

***Enforcement Response Plan for
Domestic Sewer and MS4 Users***

***Adopted by the Henderson Water and Sewer Commission Board
15 August 2016***

**Enforcement Response Plan
For Sewer Use and MS4
Henderson Water & Sewer Commission
Henderson, Kentucky**

Table of Contents

<u>Section</u>	<u>Page</u>
I. Introduction	2
II. Personnel	3
III. Violation Identification	4
On-Site Inspections	4
Flow Monitoring	4
Demand Monitoring	4
IV. Sewer Use Ordinance	5
V. Violation Categorization	5
VI. Compliance Tracking	8
VII. Enforcement Response	9
Notice of Violation (NOV)	9
Administrative Fines	10
Administrative Order	10
Civil Litigation	13
Criminal Prosecution	13
Termination of Service	14
VIII. Abbreviations	15
Exhibit 1 - Outline for the Civil Litigation Process	16
Exhibit 2 - Outline for Criminal Prosecution	17
Appendix A	
Enforcement Response Guide (MS4 and Private Sewer Users)	19
Timeframe for Enforcement Responses	24
Appendix B	
Model NOV	26
Model Cease and Desist Order	28
Model Consent Order	30
Model Show Cause Order	32
Model Compliance Order	34

ENFORCEMENT RESPONSE PLAN
For Sewer Use and MS4 Users
Henderson Water Utility
Henderson, Kentucky

I. Introduction

Henderson Water Utility is the operator of the City of Henderson's POTW under a KPDES permit for the collection system and treatment plants, and is the holder of the City's Municipal Separate Storm Sewer System (MS4) permit which governs stormwater discharge from public and private sources. This Enforcement Response Plan (ERP) provides guidelines for HWU personnel in determining appropriate enforcement actions toward violations encountered in enforcing the provisions of the Sewer Use Ordinance (SUO) and the MS4 regulations. These include but are not limited to: requirements to prevent cross-connections, backflow and back-siphonage in the water system (SUO Section 23-16.1); requirements for mandatory connection to public sewers where available (SUO Section 23-17 & 23-27); prohibitions on illegal discharge (direct or indirect non-stormwater discharge to the storm drain system, SUO Section 23-27 (b)); illicit connections (any drain or conveyance which allows sewage, process water or wash water to enter the MS4); direct discharge of un-polluted water to the sanitary or combined sewer system (SUO Section 23-27 (d)); prohibited discharges as defined in Section 23-27 (e) of the SUO; and violation of requirements for construction-related and post-construction stormwater management (SUO Sections 23-27.3 through 23-27.5). The authority for enforcement is specified in the Henderson Sewer Use Ordinance which incorporates local, state and federal regulations.

This ERP describes how HWU will investigate instances of noncompliance, describes the types of enforcement actions that HWU may take in response to all anticipated types of violations and the time periods within which these enforcement actions will be taken and followed up. It reflects HWU`s primary responsibility to enforce all applicable MS4 and sewer user standards and requirements. The plan also includes a general discussion of the criteria to be used in determining a proper response in various noncompliant situations. In addition, a tabular guide is provided to outline recommended responses to various violations.

II. Personnel

Regulation of sewer use, MS4 access, and overall administrative operation of the HWU sanitary and stormwater systems are the responsibility of the HWU General Manager. His main duties include, but are not limited to, the supervision of operations and personnel at the water and wastewater treatment plants, in the distribution and collection systems for both facilities, and oversight of all maintenance activities of the employees of HWU. The General Manager is the representative of the Henderson Water & Sewer Commission in all assigned tasks. To fulfill these duties, the General Manager is assisted by other HWU personnel that are assigned specific duties for approval, inspection and enforcement, sampling, inspection, maintenance and laboratory analysis. Wherever the General Manager is called for or cited in this ERP, it shall be understood to include any HWU employee designated by the General Manager to serve in an enforcement or oversight capacity under the General Manager`s direction.

The General Manager may from time to time procure the assistance of an attorney for any legal services needed in enforcement proceedings. This attorney would advise the General

Manager on proper enforcement actions and orchestrate any judicial actions deemed necessary by the General Manager.

III. Violation Identification

Violations of the Sewer Use Ordinance and MS4 requirements are identified from various sources of information gathered through daily activities, including but not limited to: on-site inspections, compliance monitoring of discharges, and data submitted by other City departments and the public. Details of these sources are discussed below.

On-site Inspections- As required by the MS4 permit, HWU will conduct an onsite inspection of each stormwater BMP at least once during each permit cycle. Other potential violations of sewer use ordinance provisions might be detected during normal sewer maintenance operations such as flow monitoring, smoke testing, or televising of sewers.

Flow Monitoring – HWU will monitor flows in both the sanitary and storm sewer system in reaction to suspected illegal or illicit connections, and in compliance with the requirements of the MS4 permit to inspect and sample major storm sewer outfalls during each permit cycle. During this flow monitoring or sampling, the City may at its discretion, monitor for a full scan of parameters as a check of compliance. All monitoring and analyses will be conducted in accordance with industry standard practice, and will be properly documented through the use of chain-of-custody forms in case future legal action is required.

Demand Monitoring - Monitoring under emergency conditions, in response to identified violations or for litigation purposes may also be conducted as the General Manager

deems necessary. Proper sampling techniques and analytical procedures will be observed throughout the monitoring period and chain-of-custody forms and other records will be properly maintained at all times. Personnel assigned to assist in this testing have been trained in the proper procedures for sampling. The General Manager shall oversee the monitoring of the emergency condition while it exists. During sampling for litigation purposes, the General Manager may seek the advice of legal counsel to insure that the evidence needed for prosecution is properly obtained. The services of an outside laboratory may be obtained in order to demonstrate that unbiased data has been collected.

IV. Sewer Use Ordinance (SUO)

The Henderson Sewer Use Ordinance (SUO) has been updated to comply with all federal MS4 and sewer use regulations and guidelines. The Henderson SUO is the authority by which the General Manager operates the water, wastewater and stormwater systems. All policies outlined in this ERP are in accordance with the requirements and regulations contained in the SUO, and this ERP is incorporated into the SUO by reference.

V. Violation Categorization

The Enforcement Response Guide (ERG) included in this document provides a systematic method to determine appropriate responses to particular violations and noncompliance situations. The General Manager can use this guide to conduct equitable enforcement actions for various anticipated violations. The ERG is included in Appendix A of this document.

Although the ERG is to be utilized to help determine specific responses to various types of violations, the General Manager and other staff responsible for enforcement actions must first evaluate important aspects surrounding the violations. The criteria that should be considered prior to enforcement are as follows:

1. **Magnitude of the Violation(s)** – An isolated instance of noncompliance can be met with an informal enforcement response. More serious violations such as those that could threaten public health or damage the POTW must be responded to with more severity. All instances of Significant Noncompliance (SNC) should be responded to with an enforceable order that requires a return to compliance by a specific deadline. A user is defined as being in Significant Noncompliance (SNC) when it meets one or more of the following criteria, as defined in the SUO:
 - a. Any violation of an effluent limit (daily maximum or longer term average) that the General Manager determines has caused, alone or in combination with other discharges, interference or pass-through or has endangered the health of the POTW personnel or the general public;
 - b. Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or the environment, or that has a toxic effect on a receiving stream, or has resulted in HWU's use of its emergency authority under 40 CFR 403 to halt or prevent such a discharge;
 - c. Failure to meet, within a specified period after notice, a compliance deadline contained in a local enforcement order;
 - d. Failure to provide required reports within a specified period, and;

e. Any violation or group of violations which the General Manager determines will adversely affect the operation or implementation of the POTW or violate any section of the SUO.

2. **Duration of the Violation** - Violations, regardless of severity, which continue over a prolonged period of time should be subject to a formal enforcement action. The U.S. Environmental Protection Agency (EPA) recommends issuance of administrative orders for chronic violations. If a user fails to comply with an administrative order, administrative penalties or judicial action should be initiated. If prolonged violations result in serious harm to the POTW, termination of service should be considered immediately.
3. **Effect on Receiving Stream** - Any violation which results in environmental harm should be met with a severe enforcement response. Environmental harm should be evaluated whenever a user is shown to discharge pollutants into the sanitary sewer or stormwater sewer systems which are known to pass through the POTW, cause a violation of the POTW's KPDES or MS4 permits, or have a toxic effect on the receiving stream (i.e., toxicity test failure, fish kill, etc.). The result of the discharge should dictate the severity of the enforcement response, including payment for damages accrued.
4. **Effect on the POTW** - Violation(s) causing harm to the POTW may range from the increased cost of treatment to the actual destruction of equipment or harm to POTW personnel. Response to the violation(s) should be determined on the seriousness of the harm caused and the cost to the city.

5. **Compliance History of the User** - A pattern of recurring violations may indicate inadequate equipment at a facility or a casual approach to operation and maintenance of premises or equipment. Users exhibiting recurring instances of significant noncompliance should be addressed with an appropriately severe response.
6. **Economic Benefit to User** - The economic benefit received by the user for not installing equipment or maintaining BMPs as necessary to insure that consistent compliance is achieved should be considered when selecting an enforcement response.
7. **Good Faith of the User** - A User's efforts to remedy violations, coupled with actions which support the User's intention to cease all violations, should be considered in the enforcement response initiated; however, good faith does not automatically eliminate the necessity of an enforcement action and should be considered along with other criteria as described above.

VI. Compliance Tracking

The General Manager, or his designee, will review all compliance monitoring reports submitted by Users. Reports will be examined to determine if they have been submitted on time, are complete for all required parameters and if any violations of local ordinances or state or Federal law have occurred.

VII. Enforcement Response

The General Manager will be responsible for categorizing the significance of a User's violation(s) using the criteria discussed previously in this document. Upon making this categorization, the General Manager will use the ERG to determine the most appropriate response to be used in addressing the noncompliance. The responses available through the SUO are as follows:

- A. Notice of Violation (NOV)** - A Notice of Violation (NOV) is issued when exceedance of an SUO requirement occurs. An NOV is any official communication from the city to the noncompliant user which informs the user that a violation has been recorded. An NOV is an appropriate initial response to violations not categorized as significant noncompliance and may be the only response necessary in cases where the violations are isolated and/or minor. The NOV provides the user with an opportunity to correct noncompliance on its own initiative. The NOV also can act as a short-term compliance schedule by requiring certain corrective actions by the user within a set period of time. An NOV documents the city's initial attempts to resolve the noncompliance and, should circumstances require a more stringent approach, the NOV establishes a basis for escalation of enforcement actions according to the ERP in a non-arbitrary manner. The NOV will be either hand-delivered or sent by certified mail (return receipt requested). A sample NOV is shown in Appendix B of this document.

- B. Administrative Fines -** An administrative fine is a monetary penalty assessed by the General Manager for violations of the sewer use ordinance that result in SNC. When there is a violation, Administrative fines may be issued at the General Manager's discretion and the amount of the fine will be determined on a case-by-case basis. Administrative fines differ from civil penalties in that they do not require court intervention unless the user contests the action or refuses to pay the fine. Administrative fines are punitive in nature and may not be related to a specific cost incurred by the city. Legal authority for administrative fines has been established in the SUO. The General Manager or his designee has the authority to assess fines at any time. Such fines are appropriate when: (1) the user remains in SNC after receiving repeated NOVs from the city and has made no attempt to remedy the situation; or (2) when the user violates the terms of an administrative order. The initial amount of the fine, as with other enforcement responses, shall depend on the categorization of the violation's severity. Escalation of the fine up to the maximum allowed by the ordinance may take place if the SNC is not addressed to the General Manager's satisfaction. Notice Of Violations (NOVs), administrative orders and show-cause hearings may all be utilized as mechanisms for issuing administrative fines by setting the amount of the fine and a payment deadline or schedule in the NOV, AO or at the hearing.
- C. Administrative Order -** An Administrative Order (AO) is an enforceable document which directs a user to undertake certain actions or to cease specified

activities in order to return to compliance. Administrative Orders (AOs) can be of the types listed below:

Cease and Desist Order - This order directs the noncompliant user to cease or terminate all illegal, unauthorized and/or noncompliant discharges or activities immediately. This order should be used in cases where the discharge could cause, or is causing, interference or pass-through of the POTW, cause a violation of the POTW's KPDES permit and/or have a toxic effect on the receiving stream (i.e., toxicity test failure, fish kill, etc.). A Cease and Desist Order may be issued immediately upon discovery of a violation or following a show-cause hearing. In an emergency, the Cease and Desist Order may be verbal and delivered by telephone and followed by a written order (hand-delivered or certified mail). If the user fails to comply with the order, the General Manager or his designee may take action to stop the discharge by terminating water service or blocking the user's discharge point. An example of a Cease and Desist Order is shown in Appendix B.

Consent Order - A Consent Order is an agreement between the Henderson Water and Sewer Commission (HWSC) and the user in noncompliance. Three (3) elements are present in the order: (1) a compliance schedule agreed to by both parties; (2) stipulated fines or remedial actions; and, (3) signatures of both Commission and user. A Consent Order is appropriate when the user assumes responsibility for its

noncompliance and is willing to correct its causes; however, depending upon the specific terms of the order, signing may or may not be an admission of guilt for purposes of civil litigation and/or criminal prosecution. The Consent Order should specifically be used to prohibit future violations and provide for corrective actions on the part of the user. An example of a Consent Order is included in Appendix B.

Compliance Order - A Compliance Order directs the user to achieve or return to compliance by a specified date. This order is most appropriate when noncompliance can be resolved without construction, repair or process changes. It may be issued to require a user to implement best management practices, waste minimization, spill prevention programs or erosion control plans. The milestones set in the Compliance Order must be tracked by HWU to determine if escalated enforcement actions are needed. An example of a Compliance Order is included in Appendix B.

Show Cause Order - An order to show cause directs the user to appear before the General Manager, explain its noncompliance and show cause as to why more severe enforcement actions should not be taken against the user. This order may be issued after informal contacts, NOVs or other orders have failed to resolve the noncompliance. The show cause hearing can be conducted by the General Manager or his designee and may be either formal or informal and open or closed to the public. The General Manager may follow up the hearing by issuing a Compliance Order, Consent Order, a compliance schedule, an

administrative fine or may refer the case to legal counsel for civil litigation or criminal prosecution. An example of a Show-Cause Order is included in Appendix B.

- D. Civil Litigation** - Civil litigation is the formal process of filing lawsuits against users to secure court ordered action to correct noncompliance and to secure penalties for violations including the recovery of HWU's costs related to the noncompliance. This process is normally pursued when the required corrective action has not been taken by the user, the penalty to be assessed exceeds that which the General Manager can assess administratively or when the user is recalcitrant and unwilling to cooperate. Civil litigation includes enforcement measures which require involvement or approval by the court system, such as injunctive relief and settlement agreements. Federal Regulations require the City of Henderson to have legal authority to seek or assess civil penalties in at least the amount of \$1,000.00 per day for each violation by a user. The regulations also require the city to have legal authority to seek injunctive relief for noncompliance by users. Both of these requirements have been fulfilled in the Henderson Sewer Use Ordinance. The General Manager or his designee shall initiate civil litigation through legal counsel. All data gathered for such a purpose shall be properly collected and documented. A general outline of the civil litigation process is shown in Exhibit 1.
- E. Criminal Prosecution** - Criminal prosecution is the formal process of charging individuals and/or organizations with violations of ordinance provisions that are punishable, upon conviction, by fines and/or imprisonment. The Henderson Sewer Use Ordinance authorizes criminal prosecution for ordinance violations when they are

willful or negligent and may be appropriate in cases of repeated violations or when less formal efforts to restore compliance have failed. Criminal prosecution may be brought prior to, concurrently with, or subsequent to civil litigation. The General Manager shall initiate criminal prosecution through legal counsel. All data gathered for prosecution shall be properly collected and documented. A general outline of the criminal prosecution process is shown in Exhibit 2.

- F. Termination of Service** - Under the SUO, the General Manager has the authority to immediately and effectively halt or prevent any discharge of pollutants to the POTW which reasonably appears to present an imminent endangerment to the health or welfare of the general public, POTW personnel, or to the environment; or which threatens to interfere with the POTW's operation; or has a toxic effect on the receiving stream (i.e., toxicity test failure, fish kill, etc.). The General Manager or his designee may terminate sewer and/or water service to any user in violation of the SUO. Termination requires notice to the user and is outlined in the SUO. Advance notice of termination is intended to fulfill the legal due process requirements associated with service termination and enables the user to avoid backflow, spills and other harm to the user's facility. The General Manager or his designee will initiate termination as necessary, depending on specific circumstances, but will work closely with legal counsel toward further litigation as needed.

VIII. Abbreviations

- AO - Administrative Order
- City - City of Henderson (may refer to HWU, as a subdivision of the City)
- GM - General Manager
- HWSC - Henderson Water & Sewer Commission
- HWU - Henderson Water Utility
- MS4 - Municipal Separate Storm Sewer System
- NOV - Notice of Violation
- POTW - Publicly Owned Treatment Works

Exhibit I

Outline for the Civil Litigation Process

- Henderson Water & Sewer Commission (HWSC) decides to sue the user to recover costs, seek civil penalties and corrective actions.
- HWSC files complaint alleging ordinance and/or permit violations. They may also file a motion for a preliminary injunction if violations are ongoing.
- User files a response admitting or denying allegations.
- Trial date set.
- Discovery process involving HWSC and user.
- Settlement Negotiations - If successful, issue Consent Order; if unsuccessful, proceed to trial.
- Trial.
- Verdict - If the SIU is held liable, court awards cost recovery and/or civil penalties, if the SIU is not held liable, return to status quo.
- Appeals.

Exhibit 2

Outline for Criminal Prosecution

- HWSC receives information regarding criminal activity.
- HWSC gathers evidence of criminal activity.
- HWSC takes evidence to prosecutor. Prosecutor seeks indictment of SIU.
- Grand jury indicts the SIU.
- Defendant pleads to criminal charges in indictment. If SIU pleads guilty, sentencing hearing is scheduled. If SIU pleads not guilty, trial date is set.
- Criminal trial is held and verdict issued.
- Sentence pronounced. If defendant appeals and is successful, a new trial is held or sentence is reduced. If appeal is unsuccessful, sentence is served.

Appendix A

Enforcement Response Guide

Henderson Water Utility

Henderson, Kentucky

ENFORCEMENT RESPONSE GUIDE
Non-Industrial Users (MS4 and Private Sewage Disposal)

Violation	Nature/Description	Enforcement Response	Personnel
Violations Detected or Reported			
Illegal Discharge	Illegal discharge observed; no harm to public or the environment	-- Phone call	GM
		-- NOV	GM
	Illegal discharge observed; harm to public or the environment, or evidence of intent/negligence	-- NOV with \$250 fine	GM
		-- Criminal Action -- Terminate Service	GM GM
Recurring Illegal discharges observed	-- Civil Action -- Terminate Service	GM GM	
Illicit Connection	User unaware of requirements; no harm to environment	-- Phone call	GM
		-- NOV	GM
	User unaware of requirements; harm to public or the environment, or evidence of intent/negligence	-- NOV with \$250 fine	GM
		-- AO with \$250 fine -- Civil Action	GM GM
Failure to correct illicit connection after notice by GM	-- NOV with \$500 fine	GM	
	-- Civil Action	GM	
	-- Criminal Action -- Terminate Service	GM GM	

ENFORCEMENT RESPONSE GUIDE
Non-Industrial Users (MS4 and Private Sewage Disposal)

Violation	Nature/Description	Enforcement Response	Personnel
Violations Detected or Reported			
Mandatory Connection Requirements	User unaware of requirements; no harm to environment	-- Phone call -- NOV	GM GM
	User unaware of requirements; harm to public or the environment, or evidence of intent/negligence	-- NOV with \$250 fine -- AO with \$250 fine -- Civil Action	GM GM GM
	Failure to connect after notice by GM	-- NOV with \$500 fine -- Civil Action -- Criminal Action	GM GM GM
Discharge of Unpolluted Water To Sanitary or Combined Sewer System	User unaware of requirements; no harm to environment	-- Phone/Downspout Disconnect Letter -- NOV	GM GM
	User unaware of requirements; harm to public or the environment, or evidence of intent/negligence	-- NOV with \$50 fine -- AO with \$50 fine -- Civil Action	GM GM GM
	Failure to correct ongoing discharge after notice by GM	-- NOV with \$100 fine -- Civil Action -- Criminal Action -- Terminate Service	GM GM GM GM

ENFORCEMENT RESPONSE GUIDE
Non-Industrial Users (MS4 and Private Sewage Disposal)

Violation	Nature/Description	Enforcement Response	Personnel
Violations Detected or Reported			
Prohibited Discharges	Prohibited discharge observed; no harm to POTW, public or the environment	-- NOV	GM
		-- NOV with \$250 fine	GM
	Prohibited discharge observed; harm to POTW or evidence of intent/negligence	--Civil Action	GM
		--Criminal Action --Terminate Service	GM GM
Recurring prohibited discharges observed	--Civil Action --Terminate Service	GM GM	
Inadequate Post-Construction Maintenance of Stormwater Drainage Systems and the MS4	Inadequate maintenance observed; no harm to public or the environment	-- Phone call	GM
		-- NOV	GM
	Inadequate maintenance observed, harm to public or the environment or evidence of intent/negligence	-- NOV with \$250 fine	GM
		-- AO with \$250 fine -- Civil Action	GM GM
Failure to correct ongoing problem after notice by GM	-- NOV with \$500 fine	GM	
	-- Civil Action	GM	
	-- Criminal Action -- Terminate Service	GM GM	

ENFORCEMENT RESPONSE GUIDE
Non-Industrial Users (MS4 and Private Sewage Disposal)

Violation	Nature/Description	Enforcement Response	Personnel
Violations Detected or Reported			
Stormwater Management During Construction	Inadequate maintenance observed; no harm to public or the environment	-- Phone call -- NOV	GM GM
	Inadequate maintenance observed, harm to public or the environment or evidence of intent/negligence	-- NOV with \$250 fine -- AO with \$250 fine -- Civil Action	GM GM GM
	Failure to correct ongoing problem after notice by GM	-- NOV with \$500 fine -- Civil Action -- Criminal Action -- Terminate Service	GM GM GM GM
Backflow Prevention Device Installation and Maintenance	Inadequate maintenance records	-- Phone call -- NOV	GM GM
	Inadequate maintenance observed, harm to public or the environment or evidence of intent/negligence	-- NOV -- AO with \$250 fine -- Civil Action	GM GM GM
	Failure to Install Required Device After Notice harm to public or the environment or evidence of intent/negligence	-- NOV with \$250 fine -- AO with \$250 fine -- Civil Action	GM GM GM

ENFORCEMENT RESPONSE GUIDE
Non-Industrial Users (MS4 and Private Sewage Disposal)

Violation	Nature/Description	Enforcement Response	Personnel
Violations Detected or Reported			
KYR10 Permit For Construction Site	Failure to Obtain Permit, no harm to public or the environment	-- Phone call -- NOV	GM GM
	Failure to Obtain Permit, harm to public or the environment or evidence of intent/negligence	-- NOV with \$250 fine -- AO with \$250 fine -- Civil Action	GM GM GM
	Failure to Obtain Permit ongoing problem after notice by GM	-- NOV with \$500 fine -- Civil Action -- Criminal Action -- Terminate Service	GM GM GM GM

Enforcement Response Guide

Henderson Water & Sewer Commission Henderson, Kentucky

Timeframe for Enforcement Responses

- A. All violations will be identified and documented within five (5) days of receiving compliance information.

- B. Initial enforcement responses (involving contact with the user and requesting information on corrective or preventative actions) will occur within fifteen (15) days of violation detection.

- C. Follow up actions for continuing or reoccurring violations will be taken within sixty (60) days of the initial enforcement response. For all continuing violations, the response will include a compliance schedule.

- D. Violations which threaten health, property or environmental quality are considered emergencies and will receive immediate responses such as halting the discharge or terminating service.

- E. All violations meeting the criteria for Significant Noncompliance (SNC) will be addressed with an enforceable order within thirty (30) days of the identification of Significant Noncompliance (SNC).

Appendix B

Model: Notice Of Violation (NOV)
Cease and Desist Order
Consent Order
Show Cause Order
Compliance Order

Henderson Water Utility

111 Fifth Street
Henderson, Kentucky 42420

NOTICE OF VIOLATION

[Date]

[User Name]

[Address]

LEGAL AUTHORITY

Pursuant to the legal authority vested in the General Manager of the Henderson Water Utility under the provisions of the City's Erosion and Sediment Control Ordinance as stated in Article VI, Section 7-204, Paragraph (e), the following findings are made and formal notice of violation is hereby issued.

FINDINGS

1. In order for the City of Henderson to comply with all state and federal laws and regulations as required by the Clean Water Act of 1977 as amended, and the stormwater discharge regulations as defined in 40 CFR, Part 122, the City enacted by ordinance "Erosion and Sediment Control and Cleaning of Streets", and through the Henderson Water Utility administers those regulations.
2. The ordinance sets forth uniform requirements for all direct and indirect contributors to the municipal separate storm sewer system.
3. On [Date], [Description of observed non-compliance].
4. On [Date], [Additional description of observed non-compliance]. (Continue as required.)

BASED ON THE ABOVE FINDINGS, NOTICE OF VIOLATION IS HEREBY GIVEN:

NOTICE

[User Name], owner of record of the real property located at [Address], has allowed the occurrence of an illegal discharge as defined in Section 23-26 (b), which is a violation of Section 23-27 (b) (1).

1. In order to remain compliant with the City of Henderson’s Sewer Use Regulations, [User Name] must submit to the Henderson Water Utility General Manager an explanation of the violation(s) and a plan with specific actions (the corrective action plan) for the satisfactory correction and prevention thereof, as well as a plan to restore the MS4 conveyance to its original non-contaminated condition.
2. The corrective action plan must be submitted as soon as possible, and before significant precipitation occurs, but in no case more than three (3) calendar days from the receipt of this letter.
3. Submission of this explanation and corrective action plan in no way relieves the user of the potential liability for a violation occurring before or after receipt of this notice of violation.
4. The corrective action plan shall be submitted to:

Tom Williams, P.E
General Manager
Henderson Water Utility
111 Fifth Street
Henderson, Kentucky 42420
270.826.2421
williamst@hkywater.org

Issued by:

[HWU Signature]
[Typed name of HWU Staff]
[Staff Position]

Henderson Water Utility

111 Fifth Street
Henderson, Kentucky 42420

CEASE AND DESIST ORDER

[Date]

[User Name]

[Address]

LEGAL AUTHORITY

Pursuant to the legal authority vested in the General Manager of the Henderson Water Utility under the provisions of the City's Sewer Use Ordinance as stated in Article II, Division 2, Section 23-34, Paragraph (b), the following findings are made and this Order is hereby issued.

FINDINGS

1. In order for the City of Henderson to comply with all state and federal laws and regulations as required by the Clean Water Act or 1977 as amended, and the general pretreatment regulations as defined in 40 CFR, Part 403, the City enacted by ordinance "Sewer Use Regulations", and through the Henderson Water Utility administers those regulations.
2. The ordinance sets forth uniform requirements for all direct and indirect contributors to the wastewater collection and treatment system and to the municipal separate storm sewer system.
3. On [Date], [Description of observed non-compliance].
4. On [Date], [Additional description of observed non-compliance]. (Continue as required.)

BASED ON THE ABOVE FINDINGS, [User Name] IS HEREBY NOTIFIED THAT:

ORDER

1. Within 24 hours of receiving this order, cease all nondomestic discharges into the City of Henderson sanitary sewer system. Such discharges shall not recommence until such time as [User name] is able to demonstrate that it will comply with the Henderson Sewer Use

Ordinances and with requirements for all direct and indirect contributions to the municipal separate storm sewer system.

2. Failure to comply with this order may subject [User name] to having its connection to the sanitary sewer system sealed by Henderson Water Utility and assessed the costs for such work.
3. Failure to comply with the requirements of this order shall constitute a further violation of the Henderson Sewer Use Ordinance and may subject [User name] to civil or criminal penalties or such other enforcement responses as may be deemed necessary by the General Manager.
4. This order, entered this _____ day of _____, 20_____ shall be effective upon receipt by [User name].

Signed: _____

Tom Williams, P.E.
General Manager
Henderson Water Utility
111 Fifth Street
Henderson, Kentucky 42420
270.826.2421
williamst@hkywater.org

Henderson Water Utility

111 Fifth Street
Henderson, Kentucky 42420

CONSENT ORDER

[Date]

[User Name]

[Address]

LEGAL AUTHORITY

Pursuant to the legal authority vested in the General Manager of the Henderson Water Utility under the provisions of the City's Sewer Use Ordinance as stated in Article II, Division 2, Section 23-34, Paragraph (b), the following findings are made and this Order is hereby issued.

FINDINGS AND ORDER

1. In order for the City of Henderson to comply with all state and federal laws and regulations as required by the Clean Water Act of 1977 as amended, and the stormwater discharge regulations as defined in 40 CFR, Part 122, the City enacted by ordinance "Erosion and Sediment Control and Cleaning of Streets", and through the Henderson Water Utility administers those regulations.
2. [User Name] has consistently violated the requirements for direct and indirect contributions to the municipal separate storm sewer system.
3. Therefore, to ensure that [User Name] is brought into compliance and with requirements for all direct and indirect contributions to the municipal separate storm sewer system at the earliest possible date, IT IS HEREBY AGREED AND ORDERED, BETWEEN [User Name] AND THE GENERAL MANAGER OF HENDERSON WATER UTILITY, that [User Name] shall:
 - a. By [Date], obtain the services of a licensed professional engineer specializing in stormwater treatment for the purpose of designing a system that will bring [Name of User] into compliance with requirements for all direct and indirect contributions to the municipal separate storm sewer system.
 - b. By [Date], submit plans and specifications for the proposed modifications to the General Manager for review.
 - c. By [Date], install the modifications in accordance with the plans and specifications submitted in item b above.

- d. By [Date], achieve compliance with requirements for all direct and indirect contributions to the municipal separate storm sewer system.
 - e. [Name of User] shall pay \$1,000.00 per day for each and every day it fails to comply with the schedule set out in items a-d above.
4. In the event that [User Name] fails to comply with any of the deadlines set forth above, [User Name] shall, within one (1) working day after expiration of the deadline, notify the General Manager, in writing. This notice shall describe in detail the reasons for [User Name]'s failure to comply, the additional amount of time needed to complete the remaining work and the steps to be taken to avoid future delays. This notification in no way excuses [User Name] from its responsibility to meet any later milestones required by this Consent Order.
 5. Compliance with the terms and conditions of the Consent Order shall not be construed to relieve [User Name] of its obligation to comply with its Industrial User Permit which remains in full force and effect. The City reserves the right to seek any and all remedies available to it under the provisions of the Sewer Use Ordinance.
 6. Violation of this Consent Order shall constitute a further violation of the City's Sewer Use Ordinance and subjects [User Name] to all penalties described by the provisions of the Henderson Sewer Use Ordinance.
 7. Nothing in this Consent Order shall be construed to limit any authority of Henderson Water Utility to issue any other orders or take any other enforcement action which it deems necessary to protect the wastewater treatment plant, the environment and/or the public health and safety.

SIGNATORIES

FOR [User Name]

Date

Name
[User Name]

FOR HENDERSON WATER UTILITY

Date

Tom Williams, P.E.
General Manager
Henderson Water Utility

Henderson Water Utility

111 Fifth Street
Henderson, Kentucky 42420

ADMINISTRATIVE SHOW CAUSE ORDER

[Date]

[User Name]

[Address]

LEGAL AUTHORITY

Pursuant to the legal authority vested in the General Manager of the Henderson Water Utility under the provisions of the City's Sewer Use Ordinance as stated in Article II, Division 2, Section 23-34, Paragraph (b), the following findings are made and this Order is hereby issued.

FINDINGS

1. In order for the City of Henderson to comply with all state and federal laws and regulations as required by the Clean Water Act of 1977 as amended, and the stormwater discharge regulations as defined in 40 CFR, Part 122, the City enacted by ordinance "Erosion and Sediment Control and Cleaning of Streets", and through the Henderson Water Utility administers those regulations.
2. [User Name] has consistently violated the requirements for direct and indirect contributions to the municipal separate storm sewer system.

ORDER

BASED ON THE ABOVE FINDINGS, [User Name] IS HEREBY ORDERED TO:

1. Appear at a meeting with the General Manager of Henderson Water Utility to be held on [Date] at [Time], at the Main Offices of Henderson Water Utility.
2. At this meeting, [User Name] must demonstrate why Henderson Water & Sewer Commission through Henderson Water Utility, should not pursue a judicial enforcement action, or other escalated enforcement action, against [User Name] at this time
3. This meeting will be closed to the public.

4. Representatives of [User Name] may be accompanied by legal counsel if they so choose. If [User Name] chooses to be accompanied by legal counsel, HWU legal counsel will also attend.
5. Failure to comply with this order shall also constitute a further violation of the Henderson Sewer Use Ordinance and may subject [User Name] to civil or criminal penalties or such other enforcement responses as may be necessary and appropriate.
6. This order, entered this _____ day of _____, 20____, shall be effective upon receipt by [User Name]

Signed: _____
Tom Williams, P.E.
General Manager
Henderson Water Utility

RECEIPT ACKNOWLEDGED BY [User Name]

Date

Signed: _____
for [User Name]

Printed Name: _____

Henderson Water Utility

111 Fifth Street
Henderson, Kentucky 42420

ADMINISTRATIVE COMPLIANCE ORDER

[Date]

[User Name]

[Address]

LEGAL AUTHORITY

Pursuant to the legal authority vested in the General Manager of the Henderson Water Utility under the provisions of the City's Sewer Use Ordinance as stated in Article II, Division 2, Section 23-34, Paragraph (b), the following findings are made and this Order is hereby issued based on findings of violation of the requirements for direct and indirect contributions to the municipal separate storm sewer system.

FINDINGS

1. [User Name] discharges stormwater containing contaminants into the Municipal Separate Storm Sewer System (MS4) of the City of Henderson.
2. [User Name] was issued a KYR10 permit on [Date] which contains prohibitions, restrictions and limitations on the quality of the stormwater discharged to the MS4 of the City of Henderson.
3. Pursuant to the Sewer Use Ordinance and the above referenced permit, data is routinely collected and submitted on the compliance states of [User Name].
4. This data shows that [User Name] has violated its KYR10 permit in the following manner:
 - a. [User Name] has violated its permit limits for [Name of Pollutant] in each sample collected between [Date] and [Date], for a total of [Number of Violations] separate violations of the permit.
 - b. [User Name] has failed to submit a periodic compliance report due on [Date].
 - c. These violations satisfy the Henderson Water & Sewer Commission's definition of Significant Noncompliance.

ORDER

BASED ON THE ABOVE FINDINGS, [User Name] IS HEREBY ORDERED TO:

1. Within 180 days from the date of this order, install pretreatment equipment which will adequately treat [User Name]'s stormwater runoff to a level which will comply requirements for all direct and indirect contributions to the municipal separate storm sewer system and the Henderson Sewer Use Ordinance.
2. Within five (5) days of the date of this order, [User Name] shall submit all periodic compliance reports due since [Date].
3. Within ten (10) days, pay to the City treasurer's office, a fine of \$[Amount of Fine] for the above-described violations in accordance with Article XI of the Sewer Use Ordinance.
4. Report, on a monthly basis, the stormwater quality and the corresponding flow information as described on page [Page Number] of the KYR10 Permit for a period of [Time Period] from the effective date of this order.
5. All reports and notices required by this order shall be sent, in writing, to the following address:

Mr. Tom Williams, P.E.
General Manager
Henderson Water Utility
111 Fifth Street
Henderson, Kentucky 42420

6. This order does not constitute a waiver of the Sewer Use Ordinance which remains in full force and effect. The Henderson Water & Sewer Commission reserves the right to seek any and all remedies available to it under the provisions of the Henderson Sewer Use Ordinance for any violation cited by this order
7. Failure to comply with the requirements of this order shall constitute a further violation of the Henderson Sewer Use Ordinance and may subject [User Name] to civil or criminal penalties or such other enforcement responses as may be necessary.
8. This order, entered this _____ day of _____, 20 __, shall be effective upon receipt by [User Name].

Signed: _____

Tom Williams, P.E.
General Manager
Henderson Water Utility

