



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX – PACIFIC SOUTHWEST REGION
75 Hawthorne Street
San Francisco, CA 94105-3901

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NOV 25 2014

Mr. Richard C. Cook
Mayor
City of Santa Paula
113 N. Mills Street
Santa Paula, CA 93060

Subject: Administrative Order on Consent: EPA Docket No. CWA-309(a)-14-006

Dear Mr. Cook:

The purpose of this letter is to transmit to you a final, fully executed copy of the attached Administrative Order on Consent (AOC), EPA Docket No. CWA-309(a)-14-006. As you are aware, on July 25, 2012, EPA audited the City of Santa Paula against the requirements of its National Pollutant Discharge Elimination System (NPDES) Municipal Storm Water Permit No. CAS004002, issued by the Los Angeles Regional Water Quality Control Board (Regional Water Board). EPA determined that the City had not fully developed and implemented an illicit connection and illicit discharge (IC/ID) elimination program as required by the Permit.

Following issuance of a final audit report on July 22, 2013, and consideration of the City's response received on October 11, 2013, EPA and the City initiated negotiations to identify and agree upon the specific actions and timeline for the City to develop and implement an IC/ID elimination program addressing all Permit requirements. With the issuance of this AOC, the City has agreed to take specific actions to comply with the IC/ID requirements of the Permit.

If your staff have questions about the AOC, they should contact Greg Gholson at (415) 947-4209 or via email at gholson.greg@epa.gov. For legal questions, please contact Michael Knapp in our Office of Regional Counsel at (415) 947-4570 or via email at knapp.michael@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen Johnson".

Kathleen Johnson
Director
Enforcement Division

Enclosure: AOC

cc: John C. Cotti, City of Santa Paula
Ivar Ridgeway, LA RWQCB

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY REGION 9**

IN THE MATTER OF:)	EPA Docket No. CWA-309(a)-14-006
)	
City of Santa Paula, California)	ADMINISTRATIVE ORDER ON
)	CONSENT
)	
)	<i>Proceeding under Sections 308(a)</i>
)	<i>and 309(a) of the Clean Water Act,</i>
)	<i>as amended, 33 U.S.C. §§ 1318(a)</i>
Respondent)	<i>& 1319(a)</i>
_____)	

I. INTRODUCTION

1. The United States Environmental Protection Agency, Region IX (“EPA”), and the City of Santa Paula (“Respondent”) voluntarily enter into this Administrative Order on Consent (“Consent Order” or “Order” or “AOC”).
2. EPA has alleged that the Respondent has failed to comply with National Pollutant Discharge Elimination System (“NPDES”) Permit No. CAS004002, Order No. R4-2010-0108 (“the Permit”),¹ issued by the California Regional Water Quality Control Board, Los Angeles Region (“Regional Water Board”), in violation of Section 301(a) of the Clean Water Act (“Act”), 33 U.S.C. § 1311(a).
3. In this Consent Order, Respondent agrees to undertake specified measures to cease the alleged violations and prevent future violations.
4. In accordance with section 309(a)(4) of the CWA, 33 U.S.C. § 1319(a)(4), EPA will provide notice and a copy of the Consent Order to the State of California upon execution.
5. Respondent, in entering into this AOC, does not admit or deny any of EPA’s findings of Fact or Conclusions of Law set forth in Sections V and VI below. By entering into this agreement, Respondent has not admitted guilt or liability or waived any defenses to the allegations made herein.
6. EPA and Respondent acknowledge that this Consent Order has been voluntarily negotiated in good faith, is fair and reasonable, and is in the public interest.

¹ This permit is also known as *Waste Discharge Requirements for Storm Water (Wet Weather) and Non-Storm Water (Dry Weather) Discharges from the Municipal Separate Storm Sewer Systems Within the Ventura County Watershed Protection District, County of Ventura and the Incorporated Cities Therein*. This Administrative Order on Consent addresses only Respondent-City of Santa Paula

II. JURISDICTION

7. EPA issues this Consent Order under the authority vested in the Administrator of EPA by section 309(a) the CWA, 33 U.S.C. § 1319(a). This authority has been delegated to the Regional Administrators of EPA, and redelegated by the Regional Administrator of EPA Region IX to the Director of the Enforcement Division of EPA Region IX (“Director”).
8. The Respondent acknowledges EPA’s jurisdiction to issue this Section 309(a)(3) Consent Order and agrees to undertake and complete all actions required by this Order. In any action taken by EPA or the United States to enforce the terms of this Order, the Respondent agrees not to contest the authority or jurisdiction of the Enforcement Director of EPA Region IX to issue or enforce this Order, and agrees not to contest the validity of any terms or conditions in this Order.

III. PARTIES BOUND

9. This Consent Order shall be binding on Respondent and its officials, officers, directors, partners, agents, employees, successors and assigns, and on all persons, independent contractors, contractors, and consultants acting in concert with Respondent.
10. No transfer of any interest in real property owned, operated or controlled by Respondent shall alter or relieve Respondent of its obligations under this AOC. Respondent shall reserve all rights necessary to comply with this AOC as a condition of the transfer and shall provide a copy of this AOC to the successor in interest at least thirty (30) days prior to the transfer.
11. The undersigned signatory for Respondent certifies that he or she is authorized to execute this Consent Order and legally bind the Respondent.

IV. STATEMENT OF PURPOSE

12. The Parties enter into this Consent Order to comply with the terms of NPDES Permit No. CAS004002. The Respondent agrees to complete the Work required in Section VII below.

V. EPA’S FINDINGS OF FACT

13. Respondent is a City located in Ventura County, in the State of California.
14. Respondent owns, operates, and maintains its municipal separate storm sewer system (“MS4”).
15. The Respondent’s MS4 discharges to the Santa Clara River, which ultimately drains into the Pacific Ocean.
16. Respondent joined with the Ventura County Watershed Protection District,

County of Ventura, cities of Camarillo, Fillmore, Moorpark, Ojai, Oxnard, Port Hueneme, San Buenaventura (Ventura), Simi Valley and Thousand Oaks to form the Ventura Countywide Storm Water Quality Management Program.

17. On July 8, 2010, the Regional Water Board issued the Permit covering storm water and non-storm water discharges from the municipal separate storm sewer system (“MS4”) within the Ventura County Watershed Protection District, County of Ventura and the incorporated cities therein, including Respondent. The Permit expires on July 8, 2015. Prior to the issuance of the Permit, storm water discharges from MS4s in Ventura County, including Respondent’s, were covered under the countywide waste discharge requirements contained in Order No. 09-0057, adopted by the Regional Water Board on May 7, 2009.
18. Discharges of storm water and non-storm water from Respondent’s MS4 are authorized in compliance with the terms of the Permit.
19. Part 4.H of the Permit requires permittees, including Respondent, to implement an Illicit Connection and Illicit Discharges (“IC/IDs”) program to eliminate IC/IDs to the storm drain system, and document, track, and report all such cases in accordance with the elements and performance measures specified in the Permit.
20. On July 25, 2012, representatives from EPA and an EPA contractor, PG Environmental, LLC, (“EPA Inspection Team”) audited Respondent’s compliance with the Permit. The inspection included an evaluation of the Respondent’s compliance with IC/ID elimination portions of the Permit. The audit results, which indicated multiple alleged deficiencies in Respondent’s MS4 Program, are summarized in EPA’s July 22, 2013 report (the “Inspection Report”), attached hereto as **Exhibit 1**.
21. On October 11, 2013, Respondent responded to the Inspection Report in writing to EPA (“Response 1”), attached hereto as **Exhibit 2**, explaining some of the alleged deficiencies noted in the Inspection Report and providing a description of measures it is willing to undertake to comply with the relevant permit requirements and address program deficiencies. On May 7, 2014, Respondent provided additional information to EPA in writing (“Response 2”) which further detailed the City’s activities under the Permit and corrective actions being undertaken, attached hereto as **Exhibit 3**.
22. Based on information available to EPA to date, despite progress made in certain program areas, EPA alleges that Respondent’s MS4 Program remains deficient in meeting permit requirements in the following areas:

Illicit Connections / Illicit Discharges

23. Part 4.H.I.3(a)(2) of the Permit requires the Respondent to “conduct field screening of their storm drain systems in accordance with screening procedures described in the Illicit Discharge Detection and Elimination, A Guidance Manual for Program Development and Technical Assessments (2004) or other equally alternative methods not listed in the manual.” Additionally, the Permit requires the Respondent to conduct field screening of all portions of the system which had not previously been screened

and which had storm drain pipes greater than 36 inches in diameter or greater, storm drain pipes 50 years or older in age, or areas identified as “high priority areas,” no later than May 7, 2012.

24. As set forth more fully in Section 3.1.2 of the Inspection Report and based on statements by the City Senior Engineering Technician, EPA alleges that the Respondent has not conducted any field screening of its storm drain system for the purpose of identifying IC/ID.
25. Part 4.H.I.3(a)(3) requires the Respondent to maintain a list containing all connections under investigation for possible illicit connections and their status. Part 4.H.I.3(b)(3) requires the Respondent to keep records of all illicit connection investigations and the formal enforcement taken to eliminate all illicit connections.
26. As set forth more fully in Section 3.1.2 of the Inspection Report and based on statements by the City Senior Engineering Technician, EPA alleges that the Respondent does not have a mechanism in place to record and report illicit connections.
27. Part 4.H.I.4 requires the Respondent to maintain records of all illicit/illegal discharge discoveries, reports of suspected illicit/illegal discharges, its response to the illicit/illegal discharges and suspected illicit/illegal discharges, and the formal enforcement taken to eliminate all illicit/illegal discharges.
28. As set forth more fully in Section 3.1.3 of the Inspection Report, EPA alleges that the Respondent has not developed procedures for the documentation of all confirmed or suspected IC/IDs.

VI. EPA’S CONCLUSIONS OF LAW AND DETERMINATIONS

29. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants by any person into a water of the United States except as authorized by specific provisions, including Section 402, 33 U.S.C. § 1342. This section establishes the NPDES program, under which EPA, or an EPA-authorized State, such as the State of California, may issue permits to point sources authorizing the discharge of pollutants in accordance with specified limits and conditions.
30. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), requires NPDES permits for certain municipal and industrial storm water discharges. EPA’s implementing regulations at 40 C.F.R. § 122.26 require NPDES permits for, among other things: storm water discharges from an MS4 serving a population meeting certain threshold sizes, 40 C.F.R. §§ 122.26(a)(3), (b)(4), (b)(7) and (b)(8).
31. Respondent City of Santa Paula is a “municipality” and a “person” as defined by Section 502(4) and 502(5) of the CWA, 33 U.S.C. § 1362(4)-(5).
32. Respondent’s MS4 discharges to the Santa Clara River, which is a “navigable water” and “water of the United States” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and the regulations at 40 C.F.R. § 122.2.

33. EPA alleges that the City has failed to comply fully with the above-referenced Permit requirements, and has violated and continues to violate CWA Section 301(a), 33 U.S.C. § 1311(a).

VII. SECTION 309(a)(3) COMPLIANCE ORDER ON CONSENT

Based on the foregoing Findings, Conclusions of Law and Determinations, and pursuant to the authority of CWA Sections 308(a) and 309(a)(3) of the Act, 33 U.S.C. §§ 1318(a), 1319(a), THE PARTIES HEREBY MUTUALLY AGREE:

A. Work To Be Performed

34. Within 90 days of the Effective Date of this Consent Order, Respondent agrees to submit to EPA, for review and approval, a Plan for eliminating illicit connections and illicit discharges to its storm drain system in accordance with the terms of the Permit. EPA shall either approve the plan or provide written comments to Respondent within 60 days of submittal. If EPA does not approve the Plan, the Respondent must submit a revised Plan that addresses all EPA comments within 30 days of receipt of EPA's comments. The Plan shall include, at a minimum, the following:
- a. An updated map, as of September 1, 2014, showing the location, length and diameter of all underground MS4 pipes, all known connections to the MS4, all outfalls, all incidents of illicit connections and/or discharges since January 2009, and all channeled portions of the storm drain system within the City's permitted area.
 - b. An assessment of illicit discharge potential, as detailed in *Illicit Discharge Detection and Elimination: A Guidance Manual for Program Development and Technical Assessments* ("Guidance Manual"), which shall include, at a minimum:
 - i. An accurate delineation of all subwatersheds within the City's permitted area developed through use of hydrologic, infrastructure and topographic mapping data;
 - ii. An inventory of delineated subwatersheds prioritized as to high, medium, or low IC/ID potential based on review of, among other data: all known incidents of IC/IDs in the subwatershed, NPDES permitted facilities, land use or zoning classifications, inspection records, and outfall and surface water monitoring data; and
 - iii. Maps of all high priority subwatersheds to support IC/ID field investigations.
 - c. A method for searching for illicit discharge problems in the field, such as the "Outfall Reconnaissance Inventory" detailed in the Guidance Manual. The selected method shall include, at a minimum:

- i. Field screening of all outfalls within the City at least once between May 1st and September 30th of each year. The City's initial field screening shall include: photographic documentation of each outfall, written documentation of the condition of each outfall and, to the extent feasible, collection of GPS data for all outfalls for use in development of a geospatial tracking system to locate each outfall, store outfall characteristics (i.e. photographs, inspector notes), and track outfall discharge monitoring data.
 - d. Procedures to address required Dry Weather Analytical Monitoring requirements of the Permit, including, at a minimum:
 - i. Re-evaluation of the City's current dry weather (outfall) analytical monitoring stations, both primary and back-up, based on the City's updated assessment of IC/ID potential and the requirements contained within Part C.2 of the Monitoring Program appendix (No CI-7388) to the Permit; and
 - ii. Routine coordination with the Ventura County Watershed Protection District's (i.e. Principal Permittee) Dry Weather Monitoring program to allow for City participation in County led dry weather monitoring events, and receipt, assessment and tracking of all dry weather monitoring data collected within the City's permitted area.
 - e. Procedures to address the City's required source investigations of all reported or suspected IC/IDs, termination of all confirmed illicit connections, abatement of all confirmed illicit discharges, and documentation of the investigations and the formal enforcement actions taken to eliminate IC/IDs.

35. Respondent agrees to fully implement the compliance measures set forth in the Plan it submits to EPA pursuant to paragraph 34.

36. The Parties recognize that it may be necessary to modify some of these compliance measures, or take additional measures, to achieve full compliance with the Permit. The Respondent agrees that if the measures set forth above (including any modifications or additional measures) are implemented, but are not successful in bringing the MS4 into full compliance with the Permit, the Respondent will make any modifications, and/or take any additional measures, necessary to achieve full compliance. Such modifications and/or additional measures, as well as the time-frame for implementation, will be determined in consultation with EPA.

B. Reporting Requirements

37. The Respondent shall submit status reports to EPA's Project Coordinator, due as follows: February 15, 2015; April 15, 2015; June 15, 2015; and September 15, 2015. All reports shall be submitted to USEPA, Region 9, 75 Hawthorne Street (ENF-3-2 Attn: Greg Gholson) San Francisco, CA 94105. Upon notification, EPA may require additional status reports, or fewer status reports, for the purpose of documenting the

progress of the work performed or compliance with the Permit requirements.

38. Each status report shall detail the progress made implementing the IC/ID Plan required by this Consent Order.
39. Nothing in this Section modifies or affects Respondent's obligations to submit reports required by the Permit, or to comply with any other reporting requirements under federal or state law.

C. Qualification for Work

40. All work described in Section VII shall be done by and under the supervision of persons with sufficient education, experience, and expertise for the Work.

VIII. ACCESS TO SITE AND DATA

41. This Consent Order shall in no way limit or affect EPA's authority to obtain information, and to enter, inspect, sample or monitor compliance under any law, permit, court order or agreement. Respondent shall use its best efforts to arrange for access by EPA or its authorized representatives for determining compliance with this Consent Order until its termination. For purposes of this Consent Order, EPA's authorized representatives shall include all EPA employees and contractors, and such other persons as EPA may designate.

IX. DESIGNATED PROJECT COORDINATORS

42. The Parties have designated their respective Project Coordinators as follows:

a. For EPA:	Greg Gholson U.S. Environmental Protection Agency Enforcement Division (ENF 3-2) 75 Hawthorne Street San Francisco, CA 94105 Telephone: (415) 947-4209 Gholson.Greg@epa.gov
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b. For Respondent:	Brian Yanez Public Works Director City of Santa Paula 970 Ventura Street Santa Paula, California 93060 Byanez@spcity.org
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43. The Respondent Project Coordinator shall oversee implementation of this Consent Order.
44. The EPA and Respondent each may change their respective Project-Coordinator by giving the other Parties advance written notice.

X. SUBMISSIONS AND NOTIFICATIONS

45. All information and documents submitted pursuant to this Consent Order shall be signed by a principal executive officer, ranking elected official, or duly authorized representative of Respondent, as specified by 40 C.F.R. § 122.22(b), and shall include the following statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified persons properly gather and evaluate the information submitted. Based on my inquiry of those responsible for managing or gathering the information, the submitted information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

46. Submissions shall be deemed made on the date they are sent electronically, or on the date postmarked if sent by U.S. mail.

XI. RECORD PRESERVATION

47. Until one (1) year after termination of this Consent Order, the Respondent shall preserve and retain all records and documents now in their possession or control, or which come into their possession or control, that relate in any manner to the performance of the tasks in this Order. The Respondent shall also instruct its agents to preserve all documents, records, and information of whatever kind, nature or description relating to the performance of the tasks in this Order.

XII. FAILURE TO COMPLY WITH CONSENT ORDER

48. Failure to comply with the terms of this Section 309(a) Consent Order may result in Respondent's liability for statutory civil penalties under Section 309(d) of the Act, 33 U.S.C. § 1319(d), as modified by 40 C.F.R. Part 19. Should the EPA commence an action seeking penalties for violations of this Compliance Order, a United States District Court may impose civil penalties if, after notice and opportunity for a hearing, the court determines that Respondent has violated the Act and failed to comply with the terms of the Order. The court has the authority to impose separate civil penalties for violation of the Act and for violation of this Order.

XIII. SCOPE OF CONSENT ORDER

49. This Consent Order is not and shall not be construed to be a permit under the CWA, nor shall it in any way relieve or affect Respondent's obligations under the CWA, or any other applicable federal laws, regulations, and permits. Compliance with this Consent Order shall be no defense to any actions commenced pursuant to such applicable laws, regulations, or permits, nor does it constitute a release

50. Issuance of this Consent Order is not an election by EPA to forego any remedies available to it under the law, including without limit any administrative, civil or criminal action to seek penalties, fines, or other appropriate relief under the CWA. EPA reserves all available legal and equitable rights and remedies to enforce any violations cited in this Order, and the right to seek recovery of any costs and attorney fees incurred by EPA in any actions against Respondent for non-compliance with this Consent Order.
51. This Consent Order shall in no way affect the rights of EPA or the United States against any person not a party hereto.

XIV. WAIVER

52. Respondent waives any and all remedies, claims for relief and otherwise available rights or remedies to judicial or administrative review which Respondent may have with respect to the validity of this Consent Order, including, but not limited to, any right of judicial review under the Administrative Procedure Act, 5 U.S.C. §§ 701-708.

XV. MODIFICATIONS OF CONSENT ORDER

53. Modification of this Consent Order shall be in writing and shall take effect only when agreed to in writing by the Parties. Changes to any of the terms or activities described in the Work Plan, or any approved revisions or updates to the Work Plan, are acceptable only if approved by EPA via writing or electronic mail.

XVI. SEVERABILITY

54. The provisions of this Consent Order shall be severable. Should any provision be declared by a court of competent jurisdiction to be unenforceable, the remaining provisions shall remain in full force and effect.

XVII. TERMINATION AND SATISFACTION

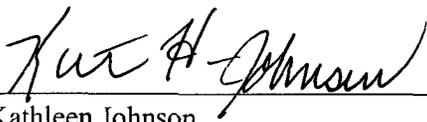
55. Upon compliance with all requirements pursuant to Section VII of this AOC, Respondent may submit to EPA a Request for Termination. Respondent may submit a Request for Termination along with its September 15, 2015, status report and a written certification that it has completed all work required by this Consent Order. Following receipt of Respondent's Request for Termination, if EPA determines that Respondent (1) has prepared and submitted its IC/ID Plan as set forth in Paragraph 34; and (2) the status reports demonstrate that Respondent has fully implemented the compliance measures set forth in the Plan, EPA will issue a notice terminating this AOC.

XVIII. EFFECTIVE DATE

56. This Consent Order shall become effective upon signature by EPA and Respondent.

IT IS SO AGREED AND ORDERED:

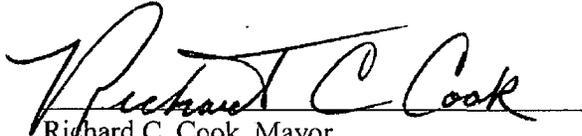
FOR U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 9



Kathleen Johnson
Director
Enforcement Division
U.S. Environmental Protection Agency, Region 9

11-25-2014
Date

FOR CITY OF SANTA PAULA, CALIFORNIA



Richard C. Cook, Mayor
City of Santa Paula

10-29-2014
Date

APPROVED AS TO FORM FOR CITY OF SANTA PAULA, CALIFORNIA:



John Q. Cotti, City Attorney
City of Santa Paula

10/29/2014
Date