

ENVIRONMENTAL AGENCY

2016 SEP 27 AM 9:43

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AM 9:43
REGION 7

11201 RENNER BLVD.
LENEXA, KANSAS 66219

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)
)
The City of Columbia, Missouri)
)
Respondent)
)
Proceedings under Section 309(g) of the)
Clean Water Act, 33 U.S.C. § 1319(g))
_____)

Docket No. CWA-07-2016-0044
CONSENT AGREEMENT/
FINAL ORDER

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UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY REGION 7

Jurisdiction

1. This is an administrative action for the assessment of civil penalties instituted pursuant to Section 309(g) of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act ("CWA"), 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 ("Consolidated Rules"), 40 C.F.R. Part 22.

2. Complainant, the United States Environmental Protection Agency, Region 7 ("EPA") and Respondent, the City of Columbia, Missouri, have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

3. This Complaint and Consent Agreement/Final Order serves as notice that the EPA has reason to believe that the Respondent, the City of Columbia, Missouri, has violated Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342, and regulations promulgated thereunder.

Parties

4. The authority to take action under Section 309(g) of the CWA, 33 U.S.C. § 1319(g), is vested in the Administrator of the EPA. The Administrator has delegated this authority to the Regional Administrator, EPA, and Region 7, who in turn has delegated the authority under Section 309(g) to the Director of the Water, Wetlands, and Pesticides Division of EPA, Region 7 (collectively referred to as the "Complainant").

Statutory and Regulatory Framework

6. Section 301(a) of CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants, unless such discharge is in compliance with, *inter alia*, Section 402 of the CWA, 33 U.S.C. § 1342, which provides that pollutants may be discharged only in accordance with the terms of a National Pollutant Discharge Elimination System permit.

7. CWA prohibits the discharge of “pollutants” from a “point source” into a “navigable water” of the United States, as these terms are defined by Section 502 of CWA, 33 U.S.C. § 1362.

8. Section 402(p) of CWA, 33 U.S.C. § 1342(p), sets forth requirements for the issuance of NPDES permits for the discharge of stormwater. Section 402(p) of CWA requires, in part, that a discharge of stormwater associated with an industrial activity must comply with the requirements of an NPDES permit issued pursuant to Sections 301 and 402 of CWA.

9. 40 C.F.R. § 122.26(b)(14) defines a stormwater discharge that is “associated with industrial activity,” as “the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant.” Included in the categories of facilities considered to be engaging in “industrial activity” are facilities under Standard Industrial Classifications 49, which includes electric, gas, and sanitary services. *See* 40 C.F.R. § 122.26(b) (14)(xi).

10. Pursuant to Section 402(p) of CWA, 33 U.S.C. § 1342(p), the EPA promulgated regulations at 40 C.F.R. § 122.26 that set forth the NPDES permit requirements for stormwater discharges.

11. 40 C.F.R. §§ 122.26(a)(1)(ii), 122.26(c) require dischargers of stormwater associated with industrial activity to apply for an individual permit or to seek coverage under a promulgated stormwater general permit.

12. The Missouri Department of Natural Resources (“MDNR”) is the state agency with the authority to administer the federal NPDES program in Missouri pursuant to Section 402 of the CWA. The EPA maintains concurrent enforcement authority with authorized states for violations of the CWA.

General Allegations

13. Respondent is a “person” as defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

14. At all times relevant to this action, Respondent was the owner and operator of a facility, Columbia Landfill and Yard Waste Compost Facility (“Site”), located at 5700 Peabody Road, Columbia, Missouri 65202.

15. Stormwater, snow melt, surface drainage and runoff water leaves Respondent's facility and flows into tributaries of Hinkson Creek. The runoff and drainage from Respondent's facility is "stormwater" as defined by 40 C.F.R. § 122.26(b)(13).

16. Stormwater contains "pollutants" as defined by Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

17. The Site has "storm water discharge associated with industrial activity", specifically discharges associated with "facilities classified as Standard Industrial Classifications ... 49" as defined by 40 C.F.R. § 122.26(b)(14)(xi) and is a "point source" as defined by Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

18. Respondent discharged pollutants into tributaries of Hinkson Creek and into Hinkson Creek, "navigable waters" as defined by CWA Section 502, 33 U.S.C § 1362.

19. Stormwater runoff from Respondent's industrial activity results in the addition of pollutants from a point source to navigable waters, and thus is the "discharge of a pollutant" as defined by CWA Section 502(12), 33 U.S.C. § 1362(12).

20. Respondent's discharge of pollutants associated with an industrial activity, as defined by 40 C.F.R. § 122.26(b)(14)(ii), requires a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

21. MDNR issued the Respondent NPDES Permit No. MO-0112640, which became effective on January 28, 2011, was revised on January 28, 2013, expired on January 27, 2016, and has been administratively extended until a new permit is issued. The permit governs stormwater discharges associated with industrial activity.

22. On or about April 23, 2014, the EPA performed an inspection of the Site under the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a). The purpose of the inspection was to evaluate the management of stormwater at the Site in accordance with the CWA.

Specific Allegations

Effluent Limit Violations

23. The facts stated in Paragraphs 1 through 22 above are herein incorporated.

24. Section 5.1.2 of Respondent's NPDES permit, "Site Description", requires Respondent to meet a monthly average and daily max effluent limits for Total Suspended Solids, Oil and Grease, Biochemical Oxygen Demand, Chemical Oxygen Demand, and Iron.

25. During the EPA inspection referenced in Paragraph 22, the inspector noted Respondent was in frequent exceedance of effluent parameters. Further review of Respondent's sampling documented the following effluent exceedance:

<u>Date</u>	<u>Parameter</u>	<u>Outfall</u>	<u>Monthly Avg./Daily Max (Concentration Unit)</u>	<u>Permit Limit</u>	<u>Monitored Exceedance</u>
December 2011	Total Suspended Solids (TSS)	005	Monthly Avg. (mg/L)	70	92
December 2011	Total Suspended Solids (TSS)	006	Monthly Avg. (mg/L)	50	55
February 2012	BOD, 5-day, 20 deg. C	005	Monthly Avg. (mg/L)	30	34
February 2012	Total Suspended Solids (TSS)	005	Monthly Avg. (mg/L)	50	87
March 2012	Iron, total recoverable	003	Monthly Avg. (ug/L)	819	1500
March 2012	Total Suspended Solids (TSS)	005	Monthly Avg. (mg/L)	50	58
April 2012	BOD, 5-day, 20 deg. C	005	Monthly Avg. (mg/L)	30	33
April 2012	Total Suspended Solids (TSS)	005	Monthly Avg. (mg/L)	50	73
June 2012	Iron, total recoverable	003	Monthly Avg. (ug/L)	819	1400
December 2012	Iron, total recoverable	004	Monthly Avg. (ug/L)	819	1400
January 2013	Oil and grease (soxhlet extr.) tot.	005	Monthly Avg. (mg/L)	10	14
January 2013	Total Suspended Solids (TSS)	005	Monthly Avg. (mg/L)	50	170
January 2013	Total Suspended Solids (TSS)	005	Daily Max. (mg/L)	100	170
March 2013	Total Suspended Solids (TSS)	006	Monthly Avg. (mg/L)	50	82.6
March 2013	BOD, 5-day, 20 deg. C	007	Monthly Avg. (mg/L)	30	60
March 2013	Chemical Oxygen Demand (COD)	007	Monthly Avg. (mg/L)	60	105
March 2013	Total Suspended Solids (TSS)	006	Daily Max. (mg/L)	100	160
March 2013	BOD, 5-day, 20 deg. C	007	Daily Max. (mg/L)	45	120
March 2013	Chemical Oxygen Demand (COD)	007	Daily Max. (mg/L)	90	210
April 2012	Total Suspended Solids (TSS)	005	Monthly Avg. (mg/L)	50	110

April 2012	Total Suspended Solids (TSS)	005	Daily Max. (mg/L)	100	110
May 2013	Total Suspended Solids (TSS)	005	Monthly Avg. (mg/L)	50	62
June 2013	Iron, total recoverable	003	Monthly Avg. (ug/L)	819	8700
June 2013	Total Suspended Solids (TSS)	003	Monthly Avg. (mg/L)	50	260
June 2013	Iron, total recoverable	004	Monthly Avg. (ug/L)	819	2100
June 2013	Total Suspended Solids (TSS)	004	Monthly Avg. (mg/L)	50	93
June 2013	Total Suspended Solids (TSS)	006	Monthly Avg. (mg/L)	50	120
June 2013	Chemical Oxygen Demand (COD)	007	Monthly Avg. (mg/L)	60	64.75
June 2013	Iron, total recoverable	007	Monthly Avg. (ug/L)	819	3600
June 2013	Total Suspended Solids (TSS)	007	Monthly Avg. (mg/L)	50	100
June 2013	Iron, total recoverable	003	Daily Max. (ug/L)	1643	8700
June 2013	Total Suspended Solids (TSS)	003	Daily Max. (mg/L)	80	260
June 2013	Iron, total recoverable	004	Daily Max. (ug/L)	1643	2100
June 2013	Total Suspended Solids (TSS)	004	Daily Max. (mg/L)	80	93
June 2013	Total Suspended Solids (TSS)	006	Daily Max. (mg/L)	100	120
June 2013	Chemical Oxygen Demand (COD)	007	Daily Max. (mg/L)	90	107
June 2013	Iron, total recoverable	007	Daily Max. (ug/L)	1643	3600
June 2013	Total Suspended Solids (TSS)	007	Daily Max. (mg/L)	80	100
November 2013	Total Suspended Solids (TSS)	005	Monthly Avg. (mg/L)	50	53
March 2014	Iron, total recoverable	003	Monthly Avg. (ug/L)	819	1600
June 2014	Iron, total recoverable	003	Monthly Avg. (ug/L)	819	2400

June 2014	Iron, total recoverable	003	Daily Max. (ug/L)	1643	2400
October 2014	Total Suspended Solids (TSS)	005	Monthly Avg. (mg/L)	50	150
October 2014	Total Suspended Solids (TSS)	005	Daily Max. (mg/L)	100	150
December 2014	Iron, total recoverable	002	Monthly Avg. (ug/L)	819	3200
December 2014	Iron, total recoverable	004	Monthly Avg. (ug/L)	819	1800
December 2014	Total Suspended Solids (TSS)	006	Monthly Avg. (mg/L)	50	130
December 2014	Iron, total recoverable	002	Daily Max. (ug/L)	1643	3200
December 2014	Iron, total recoverable	004	Daily Max. (ug/L)	1643	1800
December 2014	Total Suspended Solids (TSS)	006	Daily Max. (mg/L)	100	130
March 2015	Iron, total recoverable	004	Monthly Avg. (ug/L)	819	910
September 2015	Iron, total recoverable	004	Daily Max. (ug/L)	1643	1800
September 2015	Iron, total recoverable	004	Monthly Avg. (ug/L)	819	1800
September 2015	Total Suspended Solids (TSS)	004	Daily Max. (mg/L)	80	81
September 2015	Total Suspended Solids (TSS)	004	Monthly Avg. (mg/L)	50	81
March 2016	Iron, total recoverable	004	Monthly Avg. (ug/L)	819	910

26. Respondent's alleged failure to meet effluent limits is a violation of the NPDES permit, and as such, is a violation of Sections 301(a) and 402(p) of CWA, 33 U.S.C. §§ 1311(a), 1342(p), and implementing regulations.

CONSENT AGREEMENT

27. Respondent and EPA agree to the terms of this Consent Agreement/Final Order.

28. Respondent admits the jurisdictional allegations of this Complaint and Consent Agreement/Final Order and agrees not to contest the EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of this Consent Agreement/Final Order.

29. Respondent neither admits nor denies the factual allegations and legal conclusions asserted by the EPA in this Complaint and Consent Agreement/Final Order.

30. Respondent waives its right to contest any issue of fact or law set forth above, and its right to appeal this Consent Agreement/Final Order. The Parties agree that this waiver does not apply to Respondent's right to defend an action or raise related claims for acts or omissions that are in breach of the terms of this Order.

31. Respondent and Complainant agree to conciliate the matters set forth in this Consent Agreement/Final Order without the necessity of a formal hearing and agree to bear their own costs and attorney's fees incurred as a result of this action.

32. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Consent Agreement/Final Order and to execute and legally bind Respondent to it.

33. Respondent understands and agrees that this Consent Agreement/Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement/Final Order.

34. Respondent certifies by the signing of this Consent Agreement/Final Order that to the best of its knowledge, Respondent is taking measures to achieve compliance, as memorialized in Administrative Order on Consent CWA-07-2016-0043, with the requirements of its NPDES Permit and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342, and applicable regulations.

Penalty Payment

35. Respondent agrees that, in settlement of the claims alleged in this Consent Agreement/Final Order, Respondent shall pay a civil penalty of Fifty-Four Thousand Three Hundred and Ninety-Six Dollars (\$54,396) pursuant to the authority of Section 309(g)(2)(A) of the CWA, 33 U.S.C. § 1319(g)(2)(A), to be paid in full no later than 30 days after the effective date of this Consent Agreement/Final Order as set forth below.

36. The payment of penalties must reference docket number "CWA-07-2016-0044" and be remitted using one of the payment methods specified in Appendix A to this Order.

37. Copies of the checks or verification of another payment method for the penalty payments remitted as directed by above, shall be mailed to:

Kathy Robinson
Regional Hearing Clerk
U.S. Environmental Protection Agency - Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219

and to

Kristen Nazar
Assistant Regional Counsel
U.S. Environmental Protection Agency – Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219

38. Respondent agrees that no portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this Consent Agreement/Final Order shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.

39. Respondent understands that, pursuant to 40 C.F.R. § 13.18, its failure to make any payment according to the above schedule will automatically accelerate the debt which will become due and owing in full, immediately. Interest on any late payment will be assessed at the annual interest rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. The interest will be assessed on any overdue amount from the due date through the date of payment. Failure to pay the civil penalty when due may result in the commencement of a civil action in Federal District Court to collect said penalty, together with costs or interest.

Supplemental Environmental Project

40. Respondent agrees to complete the following Supplemental Environmental Project (“SEP”), which the parties agree is intended to secure significant environmental and/or public health benefits: Respondent shall construct a wetland that would serve as an additional level of containment and treatment for discharges from permitted outfalls, reducing the flow and discharge of potential pollutants of Respondent’s Site into Hinkson Creek, at a cost of no less than Four Hundred Seventy Five Thousand Dollars (\$475,000), in accordance with the Respondent’s SEP Work Plan (attached hereto as Appendix B and incorporated by reference). The wetland project shall be constructed no later than three years from the effective date of this CA/FO.

41. Reporting.

a. Respondent shall submit a SEP Interim Milestone Completion Report to EPA quarterly. This report shall include a description of the work completed that quarter towards completion of the SEP, and its associated costs. These reports are due every April 28, July 28, October 28, and January 28 until the submission of the SEP Completion Report referenced in Paragraph 41(b).

b. Within thirty (30) days of the SEP Completion Date, as identified in Paragraph 40 above, Respondent shall submit a SEP Completion Report to EPA. The SEP Completion Report shall contain the following:

- (i) A detailed description of the SEP as implemented;
- (ii) Itemized costs, documented by copies of records such as purchase orders, receipts or canceled checks; and
- (iii) The following certification signed by Respondent or its authorized representative:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all appendices and that, based on my inquiry of those individuals immediately responsible for obtaining the information, the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

- c. The SEP Interim Milestone and Completion Reports and all other submittals regarding the SEP shall be sent to:

Seth Draper, or his successor
WWPD/WENF
U.S. Environmental Protection Agency
Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

- d. Respondent agrees that failure to submit the SEP Interim Milestone and Completion Reports required by subsections a. and b. above shall be deemed a violation of this Consent Agreement and Order and Respondent shall become liable for stipulated penalties pursuant to Paragraph 44 below.

42. Respondent agrees that EPA may inspect the facility at any time in order to confirm that the SEP is being undertaken in conformity with the representations made herein.

43. Respondent shall ensure the SEP project is maintained, used and/or operated for not less than five years following each project's installation

44. Stipulated Penalties for Failure to Complete SEP/Failure to Spend Agreed-on Amount:

- a. In the event that Respondent fails to comply with any of the terms or provisions of this Agreement relating to the performance of the SEP described in Paragraph 40 above and/or relating to the actual expenditures for the SEP described in Paragraph 40 above and in Appendix B, Respondent shall be liable for stipulated penalties according to the provisions set forth below, after being given notice of and a brief time to cure any such defect:

- (i) Except as provided in subparagraphs (ii) and (iii) immediately below, for a SEP which has not been substantively completed satisfactorily pursuant to this Consent Agreement and Order, Respondent shall pay a stipulated penalty to the United States not to exceed the amount \$187,500; and
 - (ii) Respondent shall not be liable for stipulated penalties if the substantive work associated with the SEP is not completed in accordance with Paragraph 40 and Appendix B, but the Complainant determines that the Respondent: (1) made good faith and timely efforts to complete the project; and (2) certifies, with supporting documentation, that at least 90 percent of the total amount of money which was required to be spent was expended on the SEP;
 - (iii) Respondent shall not be liable for stipulated penalties if the substantive work associated with the SEP is completed in accordance with Paragraph 40 and Appendix B, but the Complainant determines that the Respondent has not expended the total amount of money which was required to be spent on the SEP. Completion of the substantive work associated with the SEP shall consist of the construction of the wetland in accordance with the provisions of Paragraph 40 and Appendix B; and
 - (iv) Respondent may request an extension of the three year SEP deadline, which shall be granted or denied in the sole discretion of EPA. Respondent shall submit a written request to EPA for approval, outlining the proposed extension and its basis.
 - (v) Respondent shall pay a stipulated penalty in the amount of \$100 for each day:
 - (a) it fails to submit a SEP Interim Milestone and Completion Report after the due date specified in Paragraph 41 above, until the report is submitted; and
 - (b) it fails to submit any other report required by Paragraph 40 above, after the report was originally due until the report is submitted.
- b. The determinations of whether the SEP has been satisfactorily completed and whether the Respondent has made a good faith, timely effort to implement the SEP shall be in the sole reasonable discretion of EPA.
- c. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. Interest and late charges shall be paid as stated in Paragraph 48, below. Method of payment shall be in accordance with similar to that of payment of the civil penalty.
45. Respondent certifies that it is not required to perform or develop the SEP by any

federal, state or local law or regulation; nor is Respondent required to perform or develop the SEP by agreement, grant or as injunctive relief in this or any other case or to comply with state or local requirements. Respondent further certifies that Respondent has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.

46. Respondent further certifies that it is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. Respondent further certifies that, to the best of its knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to the EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not yet expired.

47. Any official public statement, oral or written, in print, film or other media, made by Respondent making reference to the SEP shall include language substantially similar to the following language: *This project was undertaken in connection with the settlement of an enforcement action taken by the United States Environmental Protection Agency.*

48. Respondent understands that its failure to timely pay any portion of the civil penalty or any portion of a stipulated penalty may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall accrue thereon at the applicable statutory rate on the unpaid balance until such civil or stipulated penalty and any accrued interest are paid in full. A late payment handling charge of \$15 will be imposed after thirty (30) days and an additional \$15 will be charge for each subsequent thirty (30) day period. Additionally, as provided by 31 U.S.C. § 3717(e)(2), a penalty (late charge) may be assessed on any amount not paid within ninety (90) days of the due date.

49. Respondent consents that neither the civil penalty payment made nor any costs or expenditures incurred by Respondent in performing the SEP pursuant to this Complaint and Consent Agreement/Final Order will be deducted for purposes of federal taxes.

Effect of Settlement and Reservation of Rights

50. Respondent's payment of the entire civil penalty and completion of SEPs pursuant to this Consent Agreement/Final Order resolves all civil and administrative claims pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), for violations alleged in this Complaint and Consent Agreement/Final Order. Complainant reserves the right to take any enforcement action with respect to any other violations of the CWA or any other applicable law.

51. The effect of settlement described above is conditional upon the accuracy of the Respondent's representations to the EPA, as memorialized in Paragraph 34 of this Consent Agreement/Final Order.

52. Nothing contained in this Consent Agreement/Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state and local environmental statutes and regulations and applicable permits.

53. Notwithstanding any other provision of this Consent Agreement/Final Order, the EPA reserves the right to enforce the terms of this Consent Agreement/Final Order by initiating a judicial or administrative action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, and to seek penalties against Respondent or to seek any other remedy allowed by law.

54. With respect to matters not addressed in this Consent Agreement/Final Order, EPA reserves the right to take any enforcement action pursuant to the CWA and its implementing regulations, or any other available legal authority, including without limitation, the right to seek injunctive relief, penalties and damages.

General Provisions

55. The Parties acknowledge that this Consent Agreement/Final Order is subject to the public notice and comment required pursuant to Section 309(g)(4) of the CWA, 33 U.S.C. § 1319(g)(4), and 40 C.F.R. § 22.45.

56. Pursuant to 40 C.F.R. § 22.31(b), this Consent Agreement/Final Order shall be effective after entry by the Regional Judicial Officer and upon filing with the Regional Hearing Clerk U.S. Environmental Protection Agency, 11201 Renner Boulevard, Lenexa, Kansas 66219. All time periods herein shall be calculated therefrom in calendar days unless otherwise provided in this Consent Agreement/Final Order.

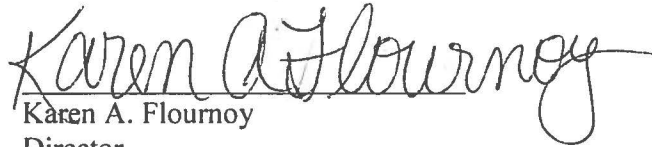
57. The State of Missouri has been provided an opportunity to consult with Complainant regarding this matter in accordance with the requirements of 40 C.F.R. § 22.38(b) and Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1).

58. The headings in this Consent Agreement/Final Order are for convenience of reference only and shall not affect interpretation of this Consent Agreement/Final Order.

59. Respondent and Complainant agree that this Consent Agreement/Final Order may be signed in part and counterpart.

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

Issued this 26th day of September 2016.



Karen A. Flourney
Director
Water, Wetlands and Pesticides Division



Kristen Nazar
Assistant Regional Counsel
Office of Regional Counsel

FOR THE CITY OF COLUMBIA, MISSOURI

By: 

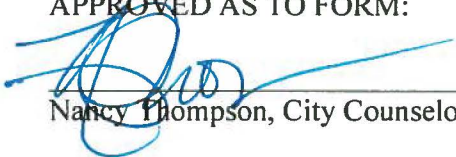
Mike Matthes, City Manager

ATTEST:


Sheela Amin, City Clerk

8-5-16
Date

APPROVED AS TO FORM:


Nancy Thompson, City Counselor

I hereby certify that this Contract is within the purpose of the appropriation to which it is to be charged, that is, account 557-6510-630.59-58 and that there is an unencumbered balance to the credit of such account sufficient to pay therefore.


Michele Nix, Director of Finance *JMN*

In the Matter of the City of Columbia, Missouri

Consent Agreement and Final Order

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FINAL ORDER

Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

The Respondent is ORDERED to comply with all terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

IT IS SO ORDERED.



for Mark Hague

Regional Administrator

Date: 9.27.16

CERTIFICATE OF SERVICE

I certify that on the date below I hand delivered the original and one true copy of this Complaint and Consent Agreement/Final Order to the Regional Hearing Clerk, United States Environmental Protection Agency, 11201 Renner Boulevard, Lenexa, Kansas 66219.

I further certify that on the date below I sent a true and correct copy of the original Complaint and Consent Agreement/Final Order by certified mail, return receipt requested, to:

Aimee Davenport
Attorney, City of Columbia, Missouri
Evans & Dixon, L.L.C.
501 West Cherry Street
Suite 200
Columbia, MO 65201-4210

and by first class mail to:

Paul Dickerson, Environmental Manager
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102

Irene Crawford, Director
Northeast District Office
Missouri Department of Natural Resources
1709 Prospect Drive
Macon, MO 63552-2602

9/27/16
Date

Kathy Robinson
Signature

Appendix A
Penalty Payment Information for Consent Agreement and Final Order

Complete information regarding making payments to the US EPA may be found at:
<http://www.epa.gov/financial/makepayment>

For your convenience, the following is a summary of the acceptable payment methods for the civil penalty required to be paid pursuant to the Consent Agreement and Final Order:

1. Cashier's or Certified Check: If payment is being made by cashier's or certified check, submit the check, including the name and docket number of this case, payable to "Treasurer, United States of America," to:

US Postal Service:

U.S. Environmental Protection Agency
Fines and Penalties
PO Box 979077
St. Louis, MO 63197-9000

Common Carriers (Fedex, DHL, UPS):

U.S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

2. Wire Transfer: If payment is being made by wire transfer, the wire transfer must indicate the name and docket number of this case and be sent directly to the Federal Reserve Bank in New York City with the following information:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read: D 68010727 Environmental
Protection Agency

3. Automated Clearing House (ACH) or Remittance Express (REX): If using ACH or REX, payments must indicate the name and docket number of the case and can be made through the US Treasury using the following information:

US Treasury REX/Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format
Transaction Code 22 – checking
Physical location of US Treasury Facility:
5700 Rivertech Court
Riverdale, MD 20737
US Treasury Contact Information:
John Schmid: 202-874-7026
Remittance Express (REX): 1-866-234-5681

4. On-line Payment: On-Line Payment is available through the Department of Treasury, and can be accessed using the information below:

www.pay.gov

Enter “sfo 1.1” (without quotation marks) in the SEARCH PUBLIC FORMS field.

You should see the following information as your search result:

Form Number: SFO Form Number 1.1

Use this form to pay civil penalties, FOIA request, Superfund, Citations, Compliance Orders, and other miscellaneous payments.

Click the link to open the form, complete the required fields, then click SUBMIT DATA button at the bottom of the form.

Payment Tips

To ensure proper credit please include the following information on your payment:

- Company/remitter's name (as it appears on EPA document)
- Complete address, including city, state, zip
- Remitter's point of contact person and phone number
- EPA document number (case, contract, grant, purchase order, etc.)—NOT the remitter's number
- EPA contact name and phone number, if available
- Reason for payment

Note: It is important to direct payment to the appropriate EPA finance center to ensure your remittance is credited to the proper account. Each finance center has its own unique agency location code, and each U.S. depository has a unique bank routing number.

Appendix B

Supplemental Environmental Project Descriptions



CITY OF COLUMBIA, MISSOURI

UTILITIES DEPARTMENT
SOLID WASTE DIVISION

City of Columbia Sanitary Landfill Proposed Wetland

NPDES Permit No. MO-0112640
MDNR Solid Waste Management Permit #0101908
MDNR Air Pollution Control Program Part 70 Operating Permit #OP2008-051A

The City of Columbia proposes to construct an approximately 4 acre two-cell wetland, down gradient of three permitted NPDES Outfalls (Outfalls 004, 005, and 006), located at the City of Columbia Sanitary Landfill facility. Implementation of the wetland will have no impact on the location of discharge samples nor compliance with the facility's NPDES permit. The proposed wetland will serve as an additional level of containment and polishing treatment for discharges from the above noted regulated Outfalls, greatly reducing the potential for pollution entering the receiving waterway (Hinkson Creek).

The approximate size of the drainage area that will be conveyed to the proposed wetland is 162 acres. Approximately 60 acres will be from sub-drainage areas associated with the permitted landfill footprint and current soil borrow area. Approximately 25 acres will be from sub-drainage areas associated with composting activities. Approximately 35 acres will be from sub-drainage areas associated with facility operations, including but not limited to buildings and fuel and equipment storage. The remainder of the wetland drainage area is comprised of common areas, wooded areas, access roads, sedimentation basins, and drainage ways.

The receiving waterway, Hinkson Creek, is a listed impaired waterway on the 2014 Missouri 303(d) list for e.coli. Hinkson Creek is the focus of a Collaborative Adaptive Management process (CAM) to address impairments due to unknown pollutants. This proposed improvement will support the CAM efforts to improve water quality in the creek.

BENEFITS:

Benefits of the proposed riparian wetland will be removal of sediment and uptake of pollutants from the surface runoff from the treatment facilities of the landfill composting and mulch sites as well as from other surface areas of the landfill property. The wetland will further treat and polish the water from these facilities before discharging to Hinkson Creek.

The proposed wetland will have the capacity to contain the water quality volume for the drainage area, which will provide additional treatment for approximately 90 percent of the average annual stormwater runoff volume. The wetland will promote infiltration of this captured stormwater, reducing runoff volumes in smaller storms and restoring a more natural creek ecosystem. Native plantings in the wetland will provide an ideal habitat for birds, frogs, and other animals.

COSTS:

The current estimate to construct the proposed riparian wetland located at the Landfill is \$475,000.

The proposed location for the Landfill Riparian Wetland is shown in the attached aerial map.

