

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7

901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

IN THE MATTER OF)	
)	Docket No.
The City of Kearney, Nebraska)	
)	CWA-07-2011 -0078
Respondent)	FINDINGS OF VIOLATION
)	AND ORDER FOR COMPLIANCE
Proceedings under Section 309(a)(3))	
of the Clean Water Act,)	
33 U.S.C. 1319(a)(3))	
_____)	

I. Preliminary Statement

1. The Findings of Violations are made and this Order for Compliance (the Finding of Violations and Compliance Order are collectively referred to herein as the "Order") is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA"), by Section 309(a)(3) of the Clean Water Act ("the Act"), 33 U.S.C. § 1319(a)(3), as delegated by the Administrator to the Director of EPA Region 7's Water, Wetlands and Pesticides Division.
2. The Respondent is the City of Kearney, Nebraska ("Respondent").
3. The State of Nebraska is not authorized to administer the Sludge Management Program established pursuant to Section 405(d)(1) of the Act. Therefore, EPA directly implements the Sludge Management Program in Nebraska and is responsible for enforcement of the requirements of the Sludge Management Program.

II. Statutory and Regulatory Framework

4. Section 405(d)(1) of the Act, 33 U.S.C. § 1345(d)(1), provides that the Administrator shall develop and publish regulations providing guidelines for the disposal of sludge and the utilization of sludge for various purposes.
5. Pursuant to Section 405(d)(1) of the Act, 33 U.S.C. § 1345(d)(1), EPA promulgated regulations governing the Standards for the Use or Disposal of Sewage Sludge which are set forth at 40 C.F.R. Part 503 (the "Sludge Management Program"). These regulations establish recordkeeping and reporting requirements, pollutant limits and site management practices applicable to owners or operators of treatment works treating domestic sewage, and standards for

the final use or disposal of sewage sludge generated during the treatment of domestic sewage in treatment works.

III. Factual Background

6. Pursuant to 40 C.F.R. Part 503.18(a), Class I sludge management facilities, Publicly Owned Treatment Works (POTWs) (as defined in 40 C.F.R. § 501.2) with a design flow rate equal to or greater than one million gallons per day, and POTWs that serve a population of 10,000 or more, shall submit the information outlined in 40 C.F.R. § 503.18(a)(1) and (2) to EPA by February 19, annually.
7. Respondent is a "municipality" as defined by Section 502(4) of the Act, 33 U.S.C. § 1362(4), and is therefore a "person," as defined by Section 502(5) of the Act, 33 U.S.C. § 1362(5).
8. Respondent owns and operates The City of Kearney Wastewater Treatment Facility, which is a "treatment works treating domestic sewage," as defined by 40 C.F.R. § 122.2.
9. The City of Kearney Wastewater Treatment Facility is a POTW with a design flow rate equal to or greater than one million gallons per day.

IV. Violation

10. The facts stated in paragraphs 6 through 9 are herein incorporated.
11. As a POTW with a design flow of rate greater than or equal to one million gallons per day, Respondent was required to submit to EPA the information required under 40 C.F.R. 503.18(a)(1) and (2) for the calendar year 2010 by February 19, 2011.
12. To date, Respondent has failed to submit to EPA the information outlined in 40 C.F.R. § 503.18(a)(1) and (2) for sludge handling and disposal activities in calendar year 2010, in violation of 40 C.F.R. § 503.18(a)(1) and (2), promulgated pursuant to Section 405 of the Act, 33 U.S.C. § 1345(d)(1).

V. Order for Compliance

Based on the foregoing FINDINGS OF VIOLATION and pursuant to the authority of Section 309(a)(3) of the Act, 33 U.S.C.1319(a)(3), Respondent is hereby ORDERED AS FOLLOWS:

13. No later than fifteen (15) calendar days following the receipt of this Order, Respondent shall submit a complete annual report for sludge handling and disposal activities in calendar year 2010. The report must include all of the information required by 40 C.F.R. § 503.18(a) and shall be submitted to the EPA contact listed in paragraph 14.

14. All documents required to be submitted by this Order shall be sent to:

Robert Bryant
Water Enforcement Branch (WENF)
Water, Wetlands and Pesticides Division
U.S. Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

IV. General Provisions

15. The provisions of this Order are severable. If any provision of this Order is determined to be unenforceable, the remaining provisions shall remain in full force and effect.

16. This Order does not constitute a waiver or a modification of any requirements of the Clean Water Act, 33 U.S.C. 1251 *et seq.*, all of which remain in full force and effect. The EPA retains the right to seek any and all remedies available under Sections 309 of the Act, 33 U.S.C. 1319, for any violation cited in this Order. Issuance of this Order shall not be deemed an election by EPA to forgo any civil or criminal action to seek penalties, fines, or other appropriate relief under the Act for any violation whatsoever.

17. This Order shall remain in effect until a written notice of termination is issued by an authorized representative of the U.S. Environmental Protection Agency. Such notice shall not be given until all of the requirements of this Order have been met.

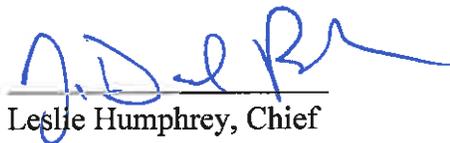
This Order shall become effective upon the date of receipt by Respondent.

Issued this 8th day of July, 2011.



Karen A. Flournoy

Water, Wetlands and Pesticides Division
U.S. Environmental Protection Agency
Region 7
901 North 5th Street
Kansas City, Kansas 66101



Leslie Humphrey, Chief

Water Branch, Office of Regional Counsel
U.S. Environmental Protection Agency
Region 7
901 North 5th Street
Kansas City, Kansas 66101

Certificate of Service

I certify that on the date noted below I hand delivered the original and one true copy of this Findings of Violation and Administrative Order for Compliance to the Regional Hearing Clerk, United States Environmental Protection Agency, 901 North 5th Street, Kansas City, Kansas 66101.

I further certify that on the date noted below I sent by certified mail, return receipt requested, a true and correct copy of the signed original Findings of Violation and Administrative Order for Compliance to:

Mayor Stanley Clouse
The City of Kearney
City Hall, 18 East 22nd Street
Kearney, Nebraska 68847

Steve Goans
Nebraska Department of Environmental Quality
1200 N Street
Suite 400
Lincoln, Nebraska 68509-8922

JUL 12 2011

Date