



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of Environmental
Conservation
DIVISION OF WATER
Compliance Program
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Fairbanks, AK 99709
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NOTICE OF VIOLATION

Failure to Comply with Permit Conditions under 18 AAC 83.405(b)

Mr. William Butler
Director of City Services
City of North Pole
125 Snowman Lane
North Pole, AK 99705



Enforcement Tracking No. 14-0154-50-0001
File No 100.45.012

The Department of Environmental Conservation (DEC) alleges that beginning on or about May 3, 2012 and continuing until the present, the City of North Pole (CONP) did unlawfully fail to comply with the conditions of the Alaska Pollutant Discharge Elimination System (APDES) Permit Number AK0021393 for the Wastewater Treatment Facility (WWTF) in North Pole, Alaska. Section I.D. of the permit requires the permittee to conduct surface water monitoring at the outside edge of the mixing zones during summer conditions (June 1 through September 30) and winter conditions (October 1 through May 31).

May 3, 2012, Dry Channel, Non-Compliance Notification: The CONP notified DEC that the CONP was unable to conduct the requisite summer surface water monitoring at the outside edge of the mixing zone due to a lack of flow (from the main stem of the Tanana River) at Outfall 001 (the point of discharge into the channel). On May 23, 2012, DEC personnel met with CONP officials for a field inspection of the area and documented the loss of the river flow. The CONP advised that there were no known previous instances of the channel going dry, and it was possible the event was anomalous.

A DEC inspection report, dated June 13, 2012, documented the May 23, 2012 field inspection of the Tanana River in the vicinity of Outfall 001. The inspection report documented the DEC Inspector's observation of the loss of river flow at the outfall, and included as a corrective action item for the CONP to provide a detailed written description of its intentions regarding contingency planning for the possible relocation of the outfall in the future.

On June 19, 2013, DEC received a letter from the CONP discussing its then-current engineering analysis for the WWTF and design upgrade project. This project was described as encompassing a number of alternatives such as extending the existing outfall main into an active channel of the Tanana River. The CONP also stated that the 2012 dry channel instance was the first in twenty years, and advocated installing "signage spaced along the open flow path of treated wastewater to the point it reaches the Tanana River."

October 9, 2013, Dry Channel, Non-Compliance Notification:

On October 9, 2013, the CONP notified DEC that winter surface water monitoring at the outside edge of the mixing zone revealed that total chlorine residuals exceeded permit limits. Upon further investigation, the WWTF operator once again found a lack of river flow at Outfall 001.

The CONP subsequently requested a meeting with DEC and Department of Natural Resources staff to discuss the lack of mixing zone. At the meeting, which was held on December 2, 2013, the CONP provided an update regarding the status of flow at Outfall 001, and advised that there now was hydrologic reason to believe the main river channel is continuing to move further south and will no longer be able to recharge the outfall channel. A second meeting was held on April 10, 2014.

To begin to address the violation(s) described above, the Department requests that you submit by December 15, 2014 a detailed evaluation of the alternative design upgrades that would be necessary. The evaluation must include a consideration of the permits and approvals necessary for each alternative. Thus we can start the process for negotiating effective corrective actions and appropriate conditions for permit renewal.

Penalties for violation of State statutes and regulations may be quite serious. In a civil action, a person who violates or causes or permits to be violated a provision of the above-cited regulations may be liable to the State under AS 46.03.760 for substantial monetary damages.

In a criminal prosecution under AS 46.03.790, a person who acts with criminal negligence may be guilty of a Class A misdemeanor, and each day of violation may be considered a separate violation. Upon conviction, a defendant who is not an organization may be sentenced to pay a fine not exceeding \$10,000.00 for each separate violation, see AS 46.03.790(g), and/or sentenced to a definite term of imprisonment of not more than one year, see AS 12.55.135(a). Upon conviction, a defendant that is an organization may be sentenced to pay a fine not exceeding the greater of \$500,000.00 or an amount which is three times the pecuniary damage or loss caused by the defendant to another or property of another. Alaska law allows the State to pursue both civil and criminal actions concurrently.

Nothing in this notice shall be construed as a waiver of the State's authority or as an agreement on the part of the State to forego the judicial or administrative enforcement of the above-described violation(s) or the recovery of damages, costs, and penalties as prescribed by law. In addition, nothing herein shall be construed as a waiver of enforcement for past, present, or future violations not specifically set forth herein.

If you have additional questions, I may be contacted at 907.451.2298 or via e-mail:
tiffany.larson@alaska.gov.



Enforcement Officer
Credential No. R-0186

Check One:

Personally Served

Sent by Certified Mail

7010 1060 0001 4982 3367

on the 30 day of October, 2014

cc: Brian Doyle, DEC (email only)
Marie Klingman, DEC (email only)
Tonya Bear, DEC (email only)