

- ### Administrative Order on Consent

7. Respondent shall bear its own costs and attorney's fees in connection with this proceeding and associated with the implementation or enforcement of this Order, including any costs related to resolution of any dispute arising regarding this Order.

8. This Order does not constitute a waiver or modification of the terms or conditions of any permit issued to Respondent. Nothing in this Order shall relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state, or local permit. This Order does not constitute a waiver, suspension, or modification of the requirements of the Act, 33 U.S.C. §§ 1251 et seq., or any regulations promulgated thereunder.

9. Respondent 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.

10. The undersigned representative of Respondent certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Order and to execute and legally bind the party and consents to personal service by electronic mail.

11. By signing this Order, Respondent acknowledges that this Order may be available to the public and represents that, to the best of Respondent's knowledge and belief, this Order does not contain any confidential business information or personally identifiable information from Respondent.

12. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission, true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA, regarding matters relevant to this Order, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

13. Terms used in this Order that are defined in the CWA or EPA regulations promulgated under the CWA have the meanings assigned to them in the CWA or those regulations, unless otherwise provided in this Order.

Statutory and Regulatory Background

14. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), makes it unlawful for any person to discharge any pollutant from a point source to waters of the United States, except, among other

things, with the authorization of and in compliance with an NPDES permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

15. Section 402(p)(3)(B), 33 U.S.C. § 1342(p)(3)(B), requires that NPDES permits for discharges from municipal storm sewers shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers and shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and systems, design and engineering methods, and such other provisions as EPA or the State determines appropriate for the control of such pollutants. EPA promulgated regulations at 40 C.F.R. Part 122.26 setting forth the NPDES permit requirements for stormwater discharges from MS4s. 40 C.F.R. § 122.26(b)(19) defines the term “MS4” as “a municipal separate storm sewer.

16. 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. Small MS4s are regulated pursuant to Section 402(p) of the CWA, 33 U.S.C. § 1342(p) and the regulations promulgated thereunder.

17. Pursuant to Section 402(p)(6) of the CWA, 33 U.S.C. § 1342(p)(6), EPA promulgated regulations (“Phase II stormwater regulations”) at 40 C.F.R. Part 122 setting forth the additional categories of stormwater discharges to be permitted and the requirements of the Phase II program.

18. 40 C.F.R. § 122.26(a)(9)(i)(A) states that on or after October 1, 1994, for discharges composed entirely of stormwater . . . operators shall be required to obtain a NPDES permit . . . if the discharge is from a small municipal separate storm sewer system (“MS4”) required to be regulated pursuant to 40 C.F.R. § 122.32.

19. 40 C.F.R. § 122.26(b)(8) defines “municipal separate storm sewer” as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States; (ii) Designed or used for collecting or conveying storm water; (iii) Which is not a combined sewer; and (iv) Which is not part of a Publicly Owned Treatment Works (“POTW”) as defined at 40 C.F.R. 122.2.

20. 40 C.F.R. § 122.26(b)(16) defines “small municipal separate storm sewer system,” in part, as all separate storm sewers that are:

- a. owned or operated by the United States, a State, city, town, borough, county, parish, district, association, or other public body . . . having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes [. . .];

not defined as “large” or “medium” municipal separate storm sewer systems pursuant to paragraphs (b)(4) and (b)(7) or designated under paragraph (a)(1)(v) of this section.

21. 40 C.F.R. § 122.26(b)(17) defines the term “Small MS4” as “a small municipal separate storm sewer system.” 40 C.F.R. § 122.32(a) provides that a small MS4 is regulated if:

the small MS4 is located in an urbanized area as determined by the latest Decennial Census by the Bureau of the Census; (If your small MS4 is not located entirely within an urban area with a population of 50,000 or more people, only the portion that is within this urban area is regulated).”

the MS4 is designated by the NPDES permitting authority, including where the designation is pursuant to §§123.35(b)(3) and (b)(4), or is based upon a petition under §122.26(f).

22. 40 C.F.R. § 122.34(a) provides: “General requirements. For any permit issued to a regulated small MS4, the NPDES permitting authority must include permit terms and conditions to reduce the discharge of pollutants from the MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act. Terms and conditions that satisfy the requirements of this section must be expressed in clear, specific, and measurable terms. Such terms and conditions may include narrative, numeric, or other types of requirements (e.g., implementation of specific tasks or best management practices (BMPs), BMP design requirements, performance requirements, adaptive management requirements, schedules for implementation and maintenance, and frequency of actions).”

23. Pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b), the Missouri Department of Natural Resources (“MDNR”) is the state agency with the authority to administer the federal NPDES program in Missouri including to issue and administer NPDES permits as set forth in the CWA for the discharge of pollutants from point sources to waters of the United States. Any such discharge is subject to all applicable requirements of the CWA, and regulations promulgated thereunder, as expressed in the specific terms and conditions prescribed in the applicable permit.

24. Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), authorizes EPA to issue a compliance order to commence a civil action for appropriate relief against any person who EPA finds is in violation of, among other things, Section 301(a) of the CWA or any permit condition or limitation implementing the CWA in an NPDES permit issued by a State.

Factual Background

25. Respondent is an incorporated municipality chartered under the laws of the state of Missouri, and as such, is a “person,” as that term is defined in Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2, and is an “incorporated place” as that term is defined in 40 C.F.R. § 122.26(b)(3).

26. Respondent's MS4 discharges stormwater to receiving waters within the corporate boundaries of the city served by the MS4, including the Little Blue and Big Blue River and other receiving waters are "navigable waters" under Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 122.2 (1993).

27. Respondent's MS4 is a "point source" that "discharges pollutants" into "navigable waters" as defined in Sections 502(14), (12), and (7) of the CWA, 33 U.S.C. § 1362(14), (12), and (7), respectively.

28. Respondent's discharges from a small MS4 required a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and 40 C.F.R. § 122.32.

29. On October 1, 2021, MDNR reissued to Respondent a NPDES permit, MO-R04C040, which expires on September 30, 2026 ("MS4 Permit"). Respondent's MS4 Permit authorizes discharges of stormwater to all areas within Respondent's jurisdiction subject to the limitations, conditions, and requirements set forth in the MS4 Permit.

30. On or about January 16 through 19, and 30th, 2024, EPA performed an inspection of Respondent's MS4 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 adequacy of Respondent's MS4 and compliance with the MS4 Permit in accordance with the CWA.

31. On February 14, 2024, EPA issued a Notice of Potential Findings ("NOPF") to Respondent. On March 28, 2024, Respondent submitted a response to EPA's NOPF.

Findings of Violation

32. The facts stated in the Paragraphs above are herein incorporated.

Count 1 – Illicit Discharge Detection and Elimination

33. Part 4.3.N of the City's MS4 permit, which addresses the necessary elements of the illicit discharge detection and elimination program, requires the City's SWMP to review their Illicit Discharge Detection and Elimination ("IDDE") Program, at minimum, annually and update implementation procedures as necessary.

34. EPA's inspection revealed failures to comply with Part 4.3 Minimum Control Measures ("MCMs") of the MS4 Permit, resulting in Respondents failure to comply with the terms and conditions of the MS4 Permit since January 2024 and, therefore, a violation of Section 301 of the CWA, 33 U.S.C. § 1311.

Count 2 – Construction Site Stormwater Runoff Control

35. Part 4.4.M of the City's MS4 permit, which addresses elements of the Construction Site Stormwater Runoff program to reduce pollutants from construction activities, requires the City to

review, at minimum annually, their construction site stormwater runoff control program and evaluate the ordinances, review procedures, inspection procedures, enforcement procedures, receipt of public information procedures, and effectiveness of training procedures to ensure compliance with these requirements and determine if changes are needed.

36. EPA's inspection revealed failures to comply with Part 4.4 MCMs of the MS4 Permit, resulting in Respondents failure to comply with the terms and conditions of the MS4 Permit since January 2024 and, therefore, a violation of Section 301 of the CWA, 33 U.S.C. § 1311.

Count 3 - Post-construction Stormwater Management

37. Part 4.5B of the MS4 permit requires the City to develop, implement and enforce a program to address the quality of long-term stormwater runoff from new development and redevelopment projects, including continuing or developing a strategy to minimize water quality impacts. This shall include a combination of structural and/or non-structural controls (BMPs) appropriate for the permittee's community.

38. Part 4.5C of the MS4 permit requires the City to develop, implement and enforce a program to address the quality of long-term stormwater runoff from new development and redevelopment projects, including requiring Pre-construction plan review by the MS4 Operator to assess site characteristics at the beginning of the construction site design phase to ensure adequate planning for stormwater program compliance. The plan review shall use a checklist. This may be part of the same plan review in MCM 4. The plan review process shall evaluate non-structural BMPs selection first, such as comprehensive plans, zoning, etc. Non-structural BMPs primarily prevent stormwater runoff from a site, which could influence the options for structural BMPs which help mitigate the stormwater related impacts after they have occurred.

39. Part 4.5E of the MS4 permit requires the City to develop, implement and enforce a program to address the quality of long-term stormwater runoff from new development and redevelopment projects, including inspecting, or requiring inspection of, each water quality structural and non-structural water postconstruction BMP according to the following at minimum:

1. One (1) inspection shall be conducted during construction, and one (1) inspection before the site is finalized, to verify water quality facilities are built as designed and any applicable boundaries or practices for nonstructural BMPs are being observed. This may be conducted in combination with MCM 4 inspections.
2. The MS4 inspector shall have access to the approved plans to ensure proper installation. A minimum of once in the first three years after the installation by the MS4 Operator. Annually by the owner or operator of the post-construction BMP, or by the MS4 Operator. If completed by the BMP owner or operator, this inspection report shall be submitted to the MS4 Operator for evaluation and review.
3. The MS4 Operator shall inspect a minimum of 60% of all water quality post-construction BMPs within the five-year permit cycle. This must include installations with ongoing or open enforcement issues.

40. Part 4.5G of the MS4 permit requires the City to develop, implement and enforce a program to address the quality of long-term stormwater runoff from new development and redevelopment projects, including taking timely enforcement actions to ensure the actions are effective. The MS4 Operator shall begin enforcement actions within thirty (30) days of discovering a violation. The MS4 Operator shall maintain a minimum of two possible sanctions. These include but are not limited to: Education regarding the BMP and verbal warnings; Written warnings or notice of violation (this includes email notification); Property lien; and Fines.

41. Part 4.5I of the MS4 permit requires the City to develop, implement and enforce a program to address the quality of long-term stormwater runoff from new development and redevelopment projects, including tracking the post-construction BMP inspections. This may be done by retaining copies of records such as inspection checklists and email correspondence. The MS4 Operator must make these inventories available to the Department upon request. The MS4 Operator shall track at a minimum: Inspection dates/ times; Inspector name(s); Inspection findings; and follow up actions including all enforcement actions.

42. Part 4.5J of the MS4 permit requires the City to develop, implement and enforce a program to address the quality of long-term stormwater runoff from new development and redevelopment projects, including the following for existing permittees: evaluate the ordinances, permitting procedures, review procedures, inspection procedures and enforcement procedures to ensure compliance with these requirements and determine if changes are needed. Any changes necessary to be in compliance with this permit shall be completed within the first two (2) years of permit issuance. The inventory of water quality facilities must be updated as new facilities are added and projects are completed. If the MS4 Operator needs to develop this inventory, it shall be completed within two (2) years of this permit issuance.

43. Part 4.5M of the MS4 permit requires the City to develop, implement and enforce a program to address the quality of long-term stormwater runoff from new development and redevelopment projects, including using adaptive management, all MS4 Operators shall review, at minimum annually, their Post-Construction Site Stormwater Management in New Development and Redevelopment Program and evaluate effectiveness of the overall program and determine if changes are needed. This annual review may include but is not limited to: Reviewing the number and types of developments; How many BMPs were installed/inspected; The amount of watershed area being treated; The types of violations found and how frequently; and How education could improve the effectiveness of the program. Any additional programmatic BMPs shall be acknowledged in the Stormwater Management Program Report.

44. EPA's inspection revealed failures to comply with Part 4.5 MCMs of the MS4 Permit, resulting in Respondents failure to comply with the terms and conditions of the MS4 Permit since January 2024 and, therefore, a violation of Section 301 of the CWA, 33 U.S.C. § 1311.

Count 4 - Pollution Prevention/Good Housekeeping

45. Part 4.6G of the City's MS4 permit, which addresses the development and implementation of a pollution prevention/good housekeeping program, requires the City to have procedures for proper disposal of waste removed from the MS4 structures and areas of jurisdiction. This waste

shall include at minimum, if applicable to the permittee: street sweeper spoils and washout; accumulated sediment; dredged materials; floatables, trash and litter; leaves, other organic matter; and other debris.

46. Part 4.6I of the City's MS4 permit, which addresses the development and implementation of a pollution prevention/good housekeeping program, requires the City to maintain written explanation of the controls, procedures, inspection schedules, and explanation of tracking of these controls. Tracking may be done by retaining inspection reports or checklists. Individual Stormwater Pollution Prevention Plans or one overarching Operations and Maintenance Manual for all applicable MS4 facilities may be used to comply with this requirement. If a unified document is used, each individual site shall be familiar with the document, and a copy shall be present on each site referenced in the document or available electronically. Annually, the MS4 Operator shall evaluate the results, controls, and inspection procedures to ensure compliance with these requirements and determine if changes are needed. This evaluation may also aid in finding priority areas or pollutants in relation to MCM 3 or adding more education in relation to MCM 1.

47. Part 4.6J of the City's MS4 permit, which addresses the development and implementation of a pollution prevention/good housekeeping program, requires the City to maintain procedures to determine if there are impacts to water quality for new flood management projects, if applicable. Any flood management projects shall require the protection of water quality in the standards that are used to plan, design, build, and maintain stormwater infrastructure. Flood management projects are those projects developed or designed to reduce flooding.

48. EPA's inspection revealed failures to comply with Part 4.6 MCMs of the MS4 Permit, resulting in Respondents failure to comply with the terms and conditions of the MS4 Permit since January 2024 and, therefore, a violation of Section 301 of the CWA, 33 U.S.C. § 1311.

Order for Compliance

Based on the factual allegations and Findings of Violation set forth above, and pursuant to the authority of Sections 309(a) of the CWA, 33 U.S.C. § 1319(a), Respondent is hereby ORDERED to take the actions described below.

49. Within sixty (60) days of the Effective Date, Respondent shall submit to EPA a Compliance Plan that includes:

- a. A description of actions taken or to be taken to correct the deficiencies and eliminate and prevent recurrence of the alleged violations identified in this Order, and to come into compliance with all applicable requirements of its MS4 Permit, including, as necessary, revisions to the Stormwater Management Program ("SWMP").
- b. A schedule, subject to EPA approval, for implementation of each of the proposed actions.

Reports/Submissions

50. *Quarterly Reporting.* In addition to the report required above, Respondent shall submit quarterly reports describing the actions it has taken to ensure continued compliance with the terms of its Permit and this Order. These reports are due beginning three (3) months from the Effective Date and every three (3) months thereafter until the Order is terminated. Each report shall include, at a minimum:

- a. A description of implementation and/or revision of the SWMP during the previous three (3) month period;
- b. A description of work and other actions taken to construct structural controls and/or implement other controls, in the previous three (3) month period; and
- c. Copies of all relevant documentation regarding the activities described pursuant to subparagraphs (a) and (b), including, but not limited to, inspection reports and monitoring records, formal and informal enforcement actions, etc.

51. *Submittals.* All documents and other information required to be submitted to EPA by this Order shall be submitted by electronic mail to:

hartwig.morgan@epa.gov
Morgan Hartwig
U.S. Environmental Protection Agency Region 7
Enforcement and Compliance Assurance Division
11201 Renner Boulevard
Lenexa, Missouri 66219.

52. 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 to MDNR to the address provided below:

Mr. John Hoke, Director
Water Protection Program
Division of Environmental Quality
Missouri Department of Natural Resources
john.hoke@dnr.mo.gov

Mike Carroll, Director
MDNR, Kansas City Regional Office
Missouri Department of Natural Resources
Mike.carroll@dnr.mo.gov

53. After review of the schedule required by paragraph 49 of this Order, EPA may approve or disapprove the schedule, in whole or in part. EPA shall approve the schedule or any portion so long as the submission fulfills the requirement under this Order. Upon EPA approval, the schedule by Respondent is incorporated and enforceable as part of this Order. Respondent shall implement the Compliance Plan required by paragraph 49 according to the approved schedule.

54. If EPA disapproves the schedule, EPA will notify Respondent in writing, which may include notice by email, and EPA may require Respondent to supplement or modify its schedule. Within 30 days following receipt of written notice of EPA's disapproval, Respondent must submit a corrected schedule to EPA for approval. If Respondent's modified schedule is disapproved in whole or in part by EPA, EPA may require Respondent to correct the deficiencies or EPA may determine that the schedule fails to meet the requirements of this Order.

55. Notwithstanding the receipt of a notice of disapproval pursuant to paragraph 54, above, Respondent must proceed to take all actions and provide all submissions required under this Order, including any actions required under any non-deficient portion(s) of its submission if such action can be undertaken independent of the deficient portion of Respondent's submission.

Effect of Compliance with the Terms of this Order for Compliance

56. Compliance with the terms of this Order shall not relieve Respondent of liability for, or preclude 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.

57. Failure to comply with this Order may subject Respondent to penalties up to \$66,712 per day for each violation pursuant to Section 309(d) of the CWA, 33 U.S.C. § 1319(d), and 40 C.F.R. Part 19.

Access and Requests for Information

58. Nothing in this Order shall limit EPA's right to obtain access to, and/or to inspect Respondent's facility, and/or to request additional information from Respondent, pursuant to the authority of Section 309 of the CWA, 33 U.S.C. § 1319 and/or any other authority.

Severability

59. 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.

Modifications

60. Any request to modify the terms of, or parties to, this Order shall be submitted, in writing, by Respondent to EPA and shall be subject to review and approval by EPA, in its sole and unreviewable discretion. Respondent's submission of a written request for modification of

this Order shall not relieve Respondent of any obligation under this Order and shall have no effect on EPA's statutory or regulatory authority to enforce the terms of this Order, in its sole and unreviewable discretion. All deadlines for performance under this Order may be extended upon written approval by EPA, at its sole discretion, without formal amendment to the Order.

Effective Date

61. 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 EPA.

Termination

62. Upon EPA's determination that Respondent has completed all tasks required pursuant to this Order, Respondent shall submit to EPA a Certification of Compliance and Request for Termination of this Order. Such certification and request shall include:

- a. a certification that Respondent has maintained compliance with this Order for the term of this Order; and
- b. all necessary documentation, including photo documentation as appropriate, to support a finding that Respondent has complied with this Order.

63. If, following review of any Certification of Compliance and Request for Termination of this Order, the EPA determines that any requirement has not been completed and implemented in accordance with this Order, the EPA will notify Respondent in writing, provide a written summary of deficiencies, and require Respondent to modify its actions as appropriate to correct such deficiencies. If so required, EPA may also require Respondent to submit a revised Certification of Compliance and Request for Termination of this Order.

64. If, following review of any Certification of Compliance and Request for Termination of this Order, EPA agrees that Respondent has adequately complied with all requirements of this Order, then EPA may, in its unreviewable discretion, provide written notification of termination of this Order.

65. Notwithstanding any of the above, the EPA may terminate this order upon written notice issued by an authorized representative of the EPA.

Issued this _____ day of _____, 2025.


DAVID
COZAD

Digitally signed by DAVID
COZAD
Date: 2025.07.28 15:35:25
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David Cozad
Director
Enforcement and Compliance Assurance Division

Kristina Gonzales
Senior Attorney
Office of Regional Counsel

For the Respondent, City of Raytown, Missouri:


Signature _____ Date 7/8/25
Diane Egger
Name _____
City Administrator
Title _____

CERTIFICATE OF SERVICE

I certify that on the date noted below I filed the original and one true copy of this Administrative Order on Consent with the Regional Hearing Clerk, U.S. Environmental Protection Agency, 11201 Renner Boulevard, Lenexa, Kansas 66219.

I further certify that on the date noted below I sent a copy of the foregoing Order by electronic mail, return receipt requested, to:

Mr. John Hoke, Deputy Director
Division of Environmental Quality
Missouri Department of Natural Resources
john.hoke@dnr.mo.gov

Mikiata (Mike) Carroll, Director
Kansas City Regional Office
Missouri Department of Natural Resources
Mike.carroll@dnr.mo.gov

Jennifer M. Baird
Lauber Municipal Law
4031 NE Lakewood Way,
Lee's Summit, MO 64064
jbaird@laubermunicipal.com

Date

Signature