



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
 Region 7, 901 North 5<sup>th</sup> Street, Kansas City, KS 66101  
**EXPEDITED SETTLEMENT AGREEMENT**  
 Docket Number: CWA-07-2007-0083, NPDES No.:KS-R103949

08 JAN -2 PM 3:24  
 ENVIRONMENTAL PROTECTION  
 AGENCY-REGION VII  
 REGIONAL HEARING CLERK

The City of Topeka ("Respondent") is a "person," within the meaning of Section 502(5) of the Clean Water Act ("Act"), 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

Attached is an "Expedited Settlement Offer Deficiencies Form" ("Form"), which is incorporated by reference. By its signature, Complainant ("EPA") finds that Respondent is responsible for the deficiencies specified in the Form.

Respondent failed to comply with its National Pollutant Discharge Elimination System ("NPDES") storm water permit issued under Section 402 of the Act, 33 U.S.C. § 1342.

EPA finds, and Respondent admits, that Respondent is subject to Section 301(a) of the Act, 33 U.S.C. § 1311, and that EPA has jurisdiction over any "person" who "discharges pollutants" from a "point source" to "waters of the United States." Respondent neither admits nor denies the deficiencies specified in the Form.

EPA is authorized to enter into this Consent Agreement and Final Order ("Agreement") under the authority vested in the Administrator of EPA by Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), and by 40 C.F.R. § 22.13(b). The parties enter into this Agreement in order to settle the civil violation(s) alleged in this Agreement for a penalty of \$9,250. Respondent consents to the assessment of this penalty, and waives the right to: (1) contest the finding(s) specified in the Form; (2) a hearing pursuant to Section 309(g)(2) of the Act, 33 U.S.C. § 1319(g)(2); and (3) appeal pursuant to Section 309(g)(8), 33 U.S.C. § 1319(g)(8).

Additionally, Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that any deficiencies identified in the Form have been corrected. Respondent shall submit a written report with this Agreement detailing the specific actions taken to correct the violations cited herein.

Respondent certifies that, within ten (10) days of receiving notice from EPA that the Agreement is effective thirty (30) days from the date it is signed by the Appropriate Official, Respondent shall submit a bank, cashiers or certified check, with case name and docket number noted, for the amount specified above payable to the "Treasurer, United States of America," via certified mail, to:

U.S. EPA, Region 7  
 P.O. Box 371099M  
 Pittsburgh, PA 15251

This Agreement settles EPA's civil penalty claims against Respondent for the Clean Water Act violation(s) specified in this Agreement. EPA does not waive its rights to take any enforcement action against Respondent for any other past, present, or future civil or criminal violation of the Act or of any other federal statute or regulation. EPA does not waive its right to issue

a compliance order for any uncorrected deficiencies or violation(s) described in the Form. EPA has determined this Agreement to be appropriate.

This Agreement is binding on the parties signing below and effective thirty (30) days from the date it is signed by the Presiding Officer unless a petition to set aside the Order is filed by a commenter pursuant to Section 309(g)(4)(C) of the Act, 33 U.S.C. § 1319(g)(4)(C), and Part 22.

APPROVED BY EPA:

William A. Spratlin Date: 12/28/07  
 Director  
 Water, Wetlands, and Pesticides Division

APPROVED BY RESPONDENT:

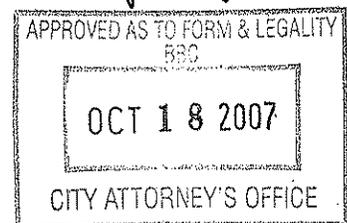
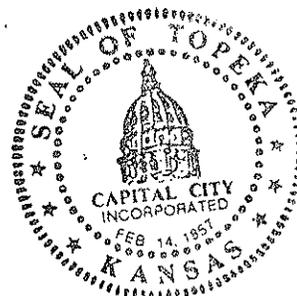
Name (print): Norton N. Bonaparte, Jr.  
 Title (print): City Manager  
 Signature: [Signature] Date: OCT 18 2007

More than 40 days have elapsed since the issuance of public notice pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), and EPA has received no comments concerning this matter.

Having determined that this Agreement is authorized by law, IT IS SO ORDERED:

Robert J. Patrick Date: Jan. 2, 2008  
 Robert J. Patrick  
 Regional Judicial Officer

ATTEST:  
Brenda Younger  
 CITY CLERK



**Expedited Settlement Offer Worksheet  
Deficiencies Form**

Consult instructions regarding eligibility criteria  
and procedures prior to use

KS-S-MCST-0110-1



<b>LEGAL NAME AND MAILING ADDRESS OF OPERATOR</b>		<b>Telephone Number</b>	<b>NPDES Permit Number</b>
1 City of Topeka 620 SE Madison, 2nd Floor Topeka, KS 68607		(785) 368-3842	KS-R403949
<b>LOCATION AND ADDRESS OF SITE</b>		Inspector Name: <u>St Germain</u>	
2 Lauren's Bay Villas SW 44th St and SW Shenandoah Topeka, Kansas		Inspector Agency: <u>USEPA</u>	
		Entrance Interview Conducted: <input type="checkbox"/> Yes <input type="checkbox"/> No	
		Exit Interview Conducted: <input type="checkbox"/> Yes <input type="checkbox"/> No	
		Exit Interview given to: <u>Jeff Hunt</u>	
		Exit Interview time: <u>12:00</u> Date: <u>04/17/2007</u>	

<b>FACILITY DESCRIPTION / CONTACT NAMES</b>	
Name of Site Contact (ESO Worksheet recipient): <u>Jeff Hunt</u>	
Name of Authorized Official (40 CFR 122.22): <u>Jeff Hunt</u>	
Inspection Date: <u>04/17/2007</u>	
Start Construction Date: <u>06/26/2006</u>	
Estimated Completion Construction Date: <u>12/31/2008</u>	
If Unpermitted, Number of Months Unpermitted: _____	
Name of Receiving Water Body (Indicate whether 303(d) listed): <u>Tributary to West Branch Shungabunga Creek</u>	
Acres Currently Disturbed   Acres to be Disturbed in Whole Common Plan: <u>9.00</u>   <u>18.00</u>	
Has Operator Requested Rainfall Erosivity or TMDL Waiver per 44 CFR 122.26(b)(15)? <input type="checkbox"/> No <input type="checkbox"/> Yes	

PERMIT COVERAGE	Notes	Citation Reference**	State Citation Reference***	R C A*	No. of Deficiencies	Dollar Amount	Total
3 Operator unpermitted for _____ months (# months unpermitted equals number of violations)		CWA 301	KAR 28-16-153			\$500.00	
<b>SWPPP REVIEW</b>							
4 SWPPP not prepared (If no SWPPP, leave elements 5 - 30 blank)		CGP 3.1.A	KSGP VII p.6			\$5,000.00	
5 SWPPP prepared but prepared after construction start (# of months = # of violations)		CGP 3.1.A	KSGP VII p.6			\$75.00	
6 SWPPP does not identify all potential sources of pollution to include: porta-pottys, fuel tanks, staging areas, waste containers, chemical storage areas, concrete cure, paints, solvents.		CGP 3.1.B	KSGP VII p.8			\$250.00	
7 SWPPP does not identify all operators for the project site and the areas of the site over which each operator has control		CGP 3.3.A	KSGP VII p.7			\$500.00	
8 SWPPP does not have site description, as follows:	Site map does not show areas of disturbance, name of receiving waters, stockpile areas, equipment storage areas, or areas of final stabilization	CGP 3.3.B.1	KSGP VII p.7			\$100.00	
A Nature of activity in description		CGP 3.3.B.2	KSGP VII p.7			\$100.00	
B Intended sequence of major activities		CGP 3.3.B.3	KSGP VII p.7			\$100.00	
C Total disturbed acreage		CGP 3.3.B.4	KSGP VII p.7			\$100.00	
D General location map		CGP 3.3.C	KSGP VII p.7			\$500.00	
E Site map		CGP 3.3.C.1-8	KSGP VII p.7		15	\$50.00	\$250
F Site map does not show drainage patterns, slopes, areas of disturbance, locations of major controls, structural practices shown, stabilization practices, offsite materials, waste, borrow or equipment storage areas, surface waters, discharge points, areas of final stabilization (count each omission under 8F as 1 violation)		CGP 3.3.D	N/A				
9 SWPPP does not:							
A Describe all pollution control measures (e.g. BMPs)		CGP 3.4.A	KSGP VII p.7			\$750.00	
B Describe sequence for implementation		CGP 3.4.A	KSGP VII p.7			\$250.00	
C Detail operator(s) responsible for implementation		CGP 3.4.A	N/A				
10 SWPPP does not describe interim stabilization practices		CGP 3.4.B	KSGP VII p.7 & p.8			\$250.00	
11 SWPPP does not describe permanent stabilization practices		CGP 3.4.B	KSGP VII p.7 & p.8			\$250.00	
12 SWPPP does not describe a schedule to implement stabilization practices		CGP 3.4.B	KSGP VII p.7			\$250.00	

13	Following dates are not recorded: major grading activities; construction temporarily or permanently ceased; stabilization measures initiated (count each omission under 13 as 1 violation)		CGP 3.4.C.1-3	N/A					
14	SWPPP does not have description of structural practices to divert flows from exposed soils, retain flows, or limit runoff from exposed areas		CGP 3.4.D	KSGP VII p.8			\$500.00	=	
15	SWPPP does not have a description of measures that will be installed during the construction process to control pollutants in storm water discharges that will occur AFTER construction operations have been completed		CGP 3.4.E	KSGP VII p.8			\$500.00	=	
16	SWPPP does not describe measures to prevent discharge of solid materials to waters of the US, except as authorized by 404 permit		CGP 3.4.F	KSGP VII p.8			\$500.00	=	
17	SWPPP does not describe measures to minimize off-site vehicle tracking and generation of dust		CGP 3.4.G	KSGP VII p.8			\$500.00	=	
18	SWPPP does not include description of construction or waste materials expected to be stored on site w/updates re: controls used to reduce pollutants from these materials		CGP 3.4.H	KSGP VII p.8			\$250.00	=	
19	SWPPP does not have description of pollutant sources from areas other than construction (asphalt or concrete plants) w/ updates re: controls to reduce pollutants from these materials		CGP 3.4.I	N/A					
20	SWPPP does not identify allowable sources of non-storm water discharges listed in subpart 1.3.B of the CGP		CGP 3.5	N/A					
21	SWPPP does not identify/ensure implementation of pollution prevention measures for non-storm water discharges		CGP 3.5	N/A					
22	Endangered Species Act documentation is not in SWPPP			N/A					
23	Historic Properties (Reserved)								
24	Copy of permit and/or NOI not in SWPPP (count each omission under 24 as 1 violation)		CGP 3.8	N/A					
25	SWPPP is not consistent with requirements specified in applicable sediment and erosion site plans or site permits, or storm water management plans or site permits approved by State, Tribal or local officials (e.g., MS4 requirements)		CGP 3.9	N/A					
26	SWPPP has not been updated to remain consistent with changes applicable to protecting surface waters in State, Tribal or local erosion plans		CGP 3.9	N/A					
27	Copies of inspection reports have not been retained as part of the SWPPP for 3 years from date permit coverage terminates		CGP 3.10.G	KSGP IX p.9			\$500.00	=	
28	SWPPP has not been updated/modified to reflect change at site effecting discharge, or where inspections identify SWPPP/BMPs as ineffective, updates to SWPPP regarding modifications to BMPs not made within 7 days of such inspection (count each omission under under 28 as 1 violation)		CGP 3.11.C	KSGP VII p.6			\$50.00	=	
29	Copy of SWPPP not retained on site		CGP 3.12.A	KSGP VII p.7			\$500.00	=	
	A SWPPP not made available upon request		CGP 3.12.C	KSGP VII p.7			\$500.00	=	
30	SWPPP not signed/certified		CGP 3.12.D	KSGP IX p.10			\$500.00	=	
<b>INSPECTIONS</b>									
31	Inspections not performed and documented either once every 7 days, or once every 14 days and within 24 hours after storm event greater than 0.5 inches or greater (not required if: temp stabilization; runoff unlikely due to winter conditions; construction during arid periods in arid areas) (Count each failure to inspect and document as one violation).	Minimum 9 monthly inspections. Fifteen rain events with at least 0.5 inch rain from Aug. 28, 2006 through April 17, 2007.	CGP 3.10.A, 3.10.B	KSGP VII p.9			\$250.00	=	\$6,000
	No inspections conducted and documented (if True, then leave elements 32-39 blank)					TRUE		True or False	
	Number of inspections expected if performed every 7 days:	33							
	Number of inspections expected if performed bi-weekly:	16							
	If known, number of days of rainfall of >0.5"	15							





IN THE MATTER OF The City of Topeka, Respondent  
Docket No. CWA-07-2007-0083

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Expedited Settlement Agreement was sent this day in the following manner to the addressees:

Copy hand delivered to  
Attorney for Complainant:

Kristina Gonzales  
Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Norton N Bonaparte, Jr.  
City Manager  
City of Topeka  
620 SE Madison, 2<sup>nd</sup> Floor  
Topeka, Kansas 66607

Dated: 1/2/08



Kathy Robinson  
Hearing Clerk, Region 7