



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 7
11201 Renner Boulevard, Lenexa, Kansas 66219

FILED

May 12, 2026

5:00pm

U.S. EPA REGION 7
HEARING CLERK

FINDINGS OF VIOLATION AND ORDER FOR COMPLIANCE ON CONSENT

Docket Number: CWA-07-2026-0186, NPDES Permit No. KS0099571

The undersigned representative of the United States Environmental Protection Agency (EPA) and the city of Wellington, Kansas (Respondent or City), enter into this Findings of Violation and Administrative Order for Compliance on Consent (Order on Consent) to address Respondent's alleged violations of the National Pollutant Discharge Elimination System (NPDES) Permit cited above (Permit).

The following Order on Consent is made and issued pursuant to Section 309(a)(3) of the Clean Water Act (CWA), 33 U.S.C. § 1319(a)(3). This Authority has been delegated by the Administrator of the EPA to the Regional Administrator, EPA Region 7, and further delegated to the Director of Region 7's Enforcement and Compliance Assurance Division. Respondent was at all relevant times a municipality organized under the laws of the state of Kansas. EPA, together with the Respondent (collectively, Parties), enter into this Section 309(a)(3) Order for the purpose of carrying out the goals of the CWA, 33 U.S.C. § 1251 *et seq.*, to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." As set forth in this Order on Consent, the Parties have amicably reached agreement regarding the timeframes for Respondent to attain compliance with the CWA and its NPDES Permit. By entering into this Order on Consent, Respondent: (1) consents to and agrees not to contest the EPA's authority or jurisdiction to issue and enforce this Section 309(a) Order on Consent; (2) consents to personal service by electronic mail; (3) agrees to undertake all actions required by the terms and conditions of this Order on Consent; and (4) consents to be bound by the requirements set forth herein; and (5) waives all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.). Respondent neither admits nor denies the specific factual allegations or findings of violation in this Order on Consent, except that Respondent admits the jurisdictional allegations herein.

Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants, except in compliance with, *inter alia*, Section 402 of the CWA, 33 U.S.C. § 1342. Section 402 of the CWA provides that pollutants may be discharged in accordance with the terms of an NPDES permit issued pursuant to that Section. To implement Section 402 of the

CWA, the EPA promulgated regulations codified at 40 C.F.R. Part 122. Under 40 C.F.R. Section 122.1, an NPDES permit is required for the discharge of pollutants from any point source into waters of the United States. As defined by 40 C.F.R. § 403.3(q), a Publicly Owned Treatment Works (POTW) includes, but is not limited to, devices and systems for storage and treatment of municipal sewage and sewers, pipes and other conveyances of wastewater. The Kansas Department of Health and Environment (KDHE) is the state agency in Kansas with the authority to administer the federal NPDES program, pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and applicable implementing regulations. EPA retains concurrent enforcement authority with authorized state programs for violations of the CWA.

Respondent is a "person," as defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5). Respondent is the owner and/or operator of a POTW in Wellington, Kansas, that includes a wastewater treatment plant (WWTP) and a sewage collection system, which receives domestic wastewater and industrial wastewater. The WWTP discharges to an unnamed tributary, which discharges to Beaver Creek to Slate Creek to the Arkansas River. The WWTP is a "point source" that "discharges pollutants" to "navigable waters" of the United States, as these terms are defined by Section 502(14), (12) and (7) of the CWA, 33 U.S.C. § 1362(14), (12) and (7), respectively. At all times relevant to this Order, the City's NPDES Permit authorized discharges from the WWTP in accordance with the effluent limitations and other terms and conditions of the NPDES Permit. On December 8-11, 2025, the EPA performed a Compliance Sampling Inspection (EPA Inspection) of the City's WWTP located at 1500 Botkin Street, Wellington, Kansas 67152, under the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a). During the EPA Inspection, the EPA inspector conducted a facility walk-through, reviewed self-monitoring records, collected influent and effluent samples and completed an exit interview. A copy of the Inspection Report was sent to the City on or about January 23, 2026.

Respondent's NPDES Permit established final effluent discharge limits for biochemical oxygen demand, BOD percent removal, total suspended solids, TSS percent removal, ammonia as nitrogen, E. coli, pH, phosphorus, and chronic whole effluent toxicity. Based on the City's monitoring data and the results of sampling taken during the EPA Inspection, the POTW discharged effluent to waters of the United States that exceeded the limits of its NPDES

Permit for BOD, E. coli, and ammonia as nitrogen. Part C. Sludge Use and Disposal of the City's NPDES Permit requires the facility to ensure disposal of biosolids meets the requirements set forth in 40 C.F.R. § 503. The facility failed to comply with the requirements Part F. Schedule of Compliance, of the City's NPDES Permit requires the facility to implement a compliance plan. The facility has failed to follow the Schedule for Compliance as defined in the facility's permit. The failure to follow the Schedule for Compliance is a violation of the limitations and conditions of Respondent's. Each failure to comply with the NPDES permit is a violation of the limitations and conditions of Respondent's NPDES Permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342(p).

Based on the EPA findings set forth above, and pursuant to Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), the EPA hereby ORDERS and the Respondent AGREES to take the actions described below. Respondent shall take actions to comply with all requirements of its NPDES Permit.

Compliance Plan and Schedule. Within 120 calendar days of the Effective Date of this Order, Respondent shall develop and submit to EPA a Compliance Plan that describes the procedures and implementation timetable with milestones for the POTW to achieve compliance with the requirements of the NPDES Permit Schedule for Compliance and the CWA as soon as possible but within two years from the Effective Date of this Order. (A.) The Compliance Plan shall describe in detail the actions to be taken or work to be completed, and how such actions or work will enable Respondent to achieve compliance. The Compliance Plan shall identify the authoring, licensed engineer, or other qualified consultant who created the plan to achieve compliance. The Compliance Plan shall identify the commissioners, board, or other party who has approved the plan and will implement the required changes. (B.) Respondent shall implement the Compliance Plan in accordance with the proposed timetable. (C.) Respondent shall implement the requirements of 40 C.F.R. § 503, including but not limited to, land application records of agronomic rates, cumulative loading rates, site/locations of land applications, etc. If Respondent believes it needs additional time to complete, prepare, revise, or implement the Compliance Plan, it shall submit a request by mail or email to the EPA contact at the address identified below, indicating the basis for the request and the period of additional time requested. Any decision by the EPA to grant such request shall be in writing and delivered to Respondent by mail or email.

Quarterly Reporting to the EPA and KDHE. In addition to the Compliance Plan above, Respondent shall submit completed work orders, signed receipts, and a summary narrative documenting completion of the work necessary to remedy the violations noted above on the first working day of each calendar quarter thereafter until termination of this order, Respondent shall submit completed work orders, signed receipts, and a summary narrative documenting completion of the work necessary to remedy the violations noted above. The EPA will promptly review submittals from Respondent. If, after review of Respondent's submittals, the EPA determines that additional corrective measures or alternative deadlines are appropriate, the EPA may seek to modify this Order on Consent pursuant to the provisions of the Modification section below or terminate this Order on Consent and initiate a separate enforcement action, as appropriate.

Completion Report. Within 30 days of completion of the corrective actions detailed in the Compliance Plan, the City shall submit a written certification stating that the City has completed all required corrective actions.

Submittals. All documents required to be submitted to EPA by this Order shall be submitted by electronic mail to: draper.seth@epa.gov or by mail to:

Seth Draper, or successor
U.S. Environmental Protection Agency Region 7
Enforcement and Compliance Assurance Division
11201 Renner Boulevard
Lenexa, Kansas 66219.

Electronic submissions to the EPA will be deemed submitted on the date they are transmitted electronically. Any report, notification, certification, or other communication that cannot be submitted electronically to the EPA shall be submitted in hard-copy to the address provided above. All documents required to be submitted pursuant to this Order shall also be submitted by electronic mail to KDHE to: shelly.shores@ks.gov or Shelly Shores, or successor, Kansas Department of Health and Environment.

Termination. Within 30 days of completion of the corrective actions detailed in the Compliance Plan, the City shall submit a written certification stating that the City has completed all required corrective actions and request termination.

Compliance with the terms of this Order shall not relieve Respondent of liability for, or preclude the EPA from, initiating an administrative or judicial enforcement action to recover penalties for any violations of the CWA, or to seek additional injunctive relief, pursuant to Section 309 of the

CWA, 33 U.S.C. § 1319. This Order does not constitute a waiver or a modification of any requirements of the CWA, 33 U.S.C. § 1251 *et seq.*, all of which remain in full force and effect. The EPA retains the right to seek any and all remedies available under Sections 309(b), (c), (d), or (g) of the CWA, 33 U.S.C. § 1319(b), (c), (d) or (g), for any violation cited in this Order. Issuance of this Order shall not be deemed an election by the EPA to forgo any civil or criminal action to seek penalties, fines, or other appropriate relief under the CWA for any violation whatsoever.

APPROVED BY THE EPA:

Alyse Stoy
Acting Director
Enforcement and Compliance Assurance Division

Nothing in this Order shall limit the EPA's right to obtain access to, and/or to inspect Respondent's POTW, and/or to request additional information from Respondent, pursuant to the authority of Section 308 of the CWA, 33 U.S.C. § 1318 and/or any other authority. If any provision or authority of this Order, or the application of this Order to Respondent, is held by federal judiciary authority to be invalid, the application to Respondent of the remainder of this Order shall remain in full force and effect and shall not be affected by such a holding. The terms of this Order shall be effective and enforceable against Respondent on the Effective Date, which is the date this Order is signed by the EPA. At the EPA's sole discretion, extensions of the compliance schedule/deadlines required by this Order may be made by the EPA by written notice to Respondent, without further formal amendment to this Order. The EPA's consent for a requested extension will not be unreasonably withheld. All other modifications to this Order may only be made by mutual agreement of the Parties, pursuant to a written amendment signed by each Party. This Order shall remain in effect until a written notice of termination is issued by an authorized representative of the EPA.

APPROVED BY RESPONDENT:

Name: Frank S. Moreno

Title: Operations Supervisor

Email: WWsupervisor@cityofwellington.net

Signature: Frank S. Moreno

Date: May 12, 2024