Chlorine, Total Residue	mg/l	0.028	0.65	2221%	-	-	X
2/28/15	Chlorine, Total Residue	mg/l	0.028	0.57	1936%	-	-	X
3/31/15	Chlorine, Total Residue	mg/l	0.028	1.08	3757%	-	-	X
4/30/15	Chlorine, Total Residue	mg/l	0.028	1.23	4293%	-	-	X
5/31/15	Chlorine, Total Residue	mg/l	0.028	1.19	4150%	-	-	X
6/30/15	Chlorine, Total Residue	mg/l	0.028	0.49	1650%	-	-	X
7/31/15	Chlorine, Total Residue	mg/l	0.028	1.52	5329%	-	-	X
8/31/15	Chlorine, Total Residue	mg/l	0.028	1.12	3900%	-	-	X
8/31/15	Aluminum, Total Recoverable	mg/l	0.62	27.2	4287%	-	-	X

Table One: Town of Rowlesburg DMR Exceedance Summary

Outlet 001 DMR Exceedances - MAX. DAILY - 10/2013 through 9/2015						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
10/30/14	BOD 5-Day	lbs/day	57.58	888.4	1443%	-	-	X
11/30/14	BOD 5-Day	lbs/day	57.58	427	642%	-	-	X
12/31/14	BOD 5-Day	lbs/day	57.58	3619	6185%	-	-	X
2/28/15	BOD 5-Day	lbs/day	57.58	6239	10735%	-	-	X
3/31/15	BOD 5-Day	lbs/day	57.58	3904	6680%	-	-	X
4/30/15	BOD 5-Day	lbs/day	57.58	1907	3212%	-	-	X
5/31/15	BOD 5-Day	lbs/day	57.58	1940	3269%	-	-	X
6/30/15	BOD 5-Day	lbs/day	57.58	2426	4113%	-	-	X
7/31/15	BOD 5-Day	lbs/day	57.58	1583	2649%	-	-	X
11/30/14	Total Suspended Solids	lbs/day	57.58	1537	2569%	-	-	X
12/31/14	Total Suspended Solids	lbs/day	57.58	4762	8170%	-	-	X
2/28/15	Total Suspended Solids	lbs/day	57.58	14777	25563%	-	-	X
3/31/15	Total Suspended Solids	lbs/day	57.58	6507	11201%	-	-	X
4/30/15	Total Suspended Solids	lbs/day	57.58	2383	4039%	-	-	X
5/31/15	Total Suspended Solids	lbs/day	57.58	2027	3420%	-	-	X
6/30/15	Total Suspended Solids	lbs/day	57.58	3831	6553%	-	-	X
7/31/15	Total Suspended Solids	lbs/day	57.58	4748	8146%	-	-	X
10/31/14	Ammonia Nitrogen	lbs/day	28.8	496	1622%	-	-	X
12/31/14	Ammonia Nitrogen	lbs/day	28.8	657	2181%	-	-	X
2/28/15	Ammonia Nitrogen	lbs/day	28.8	378	1213%	-	-	X
3/31/15	Ammonia Nitrogen	lbs/day	28.8	130	351%	-	X	-
4/30/15	Ammonia Nitrogen	lbs/day	28.8	60	108%	-	X	-
5/31/15	Ammonia Nitrogen	lbs/day	28.8	60.8	111%	-	X	-
6/30/15	Ammonia Nitrogen	lbs/day	28.8	217	653%	-	-	X
7/31/15	Ammonia Nitrogen	lbs/day	28.8	52.76	83%	X	-	-
10/31/13	Chlorine, Total Residue	mg/l	0.057	1040	1824461%	-	-	X
11/30/13	Chlorine, Total Residue	mg/l	0.057	0.2	251%	-	X	-
2/28/14	Chlorine, Total Residue	mg/l	0.057	1230	2157795%	-	-	X
5/31/14	Chlorine, Total Residue	mg/l	0.057	1.25	2093%	-	-	X
6/30/14	Chlorine, Total Residue	mg/l	0.057	1.52	2567%	-	-	X
7/31/14	Chlorine, Total Residue	mg/l	0.057	1.18	1970%	-	-	X
8/31/14	Chlorine, Total Residue	mg/l	0.057	1.45	2444%	-	-	X
9/30/14	Chlorine, Total Residue	mg/l	0.057	0.77	1251%	-	-	X
10/31/14	Chlorine, Total Residue	mg/l	0.057	1240	2175339%	-	-	X
11/30/14	Chlorine, Total Residue	mg/l	0.057	1.19	1988%	-	-	X
12/31/14	Chlorine, Total Residue	mg/l	0.057	0.38	567%	-	X	-
1/31/15	Chlorine, Total Residue	mg/l	0.057	0.65	9/30/13%	-	-	X
2/28/15	Chlorine, Total Residue	mg/l	0.057	0.57	900%	-	-	X
3/31/15	Chlorine, Total Residue	mg/l	0.057	1.08	1795%	-	-	X
4/30/15	Chlorine, Total Residue	mg/l	0.057	1.23	2058%	-	-	X
5/31/15	Chlorine, Total Residue	mg/l	0.057	1.19	1988%	-	-	X
6/30/15	Chlorine, Total Residue	mg/l	0.057	0.49	760%	-	-	X
7/31/15	Chlorine, Total Residue	mg/l	0.057	1.52	2567%	-	-	X
8/31/15	Chlorine, Total Residue	mg/l	0.057	1.12	1865%	-	-	X
8/31/15	Aluminum, Total Recoverable	mg/l	1.64	27.2	1559%	-	-	X

Table One: Town of Rowlesburg DMR Exceedance Summary

Outlet 001 DMR Exceedances - pH MAX. DAILY (Min.) - 10/2013 through 9/2015						Degree of non-compliance		
Date	Parameter	Units	Permitted min. daily	Reported min. daily	% Exceedance	Min	Mod	Maj
5/31/14	pH	S.U.	6.0	5.9	13.3%	X		

Outlet 001 Exceedances - Minimum 65% Removal - AVG. MONTHLY - 10/2013 through 9/2015						Degree of non-compliance		
Date	Parameter	Units	Permitted Minimum % Removal	Reported % Removal	% Exceedance	Min	Mod	Maj
1/31/14	BOD % Removal	%	65.0	35	46.2%	-	X	-
4/30/14	BOD % Removal	%	65.0	56.1	13.7%	X	-	-
6/30/14	BOD % Removal	%	65.0	56	13.8%	X	-	-
8/31/14	BOD % Removal	%	65.0	22.09	66.0%	-	-	X
12/31/14	BOD % Removal	%	65.0	12	81.5%	-	-	X
6/30/15	BOD % Removal	%	65.0	1.7	97.4%	-	-	X
7/31/15	BOD % Removal	%	65.0	30	53.8%	-	X	-
8/31/15	BOD % Removal	%	65.0	62	4.6%	X	-	-
9/30/15	BOD % Removal	%	65.0	61	6.2%	X	-	-
11/30/13	SS % Removal	%	65.0	55	15.4%	X	-	-
1/31/14	SS % Removal	%	65.0	1	98.5%	-	-	X
2/28/14	SS % Removal	%	65.0	0	100.0%	-	-	X
3/31/14	SS % Removal	%	65.0	43	33.8%	-	X	-
6/30/14	SS % Removal	%	65.0	58.3	10.3%	X	-	-
8/31/14	SS % Removal	%	65.0	29.41	54.8%	-	X	-
9/30/14	SS % Removal	%	65.0	63.6	2.2%	X	-	-
10/31/14	SS % Removal	%	65.0	56	13.8%	X	-	-
4/30/15	SS % Removal	%	65.0	33	49.2%	-	X	-
6/30/15	SS % Removal	%	65.0	36	44.6%	-	X	-
7/31/15	SS % Removal	%	65.0	53	18.5%	X	-	-
9/30/15	SS % Removal	%	65.0	56	13.8%	X	-	-

Outlet 001 Totals		Degree of non-compliance		
		Min	Mod	Maj
		13	13	89

Table Two: Town of Rowlesburg DMR Exceedance Summary

Outlet IU01 DMR Exceedances - MAX. DAILY - 10/2013 through 9/2015						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
2/28/14	Flow	gpd	12500	288000	2204%	-	-	X
3/31/14	Flow	gpd	12500	288000	2204%	-	-	X
5/31/14	Flow	gpd	12500	288000	2204%	-	-	X
4/30/14	Flow	gpd	12500	432000	3356%	-	-	X
6/30/14	Flow	gpd	12500	504000	3932%	-	-	X
8/31/14	Flow	gpd	12500	432000	3356%	-	-	X
10/31/14	Flow	gpd	12500	504000	3932%	-	-	X
12/31/14	Flow	gpd	12500	504000	3932%	-	-	X
1/31/15	Flow	gpd	12500	792000	6236%	-	-	X
2/28/15	Flow	gpd	12500	576000	4508%	-	-	X
3/31/15	Flow	gpd	12500	504000	3932%	-	-	X
4/30/15	Flow	gpd	12500	720000	5660%	-	-	X
5/31/15	Flow	gpd	12500	432000	3356%	-	-	X
6/30/15	Flow	gpd	12500	432000	3356%	-	-	X
7/31/15	Flow	gpd	12500	432000	3356%	-	-	X
8/31/15	Flow	gpd	12500	504000	3932%	-	-	X

Outlet IU01 Totals	Degree of non-compliance		
	Min	Mod	Maj
	0	0	16

Base Penalty Calculation

(pursuant to 47CSR1-6.1)

Responsible Party:

Town of Rowlesburg

Receiving Stream:

Treatment System Design Maximum Flow: 0.115 MGD

Treatment System Actual Average Flow: 31.01 MGD (if known)

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

1)	Potential for Harm Factor	Factor Range	FOF#													
			2b	3a	3b	4ai	4aii	4aiii								
a)	Amount of Pollutant Released	1 to 3	1	1	1	1	1	1								
b)	Toxicity of Pollutant	0 to 3	1	1	1	1	1	1								
c)	Sensitivity of the Environment	0 to 3	1	1	1	1	1	1								
d)	Length of Time	1 to 3	1	1	2	1	1	1								
e)	Actual Exposure and Effects thereon	0 to 3	1	1	1	1	1	1								
Average Potential for Harm Factor			1	1	1.2	1	1	1	No							
2)	Extent of Deviation Factor	Factor Range														
	Degree of Non-Compliance	1 to 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.

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		\$19,470
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	(\$19,470)
6.2.b.3 - Cooperation with the Secretary		10	(\$19,470)
6.2.b.5 - Ability to Pay		88.73123	(\$172,760)
Penalty Adjustments			(\$192,200)
Penalty =			\$2,500

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: Economic benefit not warranted.	