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Mark Parkinson, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

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Division of Environment

January 26, 2010

Mr. William Spratlin, Director
Water, Wetlands, and Pesticides Division
USEPA Region 7
901 North 5th Street
Kansas City, Kansas 66101

Re: General Objections to Johnson County Wastewater Treatment Facility Draft Permits
Tomahawk Creek (M-MO27-OO01/KS0055484)
Douglas L. Smith (M-MO28-OO01/KS0119601)

Dear Mr. Spratlin:

The Kansas Department of Health and Environment (KDHE) is in receipt of two letters from the EPA Region 7 dated November 2, 2009 providing general objections to the referenced permits. After review of EPA's objections, and further conversations between EPA and Johnson County Wastewater (JCW), KDHE has determined that we cannot issue the permits with the modifications EPA has required. In particular, the requirement to prohibit wet weather discharges to Kansas City, Missouri (KCMO) via the KCMO Interceptor Line due to sanitary sewer overflows (SSOs) from the KCMO collection system.

Historically, EPA has promoted JCW connection to KCMO. It is our understanding the SSOs have been occurring from the time the interceptor was built with Construction Grant funds until the present. However, only in the recent permit has EPA raised the issue of SSOs in KCMO.

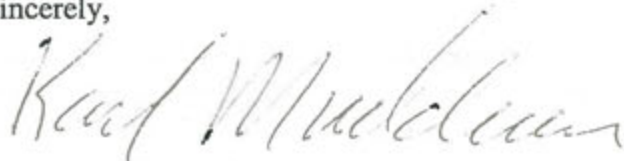
JCW has based its treatment capacity on the understanding that KCMO had sufficient capacity to handle the JCW flows. Therefore, JCW has not built capacity for the flows EPA now requires to be eliminated from the KCMO Interceptor. It will take several years to evaluate and construct additional capacity whether capacity is built by KCMO as part of their overflow control plan, or by JCW in the form of expanded treatment capacity. As discussed among KDHE, JCW, and EPA, Johnson County needs a firm estimate from KCMO on anticipated capital costs and user rates to treat the JCW wastewater on the Missouri side of the state line before Johnson County can decide on the most cost-effective option for its citizens. Until KCMO's proposed solution is approved by EPA via Consent Decree, those costs and rate structures will not be known. Without knowledge of the capital costs and rate increases associated with the Consent Decree, it is impossible for JCW to perform an accurate economic analysis of the options to transport waste to KCMO, or increase capacity to treat the waste themselves.

The other EPA objection relates to discharges from wet weather treatment lagoon systems at each of the JCW facilities. That issue is inextricably tied to the KCMO wet weather flow objection addressed above. The manner in which current KCMO flows originating in Johnson County are ultimately handled will determine how JCW needs and/or chooses to operate the current lagoon systems at their facilities. Again, Johnson County is unable to determine the most cost effective solution for their citizens without knowledge of the cost of wastewater handling procedures and associated costs, yet to be mandated by EPA's Consent Decree with KCMO.

Therefore, based on the discussion above, KDHE chooses to exercise its right pursuant to 40 CFR 123.44(e) to request a hearing on EPA's objections to the Johnson County Wastewater Douglas L. Smith and Tomahawk Wastewater Treatment Facility Permits. We are willing to meet with all parties prior to a hearing to discuss possible paths forward in resolving the permit objections and to continue working toward our collective goal of improved water quality.

If you have questions, please contact Mike Tate at 785-296-5504 or mtate@kdheks.gov.

Sincerely,



Karl W. Mueldener, PE, Director
Bureau of Water

C -- John O'Neill -- JCW
John Metzler -- JCW
Glenn Curtis -- EPA R7
John Mitchell - KDHE
Mike Tate/Ed Dillingham -- KDHE
JCW Douglas Smith Permit File
JCW Tomahawk Permit File