



The Never Ending Enforcement Case Study York, Maine



BACKGROUND

York Sewer District

- Non-Mandated Pretreatment Program
- Own Rules & Regulations – Follow 40 CFR
- Enforcement Action Plan – which allows us to fine for violations
- State law – cannot disconnect

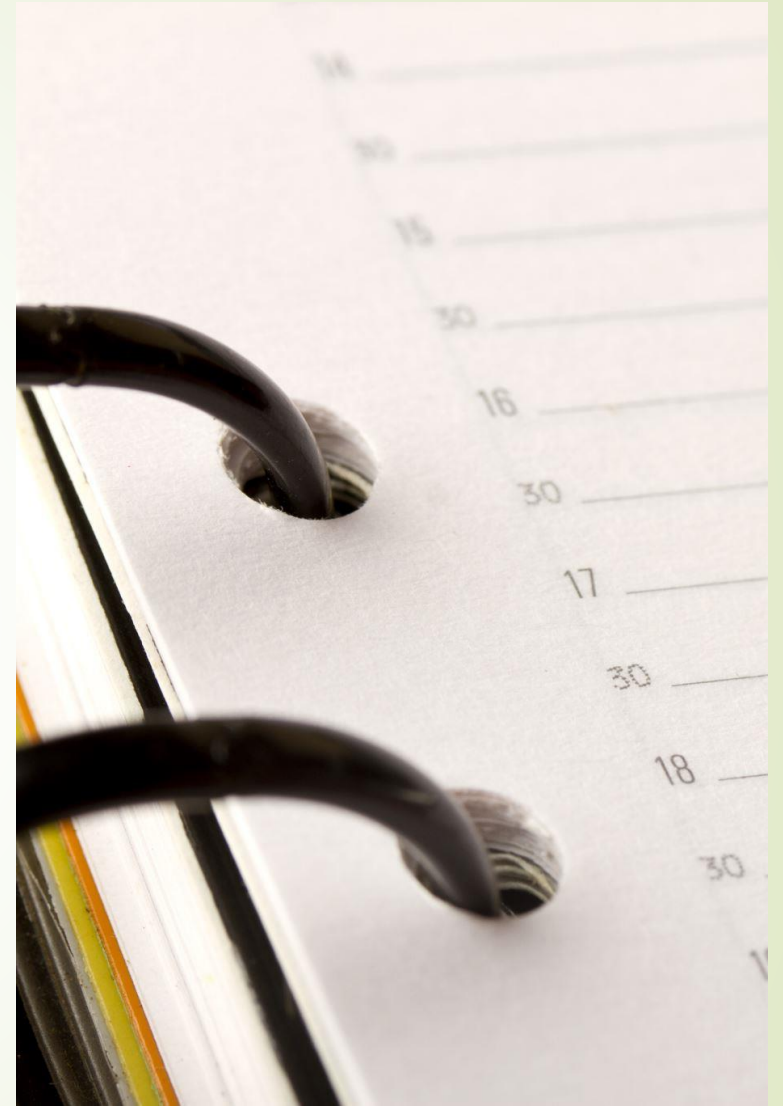


Meadowbrook Plaza



- Office Space
- Condo's
- Restaurants
- Marijuana Facility
- Social Club
- Retail Stores

TIMELINE OF EVENTS



February 2013

- When it all started
- Found several violations with FOG, Low pH & excessive unpermitted flow and pump station failures.
- Letters were sent to owner requesting a meeting with the owner and their engineer.



2014 - 2016

- UNFORTUNATELY, NOT MUCH HAPPENED DURING THIS TIME – DUE TO NOT HAVING A PRETREATMENT PROGRAM IN PLACE AND NO PERSONNEL OR STAFF THAT COULD FOLLOW UP ON.





2017 - 2018

District hired a compliance manager and established a pretreatment program, which included a major overhaul of the Rules and Regulations that were currently in place at that time.

District hired an engineer to assist and assess the situation.

Sampling and inspections started regularly, finding continued violations. This is what we found:











IN ADDITION

In addition to the other violations, pH was in the 4.0-5.0 range.

pH meter was not working and had not been calibrated.

BOD was way above our established local limit of 250 mg/L

FOG was above the allowed 100 mg/L



ENFORCEMENT BEGINS

- **Notice of Noncompliance sent in September 2018 after visit requesting corrective action.**
 - Given 6 months to submit engineering plans and complete repairs, install new grease interceptor and address pH issues.
 - District worked in good faith with their engineer from 2018-February 2019 towards plans for them to install a pretreatment system.
- **June 2019 – Notice of violation issued.**
 - FOG, BOD and TSS still above allowed limits, Grease interceptor still not installed, pH issues still not addressed.
 - Given 90 days to complete or come into consent agreement.
 - Legal enforcement, fines start accumulating.
- **July 2019 – Consent Agreement signed.**
 - Given 2 months to complete repairs. District will forbear all fines if completed.
 - Continued monitoring through industrial user permit.



ENFORCEMENT (Continued)

- **November 2019 – Initiated 80K Action.**
 - Given until January 2020 to complete.
 - \$7,500 requested for attorney's fees.
- **January 2020 – Stipulated Judgment and Order filed in 80K**
 - Installed Grease Interceptor
 - Low pH still an issue and no pretreatment in place.
 - Failed to comply with stipulated judgment
 - Fines start accumulating at \$1,000 per day per violation (retroactive to June 2019)
- **March 2020**
 - Covid hits – Delays, delays, delays!!!!



ENFORCEMENT (Continued)

- **February 2021 – Motion to Enforce Stipulated Judgment**
- **August 2021 – Settlement Agreement Signed**
 - \$100,000 fine
 - \$20,485.00 in attorney's fees
 - 60 days to complete pretreatment system to address pH issues
- **September 2021**
 - Work completed
 - Fines and fees paid
 - Settlement Agreement states District can still enforce stipulated judgment if there are still non-compliance issues within 18 months following settlement agreement.



ENFORCEMENT (Continued)

- **March 2022**
 - Notice of Violation issued still having pH issues
 - Not monitoring pretreatment system
 - Broken pH probe
 - 30 days given to repair and come into compliance
- **April 2022**
 - Work completed – finally in compliance

BUT....

2023

- Excess flow of over 1 million gallons (**March**)
 - Tried to get them to sign an agreement – refused to sign
 - Problem was resolved after finding sump pump tied into the sewer
 - Refused to pay the bill for excess flow
 - Agreed to settle for just attorney fees
- Notice of Violation sent for June – low pH – 7 Violations
- Notice of Violation sent for July – low pH – 3 Violations
- Notice of Violation sent for August – low pH – 14 Violations
- ANOTHER SETTLEMENT AGREEMENT – (**October**)

WHERE DO WE GO FROM HERE?

- If Violations continue, the District will hire someone to maintain system and bill them for it.
- Back to Court

RECOMMENDATIONS

- Document, document, document!!!!
- Make sure your rules and regulations and/or ordinances are in place.
- Enforcement Action Plan – Follow your plan!
- Try starting with a simple consent agreement – makes legal actions a bit easier going forward.
- Work with your local officials

QUESTIONS???



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