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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
11201 RENNER BLVD.  
LENEXA, KANSAS 66219

BEFORE THE ADMINISTRATOR

IN THE MATTER OF	)	
	)	Docket No. CWA-07-2014-0094
<b>The City of Raymore, Missouri</b>	)	
	)	FINDINGS OF VIOLATION AND
Respondent	)	ORDER FOR COMPLIANCE
	)	ON CONSENT
Proceedings under Section 309(a) of the	)	
Clean Water Act, 33 U.S.C. § 1319(a)	)	
_____	)	

**Preliminary Statement**

1. This Administrative Order for Compliance on Consent ("Order on Consent") is issued by the United States Environmental Protection Agency ("EPA") pursuant to the authority vested in the Administrator of the EPA by Section 309(a) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(a)(3), as amended. 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 Region 7's Water, Wetlands and Pesticides Division.

2. Respondent is the City of Raymore, Missouri ("Respondent" or "City"), a municipality chartered under the laws of the State of Missouri ("Missouri"). Respondent is the owner and/or operator of the Municipal Separate Storm Sewer System ("MS4"), located within the corporate boundary of the City, in Cass County, Missouri.

3. The EPA, together with the City 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."

4. It is the Parties' intent through entering into this Order to address noncompliance by the City in violation of its MS4 National Pollutant Discharge Elimination System ("NPDES") permit. As set forth in this Order on Consent, the Parties have amicably reached agreement regarding the timeframes for the City to attain compliance with the CWA and its NPDES permit.

5. By entering into this Order, 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) agrees to undertake all actions required by the terms and conditions of this Order on Consent, and (3) consents to be bound by the requirements set forth herein. 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. Respondent also waives any and 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 on Consent, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

### **Statutory and Regulatory Framework**

6. 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, inter alia, with the authorization of, and in compliance with, a National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

7. Section 402(a) of the CWA, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program 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.

8. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), sets forth requirements for the issuance of NPDES permits for various categories of stormwater discharges. Section 402(p)(2) requires permits for five categories of stormwater discharges. Section 402(p)(6) of the CWA, 33 U.S.C. § 1342(p)(6), requires permitting for additional categories of stormwater discharges based on the results of studies conducted pursuant to Section 402(p)(5) of the CWA, 33 U.S.C. § 1342(p)(5).

9. Pursuant to Section 402(p)(6) of the CWA, 33 U.S.C. § 1342(p)(6), EPA promulgated regulations (“Phase II stormwater regulations”) in 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.

10. 40 C.F.R. § 122.26(a)(9)(i)(A) requires that on or after October 1, 1994, operators of small municipal separate storm sewer systems regulated pursuant to 40 C.F.R. § 122.32 are required to obtain a NPDES permit for discharges composed entirely of stormwater.

11. 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):

- a. 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, stormwater, 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;

- b. designed or used for collecting or conveying stormwater;
- c. which is not a combined sewer; and
- d. which is not part of a Publicly Owned Treatment Works (“POTW”) as defined at 40 C.F.R. § 122.2.

12. 40 C.F.R. § 122.26(b)(16) defines “small municipal separate storm sewer system,” in pertinent 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; and
- b. not defined as “large” (population of 250,000 or greater) or “medium” (population of greater than 100,000 or more but less than 250,000) MS4 pursuant to §§ 122.26(b)(4) and (b)(7), or designated as a MS4 under § 122.26(a)(1)(v).

13. 40 C.F.R. § 122.32(a) provides that a small MS4 is regulated if:

- a. the small MS4 is located in an urbanized area as determined by the latest Decennial Census by the Bureau of the Census; or
- b. 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).

14. The Missouri Department of Natural Resources (“MDNR”) is the 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 authorized states for violations of the CWA.

### **EPA’s General Allegations**

15. Respondent is a municipality chartered under the laws 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.

16. Respondent operates a stormwater drainage system consisting of, among other things, drain inlets, storm sewers, and outfalls, and as such is a “municipal separate storm sewer” as that term is defined in 40 C.F.R. § 122.26(b)(8).

17. At all times relevant to this Order, Respondent owned and/or operated a “small municipal separate storm sewer system,” as defined by 40 C.F.R. § 122.26(b)(4)(i).

18. Respondent’s small MS4 is located in the Raymore, Missouri “urbanized area” as defined by both the 2000 and the 2010 Census, and therefore, at all times relevant to this Order, Respondent’s small MS4 is subject to regulation.

19. Respondent's small MS4 is a "point source" as defined by Section 502(14) of the CWA, 33 U.S.C. § 1362(14).
20. Respondent discharged pollutants from its small MS4 into "navigable waters" as defined by Section 502(7) of the CWA, 33 U.S.C § 1362(7).
21. Discharges from Respondent's small MS4 result in the addition of pollutants from a point source to navigable waters, and thus are the "discharges of a pollutant" as defined by Section 502(12) of the CWA, 33 U.S.C. § 1362(12).
22. Respondent's discharges from a small MS4 require a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and 40 C.F.R. § 122.32.
23. The MDNR issued NPDES General Permit No. MO-R040000 for discharges from Regulated Small MS4s on March 10, 2003, and reissued it on June 13, 2008. The permits expired on March 9, 2008 and June 12, 2013, respectively. The 2008 General Permit has been administratively continued by the MDNR pending issuance of a revised final permit. To continue coverage, a Regulated Small MS4 must timely submit a permit renewal application.
24. The Respondent submitted permit applications and Storm Water Management Program and Plans ("SWMPs") to the MDNR in approximately February 2003 and November 2007, pursuant to section 4 of the NPDES General Permit. In response to Respondent's applications and supporting information, the MDNR extended coverage under the Small MS4 Permit to Respondent, NPDES Permit No. MO-R040029, effective March 10, 2003, and June 13, 2008, respectively (hereafter referred to as "Permit" or "MS4 Permit").
25. The Respondent submitted an application to extend coverage under the MS4 Permit to the MDNR by letter dated May 10, 2013, pursuant to section 4 of the Permit, and submitted an updated SWMP by letter dated June 28, 2013. The Respondent's timely submission of the 2013 permit application and SWMP extends coverage under the MS4 Permit pending reissuance of the permit by the MDNR.
26. In response to comments from the MDNR regarding the updated 2013 SWMP, the Respondent revised and resubmitted the SWMP to MDNR by letter dated July 10, 2013 (hereafter, the "2013 SWMP").
27. On September 14 and 15, 2009, EPA contracted Science Applications International Corporation ("SAIC") to conduct an MS4 program inspection of Respondent's MS4 ("MS4 Inspection") under the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a).
28. By letter dated December 8, 2010, the EPA issued a Request for Information to the Respondent pursuant to Section 308(a) of the CWA (hereafter "Information Request"). By letter dated February 7, 2011, the Respondent submitted a response to the Information Request to the EPA.

29. On June 6, 7 and 8, 2011 an EPA inspector performed an audit of the Respondent's MS4 ("MS4 Audit") under the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a). The purpose of the MS4 Audit was to evaluate the Respondent's compliance with its MS4 Permit, in accordance with the CWA.

30. Section 4.1.12 of the MS4 Permit requires that the permittee shall develop and fully implement each minimum control measure within five (5) years of receipt of the first MS4 permit. Additionally, Section 4.1.12 requires that the permittee shall comply with new or renewed standards as soon as practicable, but no later than 5 years from the date of reissuance.

31. Section 5.3 of the MS4 Permit requires all permittees submit to MDNR Annual Reports using forms provided by MDNR that include, among other things, the status of the permittee's compliance with permit conditions, an assessment of the appropriateness of the identified best management practices ("BMPs"), progress toward achieving the statutory goal of reducing the discharge of pollutants in stormwater to the maximum extent practicable, and the progress toward achieving measurable goals for each of the minimum control measures.

32. Pursuant to Section 5.3 of the MS4 Permit, the Respondent submitted annual reports to MDNR for reporting periods ending in 2009 through 2013.

33. Section 7 of the MS4 Permit states that all definitions in Missouri Code of State Regulation, at 10 CSR 20-6.200, apply to the permit. The Permit also includes several simplified explanations of terms for the convenience of the permittee, but cautions that in the event of any conflict, the definitions in the Missouri state regulations take precedence.

34. Missouri's regulations at 10 CSR 20-6.200(1)(C)1 define "Best Management Practices" or "BMPs" as, "[s]chedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage."

35. Section 7 of the MS4 Permit defines "control measure" as any BMP or other method used to prevent or reduce the discharge of pollutants to waters of the United States.

### **EPA's Findings of Violation**

#### **Count 1**

#### **Failure to Develop a Comprehensive and Documented SWMP**

36. The facts stated in Paragraphs 1 through 35, above, are restated and incorporated herein.

37. Section 1.4.1 of the City's MS4 Permit requires the permittee to submit with its application a written description of its SWMP. As defined in Part 7 of the permit, a SWMP is a

“comprehensive documented program and plan to manage the quality of storm water discharges from the municipal separate storm sewer system.” Requirements for the contents of the SWMP are set forth in Section 4 of the Permit.

38. Section 4.1 of the City’s MS4 Permit requires the permittee to develop, implement and enforce a SWMP that includes BMPs, control techniques and systems, design and engineering methods, and such other provisions as are appropriate for control of pollutants. The SWMP must address the six minimum control measures described in Section 4.2 of the permit, and must include the following information set forth in Section 4.1.1 through 4.1.3 of the permit:

- a. a description of the BMPs that the permittee will implement for each of the storm water minimum control measures;
- b. the measurable goals for each BMP including, as appropriate, the months and years in which the permittee will undertake required actions, including interim milestones and the frequency of the actions; and
- c. the person responsible for the SWMP, and the person(s) responsible for each minimum control measure if different from the primary responsible person.

39. Section 4.1.9 of the Permit requires that, in addition to other requirements listed in Part 4.1 of the Permit, the permittee shall document the decision process for each minimum control measure and include rationale statements for each BMP and measurable goal defined.

40. Section 4.1.11 of the Permit requires that the SWMP document include interim milestones, measurable goals, and implementation schedule and measures of success.

41. Respondent’s SWMP, including the SWMP as revised in July 2013, fails to include an adequate level of information necessary to demonstrate that the Respondent has an MS4 program that meets the criteria set forth in Section 4 of the MS4 Permit. Specific areas of deficiency include, but are not limited to:

- a. the SWMP includes minimal rather than comprehensive documentation of the City’s program and plan to manage the quality of storm water discharges from the MS4;
- b. the SWMP lacks a clear description of the BMPs that Respondent will use to implement each of the six minimum control measures, provides very limited information regarding the measurable goals for each BMP, lacks information regarding the months and years in which the required actions will be undertaken, lacks interim milestones and the frequency of the actions, and fails to clearly identify any person other than the Director of the Public Works Department as a person responsible for each minimum control measure;
- c. the SWMP lacks any documentation of the decision process for each minimum control measure or statement of the rationale for each BMP and measurable goal; and
- d. the SWMP lacks clearly identifiable measurable goals for each BMP, and the measurable goals that are identified do not indicate how the selected BMPs are expected to prevent or reduce the pollution of waters of the state or provide

information on how the BMPs will achieve success in preventing pollution or how success will be measured.

42. The City's failure to prepare a comprehensive documented SWMP, as required by Section 4.1 of the MS4 Permit, to manage the quality of storm water discharges from the MS4 is a violation of its Permit and, as such, is a violation of Section 402 of the CWA.

### **Count 2**

#### **Failure to Evaluate Effectiveness of Public Education and Outreach Program**

43. The facts stated in Paragraphs 1 through 42, above, are restated and incorporated herein.

44. Section 4.2.1.1 of the City's MS4 Permit requires the City to implement a public education and outreach program, described in the SWMP, to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of storm water discharges on water bodies and the steps the public can take to reduce pollutants in storm water runoff.

45. Section 4.2.1.1.6 requires that the SWMP include a plan to evaluate the success of the public education and outreach program minimum control measure to be included in the SWMP document.

46. Neither the 2008 nor 2013 SWMP included a description of how the City plans to evaluate the success of the public education and outreach program minimum control measure.

47. In addition, the City's annual reports for reporting periods ending in 2009 through 2013 fail to provide information that demonstrates that the City has effectively assessed the success of its public education and outreach program on informing the community about the impacts of storm water discharges on water bodies and the steps the public can take to reduce pollutants in storm water runoff.

48. The City's failure to include in the SWMP a plan to evaluate the success of its public education and outreach program and/or to include in its annual reports an evaluation of the success of such program is a violation of its MS4 Permit and, as such, is a violation of Section 402 of the CWA.

### **Count 3**

#### **Failure to Address Illicit Discharge Detection and Elimination**

49. The facts stated in Paragraphs 1 through 48, above, are restated and incorporated herein.

50. Section 4.2.3.1 of the City's MS4 Permit requires the City to develop, implement and enforce a program, described in the SWMP, to detect and eliminate illicit discharges into the

City's MS4, commonly referred to as the Illicit Discharge Detection and Elimination ("IDDE") program.

51. Section 4.2.3.1.3 of the MS4 Permit, requires the City's SWMP to include a plan and implementation schedule to detect and address non-storm water discharges, including but not limited to a dry weather field screening for non-storm water flows, procedures for locating priority areas, procedures and specific techniques for tracing the source of an illicit discharge, and procedures for removing the source of the illicit discharge.

52. Section 4.2.3.1.3.6 of the MS4 Permit requires the City's SWMP to include procedures for evaluation and assessment of the IDDE program.

53. The City's 2008 and 2012 SWMPs include a table listing categories of methods it plans to implement to detect and address non-stormwater discharges to the MS4, including visual inspection upon complaint, public complaint, and dry weather outlet inspection program. The table includes "X" marks in the column denoting the year of planned implementation. No additional information is included in either SWMP describing those activities.

54. The MS4 Inspection in 2009 and the MS4 Audit in 2011 revealed that, at the time of such Inspection and Audit, the City had not performed dry weather screening or sampling and analysis of the dry weather flows, had no written procedures for identifying priority areas, tracking sources of illicit discharges or removing illicit discharges.

55. None of the City's Annual Reports for reporting periods ending in 2009 through 2013 indicate that a dry weather screening program to detect illicit discharges had been implemented. Several of the reports mention that the City conducted investigations after receiving complaints of possible illicit discharges.

56. The MS4 Inspection, MS4 Audit and the City's Annual Reports reveal that the City does not have procedures for program evaluation and assessment of the effectiveness of the IDDE minimum control measures, and none of the City's Annual Reports for reporting years including in 2009 through 2013 provide any information describing the effectiveness of the IDDE program.

57. The City's failure to develop, implement and enforce its IDDE program, including failure to include in its SWMP a plan to detect and address non-storm water discharges, failure to conduct dry weather screenings, failure to have procedures for locating priority areas, tracing the source of an illicit discharge, and removing the source of an illicit discharge, and failure to have procedures for, and failure to perform, program evaluation and assessment of this minimum control measure are violations of the MS4 Permit and, as such, are violations of Section 402 of the CWA.

**Count 4  
Failure to Address Post-Construction Stormwater Management**

58. The facts stated in Paragraphs 1 through 57, above, are restated and incorporated herein.

59. Section 4.2.5.1 of the City's MS4 Permit requires the City to develop, implement and enforce a program to address long-term stormwater runoff from new development and redevelopment projects that disturb greater than or equal to one acre that discharge into the City's MS4, often referred to as the Post-Construction program.

60. Section 4.2.5.1.1 of the MS4 Permit requires the City's SWMP to include a strategy to minimize water quality impacts to include a combination of structural and/or non-structural BMPs.

61. Section 4.2.5.1.2 of the City's MS4 Permit, requires the City's SWMP to include an ordinance or other regulatory mechanism to address post-construction runoff to be included in the SWMP document. The permit further states that if the City's ordinance or regulatory mechanism is already developed, the City shall include a copy of the relevant sections with the SWMP document.

62. Section 4.2.5.1.3 of the City's MS4 Permit requires the City's SWMP to include a plan to ensure adequate long-term operation and maintenance of selected BMPs for the Post-Construction program, including types of agreements between the City and other parties.

63. Section 4.2.5.1.4 of the City's NDPES permit requires the City's SWMP to include specific priority areas for implementation of the Post-Construction program.

64. Section 4.2.5.1.7 of the City's MS4 Permit requires the City's SWMP to include information regarding how it will evaluate the success of the Post-Construction program minimum control measure.

65. The 2008 SWMP states that the City, "uses an ordinance to address post-construction runoff from new development and redevelopment projects to the extent allowable under State or local law."

66. The City's response to the Information Request in February 2011 states that the City will use a development agreement as provided in the Municipal Code section 455.020 to ensure long term operation and maintenance for the Post-Construction program. However, the MS4 Audit in June 2011 revealed that the City had no strategy or procedures to ensure proper long term operation and maintenance of controls discussed in the City's Municipal Code.

67. The 2013 SWMP, as revised, states that the City uses an ordinance to address post-construction matters and that operations and maintenance will be included as part of the Development Agreement between the City and a developer, but no further information or plan

regarding the combination of structural and/or non-structural BMPs the City utilizes or has available to utilize to implement the Post-Construction program is included, nor does it reference, attach or describe such a plan.

68. The City's SWMP includes no priority areas for implementation of the Post-Construction program.

69. The MS4 Audit and review of the City's Annual Reports reveal that the SWMP does not describe how the City will evaluate the success of the Post-Construction program, nor had the City evaluated the success of the program. The City's Annual Reports for reporting years 2009 through 2013 indicated the City collected no information to determine the success of the program.

70. The City's failure to develop, implement and enforce a Post-Construction program that includes development and implementation of a strategy to minimize water quality impacts to include a combination of structural and/or non-structural BMPs, identification of priority areas, and a means to evaluate the success of the program, and failure to address the Post-Construction program requirements in its SWMP, are violations of the permit and, as such, are violations of Section 402 of the CWA.

#### **Count 5**

#### **Failure to Address Pollution Prevention/Good Housekeeping**

71. The facts stated in Paragraphs 1 through 70, above, are restated and incorporated herein.

72. Section 4.2.6.1 of the City's MS4 Permit requires the City to develop, implement and enforce a program, referred to as the Pollution Prevention/Good Housekeeping program, that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations.

73. Section 4.2.6.1.1 of the City's MS4 Permit requires the City's SWMP to include, among other things, a list of all municipal operations that are impacted by the Pollution Prevention/Good Housekeeping program.

74. Section 4.2.6.1.4 of the City's MS4 Permit requires the City's SWMP to include controls identified in Sections 4.1.5 through 4.1.8 of the permit, including but not limited to: practices to keep solid waste from entering the waters of the state to the maximum extent possible; substances regulated under the Resource, Conservation and Recovery Act ("RCRA") or the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") that are transported, stored, or used for maintenance, cleaning or repairs shall be managed according to the provisions of RCRA and CERCLA; and all paint, solvents, petroleum products and petroleum waste products (except fuels) under the control of the permittee shall be stored so that these materials are not exposed to stormwater.

75. Section 4.2.6.1.8 of the City's MS4 Permit requires the City to evaluate the success of the Pollution Prevention/Good Housekeeping program.

76. The MS4 Audit and review of the City's SWMP and Annual Reports reveal that the City has not developed a complete list of all municipal operations that are impacted by the Pollution Prevention/Good Housekeeping program. For example, none of the City's parks and related facilities are mentioned or listed in the SWMP or the Annual Reports.

77. The MS4 Audit and review of the City's SWMP and Annual Reports reveal that the City's SWMP does not include controls identified in Sections 4.1.5 through 4.1.8 of the permit. For example, the Annual Report for the reporting year ending in 2011 indicated that the City planned to develop storm water pollution prevention plans ("SWPPPs") for its municipal operations, however the 2013 SWMP includes a schedule for developing SWPPPs beginning in 2014 and concluding in 2017.

78. The 2008 SWMP stated that the City will "evaluate the success of the pollution prevention and good housekeeping program by tracking the progress of each measure against the implementation schedule." The City's Annual Reports for reporting years including in 2010 through 2013, however, indicated the City had no measurable goals for the program and collected no information to determine the success of the program. In addition, while the 2013 SWMP, as revised, indicates the City will adopt BMPs in the future, it does not describe what those BMPs will be nor does it indicate how their success will be evaluated; rather, the SWMP states only that "implementation of BMPs selected will determine the success of the measure on water quality."

79. The City's failure to develop, implement and enforce a Pollution Prevention/Good Housekeeping program that includes a list of all municipal facilities impacted by the program, controls identified in Sections 4.1.5 through 4.1.8 of the permit, and the means to evaluate the success of the program is a violation of the permit and, as such, is a violation of Section 402 of the CWA.

### **Reasonable Time to Achieve Compliance**

80. Pursuant to Section 309(a)(5)(A) of the CWA, 33 U.S.C. § 1319(a)(5)(A), and having taken into account the seriousness of the violations, and considering further that Respondent may revise and/or modify its SWMP in order to comply with the terms and conditions of its MS4 Permit, MO-R040029, the EPA finds that one hundred eighty (180) days is a reasonable time for Respondent to revise its SWMP and fully implement its MS4 program to comply with the terms and conditions addressed by its MS4 Permit, subject to an extension of no greater than sixty (60) days that may be granted for the City to address any additional or different requirements in MDNR's final issuance of a revised NPDES General Permit No. MO-R040000 during the 180-day period.

**Order for Compliance**

81. Based on the Findings of Fact and Findings of Violation set forth above, and pursuant to the authority of Section 309(a) of the CWA, 33 U.S.C. § 1319(a), the EPA hereby ORDERS, and the City hereby CONSENTS, to take the actions described below.

82. In accordance with this Order, the City shall take appropriate actions, including the actions specified in this Order, to correct the deficiencies and eliminate and prevent recurrence of the violations cited above to comply with the CWA and all of the applicable requirements of its MS4 Permit.

83. Within one hundred eighty (180) days of the effective date of this Order, the City shall provide to EPA and MDNR a revised SWMP, including Best Management Practices, Standard Operating Procedures and a detailed implementation plan and schedule to fully implement all provisions set forth therein. If MDNR issues a final revised NPDES General Permit No. MO-R040000 during this period that contains additional or different requirements than the permit in effect at the time of this Order, the City may request, and EPA may grant, an extension of time of up to sixty (60) additional days, if needed, to comply with the final revised General Permit.

84. The City shall submit to EPA a copy of its MS4 Annual Reports for compliance periods ending in 2015 and 2016 to demonstrate full implementation of its MS4 program.

**Submissions**

85. All documents required to be submitted to EPA pursuant to this Order shall be submitted by mail to:

Ms. Cynthia Sans, or her successor  
Water, Wetlands and Pesticides Division  
U.S. Environmental Protection Agency – Region 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219.

86. All documents required to be submitted to MDNR pursuant to this Order shall be submitted by mail to:

MS4 Coordinator  
Water Protection Program  
Missouri Department of Natural Resources  
PO Box 176  
Jefferson City, Missouri 65102-0176.

87. All submissions by the City to the EPA pursuant to the requirements of this Order shall contain the following certification signed by an authorized official, as identified in 40 C.F.R. § 122.22(b):

*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 violations.*

### **General Provisions**

#### **Effect of Compliance with the Terms of this Order for Compliance**

88. 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.

89. 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 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 EPA to forgo any civil or criminal action to seek penalties, fines, or other appropriate relief under the CWA for any violation whatsoever.

90. Respondent reserves the right to contest liability and any penalty sought in any subsequent civil or administrative action by EPA to seek penalties for violation of this Order. Respondent reserves all defenses available to it in any future civil or administrative action and/or proceedings with any third parties, including MDNR, for noncompliance with the laws cited herein or analogous Missouri laws.

#### **Access and Requests for Information**

91. Nothing in this Order on Consent 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 308 of the CWA, 33 U.S.C. § 1318 and/or any other authority.

#### **Severability**

92. If any provision or authority of this Order on Consent, or the application of this Order on Consent to Respondent, is held by federal judiciary authority to be invalid, the

application to Respondent of the remainder of this Order on Consent shall remain in full force and effect and shall not be affected by such a holding.

**Effective Date**

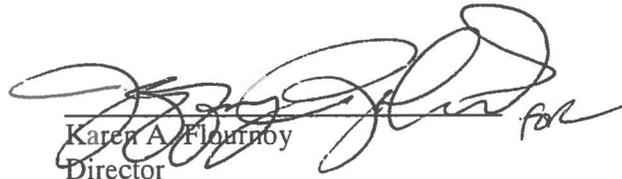
93. The terms of this Order on Consent shall be effective and enforceable against Respondent on the Effective Date, which is the date this Order on Consent is signed by EPA.

**Termination**

94. This Order on Consent 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 on Consent have been met.

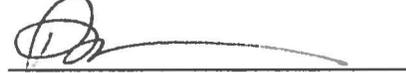
**For the Complainant, United States Environmental Protection Agency, Region 7:**

Issued this 1 day of OCTOBER, 2014.



Karen A. Flounoy  
Director

Water, Wetlands and Pesticides Division



Patricia Gillispie Miller  
Senior Counsel  
Office of Regional Counsel



CERTIFICATE OF SERVICE

I certify that on the date noted below I hand delivered the original and one true copy of this Findings of Violation and Administrative Order for Compliance on Consent to the Regional Hearing Clerk, United States Environmental Protection Agency, 11201 Renner Blvd., Lenexa Kansas 66219.

I further certify that on the date noted below I sent a copy of the foregoing Order for Compliance on Consent by first class certified mail, return receipt requested, to:

The Honorable Peter Kerckhoff  
Mayor, City of Raymore  
100 Municipal Circle  
Raymore, Missouri 64083,

and via first class mail to:

Mr. Paul Dickerson, Chief  
Enforcement Section  
Water Pollution Control Program  
Missouri Department of Natural Resources  
P.O. Box 176  
Jefferson City, Missouri 65102

Ms. Andrea Collier, Director  
Kansas City Regional Office  
Missouri Department of Natural Resources  
500 NE Colbern Road  
Lee's Summit, Missouri 64086-4710

10/3/14

Date

Kathy Robinson

Signature