

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

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<b>In the Matter of:</b>	)	<b>Proceeding to Assess a</b>
	)	<b>Civil Penalty under Section</b>
<b>City of St. Charles, A Municipal</b>	)	<b>113(d) of the Clean Air Act,</b>
<b>Corporation, Operating As --</b>	)	<b>42 U.S.C. §7413(d)</b>
<b>Saint Charles Wastewater</b>	)	
<b>Treatment Facility</b>	)	
<b>1404 S. Seventh Ave.</b>	)	
<b>St. Charles, Illinois 60174</b>	)	
	)	
<b>Respondent</b>	)	
_____	)	<b>Docket No. CAA-05-2008-0003</b>

**MOTION TO AMEND COMPLAINT**

The Administrator's Delegated Complainant, by undersigned counsel, pursuant to 40 C.F.R. § 22.16, hereby requests leave of the Presiding Officer to file a Second Amended Administrative Complaint. The Second Amended Administrative Complaint is to include: (1) an additional violation, alleged in a Count IX, based upon information provided by Respondent in Respondent's Answer to Administrative Complaint, and (2) an amount of \$10,000 proposed for the violation alleged in Count IX, to be added to the penalty amount proposed for Counts I through VIII. The language of Count IX is to read as follows:

**Count IX**

68. That Paragraphs 1 through 67 of this Complaint are herein incorporated by reference.

69. That 40 C.F.R. § 68.190(c) provides that if a stationary source is no longer subject to 40 C.F.R. Part 68 - Chemical Action Prevention Provisions, the owner or operator shall submit

a de-registration to U.S. EPA within six months indicating that the stationary source is no longer covered.

70. That in Paragraph 30 of Respondent's Answer to Administrative Complaint, Respondent asserts that, "prior to August 2004," it made certain submissions to the Illinois Environmental Protection Agency, which included:

a facility plan, a construction loan application, and a construction permit application for the installation of an ultraviolet disinfection system as a replacement fore Respondent's day-to-day chlorine disinfection system. . . . Respondent is without knowledge of whether or not this information was provided to the U.S. EPA.

71. That in Respondent's Answer to Administrative Complaint, at p.22, Respondent asserts the following:

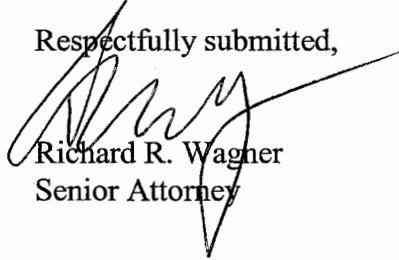
Respondent has eliminated the use of chlorine as disinfectant for its main treatment plant except for the treatment of its excess flow discharge. Respondent has replaced its chlorine disinfection system with an ultraviolet disinfection system. Additionally, Respondent has converted the excess flow discharge disinfection treatment to small cylinders and therefore, Respondent's facility is below the threshold provided in the requirements of Section 112(r) of the Clean Air Act.

72. That at no time has Respondent submitted to U.S. EPA a de-registration, informing U.S. EPA that it was no longer required to comply with 40 C.F.R. Part 68 - Chemical Accident Prevention Provisions, and Section 112(r) of the CAA.

72. That in failing to de-register by informing U.S. EPA that it was no longer required to comply with 40 C.F.R. Part 68 - Chemical Accident Prevention Provisions, and Section 112(r) of the CAA, as set forth at Paragraph 71, Respondent violated 40 C.F.R. § 68.190(c), and,

consequently, Respondent is liable for a civil penalty to be assessed by the Administrator,  
pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. Wagner', is written over the typed name and title.

Richard R. Wagner  
Senior Attorney

**In Re City of St. Charles, A Municipal Corporation,  
Operating as Saint Charles Wastewater Treatment Facility  
No. CAA-05-2008-003**

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**CERTIFICATE OF SERVICE**

I hereby certify that today I filed the original of the **Motion to Amend Complaint** in the office of the Regional Hearing Clerk (E-13J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, IL 60604-3590, with this Certificate of Service.

I further certify that I then caused true and correct copies of the filed documents to be mailed to the following:

Honorable Susan A. Biro, Chief ALJ  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
Ariel Rios Building, Mailcode: 1900L  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460

I further certify that I then caused true and correct copies of the filed document to be sent to the following, by mail:

Yesenia Villasenor-Rodriguez  
Drinker Biddle & Reath  
191 North Wacker Drive, Suite 3700  
Chicago, Illinois 60606

March 14, 2008

  
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Donald E. Ayres (C-14J)  
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