

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**In the Matter of:** )  
 )  
**City of Lawrence,** ) **Administrative Order on Consent**  
**Lawrence, Indiana** ) **Under Section 309(a) of the Clean Water**  
 ) **Act, 33 U.S.C. § 1319(a)**  
**Respondent.** )  
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**I. INTRODUCTION**

1. The U.S. Environmental Protection Agency ("EPA") makes the findings of fact set forth below (Section IV) and is issuing this Administrative Order on Consent ("Order on Consent" or "Order") to the City of Lawrence ("Respondent") under the authority of Section 309(a) of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1319(a). The Administrator of EPA has delegated the authority to issue such orders to the Regional Administrator of EPA Region 5, who has redelegated this authority to the Director of the Enforcement and Compliance Assurance Division, EPA, Region 5.
2. This Order is mutually entered into by EPA and Respondent.
3. Respondent owns and operates a sanitary sewer collection system located in the City of Lawrence, Indiana.
4. As further described below, EPA alleges that Respondent violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a), by discharging a pollutant or pollutants into the navigable waters from a point source without a permit to do so.
5. By entering into this Order, Respondent: (1) consents to EPA's authority to issue this Order; (2) neither admits nor denies the factual allegations as set forth in this Order; (3) agrees to undertake all actions required by the terms and conditions of this Order; and (4) agrees not to contest the authority of EPA to issue this Order or the validity of any terms or conditions in this Order.
6. For the purposes of this Order only, Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order on Consent, including, but not limited to, any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

## **II. STATUTORY AUTHORITY**

7. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person except, *inter alia*, in compliance with an NPDES permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.
8. Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), provides that, whenever EPA finds that any person is in violation of requirements of, *inter alia*, Sections 301, 308, or 402 of the CWA, 33 U.S.C. § 1311, 1318, 1342, or is in violation of any condition or limitation that implements those sections in an NPDES permit, EPA shall issue an order requiring such person to comply with such requirements, conditions, or limitations. Section 309(a)(5) of the CWA, 33 U.S.C. § 1319(a)(5), requires that any such order shall specify a time for compliance that EPA determines to be reasonable taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

## **III. DEFINITIONS**

9. All terms used, but not defined, in this Order have the meanings provided to them in the CWA, 33 U.S.C. § 1251 *et seq.*, and the effective EPA regulations promulgated under the CWA.
10. "Act" or "CWA" means the Clean Water Act, 33 U.S.C. § 1251 *et seq.*
11. "Backups" or "Building/Property Backups" means any release of wastewater onto public or private property that is caused by blockages or other conditions in the Sanitary Sewer System. Such releases can include, but are not limited to, those that occur in basements, toilets, bathtubs and yards that are caused by blockages or flow conditions occurring in the sanitary sewer collection system owned and operated by Respondent and does not include, for the purposes of this Order, backups resulting solely from a private property owner's or operator's private lateral blockage.
12. "Day" or "days" means a calendar day or calendar days unless expressly stated to be a business day. When computing any period of time under this Order, should the last day fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next business day.
13. "Discharge of a pollutant," as defined in Section 502(12) of the CWA, means *inter alia*, "any addition of any pollutant to navigable waters from any point source." 33 U.S.C. § 1362(12).
14. "Effective Date" has the definition provided in Section VIII of this Order.
15. "EPA" means the United States Environmental Protection Agency.

16. "IDEM" means the Indiana Department of Environmental Management and any successor departments, agencies, or instrumentalities of the State.
17. "Infiltration and inflow" or "I/I" means the total quantity of water from both infiltration and inflow without distinguishing the source.
18. "Infiltration" means the water entering a sewer system and service connections from the ground, through such means as, but not limited to: defective pipes, pipe joints, connections or manhole walls. Infiltration does not include, and is distinguished from, inflow.
19. "Inflow" means the water discharged into a sewer system, including service connections, from such sources as, but not limited to: roof leaders; cellar, yard and area drains; foundation drains; cooling water discharges; drains from springs and swampy areas; manhole covers; cross connections from storm sewers and combined sewers; catch basins; storm waters; surface run-off; street wash waters or drainage. Inflow does not include, and is distinguished from, infiltration.
20. "Navigable waters," as defined in Section 502(7) of the CWA, means "the waters of the United States, including the territorial seas." 33 U.S.C. § 1362(7). In turn, "waters of the United States," as defined in 40 C.F.R. § 120.2 (2020), includes waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, and tributaries to such waters.
21. "Order on Consent" and "Order" means this document, all attachments hereto, and all subsequent modifications thereto, including incorporated submissions from Respondent, as described in paragraph 70.
22. "Paragraph" means a portion of this Order identified by an Arabic numeral.
23. "Parties" means the EPA and Respondent.
24. "Person," as defined in Section 502(5) of the CWA, means an "individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body." 33 U.S.C. § 1362(5).
25. "Point source," as defined in Section 502(14) of the CWA, means "any discernible, confined and discrete conveyance . . . from which pollutants are or may be discharged." 33 U.S.C. § 1362(14).
26. "Pollutant," as defined in Section 502(6) of the CWA, means "dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water." 33 U.S.C. § 1362(6).

27. "Respondent" means the City of Lawrence.
28. "Sanitary Sewer Collection System" or "SSCS" means all portions of Respondent's sewer system (including all pipes, force mains, gravity sewer segments, overflow structures, regulators, pump stations, lift stations, manholes, and components thereof), designed and constructed to collect and convey only sewage, and not storm water, from residences, commercial buildings, industrial plants, and institutions for treatment at a regional wastewater treatment plant.
29. "Sanitary sewer overflow" or "SSO" means any discharge from the Sanitary Sewer System prior to reaching the wastewater treatment plant (*i.e.*, publicly owned treatment works).
30. "State" means the State of Indiana.
31. "Wastewater Treatment Plant" means the regional wastewater treatment plants operated by the Citizens Energy Group – Belmont and Southport Advance Wastewater Treatment Plants (NPDES Permit # IN0023183), and located at 2700 South Belmont Avenue, Indianapolis, Indiana 46221 and 3800 West Southport Road, Indianapolis, Indiana 46217 respectively, and all components of such sewage treatment plant.
32. "Work" means any and all activities Respondent is required to undertake and accomplish to achieve compliance under this Order.

#### **IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

33. Respondent owns and operates a sewer system that collects sanitary wastewater from the City of Lawrence and transports it for treatment. The City's wastewater is conveyed through the East Marion County interceptor to the Citizens Energy Group - Belmont and Southport Advanced Wastewater Treatment Plants (NPDES Permit # IN0023183), which are located at 2700 South Belmont Avenue, Indianapolis, Indiana 46221 and 3800 West Southport Road, Indianapolis, Indiana 46217 respectively. These plants discharge through outfalls to the White River.
34. Respondent is a municipality chartered under the laws of the State of Indiana, and, as such, is a "municipality" and a "person" as those terms are defined in Sections 502(4) and (5) of the CWA, 33 U.S.C. § 1362(4) and (5), and 40 C.F.R. § 122.2.
35. EPA issued an Administrative Order (2008 Order) to Respondent, Docket No. V-W-08-AO-09, effective September 30, 2008.
36. Paragraph 2 of the City's 2008 Order required that the "Respondent shall properly manage, operate, and maintain all parts of its sewer system at all time. This shall include...providing

adequate capacity to convey base flows and peak flows for all parts of the sewer system... [and] taking all feasible steps to stop SSOs...”

37. As required by Paragraph 15 of the 2008 Order, the City provided EPA with annual SSO summary documents. The table below consolidates information from those documents:

<b>Year</b>	<b>Number of SSOs</b>	<b>Total Discharge in Gallons</b>
June 1 – December 31, 2016	17	149,240
2017	19	534,200
2018	25	822,890
2019	23	499,390
2020	13	258,733
January 1 – May 31, 2021	3	38,175
<b>TOTAL</b>	<b>100</b>	<b>2,280,128</b>

38. A total of 100 SSO events occurred within the City from June 1, 2016 through May 31, 2021. These overflow events released an estimated 2,280,128 gallons of wastewater.

39. The SSO summary reports submitted by the City to EPA identified five primary reoccurring overflow locations:

- a. Manhole in front of 4601 Post Road
- b. Lift station near 7103 North Oaklandon Road
- c. Manhole in front of 7699 East 53<sup>rd</sup> Street
- d. Manhole in front of 12046 Sycamore Drive
- e. Manhole in front of 8944 East 46<sup>th</sup> Street

40. Paragraph 7 of the City’s 2008 Order required that the “Respondent shall submit to U.S. EPA for approval a SSES [Sanitary Sewer Evaluation Study], including a schedule for implementation for all rehabilitation/replacement work...”

41. The City submitted a SSES on October 29, 2010, which proposed a compliance schedule incorporating an annual capital improvement expenditure of \$2,000,000 for ten years.

42. EPA approved the City’s SSES compliance schedule as proposed on October 29, 2010.

43. Paragraph 9 of the 2008 Order required that “Within thirty (30) calendar days of SSES approval, Respondent shall begin implementing the recommendations of the SSES on the schedule contained in the approved SSES.”

44. The table below lists the sewer utility capital improvement expenses, as reported by the City to EPA in annual CMOM reports from 2016-2020:

<b>Year</b>	<b>Capital Improvement Expenses</b>
2016	\$735,485
2017	\$402,319
2018	\$1,263,845
2019	\$1,658,110
2020	\$982,365
<b>TOTAL</b>	<b>\$5,042,142</b>

45. The City spent a total of \$5,042,142 on sewer utility capital improvement expenses from 2016-2020. This is below the \$2,000,000 annual expenditure approved by EPA in the City's SSES schedule.
46. The manhole in front of 4601 Post Road, the lift station near 7103 North Oaklandon Road, the manhole in front of 7699 East 53<sup>rd</sup> Street, the manhole in front of 12046 Sycamore Drive, and the manhole in front of 8944 East 46<sup>th</sup> Street are each a "point source," as defined in Section 502(14) of the CWA, 33 U.S.C. § 1362(14).
47. Fecal coliform bacteria are "pollutants," as defined in Section 502(6) of the CWA, 33 U.S.C. § 1362(6).
48. The discharges described in paragraphs 37, 38 and 39 are a "discharge of a pollutant," as defined in Section 502(12) of the CWA, 33 U.S.C. § 1362(12).
49. The City reported SSO discharges to Indian Creek and Lawrence Creek.
50. Indian Creek and Lawrence Creek are "navigable waters" within the meaning of Section 502 of the CWA, 33 U.S.C. § 1362, and "waters of the United States" within the meaning of 40 C.F.R. § 120.2 (2020).
51. At all times relevant to this Order, overflows from manholes and lift stations are point sources which "discharge" "pollutants" to surface waters.
52. Because Respondent owns or operates a sanitary sewer collection system and a point source for the discharge of pollutants to navigable waters, Respondent and the sanitary sewer collection system have been subject to the CWA at all times relevant to this Order. Thus, any such discharge has been and is subject to the CWA.
53. During all times relevant to this Order, Respondent did not apply for and was not issued an NPDES Permit under Section 402 of the CWA, 33 U.S.C. § 1342, authorizing the discharge of pollutants from the manholes or lift stations identified above.

54. Respondent is a person who discharged pollutants from point sources into navigable waters, without a permit authorizing such discharges under Section 402 of the CWA, 33 U.S.C. § 1342. Accordingly, each instance in which Respondent discharged pollutants to navigable waters without a permit authorizing such discharges, is a violation of Section 301 of the CWA, 33 U.S.C. § 1311.

#### **V. ORDER ON CONSENT**

55. Based on the foregoing findings and the authority vested in the undersigned Director, Enforcement and Compliance Assurance Division, it is hereby ordered in accordance with Section 309(a) of the CWA, 33 U.S.C. § 1319(a), that Respondent comply with the following actions:

- A. **Proper Operations and Maintenance**: Respondent must properly manage, operate, and maintain all parts of its sewer system at all times. 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 SSOs and backups and continuing to monitor for the existence of new SSOs and backups for all parts of the sewer system;
  - c. Taking all feasible steps to respond to SSOs and backups and to mitigate the impact of SSOs and backups from the sewer system; and
  - d. Maintaining appropriate levels of sanitary sewer staffing across all job categories (e.g., foreman, mechanic, laborer, etc.), to properly operate and maintain the City's sewer collection system and associated lift stations.
  
- B. **SSO Corrective Action Plan**: Within 180 days after EPA approval of the H&H Modeling Report referenced below, Respondent shall submit an "SSO Corrective Action Plan" to eliminate all SSOs and backups.
  - a. The SSO Corrective Action Plan will utilize typical industry standards (including "Existing Sewer Evaluation & Rehabilitation," Water Environment Federation (WEF) Manual of Practice FD-6, ASCE Manual and Report on Engineering Practice No. 62 and "Prevention and Control of Sewer System Overflows," WEC Manual of Practice FD-17) and will also include, at a minimum, the following components:
    - i. Flow monitoring, at a minimum, at key locations within the collection system including reoccurring SSO areas as identified in the SSO Corrective Action Plan;

- ii. Tabulation of all identified sources of clear water entry into the sewer system from the City's 2009 Sanitary Sewer Evaluation Study (SSES) submitted to EPA. The City shall separately identify sources for which a remedial action has been taken since the SSES report was completed;
  - iii. Tabulation of all identified areas with compromised sewers (e.g. collapsed, root intrusion, etc.) from the City's 2009 SSES report. The City shall separately identify areas for which a remedial action has been taken since the SSES report was completed;
  - iv. A description of each technically feasible alternative considered to eliminate SSOs from occurring from SSO areas;
  - v. An alternatives analysis with a recommended alternative to eliminate SSOs from the SSO areas and a corresponding implementation schedule;
  - vi. A demonstration that shows the implementation of Respondent's recommended alternative will not cause SSOs or backups at another location;
  - vii. A cost estimate of the recommend alternative; and
  - viii. An implementation schedule for the proposed corrective actions with a timeline not to exceed three years from EPA approval of the SSO Corrective Action Plan.
- b. If the Respondent chooses to use a model to satisfy the demonstration requirement in paragraph 55.B.vi, the following elements shall be required:
- i. Within one year of the effective date of this Order, Respondent shall develop and submit a finalized "Sanitary Sewer Collection System Hydrologic and Hydraulic (H&H) Modeling Report" (the H&H Modeling Report). Respondent's Sanitary Sewer Collection System Hydrologic and Hydraulic Model ("H&H Model") shall accurately represent and model the City of Lawrence SSCS. Respondent must submit the H&H Modeling Report for review, comment, and approval by EPA. This Report will include, at minimum, the following items:
  - ii. Relevant output and output summaries from Respondent's H&H Model;
  - iii. Previous flow monitoring data used to develop the H&H Model;
  - iv. Relevant precipitation data from the flow monitoring period and rain gauge location;

- v. A description of what type of collection system model was used, including information that shows that the H&H Model utilized was a modeling software that was as robust as EPA's SWMM 5.1;
- vi. A description of how Respondent developed its H&H Model;
- vii. A map showing how Respondent delineated the SSCS into subbasins or sewersheds, if applicable (*i.e.* a subbasin or sewersheds map);
- viii. A final modeling analysis of the H&H Model with proper calibration and validation that meets the table below (based on the CIWEM Code of Practice for the Hydraulic Modeling of Urban Drainage Systems Version 01, 2017 (previously the WaPUG Code of Practice for the Hydraulic Modeling of Sewer Systems Version 3.001, December 2002)) for Respondent's Sewer Model:

Hydrograph Component	Calibration and Validation Requirement
Timing	H&H Model shall predict the timing of the peaks and troughs of the hydrograph should be +/- 1 hour when comparing the modeled hydrograph to the observed flow meter hydrograph.
Flooding	H&H Model shall predict any flooding or SSOs and the volume associated with these conditions shall be equivalent to the observed volumes.
SSO discharges	H&H Model shall predict any Respondent's SSO locations and the volume and the peak flow rate from the modeled SSO discharges should be equivalent to the observed SSO discharge volume and peak flow rate. The curve shapes for volume and the flow rate from modeled SSO discharges shall also be equivalent to the curve shapes for volume and flow rates for the observed SSO discharges.
Peak Flow Rate	The H&H Model hydrograph shall be within -15% to +25% of the observed flow meter data or within +/- 0.1 MGD for sewershed locations with very small flow.
Flow Volume	The H&H Model hydrograph shall be within -10% to +20% of the observed flow meter data or within +/- 0.1 MGD for sewershed locations with very small flow.

- ix. Graphs/charts (*i.e.* hydrographs) that demonstrate that the H&H Model satisfied the modeling requirements in subparagraph viii, above, at each SSO location and flow meter location;
- x. Descriptions of the assumptions used in the H&H Model, including a table that summarizes the I/I input of the H&H Model;
- xi. Respondent shall utilize typical industry standards for rain gauge data collection (including Chartered Institution of Water and Environmental Management, "Rainfall Modelling Guide 2016");

- xii. Respondent shall utilize typical industry standards for SSO volume estimation;
- xiii. Respondent shall meet with EPA within 60 days of the effective date of this Order to discuss the Model in further detail; and
- xiv. Respondent shall submit to EPA a status report regarding the H&H Model work for review no later than 270 days after the effective date of this Order. EPA may require a meeting with the Respondent, and any modeling consultants hired by the Respondent, to provide feedback on the Model before the due date of the H&H Modeling Report.

C. Capacity, Management, Operation and Maintenance (CMOM) program: Within 180 calendar days of the Effective Date of this Order, Respondent must submit an updated comprehensive Capacity, Management, Operation and Maintenance (CMOM) program for the entire City of Lawrence SCS, including a completion of the Continuing Sewer Assessment Plan (Section II), as defined in the EPA's Guide for Evaluating CMOM Programs at Sanitary Sewer Collection Systems, EPA 305-B-05-002 (January 2005). Respondent must include documentation demonstrating its ongoing implementation of the CMOM program in this submission. Respondent must also include the following action items:

- a. Sewer Televising: Televising the collection system in the vicinity of the reoccurring SSO locations a through e identified in Paragraph 39 and other key locations within the collection system;
- b. Sewer Cleaning: Develop and implement a collection system cleaning schedule appropriate to the conditions observed while televising the Sanitary Sewer System (expressed in annual miles and percentage of Respondent's Sanitary Sewer System), also focusing on publicly-owned sewers in the vicinity of each SSO area that may have high infiltration and/or compromised integrity (e.g. collapse, root intrusion, etc.); The cleaning schedule will commit the City to cleaning at least 15% of the collection system annually;
- c. Include a list of areas that based on historical observations will need to be cleaned on a more frequent basis;
- d. Smoke testing, if necessary;
- e. Dye testing, if necessary.

D. Annual CMOM Program Self-Assessment: Starting on January 1, 2023, Respondent shall complete a CMOM Program Self-Assessment, which is found on the following EPA

website: (<http://www.epa.gov/npdes/pubs/cmomselfreview.pdf>). This CMOM Program Self-Assessment will summarize any operation changes or improvements that have been made to Respondent's CMOM Program for its SSCS, the amount of sanitary sewers inspected/televised (in miles and percentage of system), the amount of sanitary sewer cleaned, any cross-connections detected/eliminated, and any dye testing or clear water source elimination measures implemented within the applicable calendar year. Until this Order is terminated, Respondent shall submit a CMOM Program Self-Assessment using the same format described above, to EPA and IDEM on January 31st of each year, describing the changes made to its CMOM Program in the prior year.

- E. Annual SSO Report: Respondent must prepare an annual report of all SSOs and backups from its sewers. This report must include: the SSO general location (*e.g.*, nearest cross street, without including references to home or business addresses), type of structure involved (*e.g.* lift station, manhole, force main, *etc.* ), number of SSOs from that SSO location in the calendar year, volume of each discharge (in gallons), amount of precipitation in the 24 hours preceding the overflow, description of the area impacted (*e.g.* public lands, private property, receiving water), and the final disposition of the SSO discharge (*e.g.*, absorbed into soil, surface water, ditch, storm sewer, basement back-up, *etc.*). Respondent must submit the annual report to EPA and IDEM by January 31 of the following year, with the first annual report due by January 31, 2022. Respondent must make the public aware of the annual report by issuing a press release of its availability and by making it available on Respondent's public web page.
- F. Surface Water Impacts: In the event wastewater from an SSO flows to a surface water (*e.g.* Lawrence Creek, Indian Creek, a tributary, *etc.*), the Respondent shall observe the surface water downstream of the SSO wastewater inflow for any environmental impacts. This shall include, but is not limited to: turbidity, odor, color, floatables, debris, and fish kills. Respondent shall submit a report including photographs with latitude and longitude location, a description of all observations, the date, time, and name of the person making the observations, and estimate of the volume of wastewater that entered the surface water to EPA and IDEM within 5 days of the SSO occurrence.
- G. EPA Approval: EPA will approve, approve with comments, or disapprove the documents listed below. If EPA, in consultation with IDEM, determines that any part of the document is unacceptable, EPA will notify Respondent. Respondent must revise the document, incorporating EPA's comments, within 30 days of the date of the notification from EPA. Within 30 days of each document approval, Respondent shall implement the document. Each document, as approved by EPA, shall be incorporated into the Order.
- a. H&H Modeling Report, as required in paragraph 55B;
  - b. SSO Corrective Action Plan, as required in paragraph 55B;
  - c. CMOM Program, as required in paragraph 55C.

56. Upon receipt of this request and until further notice, within five days of each occurrence of an SSO, complete, sign, and submit a Sanitary Sewer Overflow or Bypass Notification Summary Report to EPA and IDEM. For all reported basement backups, include the final disposition of wastewater pumped out of basements on the report form. The report can be found online at: <https://www.in.gov/idem/cleanwater/wastewater-compliance/sewer-bypassoverflow-incident-reporting/>.
57. Respondent will eliminate all SSOs from their collection system in accordance with the schedule provided in its approved SSO Corrective Action Plan.

## **VI. DOCUMENTATION AND SUBMISSIONS**

58. Respondent must submit a status report to EPA and IDEM within 30 days of the end of each calendar-year quarter (*i.e.*, by January 31, April 30, July 31, and October 31), until this Order is terminated. The first status report will be due within 30 days of completion of the first full quarter after the effective date of this Order. Each status report must include:
- a. A description of the actions that have been taken toward achieving compliance with this Order during the previous quarter including an assessment of the milestones due, whether they were met, and, if not, what actions taken or planned to meet the milestones, the timeline for meeting those milestones, and any impact on future milestones;
  - b. An assessment of the effectiveness of such actions in preventing SSOs and backups;
  - c. A summary of all SSOs and backups that occurred during the previous quarter; and
  - d. An analysis of the cause of each SSO and backup.
59. All reports, notifications, documentation, submissions, and other correspondence required to be submitted by this Order must be submitted to EPA electronically, to the extent possible. If electronic submittal is not possible, the submissions must be made by certified mail (return receipt requested) with an email notification to all addresses provided below notifying them that a submission is being made by certified mail. Electronic submissions must be sent to the following addresses: [r5weca@epa.gov](mailto:r5weca@epa.gov), [flatebo.ted@epa.gov](mailto:flatebo.ted@epa.gov), and [gstarks@idem.in.gov](mailto:gstarks@idem.in.gov). The subject line of all email correspondence must include the facility name ("Lawrence"), NPDES ID #INN580001 and the subject of the deliverable. All electronically-submitted materials must be in final and searchable format, such as Portable Document Format (PDF) with Optical Character Recognition (OCR) applied. Any information containing confidential

business information must be submitted and asserted as set forth at 40 C.F.R. Part 2 Subpart B and must be submitted by email to flatebo.ted@epa.gov or by mail (see below) but not to the r5weca@epa.gov or gstarks@idem.in.gov addresses. Mailed submissions must be sent to the following addresses:

Attn: Ted Flatebo, EPA Case Manager  
Water Enforcement and Compliance Assurance Branch (ECW-15J)  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

Attn: Deborah Carlson  
Office of Regional Counsel (C-14J)  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

Attn: Gary Starks  
Office of Water Quality/Compliance Branch  
Indiana Department of Environmental Management  
100 North Senate Avenue (IGCN 1255)  
Indianapolis, Indiana 46204

60. Within 10 days of the Effective Date of this Order, Respondent must designate a Project Coordinator and provide EPA's Case Manager (above) with the Project Coordinator's name, address, phone number, and email address.
61. In the event of a change to the Project Coordinator, Respondent must provide notification in writing, pursuant to paragraph 59 above, within 30 days after the change.
62. EPA may require additional status reports, or fewer status reports, for the purpose of documenting the progress of the Work performed pursuant to this Order or compliance with the Permit requirements. Should EPA require additional status reports, EPA will provide Respondent with at least 15 days from the date of EPA's request to submit the reports.
63. All reports, notifications, documentation, and submissions required by this Order must be signed by a duly authorized representative of Respondent as specified by 40 C.F.R. § 122.22(b) and (d) and must include the following statement:

"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.”

64. Respondent may not withhold information based on a claim that it is confidential. However, pursuant to 40 C.F.R. Part 2, Subpart B, Respondent may assert a claim of business confidentiality regarding any portion of the information submitted in response to this Order. The manner of asserting such claims is specified in 40 C.F.R. § 2.203(b). Certain information related to effluent data (as defined in 40 C.F.R. § 2.302(a)(2)) and NPDES permit applications may not be entitled to confidential treatment. 40 C.F.R. § 122.7. Information subject to a business confidentiality claim is available to the public only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If Respondent does not assert a claim of business confidentiality when it submits the information, EPA may make the information available to the public without further notice. 40 C.F.R. § 2.203(c).
65. If Respondent finds at any time after submitting information that any portion of that information is false or incorrect, the signatory must notify EPA immediately. Knowingly submitting false information to EPA may subject Respondent 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.
66. Submissions required by this Order must be deemed submitted on the date they are sent electronically or on the date postmarked if sent by U.S. mail.
67. After review of the submissions required pursuant to paragraphs 55, 56, and 58 of this Order, EPA may approve or disapprove the submissions, in whole or in part. EPA shall approve the submissions or any portion so long as the submissions fulfill the requirements under this Order.
68. Notwithstanding the receipt of a notice of disapproval pursuant to paragraph 67, above, Respondent must proceed to take all actions and provide all submissions required under this Order, including any actions required under any non-deficient portion(s) of its submission, if such action can be undertaken independent of the deficient portion of Respondent's submission.
69. Absent an extension of time granted in writing by EPA, EPA may determine that late submissions fail to meet the requirements of this Order.
70. Upon EPA approval, submissions by Respondent are incorporated and enforceable as part of this Order. In case of inconsistency between any submission by Respondent and this document and its subsequent modifications, this document and its subsequent modifications shall control.
71. EPA may use any information submitted in response to this Order in support of an administrative, civil, or criminal action against Respondent.

72. The information required to be submitted pursuant to this Order is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 *et seq.*

## **VII. GENERAL PROVISIONS**

73. Respondent has had the opportunity to confer with and submit information to EPA concerning the validity and provisions of this Order.
74. The terms of this Order are binding on Respondent and its assignees and successors. Respondent must give notice of this Order to any successors in interest prior to transferring ownership, and must simultaneously verify to EPA, at the address specified in paragraph 59, that Respondent has given the notice.
75. The undersigned signatory for each party has the authority to bind each respective party to the terms and conditions of this Order.
76. Failure to comply with this Order may subject Respondent to penalties up to \$56,460 per day for each violation (or as penalty levels may be later adjusted at 40 C.F.R. Part 19) pursuant to Section 309(d) of the CWA, 33 U.S.C. § 1319(d), and 40 C.F.R. Part 19.
77. This Order does not affect Respondent's responsibility to comply with the CWA and any other local, state, and federal laws, regulations, or permits.
78. This Order does not restrict EPA's authority to enforce the CWA or its implementing regulations.
79. EPA reserves all rights and remedies, legal and equitable, available to address any violation cited in this Order and any other violation of the CWA or of this Order. Neither issuance of this Order by EPA nor compliance with its terms precludes further enforcement action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, for the violations cited in this Order, for any other violations of the CWA or of this Order committed by Respondent.
80. The CWA includes provisions for administrative penalties, for civil injunctive relief and penalties, and for criminal penalties for violations of the CWA. Specifically, EPA may:
- a) assess civil administrative penalties under 33 U.S.C. § 1319(g) and 40 C.F.R. Part 19 of up to \$22,584 per day of violation for violations of the CWA that occurred after November 2, 2015 and for which penalties are assessed on or after December 23, 2020, for up to a total of \$282,293, or other amounts as penalty levels may be later adjusted at 40 C.F.R. Part 19;
  - b) seek civil injunctive relief and penalties for violations of the CWA under 33 U.S.C. § 1319(b) and civil judicial penalties for violations of this Order under 33 U.S.C.

§ 1319(d). In accordance with 40 C.F.R. Part 19, EPA may seek civil judicial penalties of up to \$56,460 per day of violation for violations that occurred after November 2, 2015 and for which penalties are assessed on or after December 23, 2020, or as penalty levels may be later adjusted at 40 C.F.R. Part 19; and

- c) seek criminal penalties, including fines and imprisonment, for negligent or knowing violations of the CWA under 33 U.S.C. § 1319(c).

- 81. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 162-21(b)(2), performance of work described in paragraph 55 is restitution, remediation, or required to come into compliance with the law

### **VIII. EFFECTIVE DATE**

- 82. This Order shall become effective upon signature by EPA below and will remain in effect until EPA has notified Respondent of termination of the Order pursuant to paragraphs 83 or 85.

### **IX. FINAL REPORT AND TERMINATION OF THIS ORDER**

- 83. EPA may terminate this Order at any time by written notice to Respondent.
- 84. Absent the notice described in paragraph 83 and within 30 days after Respondent concludes that it has achieved compliance with all requirements of this Order, Respondent must submit to the EPA Case Manager a written final report and certification of completion describing all actions taken to comply with all requirements of this Order. Respondent must follow the procedures set forth at Section VI of this Order.
- 85. After receipt and review of Respondent's final report and certification of completion submitted pursuant to paragraph 84, EPA will notify Respondent whether it has satisfied all requirements of this Order under the procedures set forth at Section VI of this Order. If EPA concludes that Respondent has failed to satisfy the requirements of this Order, EPA may require further actions as set forth under this Order or it may pursue administrative or civil judicial actions.

IT IS SO AGREED AND ORDERED:

**FOR RESPONDENT, CITY OF LAWRENCE:**

Steve K. Coll  
Signature

11/9/2021  
Date

STEVEN K COLLIER  
Name

Mayer  
Title

**FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:**

\_\_\_\_\_  
Michael D. Harris  
Division Director  
Enforcement and Compliance Assurance Division  
U.S. EPA Region 5

\_\_\_\_\_  
Date