



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J. F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203



SDMS DocID

274510

December 23, 1982

CERTIFIED MAIL -  
RETURN RECEIPT REQUESTED

Mr. Norman J. Lyonnais  
Acting Commissioner  
Department of Public Works  
City Hall  
New Bedford, Ma 02740

Dear Commissioner Brightman:

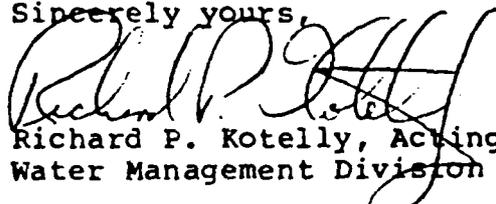
Enclosed is an administrative order issued to the City of New Bedford, Massachusetts, by the Regional Administrator of the Environmental Protection Agency ("EPA"), Region I, under Section 309 of the Clean Water Act ("the Act"). The Regional Administrator has found that New Bedford has violated Section 301 of the Act by failing to comply with certain requirements of its National Pollutant Discharge Elimination System permit. Specifically, New Bedford has violated the permit by not adequately maintaining the raw sewage pumps at the wastewater treatment plant. This violation resulted in discharges of raw sewage into Clark's Cove.

The Order, which is effective when you receive it, seeks to remedy the violations by requiring New Bedford to comply with a schedule for repairing the plant's raw sewage pumps.

Failure to comply with the enclosed order may subject the City to further enforcement action. EPA may initiate a civil action in federal district court for violations of an Order, seeking injunctive relief and civil penalties.

If you have any questions concerning this matter, please contact Brian Pitt, an engineer in the Permit Compliance Section, at 617/223-5330.

Sincerely yours,

  
Richard P. Kotelly, Acting Director  
Water Management Division

Enclosure

cc: Mass. Division of Water Pollution Control  
Mass. Department of the Attorney General

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

IN THE MATTER OF ) DOCKET NO. 83-06  
)  
City of New Bedford ) FINDINGS OF VIOLATION  
Massachusetts )  
) AND  
)  
Proceedings under Section 309(a)(3) ) ORDER FOR COMPLIANCE  
of the Clean Water Act, as amended, )  
33 U.S.C. §1319(a)(3) )  
NPDES Permit No. MA0100781 )

STATUTORY AUTHORITY

This Order is issued pursuant to Section 309(a)(3) of the Clean Water Act (the "Act"), 33 U.S.C. §1319(a)(3), which grants to the Administrator of the United States Environmental Protection Agency ("EPA") the authority to issue orders requiring persons to comply with Sections 301, 302, 306, 307, and 308 of the Act, and to comply with any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act. This authority has been delegated to the Regional Administrator.

FINDINGS

- 1) The City of New Bedford, Massachusetts (the "City") owns and operates a primary wastewater treatment plant which discharges an average flow of 21.4 million gallons per day to Buzzards Bay, a Class SA waterway.
- 2) On December 30, 1974, the City was issued National Pollutant Discharge Elimination System ("NPDES") permit No. MA0100781 by the Regional Administrator of EPA Region I, pursuant to the authority given the Administrator by Section 402 of the Act, 33 U.S.C. §1342. The permit expired on July 1, 1977, but remains in effect under the provisions of 40 C.F.R. §122.5 and the Administrative Procedure Act, 5 U.S.C. §558, since New Bedford has made a timely and complete application for renewal.

- 3) General condition number 5 of the City's NPDES permit requires that the permittee maintain in good working order and operate as efficiently as possible any facilities or system of control installed or utilized to achieve compliance with the terms and conditions of this permit.
- 4) There are four raw sewage pumping units at the wastewater treatment plant. These units are necessary to convey raw sewage to the plant's treatment units. On December 1, 1982, the last operable pumping unit broke down due to a drive shaft failure. To avoid flooding the plant, the City closed the plant's influent gates, causing raw sewage to back up in the collection system and overflow into Clark's Cove.
- 5) The Clark's-Cove overflow points are permitted discharge points intended to carry stormwater/wastewater overflows. Their purpose is to provide relief when storm-related high flows exceed the capacity of the treatment works. However, on December 1, 1982, the flow in the collection system did not include stormwater and was well within the design capacity of the treatment works. The overflows into Clark's Cove were due solely to the breakdown of the pumps at the treatment plant and were therefore unpermitted discharges.
- 6) On December 2, 1982, the City returned one raw sewage pumping unit to service. This unit is in poor operating condition. A minimum of two pumping units is necessary to prevent severe overflows from the collection system during high flows.
- 7) The City has violated general condition 5 of the permit by not maintaining the influent pumps in good working order. This violation resulted in unpermitted discharges of raw sewage into Clark's Cove.
- 8) The discharge of pollutants into the waters of the United States, except as authorized by an NPDES permit, is unlawful under Section 301(a) of the Act.

Based on the above FINDINGS it is hereby ORDERED that

- 1) Within seven days of receipt of this Order, the City shall repair and have operable at least two raw sewage pumping units.
- 2) Within seven days of receipt of this Order, the City shall submit a schedule for making the remaining two raw sewage pumping units operable. Upon approval by EPA and MDWPC, the City shall implement the schedule.
- 3) After achieving three operable pumping units, the City shall maintain three operable raw sewage pumping units at all times and shall notify EPA and MDWPC by telephone and in writing whenever there are fewer than three operable units.

Notification Procedures

- 1) Where this Order requires a specific action to be performed within a certain time frame, the City shall submit a written notice of compliance or noncompliance with each deadline. Notification should be mailed within seven days after each required action.
- 2) If noncompliance is reported, notification should include the following information:
  - a) A description of the noncompliance;
  - b) A description of any actions taken or proposed by the permittee to comply with the elapsed schedule requirements;
  - c) A description of any factors which tend to explain or mitigate the noncompliance;
  - d) An approximate date by which the City will perform the required action.

The reports shall be in writing and addressed as follows:

Environmental Protection Agency  
Water Management Division  
JFK Federal Building - Room 2103  
Boston, Massachusetts 02203  
Attn: Permit Compliance Clerk

Massachusetts Division of Water  
Pollution Control  
Southeast Regional Office  
Lakeville Hospital  
Lakeville MA 02346  
Attn: Phil Ripa

The City may, if it desires, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 CFR 2.203(b). Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to the City. The City should read the above cited regulations carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim. For example, the Clean Water Act provides that "effluent data" shall in all cases be made available to the public. See 33 U.S.C. §1318(b).

The information request contained herein is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §3501, et seq.

This Order shall become effective upon receipt by the City.

Dec 22, 1982

Date

Paul S. Keough, Acting

Lester A. Sutton, P.E.  
Regional Administrator