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Oregon

DEPARTMENT OF
ENVIRONMENTAL
QUALITY

October 2, 1992

Duane R. Cole, City Manager
City of Newberg
414 E. First Street
Newberg, OR 97132

Re: Stipulation and Final Order WQMW-WVR-92-254
File No. 102894
NPDES Permit No. 100988
Yamhill County

Dear Mr. Cole:

The above SFO signed by you on behalf of the City of Newberg was received. Fred Hansen has signed the Order on behalf of EQC and the Department and a fully executed copy is enclosed for your records.

Please contact me at 229-6896 if you have questions.

Sincerely,

Barbara A. Buntz
for

Judy K. Johndohl
Permit Writer
Municipal Wastewater Section
Water Quality Division

JKJ:dh

Enclosure

cc: U.S. Environmental Protection Agency (OR003235-2)
Willamette Valley Region, DEQ
Regional Operations Enforcement, DEQ - Van Kollias



811 SW Sixth Avenue
Portland, OR 97204-1390
(503) 229-5696
TDD (503) 229-6993
DEQ-1



1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
2 OF THE STATE OF OREGON

3 DEPARTMENT OF ENVIRONMENTAL QUALITY,) STIPULATION AND FINAL ORDER
4 OF THE STATE OF OREGON,) No. WQMW-WVR-92-254
) YAMHILL COUNTY
5 Department,)
6)
 v.)
7 CITY OF NEWBERG)
)
8 Respondent.)

9 WHEREAS:

10 1. On September 30, 1992, the Department of Environmental
11 Quality (Department or DEQ) issued National Pollutant Discharge
12 Elimination System (NPDES) Waste Discharge Permit Number 100988
13 (Permit) to the City of Newberg (Respondent), pursuant to Oregon
14 Revised Statutes (ORS) 468B.050 and the Federal Water Pollution
15 Control Act Amendments of 1972, P.L. 92-500 as amended. The Permit
16 authorizes the Respondent to construct, install, modify or operate
17 wastewater treatment control and disposal facilities (facilities)
18 and discharge adequately treated wastewaters into the Willamette
19 River, waters of the state, in conformance with the requirements,
20 limitations and conditions set forth in the Permit.

21 2. The Respondent operates a wastewater treatment facility
22 that uses chlorine as a disinfecting agent for the treated effluent
23 prior to discharging to public waters.

24 3. Chlorine is a toxic substance that can be harmful to
25 aquatic organisms. Discharges of any substance, including chlorine,
26 that cause water quality stream standards violations outside of a

1 designated mixing zone are prohibited by Oregon Administrative Rules
2 (OAR) 340-41-445(2).

3 4. The Respondent is required to conduct a mixing zone study
4 under the terms of the Permit. Until such time as the Respondent
5 completes the mixing zone study, a final chlorine effluent
6 limitation cannot be established.

7 5. The Department has included an interim chlorine effluent
8 limit in the Permit. After receipt and evaluation of Respondent's
9 mixing zone study, the Department will reopen the Permit and assign
10 an appropriate final chlorine limitation.

11 6. The Department and the Respondent recognize that the
12 Respondent may not be able to achieve compliance with the final
13 chlorine effluent limit to be established in Respondent's Permit,
14 without making necessary improvements in Respondent's sewage
15 treatment facility.

16 7. The Permit requires the Respondent to conduct bioassay
17 testing on final effluent. The Department and the Respondent
18 recognize that whole effluent toxicity due to chlorine is likely
19 until the Respondent achieves compliance with the water quality
20 standards for chlorine.

21 8. The Department and the Respondent recognize that the
22 Commission has the power to impose a civil penalty and to issue an
23 abatement order for violations of conditions of the Permit.
24 Therefore, pursuant to ORS 183.415(5), the Department and the
25 Respondent wish to limit and resolve the future violations referred
26

1 to in Paragraphs 6 and 7 in advance by this Stipulation and Final
2 Order (SFO).

3 9. This SFO is not intended to limit, in any way, the
4 Department's right to proceed against Respondent in any forum for
5 any past or future violations not expressly settled herein.

6 NOW THEREFORE, it is stipulated and agreed that:

7 10. The Environmental Quality Commission hereby issues a final
8 order:

9 a. Requiring Respondent to comply with the following schedule:

10 (1) By June 30, 1994, the Respondent shall submit
11 engineering plans and specifications for providing
12 wastewater control facilities as needed to assure that
13 Respondent can continuously comply with the final chlorine
14 effluent limitation to be included in Respondent's Permit
15 after Respondent completes a mixing zone study.

16 (2) By December 31, 1995, Respondent shall have wastewater
17 control facilities in operation to comply with the final
18 chlorine effluent limitation in Respondent's Permit.

19 b. Requiring Respondent to meet the following interim
20 requirements which are effective from Permit issuance date
21 through December 31, 1995:

22 (1) The total residual chlorine concentration shall not
23 exceed 1.0 mg/l on a daily average basis.

24 (2) Bioassay tests may be conducted with dechlorinated
25 final effluent.

1 c. Requiring Respondent to comply with all the terms,
2 schedules and conditions of the Permit except as specified by
3 Paragraph 10.b above, or of any other NPDES waste discharge
4 permit issued to Respondent while this SFO is in effect.

5 d. Requiring Respondent, upon receipt of a written Penalty
6 Demand notice from the Department, to pay civil penalties of one
7 hundred dollars (\$100) for each day of each violation of
8 Paragraph 10.b and civil penalties of two hundred fifty dollars
9 (\$250) for each day of each violation of any other requirement
10 of this SFO.

11 11. If any event occurs that is beyond Respondent's reasonable
12 control and that causes or may cause a delay or deviation in
13 performance of the requirements of this SFO, Respondent shall
14 immediately notify the Department verbally of the cause of delay or
15 deviation and its anticipated duration, the measures that have been
16 or will be taken to prevent or minimize the delay or deviation, and
17 the timetable by which Respondent proposes to carry out such
18 measures. Respondent shall confirm in writing this information
19 within five (5) working days of the onset of the event. It is
20 Respondent's responsibility in the written notification to
21 demonstrate to the Department's satisfaction that the delay or
22 deviation has been or will be caused by circumstances beyond the
23 control and despite due diligence of Respondent. If Respondent so
24 demonstrates, the Department shall extend times of performance of
25 related activities under this SFO as appropriate. Circumstances or
26 events beyond Respondent's control include, but are not limited to,

1 acts of nature, unforeseen strikes, work stoppages, fires,
2 explosion, riot, sabotage, or war. Increased cost of performance or
3 consultant's failure to provide timely reports shall not be
4 considered circumstances beyond Respondent's control.

5 12. Respondent and the Department hereby waive any and all of
6 their rights to any and all notices, hearing, judicial review, and
7 to service of a copy of this SFO. The Department reserves the right
8 to enforce this SFO through appropriate administrative and judicial
9 proceedings.

10 13. Regarding the schedule set forth in Paragraph 10.a above,
11 Respondent acknowledges that Respondent is responsible for
12 complying with that schedule regardless of the availability of any
13 federal or state grant monies.

14 14. The terms of this SFO may be amended by the mutual
15 agreement of the Department and Respondent.

16 15. Respondent acknowledges that it has actual notice of the
17 contents and requirements of the SFO and that failure to fulfill
18 any of the requirements hereof would constitute a violation of this
19 SFO and subject Respondent to payment of civil penalties pursuant
20 to Paragraph 10.d above.

21 16. Any stipulated civil penalty imposed pursuant to Paragraph
22 10.d shall be due upon written demand. Stipulated civil penalties
23 shall be paid by check or money order made payable to the "State
24 Treasurer, State of Oregon" and sent to: Business Office,
25 Department of Environmental Quality, 811 S.W. Sixth Avenue,
26 Portland, OR 97204. Within 21 days of receipt of a "Demand for

1 Payment of Stipulated Civil Penalty" Notice from the Department,
2 Respondent may request a hearing to contest the Demand Notice. At
3 any such hearing, the issue shall be limited to Respondent's
4 compliance or non-compliance with this SFO. The amount of each
5 stipulated civil penalty for each violation and/or day of violation
6 is established in advance by this SFO and shall not be a contestable
7 issue.

8 17. Providing Respondent has paid in full all stipulated civil
9 penalties pursuant to Paragraph 16 above, this SFO shall terminate
10 60 days after respondent demonstrates full compliance with the
11 requirements of the schedule set forth in Paragraph 10.a above.
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RESPONDENT

October 1, 1992
Date

Duane R. Cole
(Name) Duane R. Cole
(Title) City Manager

DEPARTMENT OF ENVIRONMENTAL QUALITY

OCTOBER 2, 1992
Date

Fred Hansen
Fred Hansen, Director

FINAL ORDER

IT IS SO ORDERED:

ENVIRONMENTAL QUALITY COMMISSION

OCTOBER 2, 1992
Date

Fred Hansen
Fred Hansen, Director
Department of Environmental Quality
Pursuant to OAR 340-11-136(1)