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## Region 7

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# Mercy Health, Joplin, Missouri

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## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In accordance with Section 309(g)(4)(A) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits ("Consolidated Rules"), the Environmental Protection Agency ("EPA") is providing notice of a proposed Administrative Penalty Assessment against Mercy Health, formerly doing business as Sisters of Mercy Health Systems ("Mercy Health"), for alleged violations of two construction stormwater permits issued by the Missouri Department of Natural Resources ("MDNR") (Permit Nos. MORA00206 and MORA02716) related to the construction of a new hospital and the relocation of two public city streets at a site near Joplin, Missouri ("Site").

The hospital construction portion of the project is located at the intersections of Interstate 44 and State Highway 86 (also known as Main Street) and the roadway construction project is located at 50th Street and Indiana Avenue in Joplin, Missouri. The hospital construction portion of the Site occupies 97.87 acres of land of which nearly 96 were disturbed. The street right-of-way project was projected to disturb 15.52 acres. Ground breaking for the replacement hospital occurred in January 2012. Ground breaking began in the city right-of-way portion of the Site during February 2013. Stormwater, snow melt, surface drainage and runoff water leaves the Site and flows via unnamed tributaries into Silver and/or Shoal Creeks.

Under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g), the EPA is authorized to issue orders assessing civil penalties for various violations of the Clean Water Act. The EPA may issue such orders after commencing either a Class I or Class II penalty proceeding. This action is a Class II penalty proceeding that is being simultaneously commenced and concluded in a Consent Agreement and Final Order pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2). The EPA provides notice of the proposed assessment of a Class II civil penalty pursuant to 33 U.S.C. § 1319(g)(4)(A). Class II proceedings are conducted under EPA's Consolidated Rules, 40 C.F.R. Part 22.

In this case, based on findings during inspections by EPA and MDNR in 2012 and 2013, the EPA alleges that the Mercy Health violated the requirements of its construction stormwater permits, in violation of Sections 301(a) and 402 of the Clean Water Act, 33 U.S.C. §§ 1311(a) and 1342. The alleged violations include unauthorized discharges of sediment, failure to implement best management practices to prevent discharges, and failure to properly conduct inspections and take corrective actions to prevent discharges. Respondent Mercy Health has reached agreement with EPA on the terms of a proposed Consent Agreement/Final Order which would resolve this matter. Under the proposed Consent Agreement/Final Order, Respondent will pay a civil penalty of \$82,500. Final approval of the proposed Consent Agreement/Final Order is subject to the requirements of 40 C.F.R. § 22.45.

The EPA will receive written comments on the proposed Administrative Penalty Assessment for a period of thirty (30) days from the date of publication of this notice. All such comments shall be submitted to the Regional Hearing Clerk at the address provided below. The procedures by which the public may submit written comments on a proposed Class II order or participate in a Class II proceeding, and the procedures

by which a respondent may request a hearing, are set forth in the Consolidated Rules. Persons wishing to obtain additional information on the proceeding, receive a copy of EPA's Consolidated Rules, review the proposed [Consent Agreement/Final Order \(PDF\)](#) (12 pp., 1.72MB, [About PDF](#)), comment upon the proposed penalty assessment, or otherwise participate in the proceeding should contact Kathy Robinson, Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas, 66219. Please reference Docket No. CWA-07-2014-0084. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in this proceeding prior to forty (40) days from the date of this notice.

7/24/14  
Date

/s/  
Karen Flournoy  
Director  
Water, Wetlands, and Pesticides Division  
U.S. EPA, Region 7