

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

CITY OF PLUMMER

Plummer, Idaho

Respondent.

DOCKET NO. CWA-10-2025-0150

CONSENT AGREEMENT

Proceedings Under Section 309(g) of the Clean
Water Act, 33 U.S.C. § 1319(g)

I. STATUTORY AUTHORITY

1.1. This Consent Agreement is entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 309(g) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g).

1.2. Pursuant to CWA Section 309(g)(1)(A), 33 U.S.C. § 1319(g)(1)(A), the EPA is authorized to assess a civil penalty against any person that has violated CWA Section 301, 33 U.S.C. § 1311, and/or any permit condition or limitation in a permit issued under CWA Section 402, 33 U.S.C. § 1342.

1.3. CWA Section 309(g)(2)(B), 33 U.S.C. § 1319(g)(2)(B), authorizes the administrative assessment of Class II civil penalties in an amount not to exceed \$10,000 per day for each day during which the violation continues, up to a maximum penalty of \$125,000. Pursuant to 40 C.F.R. Part 19, the administrative assessment of Class II civil penalties may not exceed \$27,378 per day for each day during which the violation continues, up to a maximum penalty of \$342,218. *See also* 90 Fed. Reg. 1375 (January 8, 2025) (2025 Civil Monetary Penalty Inflation Adjustment Rule).

1.4. Pursuant to CWA Section 309(g)(1)(A) and (g)(2)(B), 33 U.S.C. § 1319(g)(1)(A) and (g)(2)(B), and in accordance with Section 22.18 of the “Consolidated Rules of Practice

Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, the EPA issues, and the City of Plummer (Respondent) agrees to issuance of, the Final Order attached to this Consent Agreement.

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), execution of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Administrator has delegated the authority to sign consent agreements between EPA and the party against whom a penalty is proposed to be assessed pursuant to CWA Section 309(g), 33 U.S.C. § 1319(g), to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Director of the Enforcement and Compliance Assurance Division, EPA Region 10 (Complainant).

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of the CWA, together with the specific provisions of the CWA and implementing regulations that Respondent is alleged to have violated.

III. ALLEGATIONS

Statutory and Regulatory Framework

3.1. As provided in CWA Section 101(a), 33 U.S.C. § 1251(a), the objective of the CWA is “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”

3.2. CWA Section 301(a), 33 U.S.C. § 1311(a), prohibits the discharge of pollutants by any person from any point source into waters of the United States except, *inter alia*, as authorized by a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to CWA Section 402, 33 U.S.C. § 1342.

3.3. CWA Section 502(12), 33 U.S.C. § 1362(12), defines “discharge of a pollutant” to include “any addition of any pollutant to navigable waters from any point source.”

3.4. CWA Section 502(6), 33 U.S.C. § 1362(6), defines a “pollutant” to include, *inter alia*, industrial, municipal, and agricultural waste discharged into water.

3.5. CWA Section 502(14), 33 U.S.C. § 1362(14), defines “point source” to mean any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel or conduit from which pollutants are or may be discharged.

3.6. CWA Section 502(5), 33 U.S.C. § 1362(5), defines “person” as “an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State of any interstate body.”

3.7. CWA Section 502(4), 33 U.S.C. § 1362(4), defines “municipality” to include a “city ... or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes.”

3.8. CWA Section 502(7), 33 U.S.C. § 1362(7), defines navigable waters as “waters of the United States.”

3.9. CWA Section 402(a), 33 U.S.C. § 1342(a), provides that the Administrator of the EPA may issue permits under the NPDES program for the discharge of any pollutant into waters of the United States upon such specific terms and conditions as the Administrator may prescribe.

General Allegations

3.10. Respondent is a “municipality” with jurisdiction over the disposal of sewage and other wastes and is therefore a “person” under CWA Section 502 (4)-(5), 33 U.S.C. § 1362(4)-(5).

3.11. Respondent owns and operates the City of Plummer Wastewater Treatment Plant (the “Facility”) located at 324 Toetly Road in Plummer, Idaho.

3.12. On May 15, 2012, the EPA issued NPDES Permit No. ID 0022781, which became effective on July 1, 2012, and expired on June 30, 2017 (the “2012 Permit”). Because Respondent timely submitted a permit application, the 2012 Permit was administratively continued on January 27, 2017, pursuant to 40 C.F.R. § 122.6. On July 28, 2020, the EPA issued NPDES Permit No. ID 0022781, which became effective on September 1, 2020, and which will expire on August 31, 2025 (the “2020 Permit”). The 2012 and 2020 Permits authorize, subject to their terms and conditions, the discharge of municipal wastewater containing pollutants.

3.13. At all times relevant to this action, Respondent was authorized to discharge municipal wastewater containing pollutants from the Facility pursuant to the 2012 Permit and then the 2020 Permit.

3.14. On May 16, 2023, an authorized EPA representative conducted a compliance inspection of the Facility to determine Respondent’s compliance with the 2020 Permit and CWA Sections 301 and 402, 33 U.S.C. §§ 1311, 1342.

3.15. The Facility discharges pollutants from Outfall 001, which discharges into Plummer Creek. Outfall 001 is a “point source” pursuant to 33 U.S.C. § 1362(14).

3.16. Plummer Creek is a relatively permanent tributary of Chatcolet Lake, which is part of Lake Coeur d’Alene, a traditionally navigable water. Plummer Creek is therefore a “navigable water” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

3.17. Respondent has discharged pollutants from a point source into navigable waters within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

Violations

4.1 Based on the inspection and the EPA’s review of Respondent’s discharge monitoring reports (“DMRs”), the EPA alleges that, from August 2019 to July 2024, Respondent

violated certain terms and conditions of the 2012 and 2020 Permits and therefore violated CWA Section 301, 33 U.S.C. § 1311.

Effluent & Monitoring Violations

4.2 Section I.B.1 and Table 1 of the 2012 Permit and the 2020 Permit establish effluent limitations and monitoring requirements for the discharge from Outfall 001 at the Facility. These effluent limitations and monitoring requirements include, but are not limited to, total ammonia (as N), total phosphorus (as P), *E. coli*, and pH.

4.3 Section III.B of the 2012 Permit and the 2020 Permit requires Respondent to submit monitoring results each month in a Discharge Monitoring Report (“DMR”).

4.4 Each failure to comply with the effluent limitations and monitoring requirements specified in the 2012 Permit or the 2020 Permit, issued pursuant to Section 402 of the CWA, is a violation of the terms and conditions of the 2012 Permit or the 2020 Permit, and is a violation of CWA Section 301(a), 33 U.S.C. § 1311(a) and CWA Section 402, 33 U.S.C. § 1342.

4.5 The EPA’s inspection of the Facility, together with review of Respondent’s DMRs from August of 2019 through July of 2024 indicate that the Facility had 1,466 effluent limit violations, as described below.

4.6 Part I.B.1, Table 1, of the 2012 Permit and the 2020 Permit specifies that the instantaneous maximum limit of *E. coli* in the effluent is 235 CFU/100 mL. From August 2019 through July 2024, Respondent exceeded the instantaneous maximum limit for *E. coli* three times, constituting three violations.

Month of Violation	Pollutant	Permit Limit	Value Reported	Unit
September 2021	<i>E. coli</i>	235	365	#/100 mL
May 2023	<i>E. coli</i>	235	2420	#/100mL
June 2024	<i>E. coli</i>	235	649	#/100mL

4.7 Part I.B.1, Table 1, of the 2012 Permit and the 2020 Permit specifies that the daily loading of Total Ammonia (as N) in the effluent shall not be greater than 20.8 lbs/d. From August 2019 through July 2024, Respondent exceeded the daily maximum loading limit for Total Ammonia (as N) one time, constituting one violation.

Month of Violation	Pollutant	Permit Limit	Value Reported	Unit
May 2020	Total Ammonia (as N)	20.8	23.9	lbs/d

4.8 Part I.B.1, Table 1, of the 2012 Permit and the 2020 Permit specifies that the daily maximum concentration of Total Ammonia (as N) in the effluent is 7.8 mg/L. From August 2019 through July 2024, Respondent exceeded the daily maximum concentration limit for Total Ammonia (as N) five times, constituting five violations.

Month of Violation	Pollutant	Permit Limit	Value Reported	Unit
September 2019	Total Ammonia (as N)	7.8	23	mg/L
April 2020	Total Ammonia (as N)	7.8	10.8	mg/L
May 2020	Total Ammonia (as N)	7.8	11.9	mg/L
September 2021	Total Ammonia (as N)	7.8	13	mg/L
May 2023	Total Ammonia (as N)	7.8	8.95	mg/L

4.9 Part I.B.1, Table 1, of the 2012 Permit and the 2020 Permit specifies that the monthly average concentration of Total Ammonia (as N) in the effluent shall not be greater than 2.5 mg/L. From August 2019 through July 2024, Respondent exceeded the monthly average concentration limit for Total Ammonia (as N) 5 times, constituting 152 violations.

Month of Violation	Pollutant	Permit Limit	Value Reported	Unit
September 2019	Total Ammonia (as N)	2.5	6	mg/L
April 2020	Total Ammonia (as N)	2.5	2.8	mg/L
May 2020	Total Ammonia (as N)	2.5	3.14	mg/L
December 2020	Total Ammonia (as N)	2.5	3.3	mg/L
September 2021	Total Ammonia (as N)	2.5	6.76	mg/L

4.10 Part I.B.1, Table 1, of the 2012 Permit specifies that the monthly average loading of Total Phosphorus (as P) in the effluent shall not be greater than 0.133 lbs/d. Part I.B.1, Table 1, of the 2020 Permit specifies that the monthly average loading of Total Phosphorus (as P) in the effluent shall not be greater than 0.133 lbs/d from April 1 through November 30. From August 2019 through July 2024, Respondent exceeded the 0.133 lbs/d monthly average loading limit for Total Phosphorus (as P) 22 times, constituting 671 violations.

Month of Violation	Pollutant	Permit Limit	Value Reported	Unit
October 2019	Total Phosphorus (as P)	0.133	1.38	lbs/d
April 2021	Total Phosphorus (as P)	0.133	2.76	lbs/d
May 2021	Total Phosphorus (as P)	0.133	0.755	lbs/d
June 2021	Total Phosphorus (as P)	0.133	0.7438	lbs/d
July 2021	Total Phosphorus (as P)	0.133	0.243	lbs/d
August 2021	Total Phosphorus (as P)	0.133	2.6	lbs/d
September 2021	Total Phosphorus (as P)	0.133	2.06	lbs/d
October 2021	Total Phosphorus (as P)	0.133	0.8	lbs/d
November 2021	Total Phosphorus (as P)	0.133	0.6	lbs/d
May 2022	Total Phosphorus (as P)	0.133	0.45	lbs/d

Month of Violation	Pollutant	Permit Limit	Value Reported	Unit
June 2022	Total Phosphorus (as P)	0.133	0.918	lbs/d
July 2022	Total Phosphorus (as P)	0.133	0.38	lbs/d
September 2022	Total Phosphorus (as P)	0.133	0.154	lbs/d
April 2023	Total Phosphorus (as P)	0.133	1.23	lbs/d
May 2023	Total Phosphorus (as P)	0.133	0.72	lbs/d
June 2023	Total Phosphorus (as P)	0.133	0.583	lbs/d
August 2023	Total Phosphorus (as P)	0.133	1.21	lbs/d
September 2023	Total Phosphorus (as P)	0.133	1.8	lbs/d
October 2023	Total Phosphorus (as P)	0.133	1.05	lbs/d
April 2024	Total Phosphorous (as P)	0.133	0.702	lbs/d
May 2024	Total Phosphorus (as P)	0.133	0.25	lbs/d
June 2024	Total Phosphorus (as P)	0.133	0.183	lbs/d

4.11 Part I.B.1, Table 1, of the 2020 Permit specifies that the monthly average loading of Total Phosphorus (as P) in the effluent shall not be greater than 0.267 lbs/d from December 1 through March 31. From September 2020 through July 2024, Respondent exceeded the December 1 through March 31 average monthly loading limit for Total Phosphorus (as P) 11 times, constituting 330 violations.

Month of Violation	Pollutant	Permit Limit	Value Reported	Unit
February 2021	Total Phosphorus (as P)	0.267	1.04	lbs/d
March 2021	Total Phosphorus (as P)	0.267	1.06	lbs/d
December 2021	Total Phosphorus (as P)	0.267	0.3	lbs/d
January 2022	Total Phosphorus (as P)	0.267	1.1	lbs/d

Month of Violation	Pollutant	Permit Limit	Value Reported	Unit
February 2022	Total Phosphorus (as P)	0.267	0.301	lbs/d
March 2022	Total Phosphorus (as P)	0.267	0.42	lbs/d
January 2023	Total Phosphorus (as P)	0.267	0.91	lbs/d
February 2023	Total Phosphorus (as P)	0.267	1.56	lbs/d
March 2023	Total Phosphorus (as P)	0.267	1.26	lbs/d
February 2024	Total Phosphorus (as P)	0.267	0.81	lbs/d
March 2024	Total Phosphorus (as P)	0.267	0.757	lbs/d

4.12 Part I.B.1, Table 1, of the 2012 Permit specifies that the monthly average concentration of Total Phosphorus (as P) in the effluent shall not be greater than 50 µg/L. Part I.B.1, Table 1, of the 2020 Permit specifies that the monthly average concentration of Total Phosphorus (as P) in the effluent shall not be greater than 50 µg/L from April 1 through November 30. From August 2019 through July 2024, Respondent exceeded the 50 µg/L monthly average concentration limit for Total Phosphorus (as P) 2 times, constituting 61 violations.

Month of Violation	Pollutant	Permit Limit	Value Reported	Unit
October 2019	Total Phosphorus (as P)	50	92	µg/L
June 2024	Total Phosphorous (as P)	50	222	µg/L

4.13 Part I.B.1, Table 1, of the 2012 Permit specifies that the weekly average loading of Total Phosphorus (as P) in the effluent shall not be greater than 0.350 lbs/d. Part I.B.1, Table 1, of the 2020 Permit specifies that the weekly average loading of Total Phosphorus (as P) in the effluent shall not be greater than 0.350 lbs/d from April 1 through November 30. From August 2019 through July 2024, Respondent exceeded the 0.350 lbs/d weekly average loading limit for Total Phosphorus (as P) 20 times, constituting 140 violations.

Month of Violation	Pollutant	Permit Limit	Value Reported	Unit
October 2019	Total Phosphorus (as P)	0.350	3.4	lbs/d
April 2021	Total Phosphorus (as P)	0.350	2.04	lbs/d
June 2021	Total Phosphorus (as P)	0.350	0.443	lbs/d
July 2021	Total Phosphorus (as P)	0.350	0.4565	lbs/d
August 2021	Total Phosphorus (as P)	0.350	2.7714	lbs/d
September 2021	Total Phosphorus (as P)	0.350	3.995	lbs/d
October 2021	Total Phosphorus (as P)	0.350	.67925	lbs/d
November 2021	Total Phosphorus (as P)	0.350	0.5894	lbs/d
June 2022	Total Phosphorus (as P)	0.350	1.34	lbs/d
July 2022	Total Phosphorus (as P)	0.350	0.52	lbs/d
August 2022	Total Phosphorus (as P)	0.350	1.17	lbs/d
April 2023	Total Phosphorus (as P)	0.350	1.80	lbs/d
May 2023	Total Phosphorus (as P)	0.350	2.78	lbs/d
June 2023	Total Phosphorus (as P)	0.350	3.33	lbs/d
August 2023	Total Phosphorus (as P)	0.350	4.90	lbs/d
September 2023	Total Phosphorus (as P)	0.350	2.16	lbs/d
October 2023	Total Phosphorus (as P)	0.350	4.17	lbs/d
April 2024	Total Phosphorous (as P)	0.350	2.89	lbs/d
May 2024	Total Phosphorus (as P)	0.350	1.11	lbs/d
June 2024	Total Phosphorous (as P)	0.350	0.718	lbs/d

4.14 Part I.B.1, Table 1, of the 2020 Permit specifies that the weekly average loading limit of Total Phosphorus (as P) in the effluent shall not be greater than 0.803 lbs/d from

December 1 through March 31. From September 2020 through July 2024, Respondent exceeded the December 1 through March 31 weekly average loading limit for Total Phosphorus (as P) 7 times, constituting 49 violations.

Month of Violation	Pollutant	Permit Limit	Value Reported	Unit
February 2021	Total Phosphorus (as P)	0.803	1.15	lbs/d
March 2021	Total Phosphorus (as P)	0.803	1.5	lbs/d
January 2023	Total Phosphorus (as P)	0.803	2.45	lbs/d
February 2023	Total Phosphorus (as P)	0.803	4.37	lbs/d
March 2023	Total Phosphorus (as P)	0.803	5.72	lbs/d
February 2024	Total Phosphorus (as P)	0.803	1.48	lbs/d
March 2024	Total Phosphorous (as P)	0.803	1.96	lbs/d

4.15 Part I.B.1, Table 1, of the 2012 Permit specifies that the weekly average concentration of Total Phosphorus (as P) in the effluent shall not exceed 131 µg/L. Part I.B.1, Table 1, of the 2020 Permit specifies that the weekly average concentration of Total Phosphorus (as P) in the effluent shall not exceed 131 µg/ from April 1 through November 30. From August 2019 through July 2024, Respondent exceeded the 131 µg/L weekly average concentration limit for Total Phosphorus (as P) 3 times, constituting 21 violations.

Month of Violation	Pollutant	Permit Limit	Value Reported	Unit
September 2019	Total Phosphorus (as P)	131	191	µg/L
October 2019	Total Phosphorus (as P)	131	166	µg/L
June 2024	Total Phosphorous (as P)	131	567	µg/L

4.16 Part I.B.1, Table 1, of the 2012 Permit and the 2020 Permit specifies that the instantaneous maximum limit of pH in the effluent is 8.5 standard units (SU). From August 2019

through July 2024, Respondent exceeded the instantaneous maximum limit for pH three times, constituting three violations.

Month of Violation	Pollutant	Permit Limit	Value Reported	Unit
March 2023	pH	8.5	8.92	SU
April 2023	pH	8.5	9.24	SU
May 2023	pH	8.5	8.67	SU

4.17 Part I.B.1, Table 1 of the 2012 Permit and the 2020 Permit specifies that the monthly average suspended solids percent removal should not be less than 85 percent. From August 2019 through July 2024, Respondent failed to remove the monthly average minimum of suspended solids 1 time, constituting 31 violations.

Month of Violation	Pollutant	Permit Limit	Value Reported	Unit
June 2024	Total Suspended Solids	85	73	%

Failure to Submit 2022 Temperature Monitoring Data

4.18 Part I.B.3 of the 2020 Permit requires Respondent to use a micro-recording temperature device, known as a thermistor, to monitor the temperature of the effluent. Part I.B.4 of the 2020 Permit requires Respondent to submit the temperature data along with information about how the thermistor was placed, known as a placement log, to the EPA and the Coeur d'Alene Tribe annually (by January 31st for the previous monitoring year).

4.19 Respondent has not submitted the 2022 temperature data and placement log to the EPA, which was due by January 31, 2023, in violation of Part I.B.4 of the 2020 Permit.

**Failure to Conduct Surface Water Monitoring and
Submit the 2022, 2023, and 2024 Annual Surface Water Monitoring Reports**

4.20 Part I.C of the 2020 Permit requires Respondent to conduct surface water monitoring, starting by May 1, 2021, and continuing for as long as the Permit remains in effect. Part I.C.7 of the 2020 Permit requires that results be submitted to the EPA in an annual report attached to the December DMR of that year. Part III.B.1 of the 2020 Permit requires that monitoring data “be submitted to EPA no later than the 20th of the month following the completed reporting period.”

4.21 Respondent failed to conduct surface water monitoring during the 2022, 2023, and 2024 calendar years. Respondent has also not submitted the 2022, 2023, and 2024 annual surface water monitoring reports to the EPA, which were due to the EPA by January 20th 2023, January 20th 2024, and January 20th 2025, in violation of Parts I.C.7 and III.B.1 of the 2020 Permit.

**Late Submission of Notice to the EPA that
Operations and Maintenance Plan Has Been Developed and Implemented**

4.22 Part II.A of the 2020 Permit required Respondent to develop an Operations and Maintenance (O&M) Plan and to submit written notice of its development and implementation to the EPA and the Coeur d’Alene Tribe within 180 days of the effective date of the Permit, by February 27, 2021.

4.23 Respondent submitted the required notification – that it had developed and implemented an O&M Plan – almost a year late, on January 28, 2022. Respondent’s failure to timely submit written notice of development and implementation of the O&M Plan is a violation of Part II.A of the 2020 Permit.

**Late Submission of Notice to the EPA that
Quality Assurance Plan Has Been Developed and Implemented**

4.24 Part II.B of the 2020 Permit required Respondent to develop a Quality Assurance Plan (QAP) and to submit written notice of its development and implementation to the EPA and the Coeur d’Alene Tribe within 180 days of the effective date of the Permit, by February 27, 2021.

4.25 Respondent submitted the required notification – that it had developed and implemented a QAP – almost a year late, on January 28, 2022. Respondent’s failure to timely submit written notice of development and implementation of the QAP is a violation of Part II.B of the 2020 Permit.

**Failure to Submit Notice to the EPA that Emergency Response Public Notification Plan
Has Been Developed and Implemented**

4.26 Part II.E of the 2020 Permit required Respondent to develop and implement an overflow emergency response and public notification plan (ERP) that identifies measures to protect public health from overflows that may endanger health and unanticipated bypasses or upsets that exceed any effluent limitation in the Permit. Part II.E of the 2020 Permit required Respondent to submit written notice that it had developed and implemented an ERP to the EPA and the Coeur d’Alene Tribe within 180 days of the effective date of the Permit, by February 27, 2021.

4.27 Respondent did not submit written notice that it had developed an ERP to the EPA and the Coeur d’ Alene Tribe until March 19, 2025 in violation of Part II.E of the 2020 Permit.

Failure to Properly Operate and Maintain the Wastewater Treatment Plant

4.28 Part IV.E of the 2020 Permit requires that Respondent “properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are

installed or used by [Respondent] to achieve compliance with the conditions of [the 2020 Permit].”

4.29 On February 11, 2022, at approximately 7:30 a.m., Respondent’s ferric sulfate injection system, which is part of the phosphorus removal equipment, malfunctioned due to ice buildup in the containment area. As a result, the Facility’s biological process was impacted, and the Facility’s effluent pH dropped below the minimum pH level required by Part I.B, Table 1, of the Permit (6.5 SU). In response, the Facility added approximately 3,000 pounds of soda ash and caustic acid to the Facility’s biological process to stabilize the pH, which severely compromised the Facility’s biological processes. Eventually, the system was brought back into balance by introducing bacteria procured from another facility and capturing and recycling approximately 5,000 gallons of ferric sulfate. The failure to properly operate and maintain the Facility is a violation of Part IV.E of the 2020 Permit.

Failure to Properly Update Operations and Maintenance Plan

4.30 Part II.A of the 2020 Permit requires Respondent to update the O&M Plan if “[a]ny changes [occur] in the operation of the plant.”

4.31 Installation of an equalization basin, which was completed in November of 2019, is a change to the operation of the plant. Yet, Respondent has not updated its O&M Plan to reflect the installation of the equalization basin and how it functions as part of the treatment process. Failure to update the O&M Plan when changes occur in the operation of the plant is a violation of Part II.A of the 2020 Permit.

Failure to Prepare Quality Assurance Plan in Required Format

4.32 Part II.B.2 of the 2020 Permit states that “[t]he QAP must be prepared in the format that is specified” in the following documents: *EPA Requirements for Quality Assurance*

Project Plans (EPA/QA/R-5) (hereinafter “EPA Requirements for QAPs”) and *Guidance for Quality Assurance Project Plans* (EPA/QA/G-5).

4.33 Section 3.2.8 of the EPA Requirements for QAPs requires that QAPs “[i]dentify and describe any specialized training or certifications needed by personnel in order to successfully complete the project or task. Discuss how such training will be provided and how the necessary skills will be assured and documented.”

4.34 Respondent’s QAP does not discuss how it will provide training to its personnel or how the necessary skills to complete tasks will be assured and documented, in violation of Part II.B.2 of the 2020 Permit.

4.35 Section 3.3.5 of the EPA Requirements for QAPs identifies the quality control (QC) activities needed for each sampling, analysis, or measurement technique:

For each required QC activity, list the associate method or procedure, acceptance criteria, and corrective action. Because standard methods are often vague or incomplete in specifying QC requirements, simply relying on the cited method to provide this information is usually insufficient. QC activities for the field and the laboratory include, but are not limited to, the use of blanks, duplicates, matrix spikes, laboratory control samples, surrogates, or second column confirmation. State the frequency of analysis for each type of QC activity, and the spike compounds sources and levels. State or reference the required control limits for each QC activity and corrective action required when control limits are exceeded and how the effectiveness of the corrective action shall be determined and documented.

4.36 Respondent’s QAP does not comply with Section 3.3.5 of the EPA Requirements for QAPs, in violation of Part II.B.2 of the 2020 Permit. Specifically, Respondent’s QAP does not identify QC activities needed for each sampling, analysis, or measurement technique and does not list the associated method or procedure, acceptance criteria, and corrective action for each required QC activity. The QAP does not state the frequency of analysis for each type of QC activity, and the spike compounds sources and levels, nor does it state or reference the required

control limits for each QC activity and corrective action required when control limits are exceeded and how the effectiveness of the corrective action shall be determined and documented.

4.37 Section 3.3.5 of the EPA Requirements for QAPs requires that QAPs discuss how data will be managed and stored:

Describe the project data management process, tracing the path of the data from their generation to their final use or storage (e.g., the field, the office, the laboratory). Describe or reference the standard record-keeping procedures, document control systems, and the approach used for data storage and retrieval on electronic media. Discuss the control mechanism for detecting and correcting errors and for preventing loss of data during data reduction, data reporting, and data entry to forms, reports, and databases. Provide examples of any forms or checklists to be used.

4.38 Respondent's QAP does not comply with Section 3.3.5 of the EPA Requirements for QAPs, in violation of Part II.B.2 of the 2020 Permit. The QAP does not describe the project data management process nor does it describe or reference the standard record-keeping procedures, document control systems, and the approach used for data storage and retrieval on electronic media.

Failure to Timely Submit DMR

4.39 Part III.B.1 of the 2020 Permit requires that monitoring data "be submitted to EPA no later than the 20th of the month following the completed reporting period." The DMR for the monitoring period ending on October 31, 2022, was due to the EPA by November 20, 2022, yet Respondent did not submit it to the EPA until January 6, 2023. The failure to timely submit the October 2022 DMR to the EPA is a violation of Part III.B.1 of the 2020 Permit.

IV. TERMS OF SETTLEMENT

4.1. Respondent admits the jurisdictional allegations contained in this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. As required by CWA Section 309(g)(3), 33 U.S.C. § 1319(g)(3), EPA has taken into account “the nature, circumstances, extent and gravity of the violation, or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require.” After considering all of these factors as they apply to this case, EPA has determined that an appropriate penalty to settle this action is \$7,000 (“Assessed Penalty”).

4.4. Respondent consents to the assessment of the Assessed Penalty set forth in Paragraph 4.3 and agrees to pay the total Assessed Penalty within 30 days after the date of the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk (“Filing Date”).

4.5. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

4.6. When making a payment, Respondent shall:

4.6.1. Identify every payment with Respondent’s name and the docket number of this Agreement, CWA-10-2025-0150,

4.6.2. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of payment electronically to the following person(s):

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101
R10_RHC@epa.gov

Raymond Andrews
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101
Andrews.Raymond@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

4.7. Interest, Charges, and Penalties on Late Payments. Pursuant to 33 U.S.C. § 1319(g)(9), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and EPA is authorized to recover the following amounts.

4.7.1. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until the unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. Interest will be assessed at prevailing rates, per 33 U.S.C.

§ 1319(g)(9). The rate of interest is the IRS standard underpayment rate.

4.7.2. Handling Charges. The United States' enforcement expenses including, but not limited to, attorneys' fees and costs of collection proceedings.

4.7.3. Late Payment Penalty. A twenty percent (20%) quarterly non-payment penalty.

4.8. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Consent Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.

4.8.1. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.

4.8.2. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.

4.8.3. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.

4.8.4. Request that the Attorney General bring a civil action in the appropriate district court to recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, pursuant to 33 U.S.C. § 1319(g)(9). In any such action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

4.9. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

4.10. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

4.11. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.12. Except as described in Subparagraph 4.7.2, above, each party shall bear its own fees and costs in bringing or defending this action.

4.13. For the purposes of this proceeding, Respondent expressly waives any affirmative defenses and the right to contest the allegations contained in the Consent Agreement and to appeal the Final Order. By signing this Consent Agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the Consent Agreement.

4.14. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.15. The above provisions are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

FOR RESPONDENT:

Christopher Dohrman, Mayor
City of Plummer

FOR COMPLAINANT:

Edward J. Kowalski
Director
Enforcement and Compliance Assurance Division
EPA Region 10