



SCOTT A. THOMPSON  
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

KEVIN STITT  
Governor

October 21, 2019

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

John Hatmaker, Vice President Operations  
Veolia North America  
700 E. Butterfield Road, Suite 201  
Lombard, IL 60148

Re: Administrative Compliance Order, Case No. 19-240  
PWSID No. OK1020101  
Problem(s): Monitoring and Operations

Dear Mr. Hatmaker:

The enclosed Administrative Compliance Order, Case No. 09-028, is for violations of state statutes and the Oklahoma Administrative Code as outlined in the attached Order.

The Oklahoma Department of Environmental Quality ("DEQ") has issued this Administrative Compliance Order for monitoring and operational violations that have occurred for at least ten months. State statute 21A O.S. §2-3-502(L), allows DEQ to assess a penalty for any violations within three (3) years of discovery. Paragraph 48 of the enclosed Order requires Respondent to pay a penalty of \$3,030,000.00 for violations outlined in the Notice of Violation, P-1020101-19-2. Respondent has fifteen (15) days from receipt of this Order to submit a written request for a hearing on this Order.

If you have any questions concerning this Administrative Compliance Order, please contact Betsey Streuli, Supervising Attorney, Water Quality Division, DEQ, at (405) 702-7189, or write Ms. Streuli at the letterhead address.

Sincerely,

A handwritten signature in blue ink that reads "Shellie R. Chard".

Shellie R. Chard, Director  
Water Quality Division  
Oklahoma Department of Environmental Quality

Enclosure

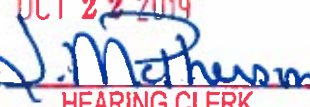


**OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY  
WATER QUALITY DIVISION**

OKLAHOMA  
DEPT. OF ENVIRONMENTAL QUALITY

**IN THE MATTER OF:**

**VEOLIA NORTH AMERICA,  
RESPONDENT,**

OCT 22 2019  
FILED BY:   
HEARING CLERK

**PWSID NO. OK1020101  
PROBLEM(S): Monitoring and Operations**

**CASE NO. 19-240**

**ADMINISTRATIVE COMPLIANCE ORDER**

This Administrative Compliance Order (“Order”) is issued under the authority vested in the Executive Director of the Oklahoma Department of Environmental Quality (“DEQ”) by 27A O.S. §§ 2-3-502 and 2-6-308. This Order relates to violations of the Oklahoma Environmental Quality Code, specifically the Water Quality Provisions, at 27A O.S. § 2-6-101 *et seq.*, and the Oklahoma Administrative Code (“OAC”) Title 252, Chapter 626 “Public Water Supply Construction Standards” and Chapter 631 “Public Water Supply Operation.”

This Order hereby closes and supersedes the Notice of Violation (“NOV”) No. P-1020101-19-2, issued by DEQ to Respondent, and dated September 23, 2019.

**FINDINGS OF FACT**

1. Heavener Utility Authority (“Authority”) owns a community public water supply (“PWS”) surface water system in Leflore County, Oklahoma, that serves approximately 3,300 customers. Veolia North America (“Respondent”) operates and maintains, under contract, the Authority’s PWS. Respondent has been under contract to operate and maintain the PWS since

October 2018. Respondent historically operated the Authority's PWS until 2015. From 2015-2018, the facility was operated directly by the Authority. In 2018, Respondent resumed operation of the facility.

2. On August 8, 2019, the Authority contacted DEQ and requested that a water treatment plant ("WTP") assessment be performed out of concerns about daily plant operations.

3. On August 28, 2019, in response to the Authority's request, Candy Thompson, P.E., Project Engineer for DEQ, Steven Hoffman, P.E., Project Engineer for DEQ, Rachel Brookins, E.I., District Representative for DEQ, and Trey Peterson, E.I., District Representative for DEQ, met with Cody Smith, Manager for the Authority, and Respondent's WTP operations staff. DEQ inspectors assessed the following components of the Authority's WTP: A) raw water entry points and source water characterization testing; B) chemical feed apparatus and dosing; C) filters and backwash capabilities; D) monitoring equipment and alarms; E) data verification; F) chlorination; and G) interviews with Respondent's staff on general operation of the WTP.

4. During the August 28, 2019 assessment, DEQ personnel noted that there were no flow meters to analyze how much water from each of the two different raw water sources, the Poteau River and a stormwater pit, was being delivered to the WTP. In addition, Respondent's staff indicated that although the sources differed greatly in water quality, there was no testing done for iron, manganese, and pH for either source prior to entry into the WTP. Chemical dosing is dependent on raw water characterization to provide stabilized water that meets primary and secondary MCLs. This is a significant oversight by Respondent.

5. During the August 28, 2019 assessment, DEQ personnel questioned the WTP staff regarding the equation used to determine dosing of potassium permanganate for manganese control. The WTP staff could not provide any information to DEQ as to source or basis for the dosing formula. DEQ had concerns about manganese control and deposition in the treated water

distribution lines due to citizen complaints of discolored water, which is an indication water has been treated for manganese. Improper treatment for manganese can impede testing for other chemicals in the water distribution system, and therefore, must be done properly.

6. During the August 28, 2019 assessment, DEQ staff found that sample taps were not equipped for each raw water source. This prevented Respondent from collecting iron, manganese, and pH samples from each source as required.

7. Also, during the August 28, 2019 assessment, DEQ staff noted that the chemical storage in the filter gallery did not have adequate spill containment.

8. During the August 28, 2019 assessment, DEQ personnel noted many issues with the six filters at the WTP that are used to remove turbidity from the water prior to distribution. DEQ staff asked WTP personnel to backwash one of the filters in order to observe the process. During the assessment, it was also agreed by DEQ and Respondent that Respondent would demonstrate backwashing using Filter 4. DEQ staff set up filter bed expansion measurement equipment on Filter 4; however, Respondent initiated the backwash on Filter 6. Therefore, DEQ was unable to measure the filter bed expansion during backwash. Based on DEQ's visual observations, the backwash of Filter 6 failed to clean the filter bed due to a number of factors, including but not limited to, the residuals lagoons where the backwash water is stored being full. Respondent attempted to place the inadequately backwashed filter back in service, which DEQ was told was Respondent's normal practice. During the assessment, DEQ learned that Respondent personnel did not allow the filters to ripen (rest) or utilize filter-to-waste capabilities following routine backwashes. Instead, the filters were placed back into service immediately following a backwash. Filters are required to be backwashed in order to function properly. At DEQ's request, Respondent agreed to keep Filter 6 temporarily offline. Both of Respondent's backwash lagoons were inoperable. One lagoon had no capacity, while the other had excessive

vegetation growth. Filter and backwash lagoon maintenance are significant issues at the WTP, and Respondent's operations have compromised the ability of the filters to act as one of the primary barriers for pathogen control.

9. During the August 28, 2019 assessment, in order to evaluate the performance of the filters and compliance with the monitoring requirements in the Safe Water Drinking Act ("SDWA"), DEQ staff evaluated the functioning of the continuous on-line turbidimeters that the WTP had placed on each individual filter output (Individual Filter Effluent turbidimeters or IFEs) as well as on the combined water stream from all the filters (Combined Filter Effluent turbidimeter or CFEs). DEQ staff used a hand-held turbidimeter to confirm readings from the WTP turbidimeters. Each of the Authority's turbidimeters read lower than DEQ's handheld turbidimeter. In fact, the reading from the combined effluent turbidimeter was less than half of the reading from DEQ's hand-held turbidimeter. Table 1, *infra*, compares the results from Respondent's turbidimeter readings to those taken by DEQ. DEQ also measured the flow through the turbidimeters and compared it to the manufacturer's specifications. According to Hach, the turbidimeter's manufacturer, the required flow through the Hach 1720E is 250-750 milliliters per minute (mL/min.) The flow rates through the continuous turbidimeters for Filter 2, Filter 3, Filter 4, Filter 5, Filter 6 and the CFE were well above 750 mL/min, the manufacturer's specifications for recommended flow rate. Table 2, *infra*, shows the flow rate through the turbidimeters as measured by DEQ and whether those measurements were within the manufacturer's established parameters.

Table 1: Comparative results between the Respondent's online turbidimeters and DEQ's portable handheld turbidimeter

| Location | Reading From System Turbidimeter Being Evaluated | Reading From DEQ 2100P Turbidimeter (NTU) |
|----------|--------------------------------------------------|-------------------------------------------|
| Filter 1 | 0.154                                            | 0.21                                      |
| Filter 2 | 0.106                                            | 0.28                                      |
| Filter 3 | 0.089                                            | 0.42                                      |
| Filter 4 | 0.048                                            | 0.20                                      |
| Filter 5 | 0.067                                            | 0.28                                      |
| Filter 6 | 0.077                                            | 0.44                                      |
| CFE      | 0.087                                            | 0.21                                      |

Table 2: Measured flow rate through Respondent's turbidimeters

| Location | Rate of Flow through Unit (mL/Min) | Within established parameters? |
|----------|------------------------------------|--------------------------------|
| Filter 1 | 458                                | Yes                            |
| Filter 2 | 1725                               | No                             |
| Filter 3 | 868                                | No                             |
| Filter 4 | 1440                               | No                             |
| Filter 5 | 1130                               | No                             |
| Filter 6 | 2108                               | No                             |
| CFE      | 1178                               | No                             |

10. During the August 28, 2019 assessment, DEQ staff asked for calibration data done by WTP staff on the turbidimeters. Respondent's personnel failed to produce records of any calibration performed on the turbidimeters. On October 3, 2019, Respondent confirmed that there were no records of previous calibrations performed on the turbidimeters.

11. DEQ staff also asked the WTP staff to provide historical IFE or CFE turbidity data stored in the turbidimeters or supervisory control and data acquisition ("SCADA") system to confirm the validity of the reported turbidity data. Respondent failed to provide this historical

data. DEQ needed to compare the real time turbidity readings to the SCADA system, but Respondent failed to produce the data needed for comparison. The turbidity, or cloudiness, of drinking water is a measure of the minute particles suspended in water that can interfere with disinfection and with testing for bacteria. Excessive turbidity allows disease-causing organisms to survive. For this reason, WTPs are required to operate and maintain filtrations systems in order to provide accurate and verifiable turbidity data to DEQ for compliance with the SDWA. Failure to monitor correctly for turbidity has the high potential of sending drinking water into distribution that contains high levels of turbidity. Water that contains a level of turbidity in excess of the limits established by the EPA drinking water standards creates a significant public health issue.

12. Also, during the August 28, 2019 assessment, none of the turbidimeter effluent lines had air gaps, creating a cross connection between the turbidimeters and the drainage pipe, which can cause water of an unidentified nature to be back-siphoned into the WTP. This back-siphonage of water can cause errors in treatment at the WTP since operators do not know the precise nature of the back-siphoned water. Thus, cross connections represent a threat to the quality of water put into the distribution system.

13. Given the above, DEQ believes that the Respondent cannot reasonably confirm that Respondent has been meeting the primary drinking water standard for turbidity since October 2018 when it resumed operational control of the WTP.

14. During the August 28, 2019 assessment, DEQ staff inquired about alarm systems on the WTP since the plant was only staffed 8 hours per day but still produced treated water continuously. Respondent's staff were unable to confirm what the individual alarms signified when questioned by DEQ staff. Comprehending the meaning of various alarms is critical to proper operation of the WTP because doing so allows the WTP staff to take appropriate steps to address or rectify whatever problem a given alarm signaled. Here, the failure of Respondent's

staff to identify the various alarms means they could not take appropriate steps to correct or rectify problems as they arose.

15. Although Respondent has not reported any violations related to adequate residual chlorination in the distribution system, DEQ received a citizen's complaint that prompted DEQ to take a sample at a residence on August 26, 2019. That sample showed the chlorine residual was 0.00 ppm, meaning there was no measurable chlorine in parts of the distribution system. On September 10, 2019, DEQ took additional free chlorine samples from a residence. Those samples showed free chlorine of 0.07 ppm, which is far below the minimum 0.2 ppm set by DEQ to avoid acute risk to the public health from microbial contamination. DEQ discussed with Respondent during the assessment the significant operational issues at the WTP. At that time, Respondent volunteered that the distribution system did not always have adequate chlorine. The samples taken on August 26, 2019 and September 10, 2019 by DEQ confirm the statements of Respondent's staff regarding low chlorine residual.

16. On September 23, 2019, DEQ issued Respondent Notice of Violation No. P-1020101-19-2 ("NOV") for construction, operation, and maintenance violations identified in the August 28, 2019 assessment. Respondent received the NOV on September 25, 2019. The violations cited in the NOV included:

- a. Failure to maintain individual sample taps at each source.
- b. Failure to collect iron, manganese, and pH samples from each source.
- c. Failure to provide control equipment to keep chemical feed rates proportional to the WTP flow rate.
- d. Failure to maintain fail-safe equipment to warn operators of treatment failures.
- e. Chemical feed lines are excessive.
- f. No adequate spill containment.
- g. Potassium permanganate did not have adequate contact time.
- h. The clarifiers did not have adequate capacity to meet the maximum daily demand with the largest unit out of service.
- i. There was not sufficient water available to backwash one (1) filter at least 15 minutes at the designed backwash rate.
- j. The filter media depths could not be confirmed to be adequate.

- k. The filter bed expansion during a backwash could not be confirmed to be adequate.
- l. Failure to have rate of flow controllers to ensure that the rated capacity of each filter is not exceeded during the operation of the other filters.
- m. Failure to maintain an adequate air gap between the turbidimeter effluent piping and the drainage pipe.
- n. Failure to maintain three (3) feet of freeboard or two (2) feet of clear water depth in one of the backwash lagoons.
- o. Failure to remove deep rooted vegetation from the only other backwash lagoon.
- p. Failure to maintain filter-to-waste capabilities after filter backwashes.
- q. The filter headloss device was inoperable.
- r. The turbidimeter sample taps did not draw from a representative location on the filter effluent piping.
- s. The turbidimeter sample tubing was excessive.
- t. Failure to maintain the rate of flow through the turbidimeters within the acceptable range according to the manufacturer's specifications.
- u. Failure to provide calibration records and/or failing to calibrate the turbidimeters.
- v. Provisions for measuring quantities of chemicals applied were not provided for each chemical injection. The chemical feed equation for orthophosphate was being used for potassium permanganate.
- w. Respondent's onsite personnel were unable to confirm the presence of all necessary alarms to warn of treatment failures. In particular, Respondent's onsite personnel could not identify the meaning of various alarms.
- x. The reported Combined Filter Effluent ("CFE") values appeared to be capped at 0.3 NTU because Respondent never reported turbidity that exceeded 0.3 NTU's which would be impossible given the conditions of the filters.
- y. Failure to provide three years of Individual Filter Effluent ("IFE") turbidity data upon request.
- z. Failure to maintain the required free chlorine residual in the distribution system.

17. NOV No. P-1020101-19-2 required Respondent to make necessary corrections within fourteen (14) days of receipt of the NOV to eliminate and prevent the reoccurrence of the violations and provide a written response to DEQ detailing the specific actions taken or submit a comprehensive plan for the elimination and prevention of future violations.

18. On October 3, 2019, Travis Archer, Engineering Manager for DEQ, Tonia Biggs, Enforcement for the U.S. Environmental Protection Agency ("EPA") Region 6, and Trey Peterson, E.I., District Representative for DEQ discussed each of the deficiencies identified in the WTP Assessment report and NOV and allowed the Authority and Respondent the opportunity to ask questions and provide clarification. After the meeting, the representatives

from DEQ and EPA visited the WTP to note any of the finished improvements. DEQ and EPA also observed that the rate of flow through the CFE turbidimeter was below the manufacturer's minimum flow rate, which may continue to cause inaccurate readings.

19. On October 14, 2019, Respondent submitted its response to the NOV to DEQ. In its response, Respondent mentioned a number of changes it had implemented at the WTP since the August 28, 2019 assessment. These changes included the following: providing additional training for the operators, purchase of a new SCADA system, contracting with HACH to calibrate the online turbidimeters, adding sample taps at the raw water source, cleaning out the backwash lagoon that was out of service, and adding additional chlorine to the treated water prior to entering distribution.

20. More specifically, Respondent indicated that it had already made the following corrections: A) old sample taps were removed and replaced properly at both sources; B) proper spill containment was implemented; C) old pipe to the sump pump was replaced with an open gutter to ensure proper air gaps between each drain line; D) turbidimeter sample taps were moved to the side of each pipe per filter; E) the rate of flow on the turbidimeters was corrected and is now monitored as required; F) the turbidimeters have been calibrated and documented; and G) increase the chlorine residual in the distribution system.

21. Additionally, Respondent stated in its response to the NOV that the following items were in the process of being corrected, mostly within thirty (30) days: A) manual equipment and procedures were put in place for proper chemical dosing and operators were being trained on proper dosing; B) lagoons were being cleared of deep-rooted vegetation; C) an engineer had been contacted to determine alternatives for replenishing the filter media within six (6) months; D) WTP staff would begin measuring filter depth and expansion during the backwash process and would obtain an OSHA permit for confined space entry as well as work to renovate all six filters and/or filter media; E) the SCADA system was being upgraded and manual override valves had been installed

and WTP staff was being trained to manually rinse until repairs are completed; and F) new alarms and controls would be implemented as part of the SCADA upgrade and WTP staff would be trained in conjunction on or about October 31, 2019.

22. Accordingly, the following items remain unresolved: A) three years of IFE turbidity data remains unavailable to DEQ; B) Respondent still has not provided the basis for the equation for treating potassium permanganate; and C) without evidence of the validity of the equation used for potassium permanganate, there is no evidence of adequate contact time for the potassium permanganate.

23. DEQ reserves the right to pursue any additional violations not addressed by this Order through separate enforcement action.

24. Due to the nature and extent of the violations listed above, the Executive Director has determined this Order is necessary to protect public health.

#### **CONCLUSIONS OF LAW**

25. DEQ has regulatory jurisdiction and authority in this matter, and Respondent is subject to the jurisdiction and authority of DEQ under Oklahoma law (27A O.S. § 1-3-101(B), 27A O.S. §§ 2-6-301 through 2-6-308), and the rules promulgated thereunder at the Oklahoma Administrative Code (“OAC”) 252:626 and OAC 252:631.

26. Pursuant to OAC 252:631-1-3, “The provisions of Parts 141, ‘National Primary Drinking Water Regulations,’ and 143, ‘National Secondary Drinking Water Regulations,’ of Title 40 of the Code of Federal Regulations (CFR) as published on July 1, 2009, and the requirements contained therein are, unless otherwise specified are adopted and incorporated by reference.”

27. Pursuant to 40 C.F.R. § 141.73(a)(4), “[b]eginning January 1, 2005, systems [using conventional filtration treatment or direct filtration and] serving fewer than 10,000 people must meet the turbidity requirements in §§ 141.550 through 141.553.”

28. Respondent failed to establish that adequate contact time for potassium permanganate occurs to reduce manganese in finished water and thereby violated OAC 252:626-9-6(b), which states, “If chemicals are to be used for taste and odor control, add them at a point ahead of other treatment processes to assure adequate contact time.”

29. Respondent failed to collect routine iron, manganese, and pH samples from each source and thereby violated OAC 252:631-3-10(4)(B), which states, “Systems that treat or blend for the reduction in concentration of regulated contaminants must monitor the raw and finished water for those contaminants daily in addition to collecting compliance samples.”

30. Respondent failed to have individual sample taps for each raw water source and for each filter and thereby violated OAC 252:626-5-8, which states, “[p]rovide for sample taps in the approvable plans:

- (1) for each raw water source,
- (2) from each treatment unit, including on each filter, located to obtain representative samples of unit contents.”

31. By failing to: A) have the appurtenances needed to measure quantities of chemicals applied for each chemical injection, and B) confirm the validity of the potassium permanganate equation used by the WTP staff, Respondent violated OAC 252:626-11-1(3)(A) and OAC 252:626-11-3(b)(4), which requires Respondent to, “ensure that feeders will be able to supply the necessary amounts of chemicals at an accurate feed rate throughout the plant operating range,” and to “[m]ake provisions for measuring quantities of chemicals applied,” respectively.

32. Respondent failed to provide adequate chemical spill containment and thereby violated OAC 252:626-11-3(g)(4)(B), which requires Respondent to “[p]rovide liquid chemical storage tanks with: (B) an overflow and a receiving basin or drain capable of receiving accidental spills or overflows.”

33. Respondent failed to equip the rate flow controllers to ensure that the rated capacity of each filter was not exceeded during the operation of the other filters and thereby violated OAC 252:626-5-7(a), which requires Respondent to “[p]rovide accurate and dependable flow measuring devices, equipped with totalizers, for measuring the raw and finished water flow. Make provisions for manual verification of measuring devices.”

34. By failing to have equipment that controls the flow through the filters, Respondent could not ensure that the rated capacity of each filter was not exceeded and thereby violated OAC 252:626-9-9(d)(8), which requires Respondent to “[e]quip each filter with a rate of flow controller to ensure that the rated capacity of each filter is not exceeded during operation of other filters.”

35. By only having operators present at the WTP eight (8) hours a day and not having the capability to remotely control the feed rates, Respondent failed to keep control equipment and chemical feed rates proportional to the WTP flow rate and thereby violated OAC 252:626:11-3(b)(2), which requires Respondent to “[p]rovide control equipment to keep feed rates proportional to the plant flow rate.”

36. Respondent exceeded the design capacity and was unable to meet required detention times in the clarifiers during peak demands risking higher settled water turbidity and thereby violated OAC 252:626-9-1(b), which requires Respondent to “[d]esign the plant capacity of the treatment facility so that it will not be overloaded, including water required to wash the

filters, on the day of maximum demand at the end of the design period. Balance the plant capacity with finished water storage.”

37. Respondent failed to conduct proper maintenance on its residuals lagoons to prevent deep-rooted vegetation from growing in the lagoons, leaving the lagoons inoperable, and thereby violated OAC 252:621-5-1(1), which requires Respondent to “[p]rotect all lagoon dikes and berms against erosion by using soil, gravel, concrete pads, shallow-root vegetation or other methods. Trees and deep-root vegetation shall not be used as erosion control and shall be removed in a timely manner to maintain the integrity and stability of the lagoon. Protect inner dikes from wave action and outer dikes from runoff and floodwaters.”

38. Respondent failed to prevent the residual lagoon from receiving sludge and backwash water during the normal operation of the existing treatment processes and thereby violated OAC 252:621-5-1(10)(d) and OAC 252:631-3-19(b), which requires Respondent to “[m]aintain at least 3 feet of freeboard on all lagoons covered by this Chapter unless otherwise specified in a permit. At no time shall wastewater be allowed to spill over the tops of the dikes,” and provides “[d]isposal of wastewater and residuals from treatment units (filter backwash water, clarifier blow-off, etc.) must be according to OAC 252:606 (Discharge Standards), OAC 252:621 (Non-Industrial Flow-through and Public Water Supply Impoundments. Including Land Application) and OAC 252:626 (PWS Construction). Each lagoon shall be cleaned when the depth of the residuals is within two feet (2') of the maximum operating depth” respectively.

39. By failing to maintain the filter headloss monitoring device, which rendered the device inoperable and which prevented Respondent from initiating filter backwashes when necessary, Respondent violated OAC 252:626:9-9(b)(2), which states, “[h]ead loss through the filter media is monitored by differential pressure-cell devices that measure the water pressure above and below the filter media. The head loss sensor connection to the filter box should be

located approximately four inches (4") above the top of the washwater collection trough to prevent the wash water from entering the sensor. A sediment trap with a drain shall be installed on the sensor line to capture any sediment that may enter the line. The end of the sensor shall be turned up, keeping a full column of water in the line at all times to minimize air entrainment. A fine mesh stainless steel screen shall be installed on the end of the sensor to prevent clogging of the filter media."

40. Even though the WTP was designed with filter-to-waste capabilities after backwashes, Respondent routinely put filters back into service without allowing ripening (resting) or filter-to-waste before placing the filters back into service and thereby violated OAC 252:631-3-1 and OAC:252:626-9-9(b)(3), which states, "[a]ll systems must properly operate, in accordance with an Operations and Maintenance manual as required by OAC 252:626-3-7. All systems must maintain each unit to provide treatment of the water in accordance with the DEQ approved plans and specifications, in accordance with the purpose for which the units were designed and according to the terms of their permits. Permits may contain more stringent provisions than contained in the rules to meet the requirements of the provisions of 40 CFR adopted by reference in this chapter. Employees must be trained in the proper operation and maintenance of the system" and provides Respondent must "[i]nclude provisions for draining the filters to waste with appropriate measures for backflow prevention" respectively.

41. Respondent failed to make the most direct connection between the turbidimeter body and the sampling point and thereby violated OAC 252:631-3-4, which states, "Notwithstanding other provisions of this Chapter, samples that are not properly collected or submitted, not collected by trained and authorized personnel, not analyzed in an accredited laboratory, or samples that do not represent the distribution system must not be used to determine

compliance with these regulations. DEQ must document the determination of circumstances or conditions that require samples to be invalidated.”

42. Respondent failed to provide calibration records for the online turbidimeters upon request to DEQ, rendering Respondent’s measurement unverifiable and thereby violated OAC 252:626-5-6, which states, “[e]ach public water supply must have its own equipment and facilities for routine laboratory testing necessary to ensure proper operation. Provide methods for verifying adequate quality assurances and for routine calibration of the equipment.”

43. Respondent failed to provide three years of Individual Filter Effluent (“IFE”) turbidity data and thereby violated OAC 252:631-3-1(c), which states, “public water supply systems must comply with all applicable monitoring and analytical requirements in 40 CFR Part 141, which includes, but is not limited to, the following: (9) Filtration, disinfection and enhanced treatment requirements in 40 CFR Sections 141.74, 141.174, and Subparts T & W” and 40 C.F.R. §141.571.

44. Respondent: A) did not have adequate air gaps between the turbidimeter effluent piping and the drainage pipe; B) failed to maintain an adequate air gap (and thus creating a cross connection); and C) did not have adequate air gaps between the turbidimeter effluent piping and the drainage pipe, and thereby Respondent violated OAC 252:626-5-15(a) and OAC 252:626-5-15(f), which requires Respondent to “[a]void cross connections in the system...” and to “[d]esign and install all piping to eliminate possible back-siphonage in conformity with the latest American Standards Association, *Recommended Practice for Backflow Prevention and Cross-Connection Control, Manual of Water Supply Practices*, —14, 3rd Edition, 2004. Provide an air gap for all filter-to-waste connections. Filter pipe gallery floors and pump rooms must be protected from flooding by backflow from filter waste lines, sewers or drains” respectively.

45. Respondent's personnel failed to confirm the presence of all necessary alarms to warn of treatment failures and could not identify the triggering levels of various alarms, and thereby Respondent violated OAC 252:626:11-3(b)(5), which requires Respondent to "[e]quip feeders with alarm devices to warn operators of failures."

46. Respondent failed to maintain adequate free chlorine residual and thereby violated OAC 252:631-3-3(c)(1), which provides, "The minimum free chlorine residual at the most distant points in a water distribution system must be 0.2 mg/L."

### **ORDER**

47. Based on the Findings of Fact and Conclusions of Law, it is **ordered by the Executive Director as follows:**

Respondent shall complete the following tasks by the dates specified below:

| <b>TASK</b>                                                                                                                                            | <b>DATE</b>      |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| A. Respondent shall maintain adequate chlorine in the distribution system.                                                                             | Immediately      |
| B. Respondent shall submit a plan to demonstrate an adequate chlorine residual is maintained throughout the distribution system on a consistent basis. | December 1, 2019 |
| C. Respondent shall contract a third party to calibrate the turbidimeters and submit quarterly calibration reports.                                    | December 1, 2019 |
| D. Respondent shall complete the installation of the SCADA monitoring system.                                                                          | December 1, 2019 |
| E. Respondent shall provide IFE and CFE raw data since October 2018 in a readable format to DEQ.                                                       | December 1, 2019 |
| F. Respondent shall verify that the filter media depths and backwash process meet regulatory requirements and correct as necessary.                    | February 1, 2020 |

- |    |                                                                                                                                                                                                                                                                  |                  |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| G. | Respondent shall rehabilitate the residual lagoons.                                                                                                                                                                                                              | March 1, 2020    |
| H. | Respondent shall correct all other violations cited in the Conclusions of Law.                                                                                                                                                                                   | March 1, 2020    |
| I. | Respondent shall demonstrate compliance with this Order for one year following the third party calibration of the turbidimeters.                                                                                                                                 | November 1, 2020 |
| J. | If compliance with this Order is not maintained, Respondent shall submit an approvable engineering report that provides for achieving compliance with these requirements. The engineering report will include a schedule of dates for all proposed construction. | December 1, 2020 |

### **PENALTIES**

48. The Oklahoma Environmental Quality Code, 27A O.S. §§ 2-3-502(B) and (K), authorizes DEQ to seek penalties of up to Ten Thousand Dollars (\$10,000.00) per day for each violation of the Code and the associated rules. Based on the facts and circumstances of this case, DEQ assesses a total penalty of Three Million Thirty Thousand Dollars (\$3,030,000.00). Respondent shall pay the total assessed penalty by March 1, 2020. Payment shall be by check or money order payable to the Oklahoma Department of Environmental Quality (or ODEQ), showing the case number of this Order, and delivered to:

Accounts Receivable  
Financial & Human Resources Management  
Department of Environmental Quality  
P.O. Box 2036  
Oklahoma City, OK 73101-2036

49. If Respondent fails to pay any penalty or comply with any task in this Order, DEQ may bring a separate action for collection of the penalty or compliance with the Order in district court. An action by DEQ for the collection of a penalty does not affect Respondent's duty to complete the tasks required by this Order.

## **GENERAL PROVISIONS**

50. Upon their approval by DEQ, any final reports, plans, specifications, schedules and attachments required under this Order are incorporated into it and enforceable under it. Failure of Respondent to respond within a reasonable time to any errors, deficiencies, or other regulatory requirements identified by DEQ is a violation of this Order.

51. No informal advice, guidance, suggestions, or comments by employees of DEQ regarding reports, plans, specifications, schedules, and other writings affect Respondent's obligation to obtain written approval by DEQ, when required by this Order.

52. Respondent shall allow agents of DEQ entry onto Respondent's property, at reasonable times and without advance notice, for the purposes of inspecting, sampling, testing, records review, and other authorized activities to assess compliance with Oklahoma statutes, rules, and this Order. If Respondent is required to sample or test, Respondent shall give DEQ reasonable notice of the sampling or testing date and time and allow DEQ to observe and/or split-sample.

53. As used in this Order, an "approvable" submission to DEQ is to be considered a final submission. That is, all preliminary discussions between DEQ and Respondent regarding the requirements of a submission must be concluded prior to the date the submission is due, so that the submission will be approvable as submitted. If the submission is not submitted in an approvable form by its due date, it will be considered late, and Respondent will be subject to the daily penalty described in Paragraph Forty-eight (48) of this Order.

54. Unless otherwise specified, any technical report or notice required under this Order must be in writing and must be sent to:

**For DEQ:**

Trey Peterson, E.I., District Representative  
Public Water Supply Engineering and Enforcement Section  
Water Quality Division  
Department of Environmental Quality  
P.O. Box 1677  
Oklahoma City, Oklahoma 73101-1677

**For Respondent:**

John Hatmaker, Vice President Operations  
Veolia North America  
700 E. Butterfield Road, Suite 201  
Lombard, IL 60148

55. This Order is in addition to any other remedies provided by law and does not preclude DEQ from seeking other relief as appropriate.

**NOTICE OF OPPORTUNITY TO REQUEST HEARING**

56. This Order is entered under the authority of 27A O.S. §§ 2-6-308 and 2-3-502. **This Order will automatically become final unless, no later than fifteen days after it is served, Respondent submits to DEQ a written request to review this Order.** Such request for hearing shall be directed to:

Administrative Hearing Clerk  
Department of Environmental Quality  
P. O. Box 1677  
Oklahoma City, OK 73101-1677

The request for hearing must specify the nature of the matters within this Order that Respondent wishes to have reviewed at the hearing.

57. If a hearing is requested, it will be scheduled promptly, and Respondent will be notified of the time and place of the hearing. The scope of the hearing will be limited to the matters raised in the request for hearing, unless otherwise permitted by the Administrative Law Judge for

good cause. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act. The Administrative Law Judge may schedule pre-hearing conferences as he or she deems necessary.

58. Respondent shall be present and may be represented by an attorney at the hearing. Respondent or counsel may present evidence and argument to show why this Order should be set aside or modified.

59. On the basis of the hearing record, the Executive Director of DEQ will sustain, set aside, or modify the Order.

#### NOTICE OF OPPORTUNITY TO DISCUSS SETTLEMENT

60. Regardless of whether Respondent requests a hearing, Respondent may confer with the Water Quality Division regarding a settlement. A settlement conference may be pursued simultaneously with, or as an alternative to, the hearing process, but **a request for a settlement conference does not extend the 15-day period to request a hearing.** Respondent may be present and/or represented by an attorney at a settlement conference.

61. Any settlement reached by the parties shall be finalized in the form of a written Consent Order signed by Respondent and DEQ Executive Director. The issuance of a Consent Order waives Respondent's right to pursue a hearing on any issue covered by the Consent Order.

62. If Respondent wishes to discuss settlement, Respondent should contact Betsey Streuli, the DEQ attorney assigned to this case, at (405) 702-7189.

OKLAHOMA DEPARTMENT  
OF ENVIRONMENTAL QUALITY:



SCOTT A. THOMPSON

Date: 10-22-2019

# CERTIFICATE OF MAILING

I certify that on this 22 day of October, 2019, I mailed a true and correct copy of this Administrative Compliance Order to:



Teresa McPherson  
Administrative Hearing Clerk  
Department of Environmental Quality  
P. O. Box 1677  
Oklahoma City, OK 73101-1677