

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY | PM 2:20
REGION 7

901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101

ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)
)
)
Lambert, St. Louis International Airport)
)
)
Respondent)
)
)
Proceedings under Section 309(a) of the)
Clean Water Act, 33 U.S.C. § 1319(a))
_____)

Docket No. CWA-07-2010-0152

FINDINGS OF VIOLATION,
ORDER FOR COMPLIANCE

1. The following Findings of Violation and Order for Compliance (“Order”) are made and issued pursuant to the authority of 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 United States Environmental Protection Agency (“EPA”) to the Regional Administrator, EPA, Region 7, and further delegated to the Director of EPA, Region 7’s Water, Wetlands and Pesticides Division.

2. The City of St. Louis, Missouri (“Respondent”) owns and operates Lambert, St. Louis International Airport (“Airport”) located at 10701 Natural Bridge Road, St. Louis, Missouri 63145.

Statutory and Regulatory Framework

3. 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, 33 U.S.C. § 1342, provides that pollutants may be discharged only in accordance with the terms of a National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to that Section.

4. The CWA prohibits the discharge of “pollutants” from a “point source” into a “navigable water” of the United States, as these terms are defined by Section 502 of the CWA, 33 U.S.C. § 1362.

5. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), sets forth requirements for the issuance of NPDES permits for the discharge of stormwater. Section 402(p) of the CWA, 33

U.S.C. § 1342(p), requires, in part, that a discharge of stormwater associated with an industrial activity must conform with the requirements of an NPDES permit issued pursuant to Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.

6. Section 308(a) of the CWA, 33 U.S.C. § 1318(a), provides that whenever it is necessary to carry out the objectives of the CWA, including determining whether or not a person/agency is in violation of Section 301 of the CWA, 33 U.S.C. § 1311, EPA shall require the submission of any information reasonably necessary to make such a determination. Under the authority of Section 308 of the CWA, EPA may require the submission of information necessary to assess the compliance status of any facility and its related appurtenances.

7. Pursuant to Section 402(p) of the CWA, 33 U.S.C. § 1342(p), EPA promulgated regulations setting forth the NPDES permit requirements for stormwater discharges at 40 C.F.R. § 122.26.

8. 40 C.F.R. §§ 122.26(a)(1)(ii) and 122.26(c) require dischargers of stormwater associated with industrial activity to apply for an individual permit or to seek coverage under a promulgated stormwater general permit.

9. The regulations at 40 CFR §122.26(b)(14) establish requirements for stormwater discharges associated with industrial activity, including transportation facilities which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations.

10. The Missouri Department of Natural Resources (“MDNR”) is the state agency with the authority to administer the federal NPDES program in Missouri pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. EPA maintains concurrent enforcement authority with delegated states for violations of the CWA.

11. MDNR issued Respondent an Individual Permit for the discharge of stormwater under the NPDES Permit No. MO-0111210. This permit became effective on August 24, 2001 and expired on August 23, 2006. MDNR has administratively extended the permit and is preparing to issue a revised permit to Respondent by the end of 2010. In 2009, Respondent developed a draft Stormwater Pollution Prevention Plan (“SWPPP”) in order to manage stormwater runoff from the Airport.

FINDINGS

12. Respondent is a person within the meaning of Section 502(5) of the CWA, 33 U.S.C. §1362(5).

13. At all times relevant to this action, Respondent was the owner and/or operator of the Airport, which is approximately 3,970 acres in size. Respondent’s primary activity consists of air transportation, which includes the handling of materials such as salt, glycol, and petroleum products.

14. The NPDES permit application regulations for stormwater discharges at 40 C.F.R. §122.26(b)(14) are applicable to the Airport since Respondent operates a transportation facility which has maintenance shops, equipment cleaning operations, or airport deicing operations.

15. Stormwater, snow melt, surface drainage and runoff water leaves Respondent's facility through eight outfalls authorized by Respondent's NPDES permit. Outfall 007 discharges into an unnamed tributary of Cowmire Creek. Flows from Outfalls 001 through 006 and from Outfall 008 discharge directly into Coldwater Creek. Coldwater Creek, Cowmire Creek, and their tributaries are "Waters of the United States" pursuant to Section 502(7) of the CWA, 33 U.S.C. §1362(7).

16. Respondent's NPDES permit requires Respondent to meet the following conditions:

a. Part A, Effluent Limitations and Monitoring Requirements, requires Respondent to meet limits for criteria pollutants, including Biochemical Oxygen Demand ("BOD"), Chemical Oxygen Demand ("COD"), Total Suspended Solids ("TSS"), Total Organic Carbon ("TOC"), pH, and Oil and Grease ("O&G").

b. Part A, Effluent Limitations and Monitoring Requirements, requires Respondent to monitor Ammonia as N at Outfall 005 once per month and to conduct Instream Monitoring upstream of the facility once per month, and to submit monitoring reports to the MDNR monthly.

c. Standard Conditions, Section B, Paragraph 2a. requires Respondent to provide noncompliance notification to the MDNR in writing within five days of becoming aware of the noncompliance.

d. Standard Conditions, Section A, Paragraph 4 of the permit requires Respondent to utilize testing procedures in accordance with Missouri Clean Water Commission Effluent Regulations. These regulations require pH to be measured within 15 minutes of sample collection.

e. Part C, Paragraph 2 of the permit requires that all outfalls must be clearly marked in the field.

17. Between January 27 and 29, 2010, an EPA inspector performed an inspection of the Airport under the authority of Section 308(a) of the CWA, 33 U.S.C. §1318(a). The purpose of the inspection was to evaluate the Respondent's compliance with the CWA.

18. During the EPA inspection referenced above, the inspector documented the following violations of Respondent's NPDES permit:

a. Respondent has failed to meet NPDES permit limits, as required by Part A, Effluent Limitations and Monitoring Requirements of Respondent's NPDES permit. These include at least 267 violations for the following pollutants since

October 2005: BOD, COD, TSS, TOC, pH, and/or O&G as identified in the following chart:

BOD - Daily max 45 mg/L, Monthly avg. 30 mg/L, based on a monthly grab sample (all outfalls)

Outfall #	Reported violations range	Months in violation
Outfall 001	33.8 to 5,000 mg/L	January 2006 (monthly average only), February 2007, December 2007 (monthly average only), December 2008, January and February 2010
Outfall 002	59.0 to 1400 mg/L	May 2006; January, May, June, and July 2008; May 2009; June 2009; June 2010
Outfall 003	39.0 to 760.0 mg/L	May, August, and September 2006; January, May and June 2008; May 2009; June 2010 (monthly average only)
Outfall 004	45.0 to 430.0 mg/L	January and May 2008; May 2006
Outfall 005	50.0 to 2,000.0 mg/L	October and December 2005; January, March, and April 2006; January, February, March, and December 2007; January, February, March, April, and December 2008; January, March, and April 2009; January, February, and March 2010
Outfall 006	34.2 to 800.0 mg/L	December 2005; January and May 2006 (both monthly average only); March 2006; January, February, and December 2007; January, February, March, and December 2008; January, February, and April 2009; January, February, and March 2010
Outfall 007	61.0 to 1,000.0 mg/L	January, February, March, and December 2007; February, March, and December 2008; January and February 2010
Outfall 008	37.0 to 710.0 mg/L	January, February, and December 2007; February 2008; February and March 2009; January and February 2010

COD – Daily max 360 mg/L, Monthly avg. 180 mg/L, based on a monthly grab sample (all outfalls)

Outfall #	Reported violations range	Months in violation
Outfall 001	500.0 to 6,500.0 mg/L	February 2007 and February 2010
Outfall 002	320.0 to 2,600 mg/L	May 2006; January and June 2008; May 2009 (monthly average only); June 2010 (monthly average only)
Outfall 003	350.0 to 1,700.0 mg/L	August 2006 and January 2008
Outfall 004	231.0 to 860.0 mg/L	May 2006 (monthly average only) and January 2008
Outfall 005	200.0 to 3,500.0 mg/L	December 2005; January and March (monthly average only) 2006; January, February, March, and December 2007; January, February, March (monthly average only), and December 2008; January and March 2009; January, February, and March (monthly average only) 2010
Outfall 006	191.0 to 1,300.0 mg/L	December 2005; January, February, and December 2007; February 2008; January 2009; January (monthly average only) and February 2010
Outfall 007	210.0 to 1,100.0 mg/L	January, February, and December 2007; February 2010 (monthly average only)
Outfall 008	540.0 to 1,600.0 mg/L	January 2007; February 2008; February 2009; January and February 2010

TOC – Daily max 100 mg/L, Monthly avg. 50 mg/L, based on a monthly grab sample (all outfalls)

Outfall #	Reported violations range	Months in violation
Outfall 001	130.0 to 2,800.0 mg/L	February and March 2007, February 2010
Outfall 002	89.0 to 500.0 mg/L	May 2006; January, May, and June 2008; May 2009; June 2010 (monthly average only)
Outfall 003	59.0 to 360.0 mg/L	May (monthly average only), August, and September 2006; January 2008; May 2009 (monthly average only)
Outfall 004	91.0 to 190.0 mg/L	May 2006 (monthly average only) and January 2008
Outfall 005	71.0 to 1,000.0 mg/L	December 2005; March 2006 (monthly average only); January,

		February, March, and December 2007; January (monthly average only), February, March (monthly average only), and December 2008; January and March 2009; January, February, and March (monthly average only) 2010
Outfall 006	55.0 to 380.0 mg/L	January, February, March (monthly average only), and December 2007; February 2008; January and February 2009; January (monthly average only) and February 2010
Outfall 007	52.0 to 520.0 mg/L	January, February (monthly average only), March (monthly average only), and December 2007; February 2010 (monthly average only)
Outfall 008	53.0 to 330.0 mg/L	January 2007, February 2008, February 2009, and February 2010 (monthly average only)

TSS – Weekly avg. 45 mg/L, Monthly avg. 30 mg/L, based on a monthly grab sample (outfalls 001, 002, 003, 004, 005, 006, 008, and 009)

Outfall #	Reported violations range	Months in violation
Outfall 001	32.0 to 46.0 mg/L	February 2007 (monthly average only), February (monthly average only) and December 2009, February 2010 (monthly average only)
Outfall 002	69 mg/L	January 2008
Outfall 003	36 to 150 mg/L	January (monthly average only) and May 2008, May (monthly average only) and November 2009
Outfall 004	33 to 160 mg/L	May 2006 (monthly average only), January and September 2008, September 2009
Outfall 005	36.0 to 219.0 mg/L	July 2006; June and August (monthly average only) 2007; March, October, and December (monthly average only) 2008; January and February 2009; July 2010
Outfall 006	30.5 to 67.0 mg/L	January 2006 (monthly average only); May (monthly average only) and December 2008; February (monthly average only), June, and November (monthly average only) 2009
Outfall 008	32 to 84 mg/L	November 2005 (monthly average only); February and June 2007 (both monthly average only); January, February (monthly average only), May, and July 2008; February 2009; June, August, and November 2009 (all three months with monthly average only); February (monthly average only) and May 2010

TSS – Daily max 50 mg/L, Monthly avg. 30 mg/L, based on a monthly grab sample (outfall 007)

Outfall #	Reported violations range	Months in violation
Outfall 007	32.0 to 920.0 mg/L	October 2005; March, April, June, July, and September 2006; February, March, May, June, August, and November (monthly average only) 2007; January, February, March, April (monthly average only), May, June, July, August, September (monthly average only), October, and November (monthly average only) 2008; January (monthly average only), February, March, May (monthly average only), June, July, August, September (monthly average only), October, and November 2009; May, June, and July (monthly average only) 2010

pH – Lower limit of 6.0 su, Upper limit of 9.0 su (all outfalls)

Outfall #	Reported violations range	Months in violation
Outfall 002	12.05 su	January 2008
Outfall 003	9.02 to 12.39 su	August and September 2006; January, May, August, September, and October 2008; May, July, October, and November 2009
Outfall 005	9.37 su	July 2008

Outfall 007	9.33 su	January 2008
Outfall 008	9.15 su	February 2007

Oil & Grease – Daily max 15 mg/L, Monthly avg. 10 mg/L, based on a monthly grab sample (all outfalls)

Outfall #	Reported violations range	Months in violation
Outfall 003	39.0 mg/L	August 2009
Outfall 006	18.6 mg/L	September 2006

- b. Respondent failed to:
 - i. submit monitoring results for Ammonia as N at Outfall 005 in February 2007;
 - ii. submit monitoring results for Instream Monitoring in March 2007;
 - iii. submit monitoring results for Outfall #005 in November 2007, and;
 - iv. submit monitoring results for Outfall #004 and #005 in November 2009, as required by Part A, Effluent Limitations and Monitoring Requirements of Respondent’s NPDES permit.

- c. Respondent failed to provide written notification of noncompliance to MDNR for daily maximum permit limit exceedences within five days of discovery each month for at least the last 36 months, as required by Part A, Effluent Limitations and Monitoring Requirements of Respondent’s NPDES permit.

- d. Respondent failed to measure for pH within the 15-minute hold time for each month for at least the last 36 months, as required by the Standard Conditions of Respondent’s NPDES permit.

- e. Respondent failed to clearly mark Outfalls #003 and #004, as required by the Standard Conditions of Respondent’s NPDES permit.

19. The violations identified in Paragraph 18 are violations of Respondent’s NPDES permit and are, therefore, violations of §§301 and 402 of the CWA.

ORDER FOR COMPLIANCE

Based on the Findings set forth above, and pursuant to Sections 308(a) and 309(a)(3) of the CWA, 33 U.S.C. §§ 1318(a) and 1319(a)(3), Respondent is hereby ORDERED as follows:

20. Respondent shall immediately come into compliance with its NPDES permit and the CWA, which includes, but is not limited to complying with all effluent limits, complying with all sampling, monitoring and reporting requirements, and clearly marking all outfalls.

21. Within sixty (60) days of receipt of this Order, the Respondent shall submit a written report to EPA and a copy to MDNR detailing the specific actions that have been taken to correct the violations cited herein and explaining why such actions are anticipated to be sufficient to prevent recurrence of these or similar violations. Respondent’s report shall:

- a. Include documentation that Respondent’s sampling, monitoring, and reporting is

- being performed in accordance with Respondent's NPDES permit;
- b. Describe in detail the specific causes of Respondent's effluent violations at each permitted outfall. If the specific causes are not known within sixty (60) days after receipt of this Order, the report shall include a plan to be implemented by Respondent for studying, ascertaining and eliminating the causes of effluent violations at each outfall; and
 - c. Include a schedule for the elimination of the violations that cannot be fully implemented within sixty (60) days of receipt of this Order.

22. In the event that Respondent develops a plan for studying the cause of effluent violations, as described in Paragraph 21(b), or develops a schedule for elimination of violations, as described in Paragraph 21(c), Respondent shall submit the plan and/or schedule to EPA for review. Respondent shall incorporate such plan and/or schedule in a revised SWPPP or Stormwater Management Program document that will be incorporated into the terms of this Order for Compliance and Respondent's revised NPDES permit.

23. Respondent shall send EPA a copy of its Discharge Monitoring Reports, including required notifications for any effluent exceedences, for a period of six (6) months, beginning the month of receipt of this Order for Compliance.

24. All documents required to be submitted to the EPA by this Order, shall be submitted by mail to:

Michael Boeglin
Water Enforcement Branch
U.S. Environmental Protection Agency-Region 7
901 North Fifth Street
Kansas City, Kansas 66101.

Certification

25. All submissions made by Respondent to EPA and MDNR pursuant to the requirements of this Order shall contain the following certification signed by an authorized official, as described at 40 CFR § 122.2:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing submissions of false information.

General Provisions

Effect of Compliance with the terms of this Order

26. This Order shall not constitute a permit under the CWA. Compliance with the terms of this Order shall not relieve Respondent of its responsibility to obtain any required local, state, and/or federal permits.

27. 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. EPA retains the right to seek any and all remedies available under Section 309 of the CWA, 33 U.S.C. § 1319, for any violation cited in this Order. Issuance of this Order shall not be deemed an election by EPA to forgo any civil or criminal action to seek penalties, fines, or other appropriate relief under the CWA for any violation whatsoever.

Access and Requests for Information

28. Nothing in this Order shall limit EPA's right to obtain access to, and/or to inspect property operated by Respondent 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.

Severability

29. If any provision or authority of this Order, or the application of this Order to Respondent, is held by federal judicial 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.

Parties Bound

30. This Order shall apply to and be binding upon the Respondent, its agents, successors and assigns. Respondent shall ensure that any directors, officers, employees, contractors, consultants, firms or other persons or entities acting under or for him with respect to matters included herein comply with the terms of this Order.

Effective Date

31. The terms of this Order shall be effective and enforceable against Respondent upon the date of its receipt of an executed copy of the Order.


Termination

32. This Order shall remain in effect until a written notice of termination is issued by an authorized representative of EPA. Such notice shall not be given until all of the requirements of this Order have been met.

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Issued this 1st day of October, 2010.


William A. Spratlin
Director
Water, Wetlands and Pesticides Division


Chris Muehlberger
Assistant Regional Counsel

CERTIFICATE OF SERVICE

I certify that on the date noted below I sent a copy the foregoing Findings of Violation and Order by first class certified mail, return receipt requested, to:

The Honorable Francis G. Slay, Mayor
City of St. Louis, Missouri
City Hall, Room 200
1200 Market Street
St. Louis, Missouri 63103

Joletta Golik
Environmental/Health and Safety Manager
Lambert, St. Louis National Airport
10701 Natural Bridge Road
St. Louis, Missouri 63145

Kevin Mohammadi
Missouri Department of Natural Resources
205 Jefferson Street
Jefferson City, Missouri 65102

Mike Struckhoff
Missouri Department of Natural Resources
St. Louis Regional Office
7545 South Lindbergh, Suite 210
St. Louis, Missouri 63215

10.1.10
Date

