

**STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
WATER RESOURCES DIVISION**

**ADMINISTRATIVE CONSENT ORDER**

In the matter of:

**ACO-000266  
Date Entered:**

**SECTION I**

**FACILITY OWNER OR MUNICIPALITY**

FULL LEGAL NAME OF FACILITY OR MUNICIPALITY Bessemer Area Sewer Authority		
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS IDENTIFICATION NUMBER, if applicable		
ADDRESS 411 Sophie Street		
CITY Bessemer	STATE Michigan	ZIP 49911
AUTHORIZED SIGNATORY Mike Uskiewicz		FACILITY OWNER PHONE # 906-667-0800

**FACILITY NAME AND LOCATION**

FACILITY NAME Bessemer Area SA WWTP		
FACILITY ADDRESS 7840 Stone Road		
CITY Bessemer	STATE Michigan	ZIP 49911
COUNTY Gogebic		
FACILITY CONTACT NAME Jack Bravatto		PHONE # 906-364-0564

This document results from allegations by the Department of Environmental Quality (DEQ), Water Resources Division (WRD). The DEQ alleges that the above-referenced Sewer Authority is in violation of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), the administrative rules promulgated under this statute, and applicable permits issued to the Bessemer Area Sewer Authority, as identified below.

STATUTE		PERMIT(S)
Part 31, Water Resources Protection, MCL 324.3101 <i>et seq.</i>	<input checked="" type="checkbox"/>	Permit Number: MI0021067

Specific violations are referenced in DEQ letters attached to this Administrative Consent Order (Consent Order) as Exhibit A. The Bessemer Area Sewer Authority and the DEQ agree to resolve the violations set forth herein through entry of this Consent Order. The Bessemer Area Sewer Authority further agrees to resolve all compliance issues set forth in Exhibit A in accordance with the requirements contained in this Consent Order. This Consent Order, in its entirety, shall consist of Section I, the attached Sections II, III, and IV, Exhibit A, and any other referenced attachments, exhibits, or appendices. This Consent Order shall be considered null and void if it does not include, at a minimum, Sections I, II, III, and IV, and Exhibit A.

The Bessemer Area Sewer Authority agrees to pay a civil fine of \$1500.00 for the violations specified in Exhibit A of this Consent Order. Payment of the civil fine shall be made within 30 days of the effective date of this Consent Order. Payment of avoided permit fees shall be made in accordance with the compliance schedule in Section II of this Consent Order. A permit fee invoice will be sent to the Bessemer Area Sewer Authority from the WRD after this ACO is fully executed by the WRD Chief. Failure to make timely payment constitutes a violation of this Consent Order. The Bessemer Area Sewer Authority agrees to pay all funds due pursuant to this agreement by check made payable to the State of Michigan and delivered to the Accounting Services Division, Cashier's Office for DEQ, P.O. Box 30657, Lansing, Michigan 48909-8157, or hand delivered to the Accounting Services Division, Cashier's Office for DEQ, 425 W. Ottawa St., Lansing, Michigan 48933. To ensure proper credit, all payments made pursuant to this Consent Order must include the **Payment Identification No. WRD40101**. The Bessemer Area Sewer Authority agrees not to contest the legality of the civil fine and the avoided permit fee.

Signatories

DEPARTMENT OF ENVIRONMENTAL QUALITY

  
\_\_\_\_\_  
William Creal, Chief  
Water Resources Division

9/30/2015  
Date

BESSEMER AREA SEWER AUTHORITY

I undersigned CERTIFY that I am fully authorized by the party identified above to enter into this Consent Order to comply by consent and to EXECUTE and LEGALLY BIND that party to it. I further attest that all information provided herein is accurate and true.

  
\_\_\_\_\_  
By: MICHAEL USKIEWICZ  
Title: BASA MANAGER

9/10/15  
Date

## SECTION II - COMPLIANCE SCHEDULE

IT IS THEREFORE AGREED AND ORDERED THAT Bessemer Area Sewer Authority shall take the following actions to comply with and to prevent further violations of Part 31 of the NREPA.

2.1 The Bessemer Area Sewer Authority agrees that it shall achieve and maintain compliance with Part 31 and NPDES Permit Number MI0021067. Bessemer Area Sewer Authority agrees that it will not directly or indirectly discharge into the waters of the state a substance that is or may become injurious in accordance with the requirements of Part 31.

2.2 The Bessemer Area Sewer Authority agrees to pay the applicable annual permit fee of **\$1950.00** for the 2015 fiscal year to the State of Michigan in accordance with Section 3120 of Part 31 of the NREPA. Payment shall be made not later than 45 days after receiving a permit fee invoice from WRD for the 2015 annual discharge permit fees.

2.3 The Bessemer Area Sewer Authority agrees to pay the applicable Part 31 of the NREPA permit fee of **\$1950.00** associated with discharging treated municipal wastewater for the 2016 billing period and each billing period thereafter in accordance with Section 3120 of Part 31 of the NREPA and the invoice that will be mailed to the Bessemer Area Sewer Authority each year.

2.4 The Bessemer Area Sewer Authority submitted to the DEQ a completed Part 31, NPDES Permit Application, with the associated application fee, for the purpose of obtaining a NPDES permit for the discharge of treated municipal wastewater under NPDES Permit No. MI0021067 on February 10, 2015.

2.5 Upon issuance of the NPDES permit for the discharge of treated municipal wastewater, the Bessemer Area Sewer Authority shall pay the associated annual permit fee in accordance with Part 31 of the NREPA.

### NPDES (NON-STORM WATER)

2.6 The Bessemer Area Sewer Authority failed to comply with the discharge authorization requirements of NPDES Permit No. MI0021067 and failed to submit a timely completed application prior to the expiration date of October 1, 2014, as required on page 1 of the NPDES Permit. The Bessemer Area Sewer Authority continues to discharge treated municipal wastewater to the waters of the state without a permit in violation of Section 324.3112(1) of Part 31.

2.7 The Bessemer Area Sewer Authority shall obtain authorization from DEQ for the discharge of treated municipal wastewater. If the DEQ identifies any technical deficiencies with the reissuance application on February 10, 2015, the Bessemer Area Sewer Authority shall provide a written response addressing the deficiencies within 30 days.

Sections III and IV of this Consent Order shall not be altered in any way, including adding or eliminating any language, striking terms or parts of terms, retyping in whole or in part, or using a

different format. Any changes to this document without written approval from the DEQ renders the Consent Order null and void.

### **SECTION III - STIPULATIONS**

The Bessemer Area Sewer Authority and the DEQ stipulate as follows:

1. The DEQ reserves all rights afforded to it under the law or laws under which this Consent Order is being entered. The DEQ is authorized to enter this Consent Order to comply with state law under Section 3112(4) of Part 31 of the NREPA.
2. The Bessemer Area Sewer Authority consents to the issuance and entry of this Consent Order and stipulates that the entry of this Consent Order constitutes a final order of the DEQ and is enforceable as such under the appropriate provisions of state law identified in Section I this Consent Order. The Bessemer Area Sewer Authority agrees not to contest the issuance of this Consent Order, and that the resolution of this matter by the entry of this Consent Order is appropriate and acceptable. It is also agreed that this Consent Order shall become effective on the date it is signed by the chief of the WRD, delegate of the director.
3. The Bessemer Area Sewer Authority and the DEQ agree that the signing of this Consent Order is for settlement purposes only and does not constitute an admission by the Bessemer Area Sewer Authority that the law has been violated.
4. The Signatory to this Consent Order on behalf of the Bessemer Area Sewer Authority agrees and attests that it is fully authorized to assure that the Bessemer Area Sewer Authority will comply with all requirements under this Consent Order.
5. The Bessemer Area Sewer Authority shall achieve compliance with the aforementioned regulations in accordance with the requirements contained in Section II of this Consent Order.

### **SECTION IV - GENERAL PROVISIONS**

1. With respect to any violations not specifically addressed and resolved by this Consent Order, the DEQ reserves the right to pursue any other remedies to which it is entitled for any failure on the part of the Bessemer Area Sewer Authority to comply with the requirements of the NREPA and its rules. Entry of this Consent Order does not relieve the Bessemer Area Sewer Authority from future liability for the potential need to conduct remedial actions if contaminants originating from the discharge are discovered at limits that exceed the criteria under applicable law. The DEQ further expressly reserves the right to pursue the Bessemer Area Sewer Authority for injunctive relief and costs associated with overseeing and conducting these remedial actions.
2. The DEQ and the Bessemer Area Sewer Authority consent to enforcement of this Consent Order in the same manner and by the same procedures for all final orders entered pursuant to the provisions of the NREPA, as amended.

3. This Consent Order in no way affects the Bessemer Area Sewer Authority's responsibility to comply with any other applicable state, federal, or local laws or regulations.
4. The WRD reserves its right to pursue appropriate action, including injunctive relief to enforce the provisions of this Consent Order, and applicable statutory fines for any violation of this Consent Order.
5. Nothing in this Consent Order is or shall be considered to affect any liability the Bessemer Area Sewer Authority may have for natural resource damages caused by Bessemer Area Sewer Authority's acts or omissions. The State of Michigan does not waive any rights to bring an appropriate action to recover such damages to the natural resources.
6. In the event the Bessemer Area Sewer Authority sells or transfers the facility, it shall advise any purchaser or transferee of the existence of this Consent Order in connection with such sale or transfer. Within 30 calendar days, the Bessemer Area Sewer Authority shall also notify the WRD District Supervisor, in writing, of such sale or transfer, the identity and address of any purchaser or transferee, and confirm the fact that notice of this Consent Order has been given to the purchaser and/or transferee. The purchaser and/or transferee of this Consent Order must agree, in writing, to assume all of the obligations of this Consent Order. A copy of that agreement shall be forwarded to the WRD District Supervisor within 30 days of assuming the obligations of this Consent Order.
7. The provisions of this Consent Order shall apply to and be binding upon the parties to this action, and their successors and assigns.
8. This Consent Order constitutes a civil settlement and satisfaction as to the resolution of the violations specifically addressed herein; however, it does not resolve any criminal action that may result from these same violations.

9. REPORTING

The Bessemer Area Sewer Authority shall verbally report any violation(s) of the terms and conditions of this Consent Order to the District Supervisor by no later than the close of the next business day following detection of such violation(s) and shall follow such notification with a written report within five business days following detection of such violation(s). The written report shall include a detailed description of the violation(s), as well as a description of any actions proposed or taken to correct the violation(s). The Bessemer Area Sewer Authority shall report any anticipated violation(s) of this Consent Order to the above-referenced individual in advance of the relevant deadlines whenever possible.

10. RETENTION OF RECORDS

Upon request by an authorized representative of the DEQ, the Bessemer Area Sewer Authority shall make available to the DEQ all records, plans, logs, and other documents required to be maintained under this Consent Order or pursuant to applicable laws or rules. All such documents shall be retained by the Bessemer Area Sewer Authority for at least a period of three years from the date of generation of the record unless a longer period of record retention is required by the applicable law or its rules.

## 11. RIGHT OF ENTRY

The Bessemer Area Sewer Authority shall allow any authorized representative or contractor of the DEQ, upon presentation of proper credentials, to enter upon the premises of the facility at all reasonable times for the purpose of monitoring compliance with the provisions of this Consent Order. This paragraph in no way limits the authority of the DEQ to conduct tests and inspections pursuant to the NREPA and the rules promulgated thereunder, or any other applicable statutory provision.

## 12. DEQ APPROVAL OF SUBMITTALS

For any work plan, proposal, or other document, excluding applications for permits or licenses, that are required by this Consent Order to be submitted to the DEQ by the Bessemer Area Sewer Authority, the following process and terms of approval shall apply:

- a. All work plans, proposals, and other documents required to be submitted by this Consent Order shall include all of the information required by the applicable statute and/or rule, and all of the information required by the applicable paragraph(s) of this Consent Order.
- b. In the event the DEQ disapproves a work plan, proposal, or other document, it will notify the Bessemer Area Sewer Authority, in writing, specifying the reasons for such disapproval. The Bessemer Area Sewer Authority shall submit, within 30 days of receipt of such disapproval, a revised work plan, proposal, or other document which adequately addresses the reasons for the DEQ's disapproval. If the revised work plan, proposal, or other document is still not acceptable to the DEQ, the DEQ will notify the Bessemer Area Sewer Authority of this disapproval.
- c. In the event the DEQ approves with specific modifications, a work plan, proposal, or other document, it will notify the Bessemer Area Sewer Authority, in writing, specifying the modifications required to be made to such work plan, proposal, or other document prior to its implementation and the specific reasons for such modifications. The DEQ may require the Bessemer Area Sewer Authority to submit, prior to implementation and within 30 days of receipt of such approval with specific modifications, a revised work plan, proposal, or other document which adequately addresses such modifications. If the revised work plan, proposal, or other document is still not acceptable to the DEQ, the DEQ will notify the Bessemer Area Sewer Authority of this disapproval.
- d. Upon DEQ approval, or approval with modifications, of a work plan, proposal, or other document, such work plan, proposal, or other document shall be incorporated by reference into this Consent Order and shall be enforceable in accordance with the provisions of this Consent Order.
- e. Failure by the Bessemer Area Sewer Authority to submit an approvable work plan, proposal, or other document, within the applicable time periods specified above, constitutes a violation of this Consent Order and shall subject the

Bessemer Area Sewer Authority to the enforcement provisions of this Consent Order.

- f. Any delays caused by the Bessemer Area Sewer Authority's failure to submit an approvable work plan, proposal, or other document when due shall in no way affect or alter the Bessemer Area Sewer Authority's responsibility to comply with any other deadline(s) specified in this Consent Order.
- g. No informal advice, guidance, suggestions, or comments by the DEQ regarding reports, work plans, plans, specifications, schedules or any other writing submitted by the Bessemer Area Sewer Authority will be construed as relieving the Bessemer Area Sewer Authority of its obligation to obtain written approval, if and when required by this Consent Order.

### 13. EXTENSIONS

The Bessemer Area Sewer Authority and the DEQ agree that the DEQ may grant the Bessemer Area Sewer Authority a reasonable extension of the specified deadlines set forth in this Consent Order. Any extension shall be preceded by a written request to the District Supervisor no later than ten business days prior to the pertinent deadline, and shall include:

- a. Identification of the specific deadline(s) of this Consent Order that will not be met.
- b. A detailed description of the circumstances that will prevent the Bessemer Area Sewer Authority from meeting the deadline(s).
- c. A description of the measures the Bessemer Area Sewer Authority has taken and/or intends to take to meet the required deadline.
- d. The length of the extension requested and the specific date on which the obligation will be met.

No change or modification to this Consent Order shall be valid unless in writing from the DEQ, and if applicable, signed by both parties.

### 14. TERMINATION

This Consent Order shall remain in full force and effect until terminated by a written Termination Notice (TN) issued by the DEQ. Prior to issuance of a written TN, the Bessemer Area Sewer Authority shall submit a request consisting of a written certification that the Bessemer Area Sewer Authority has fully complied with the requirements of this Consent Order and has made payment of any fines, including stipulated penalties, required in this Consent Order. Specifically, this certification shall include:

- a. The date of compliance with each provision of the compliance program in Section II, and the date any fines or penalties were paid.

- b. A statement that all required information has been reported to the district supervisor.
- c. Confirmation that all records required to be maintained pursuant to this Consent Order are being maintained at the facility.

The DEQ may also request additional relevant information. The DEQ shall not unreasonably withhold issuance of a TN.

Exhibit A  
Administrative Consent Order

<u>Enforcement Type</u>	<u>Enforcement Number</u>	<u>Issued Date</u>
ENFORCEMENT NOTICE	EN-000266	September 2, 2015
Notification to Reapply for NPDES Permit No. MI0021067		February 14, 2014
Second Notification to Reapply for NPDES Permit No. MI0021067		June 27, 2014



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
UPPER PENINSULA DISTRICT OFFICE



DAN WYANT  
DIRECTOR

September 2, 2015

CERTIFIED MAIL

**NOTICE No. EN-000266**

Mr. Mike Uskiewicz, City Manager  
City of Bessemer  
411 S. Sophie Street  
Bessemer, Michigan 49911

Dear Mr. Uskiewicz:

SUBJECT: ENFORCEMENT NOTICE  
Bessemer Area Sewer Authority  
7842 Stone Road  
Bessemer, Michigan 49911

The Department of Environmental Quality (DEQ), Water Resources Division (WRD), Upper Peninsula District Office, is pursuing an escalated enforcement action for violations of law by the Bessemer Area Sewer Authority (hereinafter "facility") as set forth herein.

Please be advised that the facility has failed to comply with the discharge authorization requirements of National Pollutant Discharge Elimination System (NPDES) Permit Number MI0021067 and failed to submit a timely completed application prior to the expiration date of October 1, 2014, as required on page 1 of the expired NPDES Permit. The Bessemer Area Sewer Authority continues to discharge treated wastewater to the waters of the state without a permit, in violation of Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Part 31 of the NREPA), MCL 324.3101 et seq. The completed reissuance application was received by DEQ on February 10, 2015. The discharge of wastewater from the facility has also violated the NPDES Permit's effluent limits for percent removal monthly minimum limits of 85 percent carbonaceous biochemical oxygen demand (CBOD) in April-June and December of 2014 (4 months) and April-June, September-December 2014 (7 months) for total suspended solids (TSS).

The facility is hereby notified that the discharge of waste effluent into the waters of this state without a valid permit from the DEQ is a violation of Section 324.3112 of Part 31 of the NREPA. The failure to comply with the monthly minimum percent removal requirement for TSS and CBOD is in violation of condition 1 of the Permit. The DEQ has been advised that the Bessemer Area Sewer Authority is correcting inflow and infiltration sources of clear water through a USDA sewer upgrade project that will be initiated during the current construction season.

The facility is requested to immediately undertake all actions necessary to resolve all violations identified in this Enforcement Notice. The facility is hereby requested to remain in compliance with the following:

1. Obtain authorization to discharge treated wastewater and respond, within 30 days, to any application deficiencies identified by WRD while processing the reissuance application.

The violations identified herein, as well as any additional violations discovered hereafter must be formally resolved through entry of a legally enforceable document. The legal document will include an agreed-upon compliance program to resolve the WRD's allegations, any additional requirements, and a civil fine. Negotiations to resolve this matter through an ACO shall not, in general, exceed 90 days.

The DEQ reserves its right to take all necessary and appropriate enforcement actions for all violations of Part 31 of the NREPA and the Permit that have occurred to date and any violations of Part 31 of the NREPA that may occur in the future. These actions may include, but are not limited to, seeking civil fines, injunctive relief, natural resources damages, all costs associated with this enforcement action, including attorney costs and any other relief available to the DEQ.

The facility's continuing failure to comply with the terms of Part 31 and the Permit, any other requirements set forth in this Notice, or failure to resolve these violations through entry of an ACO within the 90 day time frame may result in additional fines, penalties or other actions.

*Pursuant to Section 1511 of the NREPA, Bessemer Area Sewer Authority may request a preliminary meeting with DEQ, WRD enforcement staff to discuss the issues detailed in this ENFORCEMENT NOTICE and their potential resolution. If you would like to participate in such a meeting, please contact Randy Conroy, Water Enforcement Unit, WRD, at 906-236-1362, NOT LATER than 10 days from your receipt of this ENFORCEMENT NOTICE.*

**STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
WATER RESOURCES DIVISION**

Date Issued: September 2, 2015

  
Steven Casey  
Upper Peninsula District Office  
Water Resources Division



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
LANSING



DAN WYANT  
DIRECTOR

February 14, 2014

Bessemer Area Sewer Authority  
411 South Sophie Street  
Bessemer, Michigan 49911

Dear Permittee:

**SUBJECT: Notification to Reapply for National Pollutant Discharge Elimination System (NPDES) Permit No. MI0021067**

Our records indicate that the Bessemer Area Sewer Authority was issued NPDES discharge Permit No. MI0021067 on March 2, 2010, pursuant to Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451). This authorization to discharge will expire on October 1, 2014. In order to retain the authorization to discharge beyond the expiration date, the Bessemer Area Sewer Authority shall submit the information and forms required by the Department of Environmental Quality (DEQ) to the Permits Section no later than 180 days prior to the expiration date noted above.

To fulfill the reapplication requirements, you need to complete a State of Michigan NPDES Permit Application Form with a revision date of 2013. The Application and Appendix may be downloaded from the Internet at [www.michigan.gov/deq](http://www.michigan.gov/deq). In the left column, click on **water**, then **surface water**. In the right column, click on **How to Apply for an NPDES Permit**. To access the documents, click on **Permit Application for Surface Water Discharge and/or Permit Application Appendix**. If you do not have access to the Internet, please contact the Permits Section at 517-284-5568, and an Application Form and Appendix will be sent to you. You must complete all the items on the form that are applicable to your discharge. An incomplete Application does not fulfill the reapplication provisions of your permit.

Act 451 requires an Application Fee when submitting an Application for reissuance of an NPDES Permit. The fee for your facility is \$400. This fee must accompany the Application in order for the DEQ to consider the Application complete. Please make sure that the facility's NPDES Permit number and the designation "WRD-NP1" appear on the check.

Please complete the required forms and submit them to our office with the Application Fee by **April 4, 2014**.

If you have any questions regarding this letter, please contact Kevin Cook at 517-284-5585.

Sincerely,

Tiffany J. Myers, Chief  
Lakes Michigan and Superior Permits Unit  
Permits Section, Water Resource Division

cc: File (electronic)



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
LANSING



DAN WYANT  
DIRECTOR

June 27, 2014

Bessemer Area Sewer Authority  
411 South Sophie Street  
Bessemer, Michigan 49911

Dear Permittee:

**SUBJECT: National Pollutant Discharge Elimination System (NPDES)  
Notification to Reapply for NPDES Permit No. MI0021067**

Our records indicate that the Bessemer Area Sewer Authority was issued NPDES discharge Permit No. MI0021067 on March 2, 2010, pursuant to Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451). This authorization to discharge will expire on October 1, 2014. The Bessemer Area Sewer Authority was reminded of its obligation to reapply by a letter from the Department of Environmental Quality (DEQ) on February 15, 2014.

To date our office has not received your application. In order to retain the authorization to discharge beyond the expiration date, the Bessemer Area Sewer Authority shall submit the information and forms required by the DEQ to the Water Resources Division prior to the expiration date noted above.

To fulfill the reapplication requirements, you need to complete a State of Michigan NPDES Permit Application Form with a revision date of 2013. The Application and Appendix may be downloaded from the Internet at [www.michigan.gov/deq](http://www.michigan.gov/deq). In the left column, click on **water**, then **surface water**. In the right column, click on **How to Apply for an NPDES Permit**. To access the documents, click on **Permit Application for Surface Water Discharge** and/or **Permit Application Appendix**. If you do not have access to the Internet, please contact the Permits Section at 517-284-5568, and an Application Form and Appendix will be sent to you. You must complete all the items on the form that are applicable to your discharge. An incomplete Application does not fulfill the reapplication provisions of your permit.

Act 451 requires an application fee when submitting an Application for reissuance of an NPDES permit. The fee for your facility is **\$400.00**. **This fee must accompany the Application in order for the DEQ to consider the Application complete. Please make sure that the facility's NPDES Permit number and the designation "WRD-NP1" appear on the check.**

Please complete the required forms and submit them to our office with the application fee.

If you have any questions regarding this letter, please contact Kevin Cook at 517-284-5585.

Sincerely,

Tiffany Myers, Unit Chief  
Lakes Michigan and Superior Permits Unit  
Water Resources Division