

**STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY
WATER RESOURCES DIVISION**

In the matter of:

ACO-05511

Date Entered: _____

City of Lathrup Village
27400 Southfield Road
Lathrup Village, Michigan 48076

Final Order of Abatement No. 2103
AFO-2103A
ACO-SW05-007

_____/

THIRD AMENDED ADMINISTRATIVE CONSENT ORDER

The City of Lathrup Village (City) owns and operates a separate sanitary sewer system that discharges its sanitary wastewater to the Evergreen-Farmington Sewage Disposal System (EFSDS), which is tributary to the Great Lakes Water Authority (GLWA) and Wastewater Resource Recovery Facility (WRRF). In response to the revised Administrative Consent Order (Consent Order), number ACO-04995, with the County of Oakland, on August 14, 2019, the City requested an amendment to the Second Amended Consent Order, number ACO-SW05-007, entered on February 7, 2005, between the City and the Department of Environment, Great Lakes, and Energy (EGLE), Water Resources Division (WRD). ACO-SW05-007, all prior amendments, and all subsequent extension approvals regarding the City's sanitary sewer system, upon the consent of the parties, and by the authority granted to EGLE by the Natural Resources and Environmental Protection Act, MCL 324.101 *et seq.*, are hereby amended by this Third Amended Consent Order as follows:

I. STIPULATIONS

The City and EGLE stipulate as follows:

- 1.1 Executive Order 2019-06, signed by Governor Gretchen Whitmer on February 20, 2019, renamed the Department of Environmental Quality (DEQ) as EGLE effective April 22, 2019. This Consent Order uses EGLE to refer to DEQ prior to April 22, 2019.
- 1.2 The City negotiated a Town Outlet Capacity (TOC) with the Oakland County Office of the Water Resources Commissioner (County). The TOC is the maximum amount of sanitary

wastewater that the City can discharge to the EFSDS and is 3.35 cubic feet per second. The TOC was first referenced in Final Order of Abatement Number 2103 that was signed in 1988 by the City, the Michigan Water Resources Commission, and the Michigan Department of Natural Resources.

- 1.3 The City and the County anticipate replacing the TOC in a future contract between them. If a new contract is entered to replace the TOC, the City shall submit a copy of the new contract to EGLE. Upon written notification by EGLE to the City, the new sewage flow capacity in the new contract shall be incorporated into this Consent Order by reference, shall replace the TOC in this Consent Order, and shall be referred to as the "Flow Capacity Agreement" in this Consent Order.
- 1.4 The intent of this Third Amended Consent Order is to provide the framework for the City to comply with the Flow Capacity Agreement and to design and maintain its sanitary sewer system to prevent sanitary sewage overflows (SSOs) resulting from conditions less than the remedial design standard as defined in EGLE's 2002 SSO Policy and EGLE's SSO Clarification Statement dated October 23, 2003, which are both described in Paragraph 3.4, below.

III. COMPLIANCE PROGRAM

Paragraphs 3.1 through 3.5 of ACO-SW05-007 and any prior amended Consent Orders are hereby replaced with the following paragraphs:

- 3.1 The City completed an evaluation of the feasibility of sanitary sewer projects to remove excess wastewater flow from its sanitary sewer system and submitted a short-term corrective action plan to EGLE, which was approved on March 10, 2005. The short-term corrective action plan included a detailed description of projects and a schedule for each project to: (a) submit the basis of design; (b) submit complete plans and specifications; (c) start construction; and (d) complete construction. The City implemented the approved short-term corrective action plan.
- 3.2 As part of the approved short-term corrective action plan, the City collected and evaluated flow monitoring data for a period of 12 consecutive months. Based on its

evaluation of the flow monitoring data, the City determined it cannot meet the TOC and has contributed to downstream SSOs due to capacity issues during events less than the remedial design standard defined in Paragraph 3.4, below. EGLE and the City have therefore determined that additional corrective actions for the City's sanitary sewer system are needed.

- 3.3. The City submitted an approvable **long-term corrective action plan** to EGLE for review and approval on **April 7, 2020**, to meet the TOC and the Flow Capacity Agreement (if the City and County sign a contract to replace the TOC) and meet all applicable state and federal law regulating SSOs using as guidance the remedial design standard defined in Paragraph 3.4, below.
- 3.4. The remedial design standard as defined in EGLE's SSO Policy Guidance dated December 27, 2002, is a 25-year, 24-hour storm using growth conditions and normal soil moisture. This remedial design standard will remain the goal of all projects described in this Third Amended Consent Order. A ten-year, one-hour storm under dormant and growth conditions will be considered a comparable alternative remedial design standard, as defined in EGLE's SSO Clarification Statement dated October 23, 2003. All SSO events that result from events that exceed this "comparable alternative remedial design standard" will be considered by EGLE for enforcement discretion. To document the appropriateness of the use of the "comparable alternative remedial design standard," the County submitted a complete report on February 26, 2007. The report contained hydrologic and hydraulic modeling analyses comparing the response of the EFSDS (at the EFSDS outlet and using representative system locations agreed upon by EGLE and the City) to both the remedial design standard and the comparable alternative remedial design standard.
- 3.5. On or before **September 1, 2022**, the City shall submit to EGLE for review and approval, a work plan with implementation schedule for conducting a year-long Project Performance Certification Program (PPC Program) to certify that the **long-term corrective action plan** meets the either the TOC or the Flow Capacity Agreement (if the City and County sign a contract to replace the TOC) and all applicable state and federal laws regulating SSOs using as guidance the remedial design standard defined in

Paragraph 3.4. The City shall commence and complete the PPC Program work plan in accordance with the EGLE-approved implementation schedule.

- 3.6 The approved **long-term corrective action plan** and the schedules therein shall be incorporated into this Third Amended Consent Order by reference and are enforceable hereunder. The City shall complete all EGLE-approved actions in the **long-term corrective action plan** by no later than **March 1, 2023**.
- 3.7 On or before **March 31, 2024**, the City shall submit to EGLE for review and approval the PPC Program report. If the City does not certify that the **long-term corrective action plan** meets the TOC or the Flow Capacity Agreement and all applicable state and federal laws regulating SSOs using as guidance the remedial design standard defined in Paragraph 3.4 of this Consent Order, then the City shall submit an approvable Corrective Action Program work plan to EGLE on or before **July 31, 2024**.
- 3.8 Progress reports shall be submitted to EGLE beginning upon the entry date of this Third Amended Consent Order on an annual basis and shall be due on or before January 15 of each calendar year. The submittal of progress reports shall cease upon termination of this order.
- 3.9 The City shall submit all reports, work plans, specifications, schedules, or any other writing required by this Section to the WRD, Warren District Office Supervisor, at EGLE, 27700 Donald Court, Warren, Michigan 48092-2793. The cover letter with each submittal shall identify the specific paragraph and requirement of this Third Amended Consent Order that the submittal is intended to satisfy.

XII. GENERAL PROVISIONS

All other terms and conditions of ACO-SW05-007 and any previous or subsequent amendments or extensions shall remain in full force and effect and are not altered by this Third Amended Consent Order, except as specifically prescribed in this document. The effective date of this Third Amended Consent Order shall be the date upon which the Director of the WRD signs this document.

Signatories

The undersigned CERTIFY they are fully authorized by the party they represent to enter into this Amended Consent Order to comply by consent and to EXECUTE and LEGALLY BIND that party to it.

DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY

Teresa Seidel, Director
Water Resources Division

Date

CITY OF LATHRUP VILLAGE



By: Sheryl L. Mitchell, City Administrator



Date

APPROVED AS TO FORM:

By: Neil D. Gordon, Assistant Attorney General
For: Robert Reichel, Chief
Environment, Natural Resources, and Agriculture Division
Michigan Department of Attorney General

Date