

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204
(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Bruno L. Pigott
Commissioner

STATE OF INDIANA)
)
) SS: BEFORE THE INDIANA DEPARTMENT
COUNTY OF MARION) OF ENVIRONMENTAL MANAGEMENT

COMMISSIONER OF THE DEPARTMENT)
OF ENVIRONMENTAL MANAGEMENT,)
)
Complainant,)
)
v.) Case No. 2021-28150-D
)
NATIONAL OIL & GAS, INC d/b/a ROME)
CITY MARATHON,)
)
Respondent.)

AGREED ORDER

Complainant and Respondent desire to settle and compromise this action without hearing or adjudication of any issue of fact or law, and consent to the entry of the following Findings of Fact and Order. Pursuant to Indiana Code (IC) 13-30-3-3, entry into the terms of this Agreed Order does not constitute an admission of any violation contained herein. Respondent's entry into this Agreed Order shall not constitute a waiver of any defense, legal or equitable, which Respondent may have in any future administrative or judicial proceeding, except a proceeding to enforce this order.

I. FINDINGS OF FACT

1. Complainant is the Commissioner (Complainant) of the Indiana Department of Environmental Management (IDEM), a department of the State of Indiana created by IC 13-13-1-1.
2. National Oil & Gas, INC. d/b/a Rome City Marathon (Respondent) owns and/or operates a non-transient non-community public water system (PWS) with PWSID No. IN2570058, serving 209 persons. The PWS is located at 395 Kelly Street, Rome City, Noble County, Indiana (the Site).
3. IDEM has jurisdiction over the parties and the subject matter of this action pursuant to IC 13-30-3.
4. Pursuant to IC 13-30-3 *et seq.*, IDEM issued a Notice of Violation via Certified Mail to:



A State that Works

Trent T. Moser, President
National Oil & Gas, INC
2829 E. State Road 124
Bluffton, IN 46714

Josh Collins, Registered Agent
National Oil & Gas, INC
2829 E. State Road 124
Bluffton, IN 46714

5. 327 Indiana Administrative Code (IAC) 8-2-2 states each PWS shall comply with all provisions of this rule and 327 IAC 8-2.1.
6. Pursuant to the Revised Total Coliform Rule at 327 IAC 8-2.4-1, 40 Code of Federal Regulations (CFR) 141, Subpart Y is incorporated by reference.
7. Pursuant to 40 CFR 141.860(c)(1), failure to take every required routine or additional routine sample in a compliance period is a monitoring violation.

IDEM records indicate Respondent failed to monitor at least one total coliform sample from the PWS during the first and second quarters of 2020, in violation of 40 CFR 141.854(b) and 40 CFR 141.860(c)(1).

8. Pursuant to 40 CFR 141.854(f), a system on quarterly or annual monitoring that experiences any of the events identified in paragraphs (f)(1) through (f)(4) of this section must begin monthly monitoring the month following the event. The system must continue monthly or quarterly monitoring until the requirements in paragraph (g) of this section for quarterly monitoring or paragraph (h) of this section for annual monitoring are met.

Pursuant to 40 CFR 141.860(c)(1), failure to take every required routine or additional routine sample in a compliance period is a monitoring violation.

Respondent had two subpart Y monitoring violations in a rolling 12-month period. Respondent was required to begin monthly monitoring for total coliform in January 2021. IDEM records indicate Respondent failed to monitor at least one total coliform sample from the PWS during the months of January, February, March, April, June, September, October, and November 2021, in violation of 40 CFR 141.854(f) and 40 CFR 141.860(c)(1).

9. Pursuant to 327 IAC 8-2-4.1(f), all PWSs shall monitor nitrate to determine compliance with the maximum contaminant level (MCL) for nitrate.

IDEM records indicate that Respondent failed to monitor for nitrate during the years of 2019 and 2020, in violation of 327 IAC 8-2-4.1(f).

10. Pursuant to 40 CFR 141.861(a)(4), a system that has failed to comply with a coliform monitoring requirement must report the monitoring violation to the State within 10 days after the system discovers the violation, and notify the public in

accordance with 40 CFR 141 subpart Q.

Pursuant to 327 IAC 8-2.1-7, the owner or operator of a PWS which fails to perform monitoring is required to notify persons served by the PWS. A copy of the public notice must also be sent to the Commissioner within 10 days after the completion of each public notice.

IDEM records indicate that Respondent:

- a. failed to notify persons served by the PWS of the failure to monitor at least one total coliform sample from the PWS for January, February, March, April, June, September, October, and November of 2021 each in violation of 40 CFR 141.861(a)(4) and 327 IAC 8-2.1-7.
 - b. failed to notify persons served by the PWS of the failure to monitor nitrate from the PWS in 2019 and 2021, in violation of 327 IAC 8-2.1-7.
11. Orders of the Commissioner are subject to administrative review by the Office of Environmental Adjudication under IC 4-21.5; however, in recognition of the settlement reached, Respondent acknowledges notice of this right and waives any right to administrative and judicial review of this Agreed Order.

II. ORDER

1. This Agreed Order shall be effective (Effective Date) when it is adopted by Complainant or Complainant's delegate (as evidenced by signature), and the adopted Agreed Order has been received by Respondent. This Agreed Order shall have no force or effect until the Effective Date. In addition to addressing the violations cited in Paragraphs 7 through 10 of the Findings of Fact, this Agreed Order also addresses any additional violations of these same rules that may have occurred subsequent to the issuance of the Notice of Violation and prior to the Effective Date.
2. Beginning immediately upon the Effective Date, Respondent shall, for the purposes of this Order, monitor and report at least one total coliform sample in the PWS per month for six (6) consecutive months of operation (Compliance Demonstration). During the Compliance Demonstration period, Respondent shall be subject to stipulated penalties.

It is the responsibility of Respondent to continue monitoring for total coliform monthly pursuant to 40 CFR 141.854(f).

3. If the results of any sample for total coliform required by Order Paragraph 2 indicate a positive result, the following actions shall be taken:
 - A. Further analyze the positive sample for *E. coli*; and

B. Contact Sandra Decastro, IDEM's Compliance Section, Drinking Water Branch, immediately at (317) 234-7444, for further instructions, and complete all requirements as instructed.

Respondent shall be subject to stipulated penalties for failure to complete any requirements in accordance with IDEM's notification(s), following a Maximum Contaminant Level (MCL) exceedance.

4. Within 30 days of the Effective Date, Respondent shall, for the purposes of this Order, monitor nitrate at the entry point to the distribution system that is representative of each well after treatment.

It is the responsibility of Respondent to continue sampling nitrate annually, pursuant to 327 IAC 8-2-4.1(f).

5. Within 10 days of becoming aware of a nitrate MCL exceedance, Respondent shall submit notification to IDEM of the MCL exceedance. Respondent shall complete all requirements to resolve the MCLs as instructed by IDEM's notification(s).
6. Within 30 days of the Effective Date, Respondent shall provide public notice, for the past total coliform monitoring violations listed in Paragraph 10 of the Findings of Facts above, by following these steps:
 - A. Complete attached public notice and Certification form for public notice.
 - B. Post public notice where the public has ready access for viewing, and for as long as the violation persists, but in no case less than seven days, even if the violation is resolved.
 - C. Within 10 days of issuing the public notice, Respondent shall send to IDEM a signed Certification form for public notice and representative copy of the public notice issued. The forms that address the past total coliform monitoring violations accompany this Agreed Order.
7. Immediately upon the Effective Date, for future monitoring violations, Respondent shall provide public notice to the State within 10 days and notify the public pursuant to 40 CFR 141.861(a)(4) and 327 IAC 8-2.1-7.
8. Within 30 days of the Effective Date, Respondent shall update the enclosed "System Basic Information Summary" document by either marking corrections or stating that the information is accurate directly on the attached document. Once completed, the document shall be submitted to the address in Order Paragraph 9.
9. All submittals required by this Agreed Order, unless Respondent is notified otherwise in writing by IDEM, shall be sent to:

René J. Repar, Enforcement Case Manager
Office of Water Quality – IGCN 1255
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204-2251

10. Respondent is assessed and agrees to pay a civil penalty of One Thousand Four Hundred Thirty Dollars (\$1,430.00). Said penalty amount shall be due and payable to the "Environmental Management Special Fund" within 30 days of the Effective Date, the 30th day being a "Due Date."
11. In the event the terms and conditions of the following paragraphs are violated, Complainant may assess and Respondent shall pay a stipulated penalty in the following amount:

Paragraph:	Violation:	Stipulated Penalty:
2	Failure to monitor and report required samples.	\$250 per violation.
3	Failure to comply with any or all of the requirements of this paragraph.	\$300 per week for violation of any part of this requirement.
4	Failure to monitor and report required sample(s).	\$350 per sample missed.
5	Failure to comply with any part of this paragraph after a MCL exceedance.	\$400 per week for violation of any part of this paragraph.
6	Failure to comply with any or all of the requirements of this paragraph.	\$250 per week, or part thereof, past the 30-day deadline.
7	If applicable, failure to provide public notice.	\$250 per week, or part thereof.
8	Failure to submit the "System Basic Information Summary" document in the manner specified.	\$100 per week, or part thereof.

12. Stipulated penalties shall be due and payable no later than the 30th day after Respondent receives written notice that IDEM has determined a stipulated penalty is due, the 30th day being a "Due Date." IDEM may notify Respondent at any time that a stipulated penalty is due. Failure to notify Respondent in writing in a timely manner of a stipulated penalty assessment shall not waive IDEM's right to collect such stipulated penalty or preclude IDEM from seeking additional relief against Respondent for violation of this Agreed Order. Neither assessment nor payment of stipulated penalties shall preclude IDEM from seeking additional relief against Respondent for a violation of this Agreed Order. Such additional relief includes any

remedies or sanctions available pursuant to Indiana law, including, but not limited to, civil penalties pursuant to IC 13-30-4.

13. Civil and stipulated penalties are payable by check to the "Environmental Management Special Fund." Checks shall include the Case Number 2021-28150-D of this action and shall be mailed to:

Indiana Department of Environmental Management
Accounts Receivable
IGCN, Room 1340
100 North Senate Avenue
Indianapolis, IN 46204

14. This Agreed Order shall apply to and be binding upon Respondent, its successors and assigns. Respondent's signatories to this Agreed Order certify that they are fully authorized to execute this Agreed Order and legally bind the party they represent. No change in ownership, corporate, or partnership status of Respondent shall in any way alter its status or responsibilities under this Agreed Order.
15. In the event that the monies due to IDEM pursuant to this Agreed Order are not paid on or before their Due Date, Respondent shall pay interest on the unpaid balance and any accrued interest at the rate established by IC 24-4.6-1. The interest shall be computed as having accrued from the Due Date until the date that Respondent pays any unpaid balance. The interest shall continue to accrue on the first of each month until the civil penalty and any interest accrued are paid in full. Such interest shall be payable to the "Environmental Management Special Fund," and shall be payable to IDEM in the manner specified above.
16. In the event that any terms of this Agreed Order are found to be invalid, the remaining terms shall remain in full force and effect and shall be construed and enforced as if this Agreed Order did not contain the invalid terms.
17. Respondent shall provide a copy of this Agreed Order, if in force, to any subsequent owners or successors before ownership rights are transferred. Respondent shall ensure that all contractors, firms and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.
18. This Agreed Order is not and shall not be interpreted to be a permit or a modification of an existing permit. This Agreed Order, and IDEM's review or approval of any submittal made by Respondent pursuant to this Agreed Order, shall not in any way relieve Respondent of its obligation to comply with the requirements of its applicable permits or any applicable Federal or State law or regulation.

19. Complainant does not, by his approval of this Agreed Order, warrant or aver in any manner that Respondent's compliance with any aspect of this Agreed Order will result in compliance with the provisions of any permit, order, or any applicable Federal or State law or regulation. Additionally, IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of Respondent's efforts to comply with this Agreed Order.
20. Nothing in this Agreed Order shall prevent or limit IDEM's rights to obtain penalties or injunctive relief under any applicable Federal or State law or regulation, except that IDEM may not, and hereby waives its right to, seek additional civil penalties for the same violations specified in the Notice of Violation.
21. Nothing in this Agreed Order shall prevent IDEM (or anyone acting on its behalf) from communicating with the United States Environmental Protection Agency (US EPA) or any other agency or entity about any matters relating to this enforcement action. IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of such communications with the US EPA or any other agency or entity.
22. This Agreed Order shall remain in effect until Respondent has complied with the terms and conditions of this Agreed Order and IDEM issues a Resolution of Case (close out) letter to Respondent.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.

TECHNICAL RECOMMENDATION:

Department of Environmental Management

RESPONDENT:

National Oil & Gas, INC d/b/a Rome City Marathon

By:



Amari Farren, Chief
Water Enforcement Section
Office of Water Quality

By:

Printed:

Title:

Date: December 30, 2021

Date:

COUNSEL FOR RESPONDENT:

By:

Date:

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT THIS _____ DAY OF _____, 20__.

For the Commissioner:

Martha Clark Mettler
Assistant Commissioner
Office of Water Quality

System Basic Information Summary

IN2570058 ROME CITY MARATHON

Activity	Activity Date	Source Type	System Type	Population	Total Population	Seasonal Dates			Service Area
A	6/30/2000	GW	NC	T 200	209	1	1	to 12 31	RESTAURANT/PLAZA
Operator Class	Service Connections	Field Inspector	Contact Type Key						
1		Paula Reinhold	AC - Mailing Contact	EC - Emergency Contact	OW - Owner				
			FC - Financial Contact	OP - Operator	SA - Reminders				

Contact Information

SC - SCADA Contact

Type	Contact Name	Street	City	State	Zip	Phone	Ext	Fax
AC	Mr. ALES AEI, ALAWI	P.O. Box 100	ROME CITY	IN	46784	260-303-1178		
						260-908-9443		
EC	Mr. ALES AEI, ALAWI	P.O. Box 100	ROME CITY	IN	46784	260-303-1178		
						260-908-9443		
FC	Mr. ALES AEI, ALAWI	P.O. Box 100	ROME CITY	IN	46784	260-303-1178		
						260-908-9443		
OP	Mr. ALES AEI, ALAWI	P.O. Box 100	ROME CITY	IN	46784	260-303-1178		
						260-908-9443		
OW	NATIONAL OIL & GAS	409 North Main Street	BLUFFTON	IN	46714	800-322-8454		
PL		PHYSICAL ADDRESS, IN2570058	395 Kelly Street	ROME CITY	IN	46784	260-303-1178	
						46784	260-303-1178	
SA	Mr. ALES AEI, ALAWI	P.O. Box 100	ROME CITY	IN	46784	260-303-1178		
						260-908-9443		

Wednesday, July 21, 2021

TSNC

Page 1 of 1

**IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER
REVISED TOTAL COLIFORM RULE AND NITRATE
Monitoring And Reporting Requirements Not Met For:
National Oil & Gas, INC. d/b/a Rome City Marathon**

Our water system recently violated a drinking water standard. Although this is not an emergency, as our customers, you have a right to know what happened, what you should do, and what we are doing to correct this situation.

We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not our drinking water standards meet EPA's health standards.

During the _____ months of January, February, March, April, June, September, October and
November 2021 and failed to test for Nitrate in 2019 and 2021

we **did not test** for **Total Coliform and Nitrate**, and therefore cannot be sure of the quality of our drinking water at that time.

What should I do?

There is nothing you need to do at this time.

What does this mean?

This is not an immediate risk. If it had been, you would have been notified immediately.

What Happened? What is being done? Explain below.

We anticipate resolving the problem within _____
estimated time frame

For more information, please contact _____ at
name of contact
_____ or _____
phone number *mailing address*

Please share this information with all other people who drinking this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

This notice is being sent to you by: _____
system name
Public Water Supply ID: _____
IN2570058
PWSID Number
Date Distributed: _____

Public Notice Instructions

You are required to provide the enclosed public notice within the next thirty (30) days of this notification.

You must use one or more of the following methods to deliver the notice to consumers:

Community Systems must use one of the following methods:

- Hand or direct delivery
- Mail, as a separate notice or included with the bill
- Publish in a newspaper within the area served

Noncommunity systems must use one of the following methods:

- Post in conspicuous locations
- Hand or direct delivery
- Mail, as a separate notice or include in the mail

You may need to use additional methods since notice must be provided in a manner reasonably calculated to reach all persons served. You may modify the enclosed public notice to tailor it to your specific situation, but you must still include all the required elements.

After issuing the notice

Send a copy of each type of notice and the enclosed certification form within ten (10) days from the time you issue the notice to the following address:

Indiana Department of Environmental Management (IDEM)
OWQ Drinking Water – Mail Code 66-34
100 N. Senate Avenue
Indianapolis, IN 46204-2251
Fax Number: (317)234-7436

CERTIFICATION FORM FOR PUBLIC NOTICE

PWS Name: **National Oil & Gas, INC. d/b/a** PWSID Number: **IN2570058**
Rome City Marathon
public water system name *public water system number*

For Violation: **RTCR and Nitrate Monitoring & Reporting (VC 3A & 4B)**
describe violation or situation

Occurring on: **January, February, March, April, June, September, October and November 2021 and failed to test for Nitrate in 2019 and 2021**
date of violation

The public water system indicated above hereby affirms that public notice has been provided to consumers in accordance with the delivery, content, and format requirements and deadlines in 327 IAC 8-2.1-7.

- Consultation with primacy agency (if required) on _____
date
- Notice distributed by _____ on _____
insert method *date*
- Content – required elements

Signature of owner or operator

Date