

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY REGION VII
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)
)
) Docket No. CWA-07-2010-0129
The City of Topeka, Kansas)
) AMENDMENT TO
) FINDINGS OF VIOLATION AND
Respondent) ORDER FOR COMPLIANCE
)
Proceedings under Section 309(a) of the)
Clean Water Act, 33 U.S.C. § 1319(a))

A. INTRODUCTION

1. The FINDINGS OF VIOLATION are made and AMENDED ORDER FOR COMPLIANCE is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA"), by Section 309(a)(3) of the Clean Water Act ("CWA" or the "Act"), 33 U.S.C. § 1319(a)(3), as delegated by the Administrator to the Regional Administrator, EPA Region 7, and further delegated to the Director, Water, Wetlands and Pesticides Division, EPA Region 7.

2. On or about October 1, 2010, EPA issued a Findings of Violation and Order for Compliance (Order) to the City of Topeka (the City) pursuant to Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3).

3. Paragraphs 5 and 6 below replace Paragraphs 40 and 44, respectively; and Paragraph 7, below replaces Paragraph 47 of EPA's October 1, 2010, Order, Docket Number CWA-07-2010-0129.

B. AMENDMENT TO ORDER FOR COMPLIANCE

4. Pursuant to the authority of Sections 308(a) and 309(a)(3) of the CWA, 33 U.S.C. §§ 1318(a) and 1319(a)(3), Respondent is hereby ORDERED to take the actions described in Paragraphs 5 and 6.

POTW Compliance Actions

5. Respondent shall:
- a. Within 180 days of the Effective Date of this Order for Compliance, provide backup power for eleven (11) pump stations within Respondent's POTW. Respondent shall modify three (3) additional pump stations to provide backup power by December 31, 2011, and complete modifications to provide backup power to the one (1) remaining pump station by December 31, 2012. Backup power shall include one or more of the following: dual power source, on-site generator, or portable generator connection with written procedures for Respondent to provide a portable generator as expeditiously as practicable upon power loss;
 - b. Within 180 days of the Effective Date of this Order for Compliance, provide automatic monitors for each pump station within Respondent's POTW. The automatic monitors shall be systems such as audible alarms or SCADA systems which will notify Respondent or persons in the vicinity of each pump station that a power failure has occurred. Audible alarms shall, at a minimum, be loud enough to be heard at normal conversation levels (approximately 60 decibels) at the nearest private property. For each pump station with an audible alarm, Respondent shall also include signs providing a phone number for contacting Respondent. Respondent shall respond as expeditiously as practicable to all power failures; and
 - c. Within 180 days of the Effective Date of this Order for Compliance, submit a report documenting activities conducted since January 2010 in implementing the Sanitary Sewer Overflow Response Plan and SOP dated December 2008.

MS4 Compliance Actions

6. Respondent shall:
- a. Within 365 days of the Effective Date of this Order for Compliance, enact an ordinance to address post-construction runoff from new development and redevelopment projects to the extent allowable under State and local law;
 - i. On or before March 1, 2011, Respondent shall submit a detailed proposal for the passage of the ordinance that includes specific tasks and individual milestones, including but not limited to: drafting ordinance, drafting and adoption of technical specifications, and design standards including best management practices (BMPs) and final passage of the ordinance.

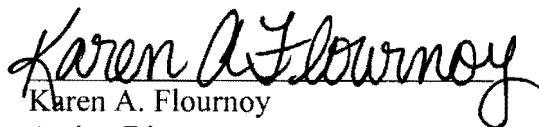
- ii. On or before March 1, 2011, Respondent shall submit progress reports to KDHE and EPA every ninety (90) days that includes a description of the specific tasks and milestones accomplished during the preceding ninety (90) day period.
- b. Within ninety (90) days of the Effective Date of this Order for Compliance, revise existing Construction and Illicit Discharge ordinances to provide the City with adequate legal authority to conduct inspections, monitoring and pursue enforcement.

Submissions

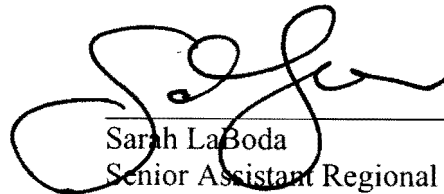
7. All documents required to be submitted to EPA by this Order shall be submitted to:

Ms. Cynthia Sans
Water, Wetlands and Pesticides Division
U.S. Environmental Protection Agency - Region 7
901 North Fifth Street
Kansas City, Kansas 66101

Issued this 26th day of January, 2011.



Karen A. Flournoy
Acting Director
Water, Wetlands and Pesticides Division



Sarah LaBoda
Senior Assistant Regional 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 Amended Findings of Violation and Administrative Order for Compliance to the Regional Hearing Clerk, United States Environmental Protection Agency, 901 North Fifth Street, Kansas City, Kansas 66101.

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

Mr. Dennis Taylor
Director of Utilities and Transportation
City of Topeka Public Works Department
1115 NE Poplar
Topeka, Kansas 66616

Sent via first class mail to:

Mr. Karl Muedener, Director
Bureau of Water
Kansas Department of Health and Environment
1000 SW Jackson Street, Suite 420
Topeka, Kansas 66612-1367

1/28/11

Date

Kimberly

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