

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
11201 RENNER BOULEVARD  
LENEXA, KANSAS 66219

BEFORE THE ADMINISTRATOR

IN THE MATTER OF	)	
	)	Docket No. CWA-07-2017-0027
Gibbon Packing, LLC	)	
Gibbon, Nebraska	)	
	)	
Respondent.	)	CONSENT AGREEMENT AND
	)	FINAL ORDER
Proceedings under Section 309(g) of the	)	
Clean Water Act, 33 U.S.C. § 1319(g)	)	
	)	
	)	

**A. COMPLAINT**

**Jurisdiction**

1. This is an administrative action for the assessment of civil penalties instituted pursuant to Section 309(g) of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act (CWA), 33 U.S.C. § 1319(g), and in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22.
2. Complainant, the United States Environmental Protection Agency, Region 7 (EPA) and Respondent, Gibbon Packing, LLC, have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
3. This Complaint and Consent Agreement/Final Order (CA/FO) serves as notice that the EPA has reason to believe that the Respondent has violated Sections 301, 307 and 402 of the CWA, 33 U.S.C. §§ 1311, 1317, and 1342; and regulations promulgated thereunder.

**Parties**

4. The authority to take action under Section 309(g) of the CWA, 33 U.S.C. § 1319(g), is vested in the Administrator of EPA. The Administrator has delegated this authority to the Regional Administrator, EPA, Region 7, who in turn has delegated it to the Director of the Water, Wetlands and Pesticides Division of EPA, Region 7.

5. Respondent is Gibbon Packing, LLC, a limited liability company organized pursuant to the laws of the state of Delaware.

### **Statutory and Regulatory Framework**

6. Section 301(a) of the Act, 33 U.S.C. § 1311 (a), prohibits discharge of pollutants from a point source into navigable waters of the United States, except in compliance with, inter alia, Sections 307 and 402 of the Act, 33 U.S.C. §§ 1317 and 1342. Section 402 provides that pollutants may be discharged into navigable waters of the United States only in accordance with the terms of a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to that section. Section 307 provides for the promulgation of regulations establishing pretreatment standards for introduction of pollutants into publicly owned treatment works (POTW).

7. Pursuant to Section 307(b) of the CWA, 33 U.S.C. § 1317(b), EPA promulgated regulations codified at 40 C.F.R. Part 403, entitled the General Pretreatment Regulations. These regulations control the introduction of pollutants by industrial users into POTWs which may pass through or interfere with treatment processes of such treatment works, or which may contaminate sewage sludge.

8. The General Pretreatment Regulations at 40 C.F.R. § 403.3(i) and (n) set forth definitions for interference and pass through, respectively. Specifically:

- a. "Interference" is defined, in pertinent part, as a discharge of pollutants, which alone or in conjunction with other sources, inhibits or disrupts the treatment processes or operations of a POTW, and which therefore is a cause of a violation of any requirement of a POTW's NPDES permit; and
- b. "Pass through" is defined, in pertinent part, as a discharge of pollutants which exits a POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with other sources, is a cause of a violation of any requirement of a POTW's NPDES permit.

9. 40 C.F.R. § 403.5(a) sets forth general prohibitions that users shall not introduce pollutants into a POTW which result in the "pass through" of pollutants through the POTW, or "interference" with the operations of the POTW.

10. A "Significant Industrial User" is defined by 40 C.F.R. § 403.3(t)(ii) as a contributing industry that has (1) a flow of 25,000 gallons or more per average workday, or (2) has an average daily flow or load greater than five percent (5%) of the flow or load carried by the POTW or (3) has significant impact on the POTW or the quality of the POTW's effluent.

11. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), requires NPDES permits for storm water discharges "associated with industrial activity."

12. EPA regulations define the term “storm water discharge associated with industrial activity” as “the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant.” See 40 C.F.R. § 122.26(b)(14). Section 502(12) of the Act, 33 U.S.C. § 1362(12) defines the term “discharge of a pollutant” to include “any addition of any pollutant to navigable waters from any point source.” 33 U.S.C. § 1362(12).

13. “Pollutants” within the meaning of the CWA include “biological materials . . . and industrial . . . and agricultural waste discharged into water.” 33 U.S.C. § 1362(6). Navigable waters are “waters of the United States.” 33 U.S.C. § 1362(7).

14. Persons who discharge or who propose to discharge “storm water associated with industrial activity” are required to apply for an individual permit or seek coverage under a promulgated storm water general permit. 40 C.F.R. § § 22.21(a) and (c).

15. The Nebraska Department of Environmental Quality (NDEQ) is the state agency with the authority to administer the federal NPDES program. EPA authorized Nebraska to administer the NPDES program pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b), in June of 1974, and later authorized Nebraska to administer the Pretreatment Program in September of 1984. NDEQ has issued general storm water permits for industrial sites, which govern and set forth conditions for stormwater discharges associated with industrial activity, including prohibitions of discharges not authorized by the permits.

### **GENERAL ALLEGATIONS**

16. Respondent is a “person” within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

17. At all times relevant to this action, Respondent was, and still is, the owner and/or operator of a cattle slaughter and hide processing facility located at 218 East Highway 30, P.O. Box 730, Gibbon, Nebraska 68840 (the Facility). The hide processing facility has been discontinued.

18. The City of Gibbon (the City), Nebraska is a “person” as defined by Section 502 of the Act, 33 U.S.C. § 1362(5), that owns and operates a POTW for the treatment of both domestic and industrial wastewater, including a treatment facility (Treatment Facility) that includes two covered anaerobic lagoons and three sequencing batch reactors (SBR).

19. Wood River is considered a “navigable water” of the United States, as defined by Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

20. The City’s POTW is a “point source” that “discharges pollutants” into the Wood River, as these terms are defined by Section 502(14) and (12) of the CWA, respectively, 33 U.S.C. § 1362(14) and (12). The City’s discharge of pollutants from its POTW requires a NPDES permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

21. Effective June 1, 2007, NDEQ issued the City's POTW a NPDES permit that established the terms and conditions for authorized discharges to the Wood River (Permit No. NE0029297). Effective October 1, 2012, NDEQ reissued the City's POTW's NPDES permit (2012 City Permit).

22. Respondent directly discharges non-contact cooling water to the Wood River via Outfall 001, and therefore is a "point source" that "discharges pollutants" into waters of the United States, as these terms are defined by Section 502(14) and (12) of the CWA, respectively, 33 U.S.C. § 1362(14) and (12).

### **Pretreatment**

23. Respondent Gibbon Packing discharges process wastewater from the Facility into the City's POTW, and therefore is an "industrial user," as defined by 40 C.F.R. § 403.3(h). Respondent's discharges to the POTW constitute an estimated 90-95% of total loadings of Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), and ammonia treated by the POTW.

24. Gibbon Packing is a Significant Industrial User based on discharges to the City's POTW in excess of 25,000 gallons of wastewater per day, discharging greater than 5% of loadings, and potential to impact the POTW.

25. Respondent's wastewater is a "pollutant," and contains "pollutants," as defined by Section 502(6) of the CWA.

26. On or about October 1, 2007, Respondent's facility was issued a NPDES/Nebraska Pretreatment Permit (NPP) by NDEQ (2007 Permit, Permit No. NE0124061). This permit was reissued on or about September 20, 2014 (2014 Permit).

27. Respondent's 2007 and 2014 Permits authorized only the discharge of non-contact cooling water via Outfall 001. The 2007 and 2014 Permits did not establish numeric limits on pollutants for Outfall 001. Respondent's 2007 and 2014 Permits also established numeric limits on pollutants contained in the wastewater discharged to the POTW via Outfall 002 (Beef Slaughter Process wastewater) and Outfall 003 (Hide Process wastewater). The numeric limits for Outfalls 002 and 003 were based on the design capacity of the City's POTW/Treatment Facility and therefore were intended to prevent "interference" and/or "pass through" at the POTW/Treatment Facility. Respondent's Permits also require monitoring and reporting of monitoring results to NDEQ by discharge monitoring reports (DMRs).

28. Part III.B (Prohibited Discharge Standards) of Respondent's 2007 and 2014 Permits also prohibits discharges that cause and/or contribute to "interference" and/or "pass through." In addition to the requirements of Respondent's 2007 and 2014 Permits, Respondent is also subject to the General Pretreatment Regulations at 40 C.F.R. Part 403, including the prohibition of causing and/or contributing to the "interference" and/or the "pass through" of pollutants at the POTW.

29. As an industrial discharger to the City's POTW, Gibbon Packing is also subject to the City's municipal ordinance which requires Respondent to pay surcharges for discharges to the POTW above specified limits, based on monitoring performed by the City.

### **Stormwater**

30. NDEQ issued and implemented a General Permit for the discharge of industrial stormwater in 1997 (Permit number NE-R000000, "1997 NDEQ General Permit"). In 1998 Respondent received authorization under the 1997 NDEQ General Permit (Permit authorization NE-R000206). NDEQ reissued the General Permit in July 2011 (Permit Number NE- "2011 NDEQ General Permit"). Respondent submitted a Notice of Intent to discharge under the 2011 NDEQ General Permit on or about August 9, 2012, and received authorization number NE-R900567, effective August 14, 2012.

31. Section 1.1.4.1 of the 2011 NDEQ General Permit, as applicable to the Respondent's Gibbon facility, authorizes only discharges composed entirely of stormwater.

32. Sections 4.1.1 and 4.1.2 and 8.U.5 of the 2011 NDEQ General Permit, as applicable to the Respondent's Gibbon facility, requires that at least quarterly qualified personnel perform and document the inspection of areas of the Facility exposed to stormwater, and more frequently as appropriate.

33. Section 4.2.1 of the 2011 NDEQ General Permit, as applicable to the Respondent's Gibbon facility, requires that at least quarterly qualified personnel collect samples and perform visual assessments of stormwater discharges for the presence of various parameters that would indicate the discharge of unauthorized pollutants (including but not limited to floating solids, suspended solids, sheen, and other obvious indicators of stormwater pollution).

34. Sections 4.3.1 and 4.3.2 of the 2011 NDEQ General Permit, as applicable to the Respondent's Gibbon facility, requires that qualified personnel annually conduct and document a comprehensive site evaluation of all areas covered by the permit, potential discharges and the effectiveness of the controls. Section 4.3.2, the General Permit requires the permittee to take and document appropriate corrective actions to address observed deficiencies.

35. Section 6.2.1 of the 2011 NDEQ General Permit, as applicable to the Respondent's Gibbon facility, requires that a permittee conduct quarterly benchmark testing (for the first 4 quarters of the permit term) of monitoring data to determine the overall effectiveness of control measures to prevent pollution from entering stormwater. Section 6.2.1 of the General Permit requires a permittee to take appropriate actions and to document corrective actions necessary to address detected bench mark exceedances.

36. Section 5 of the 2011 NDEQ General Permit, as applicable to the Respondent's Gibbon facility, requires that a permittee prepare and implement a Stormwater Pollution Prevention Plan (SWPPP).

### **EPA's investigations**

37. During the period between June 2011 and the date of issuance of this CA/FO, the City of Gibbon has been in nearly continuous non-compliance with the City's 2012 NPDES permit limits for ammonia (NH<sub>3</sub>). Additionally, the City has repeatedly violated the City's applicable NPDES permit's limits for chloride, BOD and TSS, and has also violated the applicable permit's limits for whole effluent toxicity. (See Attachment 1 to this CA/FO).

38. During October 20 – 24, 2014, EPA conducted inspections of both the City's POTW and Respondent's Gibbon facilities to determine compliance with the CWA, including investigating the potential impact of discharges of Respondent Gibbon Packing on the ability of the City to comply with its applicable NPDES permit.

39. On or about July 8, 2015, EPA issued the city of Gibbon and Respondent Gibbon Packing a Request for Information, pursuant to the authority of Section 308 of the CWA, 33 U.S.C. 1318. Respondent's response to the July 2015 Request was received by EPA on about August 14, 2015. The City's response to the July 2015 Request was received by EPA on or around August 17, 2015.

40. Through the date of issuance of this CA/FO (Period of Violations), EPA has reviewed available information and documentation from EPA's investigations and NDEQ that describe both the city of Gibbon's and Gibbon Packing's noncompliance with the applicable NPDES, pretreatment and/or industrial stormwater permits. From at least the date of EPA's 2014 inspection to the present, Respondent has been aware of the city of Gibbon's non-compliance with the City's NPDES permit. As alleged below, thru the date of issuance of this CA/FO, Respondent has violated 40 C.F.R. 403.5 and the NPDES/NPP and stormwater permits applicable to its Gibbon facility.

### **ALLEGED VIOLATIONS**

#### **Count 1**

#### **Violations of Respondent's 2007 and 2014 NPDES/NPP Permits**

41. Paragraphs 1 to 40, above, are hereby incorporated by reference.

42. During no less than the occasions described in Attachment 2 to this CA/FO, Respondent's discharges of wastewater thru Outfall 001 contained pollutants (Oil and Grease) other than non-contact cooling water in violation of the specific authorization for discharges of only non-contact cooling water as set forth in the 2007 and 2014 NPDES/NPP permits.

43. During no less than the occasions described in Attachment 3 to this CA/FO, Respondent violated the numeric limits for Outfall 002 (Slaughter facility) and/or Outfall 003 (Hide) as set forth in the 2007 and 2014 NPDES/NPP permits. These violations include, but are not limited to, violations of these permits' limits for Oil and Grease, BOD, TSS and chlorides.

44. Respondent's pollutant discharges to Outfall 001, or to the POTW thru Outfalls 002 and/or 003 (via the POTW's collection system), in violation of the applicable 2007 and/or 2014 NPDES/NPP permits are violations of Section 301(a), 307(d) and 402 of the CWA, 33 U.S.C. §§ 1311(a), 1317(d) and 1342.

**Count 2**  
**Violations of the prohibition against Interference and Pass through**

45. The facts stated in Paragraphs 1 through 44, above, are incorporated herein by reference.

46. Under 40 C.F.R Part 403 and the 2014 NPDES/NPP permit, Respondent is prohibited from the discharge of pollutants which cause or contribute to interference or process upset at the City's treatment facility, or that cause or contribute to the pass through of pollutants in violation of the City's NPDES permit.

47. The City violated the limits of the 2007 and 2012 NPDES Permits on no less than the occasions indicated in Attachment 1 to this CA/FO.

48. Additionally, during the EPA inspection in 2014, the EPA observed and documented that the city of Gibbon's Treatment Facility was not operating as designed. Specifically, at the time of EPA's inspection, the City was operating only one of the three sequencing batch reactors at the Treatment Facility, and had also been operating without one or two reactors for much of the prior two years, although loadings from Respondent's facility to the POTW had increased during this period. On August 31, 2015, the City and NDEQ entered an order alleging the City had violated its NDPEs permit limits and had failed to properly operate the POTW, and requiring the City to: (a) pay a civil penalty of \$25,000.00, (b) make significant equipment repairs by November 1, 2016; (c) create operation plans for approval by NDEQ; (d) create staffing plans for approval by NDEQ; (e) create an asset management plan for approval by NDEQ; and (f) providing for additional stipulated penalties in the event of the City's failure to meet the requirements of the Order.

49. Nonetheless, during no less than the period of violations described in Count 1, above, and set forth in Attachment 3 to this CA/FO, Respondent discharged an estimated 90 percent of the loadings to the POTW, and caused and/or contributed to the pass through of pollutants in violation of the City's NPDES permit and/or the interference of the POTW's treatment processes and operations.

50. The occasions of pass through and/or interference by Respondent described above, are violations of the General Pretreatment Regulations at 40 C.F.R. 403.5(a)(1), the Respondent's 2014 NPDES/NPP permit and Sections 301(a) and 307(d) of the CWA, 33 U.S.C. §§ 1311(a) and 1317(d).

**Count 3**  
**Violations of 2011 NDEQ General Permit (Stormwater)**

51. Paragraphs 1 to 50, above, are hereby incorporated by reference.
52. During no less than the period of violations described in Attachment 2 to this CA/FO, Respondent's discharges of wastewater thru Outfall 001 contained pollutants (Oil and Grease) other than stormwater, in violation of the specific authorization for discharges of only stormwater, in violation of Section 1.1.4.1 of the 2011 NDEQ General Permit.
53. At the time of EPA's 2014 inspection, Respondent provided EPA inspection reports (dated December 23, 2013, January 25, 2014, April 24, 2014, and August 30, 2014) that failed to meet the required elements for stormwater inspection and/or documentation of inspection, in violation of Sections 4.1.1 and 4.1.2 and 8.U.5 of the 2011 NDEQ General Permit.
54. During the third quarter of 2013 (July to August) and the first quarter of 2014 (January to March), Respondent failed to collect samples and perform visual assessments of stormwater discharges for the presence of required parameters, in violation of Section 4.2.1 of the 2011 NDEQ General Permit.
55. For the year of 2013, Respondent failed to conduct and/or document an annual comprehensive stormwater site evaluation, in violation of Sections 4.3.1 and 4.3.2 of the 2011 NDEQ General Permit.
56. During 2013 and 2014 Respondent performed benchmark testing and the results of these samples exceeded the General Permit's benchmarks that required corrective action. At the time of EPA's inspection, Respondent was not able to produce documentation demonstrating that appropriate action was taken in response to benchmark exceedances. Respondent failed to take appropriate actions to address the results of benchmark testing that exceeded the General Permit's benchmarks designed to determine the effectiveness of the Respondent's controls, in violation of Section 6.2.1 of the 2011 General Permit.
57. Respondent's violations of its authorization to discharge stormwater under the 2011 NDEQ's General permit, are violations of Section 301(a) and 402(p) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(p).

**B. CONSENT AGREEMENT**

1. Respondent and EPA agree to the terms of this Consent Agreement and Respondent agrees to comply with the terms of the Final Order portion of this CA/FO.
2. Respondent admits the jurisdictional allegations of this CA/FO and agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of this CA/FO.



3. Respondent neither admits nor denies the factual allegations and legal conclusions set forth above.
4. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth above, and its right to appeal any portion of this CA/FO.
5. Respondent and Complainant agree to conciliate the matters set forth in this CA/FO without the necessity of a formal hearing and agree to bear their own costs and attorney's fees incurred as a result of this action.
6. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this CA/FO and to execute and legally bind Respondent to it.
7. Nothing contained in this CA/FO shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.
8. This CA/FO addresses all civil and administrative claims for CWA violations during the Period of Violation that are specifically alleged herein and set forth in the attachments to this CA/FO. Complainant reserves the right to take any enforcement action with respect to any other violations of the CWA or any other applicable law.
9. EPA issued an Administrative Order for Compliance on Consent ("Order", EPA Docket No. CWA-07-2016-0061) which establishes compliance actions required by Respondent to comply with its NPDES permits and the pretreatment program. Respondent certifies by the signing of this CA/FO that to the best of its knowledge, Respondent's Facility is in compliance with the referenced Order.
10. The effect of the settlement described in Paragraph B.8 above is conditional upon the accuracy of Respondent's representations to EPA, as memorialized in Paragraph B.9 of this CA/FO.
11. EPA and its authorized representatives shall have access to Respondent's Facility at all reasonable times to monitor Respondent's implementation of the Order. Nothing herein shall be construed to limit EPA's access authority under the CWA or any other law.
12. Respondent agrees that, in settlement of the claims alleged in this CA/FO, Respondent shall pay a penalty of \$204,576.50, as set forth, below.
13. Respondent understands that failure to pay any portion of the mitigated civil penalty or stipulated penalties on the proper due dates may result in the commencement of a civil action in Federal District Court to collect said penalty, along with interest thereon at the applicable statutory rate.

Payment Procedures

14. Respondent agrees to pay a mitigated civil penalty of Two Hundred and Four Thousand, Five Hundred and Seventy-Six dollars and Fifty cents (\$204,576.50) within thirty (30) days of the effective date of the Final Order.

15. Payment of the penalty shall be by cashier or certified check made payable to the "United States Treasury" and remitted to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000.

This payment shall reference docket number CWA-07-2017-0027.

Copies of the check shall be mailed to:

Howard Bunch  
Sr. Assistant Regional Counsel  
U.S. Environmental Protection Agency - Region 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219

and to

Kathy Robinson  
Regional Hearing Clerk  
U.S. Environmental Protection Agency - Region 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219.

16. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this CA/FO shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.

Parties Bound

17. The Final Order portion of this CA/FO shall apply to and be binding upon Respondent and Respondent's agents, successors, or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this CA/FO.

General Provisions

18. Notwithstanding any other provision of this CA/FO, EPA reserves the right to enforce the terms of the Final Order portion of this CA/FO by initiating a judicial or administrative action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, and to seek penalties against Respondent or to seek any other remedy allowed by law.
19. Complainant reserves the right to take enforcement action against Respondent for any future violations of the CWA and its implementing regulations and to enforce the terms and conditions of this CA/FO.
20. The Final Order shall be entered and become effective only after the conclusion of the period of public notice and comment required pursuant to Section 309(g)(4) of CWA, 33 U.S.C. § 1319(g)(4), and 40 C.F.R. § 22.45. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.
21. Respondent and Complainant shall bear their respective costs and attorney's fees.
22. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.
23. Respondent and Complainant agree that this CA/FO can be signed in part and counterpart.

COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

\_\_\_\_\_  
Date

\_\_\_\_\_  
Karen A. Flournoy  
Director  
Water, Wetlands and Pesticides Division


\_\_\_\_\_  
Date

\_\_\_\_\_  
Howard C. Bunch  
Sr. Assistant Regional Counsel  
Office of Regional Counsel

RESPONDENT:

GIBBON PACKING, LLC

2-15-17  
Date

  
\_\_\_\_\_

Name (Print) Rusty Olivie

Title VP of Operations

**C. FINAL ORDER**

Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

The Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

IT IS SO ORDERED.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Karina Borromeo  
Regional Judicial Officer

Attachment 1:  
City of Gibbon's Violations of 2007 and 2012 NDPES Permits

<b>Gibbon, NE Ammonia and Chloride Violations</b>													
			Gibbon	NE0029297	62856								
			G Pack	NE0124061	3431								
2011	FLOW mgd	Chlorides				NH3		Dmax	Mo. avg	Dmax	Mo. avg		
		Concentration		Mass		Concentration						Mass	
		7d avg	Mo. avg	7d avg	Mo. avg	Dmax	Mo. avg					Dmax	Mo. avg
		no limit	no limit	no limit	no limit	10.51 mg/l	3.80 mg/l					58.40 kg/d	20.84 mg/l
							10.05 mg/l	4.10 mg/l	60.79 kg/d	24.96 mg/l			
							4.92 mg/l	1.80 mg/l	29.39 kg/d	10.75 mg/l			
Jan-11							3.23	1.3	18.9	7.5			
Feb-11							112.4	29.3	663.7	173.1			
Feb-11 Ammonia violations begin. Recent fire disabled flow controls from anaerobic lagoons													
2/14/2011 NDEQ inspects Gibbon - only one SBR in operation (why?)													
Mar-11							86.25	51.15	536.3	314.4			
Apr-11							57.5	17.12	345.15	104.99			
May-11							30.8	22.4	173.12	131.47			
Jun-11							30.8	22.4	144.79	71.33			
6/16/2011 NDEQ conducts a site visit of the city's WWTP													
6/20/2011 NDEQ issues city NOV for failure to take WET test and maintain anaerobic covers													
Jul-11							57.4	17.1	104.98	17.13			
Aug-11							14	6.4	77.3	34.3			
Sep-11							6.11	4.5	23.9	11.3			
Oct-11							3.23	1.3	18.89	7.49			
Nov-11							14	9.2	85.78	56.64			
Dec-11							8.31	4.7	49	26.3			
2012	FLOW mgd	Chlorides				NH3		Dmax	Mo. avg	Dmax	Mo. avg		
		Concentration		Mass		Concentration						Mass	
		7d avg	Mo. avg	7d avg	Mo. avg	Dmax	Mo. avg					Dmax	Mo. avg
						10.5 mg/l	3.8 mg/l					58 kg/d	20.84 mg/l
							10.1 mg/l	4.1 mg/l	61 kg/d	24.96 mg/l			
							4.9 mg/l	1.8 mg/l	29 kg/d	10.75 mg/l			
Jan-12							8.31	4.7	47.6	25.9			
Feb-12							2.87	1.66	15.6	9.49			
Mar-12							5.62	3.66	34.07	21.5			
Apr-12							19.2	10.3	103.6	60.3			
May-12							37	19.3	226.7	118.5			
Jun-12							9.6	8.5	25.3	20.9			
Jul-12							7.2	3.6	43.8	21.6			
Aug-12							10.01	7.4	57.7	43.8			
Sep-12							4.95	2.5	28	13.8			

	FLOW	Chlorides				NH3			
		Concentration		Mass		Concentration		Mass	
		Dmax	Mo.avg	Dmax	Mo.avg	Dmax	Mo.avg	Dmax	Mo.avg
New Permit Limits in effect Oct 1, 2012		483 mg/l	241 mg/l	2445 kg/d	1219 kg/d	2.32 mg/l	1.16 mg/l	11.73 mg/l	24.96 mg/l
		399 mg/l	199 mg/l	1946 kg/d	970 kg/d	5.01 mg/l	2.50 mg/l	24.40 mg/l	20.84 mg/l
Oct-12		21.5	21.7	5265.4	3983.2	35	14.6	177.7	82.3
Nov-12		512	462	3247.5	2701.6	36.5	15.1	197.6	84.8
Dec-12		922	711	5196.1	3576.4	10.2	8.1	58.8	40.9
Jan-13		496	361	2915	2129	36.5	24.6	214.5	145.4
Feb-13		501	400	2973	1782	33	23.8	151.2	94.5
Mar-13		429	354	1847	1590	22	16	134.14	91.61
Apr-13		340	330	1933	1825	41.9	38.4	225.54	211.97
May-13		319	277	1773	1431	69.8	54.5	405.3	290.9
Jun-13		241	167	980	604	64.6	34.3	214.9	140.8
Jul-13		206	154	1175	698	44	31.9	251	154.5
Aug-13		128	110	745.1	488.9	16.6	13.5	96.6	75.6
Sep-13		113	106	555.3	489.1	15.3	11.1	5.2	52.4
Oct-13		298	204	2140	1211	75.5	30.8	422.4	171
Nov-13		227	209	1261	1065	72	56.6	400	284
Dec-13		241	227	1530	1289	63.4	50.6	328.3	285.7
Jan-14		249	235	1631.1	1509.5	31.1	17.9	197.5	17.9
Feb-14		234	245	158.7	147	78	45.3	477.6	271.7
Mar-14		227	234	1353.3	1331.2	41.3	17.2	232.6	97.2
Apr-14		216	190	1373	1125	48.5	31.1	293.3	183.6
May-14		255	205	1369	1146	16.1	9.28	92.53	53.1
Jun-14		262	220	1668	1348	17.2	6.33	104.03	38.37
Jul-14		177	204	1585	1188	106.5	59.96	565.49	342.49
Aug-14		184	167	1004	928	54	28.05	306	159
Sep-14			153	1113	900	43.5	35.3	260.67	205.27
Oct-14		213	179	1296	1063	84	66.78	499.99	395
Nov-14		191	184	1119	1037	83	50	439	281
Dec-14		191	155	1155	926	40.7	21.8	246.2	130
Jan-15		142	105	1073.5	745.2	73.3	21.7	554.1	161.3
Feb-15		140	126	1058	920	61	46.3	461.1	338.5
Mar-15		170	153	1149	1112	45.4	32.9	343.22	239.16
Apr-15		227	2.16	1543	1386	11.8	6.7	73.11	42.72
May-15		186	174	1026	972	0.2	0.13	1.09	0.7
Jun-15		156	132	929	770	2.7	1.28	12.81	7.51
Jul-15		206	174	1354	998	0.6	0.45	6.8	2.42
Aug-15		213	164	1369	1055	11.5	3.08	73.9	19.76
Sep-15		213	187	1449	1271	28.9	13.93	196.64	94.75
Oct-15		163	115	844	587	18.7	6.04	97.55	31.23
Nov-15		178	123	908	633	1.6	0.9	9	4.8
Dec-15		163	110	840	574	21	9.9	108	51.32
Jan-16		121	95.5	642.19	827.26	5.4	3.125	36.22	20.71
Feb-16		191	125.25	1273.71	825.04	12.3	4	82.02	26.68
Mar-16		199	107	1322.02	687.52	48.9	17.06	324.85	111.34
Apr-16		220	208	1364	1292	143	73.6	894.05	458.5
May-16		193	150.75	1242.5	949.2	61.9	25.4	381.6	158
Jun-16		213	179.8	1334.35	1138.2	155.5	98.6	994	624.18
Jul-16		160	128.47	1249.57	700.19	119.5	72.12	701.05	385.9
Aug-16		209	190.3	1222	1031	45	11.95	230.9	61.55
Sep-16		184	166.8	870	771.45	47.1	9.98	185.5	39.9

	FLOW	CBOD				TSS			
		Concentration		Mass		Concentration		Mass	
		7 DA AVG	Mo Avg	7 DA AVG	Mo Avg	7 DA AVG	Mo Avg	7 DA AVG	Mo Avg
New Permit Limits in effect Oct 1, 2012	mg/l	mg/l	kg/d	kg/d	mg/l	mg/l	kg/d	kg/d	
	45	30	341	227 kg/d	45	30	341	227 kg/d	
Oct-12		12	10	70.9	57.4	11	6	57.5	32.3
Nov-12		9	6	36.7	24.9	9	6	50.7	32.9
Dec-12		8	5	47.4	26.1	7	5	41.6	29.7
Jan-13		16	9	94	53	12	6	70.5	33.8
Feb-13		12	8	47	28	11	2	57	33
Mar-13		15	10	56	43	12	9	71	48
Apr-13		20	18	113.7	99.9	17	16	96.6	88.7
May-13		25	14	161.6	77.7	20	18	129.3	93.1
Jun-13		23	15	92.2	47.8	27	16	124.5	65.5
Jul-13		39	20	196.1	91.2	29	1	145.8	83.6
Aug-13		10	7.5	58.2	42.4	20	16	105.8	87.9
Sep-13		7	5.5	34.4	25.8	12	8	51.3	35.5
Oct-13		31	16	173	91	55	35	308	197
Nov-13		54	34	261	172	50	41	242	206
Dec-13		16	12	82.8	68.4	30	25	215	195
Jan-14		20	8	130.8	52	40	24.4	208.1	121.7
Feb-14		23	16	140.8	96.5	40	28	257	170.3
Mar-14		18	10.5	102	59.7	30	20.8	169	117.6
Apr-14		16	9.5	96.8	56.4	67	28	405.2	165.3
May-14		17	12	90	67	28	15.2	169	85
Jun-14		8	6	49	35	15	10	69	61
Jul-14		23	12	139	73	30	24	137	181
Aug-14		25	14	142	78	20	16	113	89
Sep-14		21	15.5	127	91	85	41	514	245.7
Oct-14		43	28	262	167	153	67	868	391
Nov-14		36	14	211	79	50	30	293	169
Dec-14		16	11	97	65.8	45	29	266	174
Jan-15		9	6	68	41.2	30	22	226.8	158.9
Feb-15		12	8	862	549	93	46	670	338
Mar-15		11	9	83	66	60	333	453	244
Apr-15		17	8	105	49	40	17	240	108
May-15		9	5	49	29	32	11	175	61
Jun-15		3	2.5	17	15	8	4.5	48	26
Jul-15		3	2	13.6	11.82	16	7.5	108.86	40.26
Aug-15		17	7	109	45	14	6.25	90	40
Sep-15		4	3	27	20	6	3.5	41	24
Oct-15		3	2.6	15	13	24	10	122	49
Nov-15		3	3	17	14	8	5	45	27
Dec-15		8	5	41	25	25	10	129	53
Jan-16		5	3	20.63	20.01	27	21.75	180.3	145.22
Feb-16		7	5.25	46.68	34.38	12	13.75	92.15	80.02
Mar-16		11	6.8	73.07	44.74	24	16.8	109.29	156.73
Apr-16		39	16.5	243.8	102.8	93	60	579.76	248
May-16		16.5	7	103.2	43.16	27.5	20	174	126
Jun-16		37	28.2	178.25	115	61.6	32	389	154.1
Jul-16		29	28	170.13	147.3	24	138.43	28.5	160.8
Aug-16		11	8.25	59.08	44.03	6	30.16	6	32.16
Sep-16		11	9.2	58.6	42.6	24	42.03	15.4	67.3



Attachment 2:

Documented incidents of observed Oil and Grease in wet well for Outfall 001  
In violation of Respondent's NPDES/NPP permit and Industrial Stormwater permits

1. May 9, 2012 NDEQ Stormwater Inspection
2. August 14, 2014 Report from City
3. October 20 – 24, 2014 EPA inspection of Respondent's Gibbon facility
4. November 2014 Inspection by the City of Gibbon POTW Operator
5. March 10, 2015 NDEQ site visit

Attachment 3  
Respondent's Violations of Numeric limits of 2014 NPDES/NPP permit

New Permit Limits in effect Oct 1, 2014	BOD 002		TSS 002		TSS 003		O&G 002		Chloride, T 002	
	Mass		Mass		Mass		Mass		Mass	
	Dmax	Mo Avg	Dmax	Mo Avg	Dmax	Mo Avg	Dmax	Mo Avg	Dmax	Mo Avg
	kg/d	kg/d	kg/d	kg/d	kg/d	kg/d	kg/d	kg/d	kg/d	kg/d
	20000	10000	22500	11250	1098	549	12000	6000		varies
Oct-14	9733	5328	9007	4783	429	291	6065	4766	1216	1003
Nov-14	12066	6091	9001	5328	437	301	5132	4099	986	943
Dec-14	12991	8598	9896	6474	385	227	4551	4212	1182	1085
Jan-15	12137	7754	12628	6615	481	225	18838	16158	1028	948
Feb-15	12991	7217	18448	6240	321	147	11757	10821	1016	943
Mar-15	9962	5374	9997	4973	359	222	12662	11734	955	762
Apr-15	9994	4710	9074	4293	359	221	11494	5280	1085	939
May-15	11588	5439	9999	4661	717	281	9102	6518	979	828
Jun-15	10832	5888	14520	4803	332	240	11201	7918	1054.017	890
Jul-15	10106	6129	7740	4875	306	206	6961	6625	880	812
Aug-15	16423	8829	12550	6341	794	141	8364	5421	1087	890
Sep-15	36843	13737	23617	7537	747	106	17524	11178	1031	966
Oct-15	37498	12369	28746	6829	341	57	4949	2362	984	965
Nov-15	83223	21228	70712	13449	614	223	13191	7249	1314	829
Dec-15	24089	9632	21939	6720	3822	938	7450	3896	980	896
Jan-16	30924	16625	25063	13198	4194	727	16929	11368	841	757
Feb-16	34455	18236	26848	11331	447	285	10459	6292	920	748
Mar-16	44937	17768	43404	13404	174	418	19531	9859	874	721
Apr-16	37457	14192	23642	7082	235	103	8699	4259	832	745
May-16	17804	9674	12372	4637	403	104	5010	3273	894	813
Jun-16	43507	14801	31055	8800	452	145	4466	3062	800	749
Jul-16	23885	10165	14477	5571	56	35	13503	4459	916	880
Aug-16	21717	9995	16269	6548	ND	ND	13072	2732	973	865
Sep-16	22957	13480	18022	8351	ND	ND	6239	3344	1001	935