MAY 22 2007

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Jeffery Theerman
Executive Director
Metropolitan St. Louis Sewer District
2350 Market Street
St. Louis, Missouri 63103-2555

Re: Amended Administrative Order No. CWA-07-2007-0042
Metropolitan St. Louis Sewer District (MSD)

Dear Mr. Theerman:

Pursuant to Section 309(a) of the Clean Water Act, (the Act of CWA), 33 U.S.C. § 1319(a), as amended, the Director, Water, Wetlands and Pesticides Division, Region 7, United States Environmental Protection Agency (EPA), has determined that MSD is in violation of Section 301 of the Act, 33 U.S.C. § 1311. As a result, I have issued the enclosed 309(a) Amended Order.

This Amended Order does not replace, modify or eliminate any other requirement of the Act. Notwithstanding the issuance of this Section 309(a) Amended Order, the EPA retains the right to bring further enforcement action under Section 309(d) or 309(g) of the Act, 33 U.S.C. §§ 1319(d) or 1319(g), for the violations cited in this Amended Order and for any other violation of the Act. Violations of the Act, including requirements contained in a National Pollutant Discharge Elimination System (NPDES) permit or a Section 309(a) Order, remain subject to a civil penalty of up to $27,500 per day for each violation pursuant to Sections 309(d) or 309(g) of the Act, 33 U.S.C. §§ 1319(d) or 1319(g) of the Act. Such violations of the Act may also be subject to criminal action.

Should you have any questions concerning the enclosed Amended Order, please contact Ms. Martha Steincamp at 913-551-7246 or address written comments to the address on the
letterhead. The engineer assigned to manage compliance with this Amended Order is Anthony Petruska who may be reached at 913-551-7637.

Sincerely,

William A. Spratlin
Director
Water, Wetlands & Pesticides Division

Enclosure

cc: Randy Hayman, Esq. General Counsel
    Susan Myers, Esq.
    Terry Satterlee, Esq.
    Doyle Childers, Executive Director, MDNR
    Kurt Schaefer, General Counsel
    Joe Bindbeutel, Assistant Attorney General
    Kathryn MacDonald, DOS
WARNING
DO NOT PLAY, SWIM, OR FISH

Possible Sewage Overflow
Exposure to Water May Cause Illness
PLEASE REPORT FOUL ODORS, UNUSUAL DISCOLORATION, OR FLOW FROM OUTFALL DURING DRY WEATHER.

St. Louis Metropolitan Sewer District
(314) 768-6260

Sign #

For detailed information visit: www.stlmsd.com
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

IN THE MATTER OF:

Metropolitan St. Louis Sewer District
Respondent

Proceedings under Section 309(a)(3)
of the Clean Water Act,
33 U.S.C. § 1319(a)(3)

AMENDED FINDINGS OF VIOLATION
AND ORDER FOR COMPLIANCE

Docket No. CWA-07-2007-0042

1. Preliminary Statement

1. These AMENDED FINDINGS OF VIOLATION are made and ORDER FOR COMPLIANCE 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 ("CWA" or the "Act"), 33 U.S.C. § 1319(a)(3), as delegated by the Administrator to the Regional Administrator, EPA, Region VII, and further delegated to the Director, Water, Wetlands and Pesticides Division, EPA, Region VII. On April 30, 2007, FINDINGS OF VIOLATION and ORDER FOR COMPLIANCE was issued to the Metropolitan St. Louis Sewer District ("MSD"). Based on additional information presented by MSD, EPA is issuing this Amended Order.

2. MSD serves a population of approximately 1.4 million and the MSD service area includes 90% of the City of St. Louis and St. Louis County. As of January 1, 2000, MSD serviced 428,000 accounts: 354,000 single family residence; 48,000 multi-family (apartments, condos) and 26,000 commercial/industrial. MSD currently operates nine treatment facilities and, treats an average of 320 million gallons of sewage per day. Additionally, MSD is responsible for operating and maintaining approximately 8,900 miles of sewers, including 2,617 miles of stormwater sewers, 4,495 miles of sanitary sewers and 1,847 miles of combined sewers.

3. MSD owns and operates Publicly Owned Treatment Works ("POTWs") that include nine wastewater treatment plants and associated collection systems that serve the citizens of St. Louis, Missouri, and several surrounding counties and municipalities. Seven of the wastewater treatment plants owned and operated by MSD are generally located within the separate sanitary sewer system and discharge pollutants into the Mississippi River, Meramec River, and, Missouri River and their tributaries. These separate sanitary sewer system wastewater treatment plants are the Coldwater Creek.
Wastewater Treatment Facility, Fenton Wastewater Treatment Facility, Lower Meramec Wastewater Treatment Facility, Missouri River Wastewater Treatment Facility, Baumgartner Lagoon, Grand Glaize Wastewater Treatment Plant, and the New Lower Meramec Wastewater Treatment facility. MSD also owns and operates two wastewater treatment plants generally located within the combined sewer system area; Bissell Point Wastewater Treatment Plant and the Lemay Wastewater Treatment Plant. These treatment plants discharge pollutants into the Mississippi River and its tributaries.

4. The Missouri Department of Natural Resources ("MDNR") is the agency within the State of Missouri that has been authorized to administer the federal National Pollutant Discharge Elimination System ("NPDES") pursuant to Section 402 of the CWA and its implementing regulations. The EPA maintains concurrent enforcement authority with authorized state NPDES programs for violations of the CWA and NPDES permits.

II. Jurisdiction and Findings of Violation

The EPA finds:

5. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants except in compliance with permits issued under the authority of Section 402 of the CWA, 33 U.S.C. § 1342. Section 402 of the CWA provides that pollutants may be discharged only in accordance with the terms of a NPDES permit issued pursuant to that Section.

6. MSD is a "person" within the meaning of Section 502(5) the CWA, 33 U.S.C. § 1362(5).

7. Pursuant to § 402 of the CWA, 33 U.S.C. § 1342, MDNR has issued NPDES Permits to MSD that are listed in Table 1:

<table>
<thead>
<tr>
<th>Permit No.</th>
<th>Issued</th>
<th>Expiration Date</th>
<th>Facility Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>MO0025160</td>
<td>12/30/2005</td>
<td>12/29/2010</td>
<td>Coldwater Creek WTP</td>
</tr>
<tr>
<td>MO0010362</td>
<td>1/26/2007</td>
<td>1/25/2012</td>
<td>Grand Glaize WWTP</td>
</tr>
<tr>
<td>MO0127949</td>
<td>2/28/2007</td>
<td>2/27/2012</td>
<td>New Lower Meramec WTP</td>
</tr>
</tbody>
</table>
8. Within the separate sanitary sewer system, MSD has more than 300 constructed sanitary sewer overflows ("SSOs") which are not authorized by NPDES permits. Attachment A

9. Discharges from these constructed SSOs, when activated, are not reported to either MDNR or the EPA.

10. Discharges from these constructed SSOs contain untreated sewage which discharges to urban streams, including Coldwater Creek, Deer Creek, River Des Peres, Creve Coeur Creek, Grand Glaize Creek, Fee Fee Creek, Maline Creek, Watkins Creek, Matigney Creek, Mattese Creek, Gravois Creek, and Mackenzie Creek.

11. Since 1999, MSD has installed flow meters at several of the constructed SSOs. MSD operated these meters for periods ranging from five to nine months at each SSO, metering approximately eight constructed SSO locations per year. Table 2 below lists the number of constructed SSOs by receiving stream and the number of metered sites per discrete receiving stream.

<table>
<thead>
<tr>
<th>Receiving Stream</th>
<th>Existing</th>
<th>Metered</th>
<th>Receiving Stream</th>
<th>Existing</th>
<th>Metered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maline Creek</td>
<td>37</td>
<td>12</td>
<td>Hampton Creek</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Coldwater Creek</td>
<td>36</td>
<td>4</td>
<td>Meramec Bottom</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>River Des Peres</td>
<td>35</td>
<td>1</td>
<td>Meramec River</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Deer Creek</td>
<td>32</td>
<td>6</td>
<td>Musiek Creek</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Gravois Creek</td>
<td>30</td>
<td></td>
<td>Sappington Creek</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Fee Fee Creek</td>
<td>17</td>
<td>8</td>
<td>St. George Creek</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Black Creek</td>
<td>14</td>
<td></td>
<td>Sugar Creek</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Creve Coeur Creek</td>
<td>14</td>
<td>2</td>
<td>Baden Creek</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Two Mile Creek</td>
<td>14</td>
<td>1</td>
<td>Benbush Creek</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Mattese Creek</td>
<td>9</td>
<td></td>
<td>Fenton Creek</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Mississippi River</td>
<td>9</td>
<td></td>
<td>Gingras Creek</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Fishpot Creek</td>
<td>8</td>
<td></td>
<td>Mackenzie Creek</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Grand Glaize Creek</td>
<td>6</td>
<td>1</td>
<td>Mehlville Creek</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Watkins</td>
<td>6</td>
<td>1</td>
<td>Missouri</td>
<td>1</td>
<td></td>
</tr>
</tbody>
</table>
12. MSD indicates inspections are conducted weekly at all existing constructed SSOs; however, MSD indicates they do not track any discharge data collected during these routine cleaning inspections. MSD does not have a program in place to identify the activation of each constructed SSO location nor report occurrences to MDNR or EPA. However, MSD has conducted overflow monitoring for 40 some constructed SSOs and provided that data to EPA during the February 2006 site visit. Analysis of the MSD flow metering data for these 40 metered, constructed SSOs indicates that nearly 21 million gallons of sewage was discharged during the period of review. While direct evidence does not exist, an extrapolation of the data from the 40 metered sites to all 300 plus sites shows that annually, upwards of an estimated 226 million gallons of untreated sewage are being discharged into receiving waters from an estimated 2,772 discharge events.

13. The majority of more than 300 constructed SSOs are located in residential neighborhoods, public parks and other publicly accessible locations, there are no warning signs to alert the public to avoid these areas and not play, wade, swim or fish in waters contaminated with untreated sewage.

14. These SSOs, when activated, contain untreated sewage that carries bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms) and boroughs (inhaled molds and fungi). People exposed to these microbial pathogens are at risk for a variety of associated diseases such as gastroenteritis, hepatitis, salmonellosis, shigellosis, infection caused by E. coli, giardiasis, amoebic dysentery, skin rashes, “pink eye”, etc. People can be exposed through direct contact in areas of public access, such as lawns, streets, waters used for recreation, or in homes or businesses. MSD’s separate sanitary sewage collection system includes 300 plus constructed outfalls that when operating constitute illegal discharges directly to urban streams. Due to their inclination to play in or around creeks, children are especially at risk for illnesses associated with untreated sewage due to increased exposure. Children are more likely to ingest contaminated water (accidentally and on purpose). In general, children are more susceptible to disease, including those caused by untreated sewage.

15. Part C of MSD’s NPDES Permits, Special Conditions, requires:

2. All outfalls must be clearly marked in the field
16. Part 1 – General Conditions, Section B Management Requirements requires:

5. **Bypassing**
   a. Any bypass or shut down of a wastewater treatment facility and tributary sewer system or any part of such a facility and sewer system that results in a violation of permit limits or conditions is prohibited except:
      (i) where unavoidable to prevent loss of life, personal injury, or severe property damages; and
      (ii) where unavoidable excessive storm drainage or runoff would catastrophically damage any facilities or processes necessary for compliance with the effluent limitations and conditions of this permit;
      (iii) where maintenance is necessary to ensure efficient operation and alternative measures have been taken to maintain effluent quality during the period of maintenance.
   b. The permittee shall notify MDNR in writing of all bypasses or shut down that result in a violation of permit limits or conditions. This section does not excuse any person from liability, unless such relief is otherwise provided by the statute.

17. Discharges from constructed SSOs as described in the above paragraphs are not permitted in compliance with § 301(a) and § 402 of the CWA, 33 U.S.C. § 1311(a) and § 1342.

18. Constructed SSOs in MSD’s service area are not clearly marked in the field.

19. Failures to clearly mark all outfalls are violations of § 301 and § 402 of the CWA, 33 U.S.C. § 1311(a) and § 1342.

20. Failures to report bypasses from constructed SSOs are violations of § 301(a) and § 402 of the CWA, U.S.C. § 1311(a) and § 1342.


### III. Amended Order for Compliance

22. MSD shall provide notice to Martha R. Steincamp of MSD’s intent to comply with this Amended Order within 24 hours of receipt.

23. MSD shall post signs as depicted in **Attachment B** to this Amended Order. A schedule for installing these signs follows in Paragraph 24. The sign must be posted on all streams, creeks, drainage ditches, and swales receiving SSO discharges. Postings must be at all surface discharge locations and within one hundred (100) feet downstream of all discharge locations. Signs must be posted at approximately one hundred (100) yard
intervals at public access points located within two miles downstream from the discharge.
Signs must be placed on both sides of the stream and must be placed so as to be visible to
the public. Any parks, golf courses or other recreation areas within the posting area must
have signs prominently displayed. Inspections of all sign locations must be performed at
least monthly to ensure that each sign is in place, unobstructed, and in good condition.
Missing, damaged or obstructed signs must be replaced or corrected as soon as
discovered. All missing, damaged and obstructed signs must be corrected within twenty-
four hours of discovery. The signs must be a minimum of 18” by 24”. A copy of the
sign must be included annually (near the beginning of the recreation season) in customer
billing inserts with an explanation of why the signs have been installed.

24. The sign depicted in Attachment B shall be obtained by MSD and deployed as outlined in
Paragraph 23 at all surface discharge locations, within five (5) weeks from the date of
signing of this Amended Order. Signs for the remaining locations outlined in paragraph
23, shall be deployed as expeditiously as possible, but no later than August 31, 2007.

The notice to customers required in Paragraph 23, shall be forwarded by MSD to all its
customers by July 18, 2007.

Additionally, MSD shall post a notice on their website within thirty (30) days of the
signing of this Amended Order, advising that EPA has ordered MSD to deploy these
signs. The sign shall be displayed with this notice. This notice shall include a
description of where each sign will be installed in relation to the constructed SSO; why
the sign is being installed and the phone number anyone observing a discharge can call to
report it.

25. MSD shall provide notice of all known discharges from constructed SSOs to EPA and
MDNR as required by Part I- General Conditions B Management Requirements on a
quarterly basis, beginning in August 2007, using the form in Appendix C of MSD’s
March 15, 2007 submission.

26. This Amended Order is an interim measure to address a serious problem.

27. This Amended Order does not constitute a waiver or a modification of any requirements
of the CWA, 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 Section 309(b), (c), (d)
or (g) of the Act, 33 U.S.C. § 1319(b), (c), (d) or (g), for any violation cited in this
Amended Order. Issuance of this Amended 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.

IV. General Provisions

28. MSD’s compliance with this Amended Order does not constitute compliance with the
provisions of the CWA, 33 U.S.C. § 1251 et seq., or with MSD’s NPDES permits.
MSD shall remain solely responsible for compliance with the terms of the Clean Water
Act and this Amended Order. Issuance of this Amended Order shall not be deemed an 
election by EPA to forego any civil or criminal action to seek penalties, fines or other 
appropriate relief under the Act, including criminal punishment as provided in Section 

V. Access and Requests for Information

29. Nothing in this Amended Order shall limit EPA’s right to obtain access to, and/or to 
inspect Respondent’s facilities, and/or to request additional information from 
Respondent, pursuant to the authority of Section 308 of the CWA, 33 U.S.C. § 1318 
and/or any other authority.

VI. Severability

30. If any provision or authority of this Amended Order, or the application of this Amended 
Order to Respondent, is held by federal judicial authority to be invalid, the application to 
Respondent of the remainder of this Amended Order shall remain in full force and effect 
and shall not be affected by such a holding.

VII. Effective Date

31. The terms of this Amended Order shall be effective and enforceable against Respondent 
upon its receipt of an executed copy of the Amended Order.

VIII. Termination

32. This Amended 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 Amended Order have been 
met.
FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Issued this 22 day of May, 2007.

[Signature]
William A. Spratlin
Director
Water, Wetlands and Pesticides Division

[Signature]
Martha R. Steincamp
Regional Counsel
CERTIFICATE OF SERVICE

I certify that on the date noted below I sent a copy of the foregoing Amended Findings of Violation and Order for Compliance by first class certified mail, return receipt requested to:

Jeffery Thierman  
Executive Director  
Metropolitan St. Louis Sewer District  
2350 Market Street  
St. Louis, Missouri 63103-2555

Randy Hayman, Esq.  
General Counsel  
Metropolitan St. Louis Sewer District  
2350 Market Street  
St. Louis, Missouri 63103-2555

Susan Myers, Esq.  
Metropolitan St. Louis Sewer District  
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St. Louis, Missouri 63103-2555

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Kevin Mohammadi  
Chief, Water Pollution Compliance and Enforcement Section  
Missouri Department of Natural Resources  
P.O. Box 176  
Jefferson City, Missouri 65102

5/12/07  [Signature]