



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I  
5 Post Office Sq., Suite 100  
BOSTON, MASSACHUSETTS 02109-3912

April 21, 2011

**BY HAND**

Wanda Santiago  
Regional Hearing Clerk  
U.S. EPA, Region I  
5 Post Office Sq., Suite 100  
Mail Code: ORA18-1  
Boston, MA 02109-3912

RECEIVED

APR 21 2011

EPA ORC  
Office of Regional Hearing Clerk

RE: **In the Matter of: Stamford, Connecticut**  
**Docket No. CWA-01-2010-0057**

Dear Ms. Santiago,

Enclosed for filing in the above-referenced action, please find this Amended Administrative Complaint proposing to assess a civil penalty under Section 309(g) of the Clean Water Act. This Amended Complaint is filed "as a matter of right" pursuant to 40 C.F.R. § 22.14(c), as Respondent has not yet filed an Answer to the original Complaint in this matter.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeffrey Kopf".

Jeffrey Kopf  
Senior Enforcement Counsel  
EPA Region 1

Enclosures

cc: Michael D. Larobina, Director of Legal Affairs and Corporation Counsel, City of Stamford, CT  
Daniel M. McCabe, Counsel for Water Pollution Control Authority for the City of Stamford, CT

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APR 21 2011

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I

EPA ORC  
Office of Regional Hearing Clerk

In the Matter of	)	Docket No. CWA 01-2010-0057
	)	
WATER POLLUTION CONTROL	)	AMENDED
AUTHORITY FOR THE	)	ADMINISTRATIVE COMPLAINT
CITY OF STAMFORD	)	To Assess a Civil Penalty Under
	)	Section 309(g) of the Clean Water
111 Harborview Avenue	)	Act
Stamford, CT 06902	)	
	)	
and	)	
	)	
STAMFORD, CONNECTICUT	)	
	)	
One Harbor View Avenue	)	
Stamford, CT 06902	)	
	)	
Respondents.	)	

**I. STATUTORY AND REGULATORY AUTHORITY**

1. This Amended Administrative Complaint (“Complaint”) is issued under the authority vested in the U.S. Environmental Protection Agency (“EPA” or “Complainant”) by Section 309(g) of the Clean Water Act (“CWA” or “Act”), 33 U.S.C. § 1319(g), and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation, Termination or Suspension of Permits,” 40 C.F.R. §§ 22.1-22.52 (the “Consolidated Rules of Practice”).

2. Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and in accordance with the Consolidated Rules of Practice, Complainant hereby provides notice of a

proposal to assess a civil penalty against the Water Pollution Control Authority for the City of Stamford (“WPCA”) and the City of Stamford, Connecticut (“City”) (together “Respondents”) for failing to report to the State of Connecticut, Department of Environmental Protection (“CTDEP”) bypasses from their wastewater collection system on 25 separate occasions in violation of their National Pollutant Discharge Elimination System (“NPDES”) permit and for failing to submit a Capacity, Management, Operation and Maintenance (“CMOM”) Program Implementation Annual Report (“CMOM Annual Report”) in violation of Section 308 of the Act, 33 U.S.C. § 1319. Complainant also provides notice of Respondents’ opportunity to request a hearing on the proposed penalty assessment.

## **II. GENERAL ALLEGATIONS**

3. The City of Stamford, Connecticut (“City”) is a municipality as defined in Section 502(4) of the Act, 33 U.S.C. § 1362(4), organized under the laws of the State of Connecticut.

4. The City is a person under Section 502(5) of the Act, 33 U.S.C. § 1362(5).

5. The Water Pollution Control Authority for the City of Stamford (“WPCA”) is a “quasi-municipal corporation” organized under the laws of Connecticut and is therefore a person as defined in Section 502(5) of the Act, 33 U.S.C. § 1362(5).

6. Respondents are the owners and operators of a Publicly Owned Treatment Works (“POTW”) that includes a wastewater collection system consisting of approximately 22 pump stations and between 240 and 320 miles of sewer lines (“Collection System”), and a wastewater treatment facility (“WWTF”) from which pollutants, as defined in Section

502(6) and (12) of the Act, 33 U.S.C. §§ 1362(6) and (12), are discharged from point

AMENDED ADMINISTRATIVE COMPLAINT - 2 -

*In re Stamford, CT*

Docket No. CWA-01-2010-0057

US EPA, REGION 1

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sources, as defined in Section 502(14) of the Act, 33 U.S.C. § 1362(14), to Stamford Harbor.

7. The WWTF is an advanced treatment facility with a monthly average dry-weather design capacity of 24 million gallons per day (“MGD”), a daily maximum capacity of 30 MGD, and a peak daily capacity of 68 MGD. The average daily flow is approximately 16 MGD. The WWTF serves a population of approximately 100,000 residents including approximately 10,000 within the nearby Town of Darien. The wastewater collection system in the Town of Darien is operated and maintained by Darien.

8. Section 301(a) of the Act, 33 U.S.C. § 1311(a), makes unlawful the discharge of pollutants to waters of the United States except, among other things, in compliance with the terms and conditions of an NPDES permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342.

9. Section 402(b) of the Act, 33 U.S.C. § 1342(b), provides that the Administrator of EPA may authorize a state to issue NPDES permits in accordance with the requirements of the Act. On September 26, 1973, the Administrator granted the State of Connecticut, through the CTDEP the authority to issue NPDES permits pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b).

10. On November 5, 2001, the City of Stamford was issued NPDES Permit No. CT0101087 by the CTDEP under the authority of Section 402 of the Act, 33 U.S.C. § 1342. On March 26, 2008, the WPCA was re-issued the NPDES Permit by the CTDEP under the authority of Section 402 of the Act, 33 U.S.C. § 1342. It will expire on March 25, 2013.

11. The NPDES Permit authorizes Respondents to discharge pollutants from the WWTF outfall to Stamford Harbor subject to the terms and conditions of the NPDES Permit.

12. Stamford Harbor flows to Long Island Sound. Both are navigable waters under Section 502(7) of the Act, 33 U.S.C. § 1362(7), and the regulations promulgated thereunder.

**COUNT 1**  
**Permit Violations**

13. The Complaint incorporates Paragraphs 1-12 above by reference.

14. Section 1.B. of the NPDES Permit incorporates Section 22a-430-3(a)(3) of the Regulations of Connecticut State Agencies (“RCSA”) which defines “Bypass” as the diversion of wastes from any portion of the wastewater collection system or treatment facilities.

15. Section 8(C) of the NPDES Permit incorporates Section 22a-430-3(k)(4) of the RCSA which requires reporting of all instances of Bypass including the bypass of the WWTF or any component of the Collection System to the CTDEP within two hours of the bypass, by telephone, and within five days of the bypass in writing.

16. Between April 16, 2006 and the date of the filing of this Complaint, Respondents failed to report at least 25 Bypasses from the Collection System to the CTDEP, in violation of Section 8(C) of their NPDES Permit.

17. Respondents’ failure to report Bypasses violates Section 8(C) of their NPDES Permit, issued pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b); and therefore, Respondents may be assessed a penalty under Section 309(g)(1)(A) of the CWA, 33 U.S.C. § 1319(g)(1)(A).

18. Pursuant to Section 309(g)(2)(B) of the Act and 40 C.F.R. § 19.4, Respondents are liable for civil penalties up to \$16,000 per day for each day during which the violation continues, up to a maximum of \$177,500.

## **COUNT 2**

### **Failure to Submit CMOM Program Implementation Annual Report**

19. The Complaint incorporates Paragraphs 1-18 above by reference.

20. Pursuant to Sections 308(a) and 309(a)(3) of the Act, 33 U.S.C. §§ 1318(a) and 1319(a)(3), on September 29, 2009, EPA issued a Findings of Violation and Order (“Order”) for Compliance requiring, *inter alia*, that the City submit a Capacity, Management, Operation and Maintenance (“CMOM”) Program Implementation Annual Report (“CMOM Annual Report”) by January 31<sup>st</sup> of each year.

21. The City failed to submit a CMOM Annual Report to EPA by January 31, 2011, in violation of Section 308 of the Act, 33 U.S.C. § 1318; and therefore, the City may be assessed a penalty under Section 309(g)(1)(A) of the CWA, 33 U.S.C. § 1319(g)(1)(A).

22. Pursuant to Section 309(g)(2)(B) of the Act and 40 C.F.R. § 19.4, the City is liable for civil penalties up to \$16,000 per day for each day during which the violation continues, up to a maximum of \$177,500.

### **III. NOTICE OF PROPOSED ASSESSMENT OF CIVIL PENALTY**

23. Based on the foregoing allegations and pursuant to the authority of Section 309(g) of the CWA, 33 U.S.C. § 1319(g); the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, *et seq.*; the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, *et seq.*; and the Civil Monetary Penalty Inflation Adjustment Rule, 73 FR 75340



(Dec. 11, 2008) (codified at 40 C.F.R. Part 19), Complainant proposes that a Final Order assessing civil penalties be issued against Respondents of up to eleven thousand dollars (\$11,000) per day for each day during which the violations continued through January 12, 2009, and up to sixteen thousand dollars (\$16,000) per day for each day during which the violations continued after January 12, 2009, up to a maximum of one hundred and seventy-seven thousand and five hundred dollars (\$177,500), taking into account the nature, circumstances, extent and gravity of the violations, and the Respondents' prior compliance history, the degree of culpability for the cited violations, any economic benefit or savings accruing to the Respondents resulting from the violations, the Respondents' ability to pay the proposed penalty, and such other matters as justice may require.

24. The alleged NPDES Permit violations represent significant violations of the CWA because failure to report bypasses to regulatory agencies prevents such agencies from having an accurate representation of the frequency of the bypasses, the size of such bypasses and the potential impacts on human health and the environment. In addition, the failure to provide the CMOM Annual Report to EPA deprives the agency of evaluating the City's progress in fully complying with the September 29, 2009 Order.

25. Complainant will pursue penalties for CWA violations on 25 separate days of violation for failure to report bypasses, and will pursue penalties for CWA violations for each day from February 1, 2011, until the date of the filing of this complaint for failure to submit the CMOM Annual Report.

#### IV. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

26. Respondents have the right to request a hearing to contest the issues raised in this Complaint. Any such hearing would be conducted in accordance with the Consolidated Rules of Practice. Any request for a hearing must be included in Respondents' written Answer to this Complaint and filed with the Regional Hearing Clerk at the address listed below within 20 days of receipt of this Complaint.

27. In the Answer, Respondents may also: (a) dispute any material fact in the Complaint; (b) contend that the proposed penalty is inappropriate; or (c) contend that they are entitled to judgment as a matter of law. The Answer must clearly and directly admit, deny, or explain each of the factual allegations contained in this Complaint of which Respondents have any knowledge. If Respondents have no knowledge of a particular factual allegation and so state, the allegation is considered denied. The failure to deny an allegation constitutes an admission of that allegation. The Answer must also include the grounds for any defense and the facts Respondents intend to place at issue.

28. The original and one copy of the Answer, as well as a copy of all other documents which a Respondent files in this action, must be sent to:

Wanda I. Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency - Region I  
5 Post Office Square - Suite 100  
Mail Code ORA18-1  
Boston, MA 02109-3912

29. Respondents should also send a copy of the Answer, as well as a copy of all other documents that Respondents file in this action, to Jeffrey Kopf, the attorney assigned to represent EPA and who is designated to receive service in this matter, at:



Jeffrey Kopf, Senior Enforcement Counsel  
U.S. Environmental Protection Agency - Region I  
5 Post Office Square - Suite 100  
Mail Code OES04-4  
Boston, MA 02109-3912  
Tel: (617) 918-1796  
Kopf.jeff@epa.gov

30. If Respondents fail to file a timely Answer to this Complaint, they may be found to be in default, which constitutes an admission of all the facts alleged in the Complaint and a waiver of the right to a hearing.

#### **V. CONTINUED COMPLIANCE OBLIGATION**

31. Neither assessment nor payment of a civil penalty pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), shall affect Respondents' continuing obligation to comply with the CWA, the regulations promulgated thereunder, or any other applicable Federal, State or local law.

Date: 04/21/11

Susan Studlien  
Susan Studlien  
Director, Office of Environmental Stewardship  
U.S. Environmental Protection Agency  
Region I

**In the Matter of: Stamford, Connecticut**  
**Docket No. CWA-01-2010-0057**

**CERTIFICATE OF SERVICE**

I certify that the foregoing ADMINISTRATIVE COMPLAINT (Docket No. CWA-01-2010-0057) was sent to the following persons, in the manner specified on the date below:

Original and two copies  
hand delivered:

Regional Hearing Clerk  
U.S. EPA, Region I  
5 Post Office Sq., Suite 1100  
Mail Code: ORA18-1  
Boston, MA 02109-3912

Copy, via Certified Mail,  
Return Receipt Requested,  
and a copy of 40 C.F.R. Part 22

Michael D. Larobina  
Director of Legal Affairs and Corporation  
Counsel  
888 Washington Blvd.  
P.O. Box 10152  
Stamford, CT 06904-5560

Copy, via Certified Mail,  
Return Receipt Requested,  
and a copy of 40 C.F.R. Part 22

Daniel M. McCabe  
McCabe & Petrucci, LLC  
1200 Summer St.  
Stamford, CT 06905

Date: \_\_\_\_\_

4/21/11

  
\_\_\_\_\_  
Jeffrey Kopf, Senior Enforcement Counsel  
Office of Environmental Stewardship (SEL)  
U.S. Environmental Protection Agency  
Region I  
5 Post Office Sq., Suite 100  
Mail Code: OES04-4  
Boston, MA 02109-3912  
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