



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

March 9, 2011

BY HAND

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

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 Administrative Complaint proposing to assess a civil penalty under Section 309(g) of the Clean Water Act.

Also, I have included a copy of the letter to the State of Connecticut providing it notice of this action pursuant to Section 309(g) of the Clean Water Act.

Thank you for your attention to this matter.

Sincerely,

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

Jeffrey Kopf
Senior Enforcement Counsel
EPA Region 1

Enclosure

cc: Mayor Michael Pavia

RECEIVED
MAR 09 2011
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Office of Regional Hearing Clerk



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

MAR 9 - 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Nicole Lugli
Connecticut Department of Environmental Protection
79 Elm St.
Hartford, CT 06106

RE: Issuance of Administrative Complaint to Stamford, Connecticut
Docket No. CWA-01-2010-0057

Dear Ms. Lugli,

The U.S. Environmental Protection Agency Region 1 ("EPA") wishes to notify you of its intention to assess a civil penalty against the City of Stamford, Connecticut for violations of Section 301(a) of the Clean Water Act ("CWA"). This notification provides you with the opportunity to consult with EPA pursuant to Section 309(g) of the CWA regarding this matter before assessment of the penalty.

Details of the alleged violations are in the Administrative Complaint enclosed with this letter. Questions concerning this action may be addressed to Mike Fedak, Senior Enforcement Coordinator, at 617-918-1766. Legal questions may be addressed to Jeffrey Kopf, the attorney assigned to this case, at 617-918-1796.

Sincerely,

Susan Studlien

Susan Studlien, Director
Office of Environmental Stewardship

cc: Mike Fedak, EPA Region 1
Jeffrey Kopf, EPA Region 1

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

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MAR 09 2010
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Office of Regional Hearing Clerk

In the Matter of)	Docket No. CWA 01-2010-0057
)	
STAMFORD, CONNECTICUT)	ADMINISTRATIVE COMPLAINT
One Harbor View Avenue)	To Assess a Civil Penalty Under
Stamford, CT 06902)	Section 309(g) of the Clean Water
)	Act
Respondent.)	

I. STATUTORY AND REGULATORY AUTHORITY

1. This 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 City of Stamford, Connecticut (“City” or “Respondent”) for failing to report to the State of Connecticut, Department of Environmental Protection (“CTDEP”) bypasses from its wastewater collection system on 25 separate occasions in violation of its National Pollutant Discharge Elimination System

("NPDES") permit. Complainant also provides notice of Respondent's opportunity to request a hearing on the proposed penalty assessment.

II. GENERAL ALLEGATIONS

3. The City of Stamford, Connecticut ("Respondent" or "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). The City is the owner and operator 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 sources, as defined in Section 502(14) of the Act, 33 U.S.C. § 1362(14), to Stamford Harbor.

5. 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.

6. 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.

7. 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).

8. On November 5, 2001, the City 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 City 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.

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

10. 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

11. The Complaint incorporates Paragraphs 1-10 above by reference.

12. 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.

13. 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.

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

15. The City's failure to report Bypasses violates Section 8(C) of its NPDES Permit, issued pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b); 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).

16. 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.

COUNT 2

Failure to Submit CMOM Program Implementation Annual Report

17. The Complaint incorporates Paragraphs 1-16 above by reference.

18. 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 31st of each year.

19. 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).

20. 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

21. 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 Respondent 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 Respondent's prior compliance history, the degree of culpability for the cited violations, any economic benefit or savings accruing to the Respondent resulting from the violations, the Respondent's ability to pay the proposed penalty, and such other matters as justice may require.

22. 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.

23. 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

24. Respondent has 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 Respondent's written Answer to this Complaint and filed with the Regional Hearing Clerk at the address listed below within 30 days of receipt of this Complaint.

25. In its Answer, each Respondent may also: (a) dispute any material fact in the Complaint; (b) contend that the proposed penalty is inappropriate; or (c) contend that it is 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 Respondent has any knowledge. If Respondent has no knowledge of a particular factual allegation and so states, 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 Respondent intends to place at issue.

26. 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

27. Respondent 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

28. If Respondent fails to file a timely Answer to this Complaint, it 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

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

Date: 03/9/11

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 one copy
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

The Honorable Mayor Michael Pavia
One Harbor View Avenue
Stamford, CT 06902

Date: 3/9/11


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
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