



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

DEC 22 2010

Mr. Karl Mueldener, Director
Bureau of Water
Kansas Department of Health and Environment
1000 SW Jackson Street, Suite 420
Topeka, KS 66612-1367

**Re: Interim Objection for Municipal Waste Water Treatment Plant No. 1 (Kaw Point)
Draft Permit**

Dear Mr. Mueldener:

On November 22, 2010, the Environmental Protection Agency (EPA), Region 7, received a draft National Pollutant Discharge Elimination System (NPDES) permit for the Kaw Point wastewater treatment facility (Permit Number KS0038563). This permit was public noticed by the Kansas Department of Health and Environment (KDHE) on November 25, 2010. 40 CFR § 123.44(i) and the Memorandum of Agreement (MOA) between EPA and KDHE allows EPA to provide comments or objections to draft permits during the thirty (30) day public comment period, which concludes on December 25, 2010. Although KDHE and EPA have been engaged in ongoing discussions on this permit, additional issues remain unresolved and EPA requires additional information to conclude its review of the draft permit.

Interim Objection

In order to better understand KDHE's basis for the proposed terms of this draft permit, EPA is requesting the information specified below. Please understand that this request constitutes an interim objection according to 40 CFR § 123.44(d), and that once EPA requests information on a draft permit, the period for EPA's review and additional comment on the draft permit is not recommenced until after EPA receives the requested information.

1. Please provide copies of all documentation that would constitute KDHE's administrative record of a "no feasible alternatives analysis" for monitoring location 001C1 which satisfies the requirements of 40 CFR § 122.41(m)(4).
2. If KDHE does not have a "no feasible alternatives analysis," please provide a narrative explanation and schedule of KDHE's plans to evaluate available information to determine whether the Biological Units Diversion Line monitored at location 001C1 may be approved/authorized by KDHE as an anticipated bypass, per the requirements of 40 CFR § 122.41(m); and

3. The draft permit does not specify an average weekly limit for bacteria (E coli). This is in conflict with the requirements of 40 CFR § 122.45(d), which states:

Continuous discharges. For continuous discharges all permit effluent limitations, standards, and prohibitions, including those necessary to achieve water quality standards, shall unless impracticable be stated as:

(1) Maximum daily and average monthly discharge limitations for all dischargers other than publicly owned treatment works; and

(2) Average weekly and average monthly discharge limitations for POTWs.

Please provide an explanation of whether KDHE has determined it "impracticable" to establish average weekly limits as required by 40 CFR § 122.45(d), and if so, provide a copy of the documentation of the basis for this determination.

4. Please provide an explanation of the basis for KDHE's determination that the draft permit's proposed monitoring frequency for bacteria is adequate in order to obtain "representative" samples of the levels of bacteria in the POTW's effluent, in order to determine compliance with the permit's proposed monthly limit for bacteria, as well as any average weekly limit for bacteria.

Pursuant to 40 CFR § 123.29, the Kaw Point wastewater treatment facility permit may not be issued by KDHE until the information requested by this letter has been provided to EPA and the additional opportunity for review provided by the MOA and 40 CFR § 123.44(d) has been completed. If you have questions, please contact Glenn Curtis, Chief, Wastewater and Infrastructure Management Branch, at 913-551-7726.

Sincerely,



William A. Spratlin
Director
Water, Wetlands and Pesticides Division

cc: Mike Tate, KDHE
M. Reza Kamyab, Plant Manager, Water Pollution Control