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April 30, 2018

Jim Polek, Environmental Engineer
Enforcement Division
Region 9, US E.P.A.
75 Hawthorne Street
San Francisco, CA 94105

Dear Mr. Polek:

In connection with the recent Consent Decree agreed to between the EPA, Department of Justice, and the City of North Las Vegas (the "City"), the City is providing this Attorney Statement as referenced in 40 CFR 403.9(b)(1).

In keeping with 40 CFR 403.9(b)(1) and 40 CFR(b)(2), the City has legal authority and resources to carry out the Pretreatment Program as established in Chapter 13.28 of the City Code and consistent with 40 CFR Part 403. As a municipal corporation, the City's authority flows from the Nevada legislature, which granted the City broad authority in this regard by two means. First, under NRS 268.730, the City may, at any time, "acquire, improve, equip, operate and maintain," a variety of public works, including sewerage projects and water projects. Further, under the City's Charter, which again is a product of the Nevada Legislature, the City has the authority to provide sanitation and water facilities, as well as providing utilities generally. See North Las Vegas City Charter, sections 2.270 and 2.280.

As for the various procedures listed in 40 CFR 403.8(f)(2), the City's procedures and authority are largely set forth in the City's Municipal Code ("NLVMC") at Chapter 13.28.

(i) With respect to the identification, location and control of all possible industrial users, the City maintains an inventory of Industrial Users available for inspection upon request. The City's procedure starts with an industrial wastewater survey. The City's Utilities Department reviews the survey and determines if a discharger will be a likely Significant Industrial User (SIU) under NLVMC 13.28.02, A. The City also evaluates other industrial users (Class II industrial users) for enhanced oversight. A new SIU is required to obtain an Industrial Wastewater Discharge Permit prior to discharge. Where the City determines an Industrial User is a SIU or may otherwise require a permit, the City will

send a permit application form and require the Industrial User complete and return to the City for review as required under NLVMC 13.28.10 The City will then use the permit application and any other required information to issue an enforceable Industrial Wastewater Discharge Permit as specified in NLVMC 13.28.10 and 13.28.12 of the City Code. The City may also require certain Class II dischargers to obtain a permit, including those users covered by NLVMC 13.28.30 Sector Control Programs. Permits are non-transferable unless allowed, in writing, by the City pursuant to NLVMC 13.28.10, J.

(ii) With respect to identification of the character and volume of pollutants, the City obtains this information by way of the Industrial Waste Survey characterizing the business activities, water consumption records to identify SIUs flows and additional interviews, as needed, with the business owners. For SIUs and other industrial users with enhanced oversight, various types of reports and notifications are mandated as set forth in NLVMC 13.28.28.

(iii) With respect to notification of applicable standards, including Pretreatment Standards and Requirements to industrial users, the applicable standards are noticed to such users by way of NLVMC 13.28.01, 13.28.04, 13.28.06, 13.28.08 and the other requirements set forth throughout Chapter 13.28. The City adopted Chapter 13.28 through a public process and has made the City Code available to all persons on the City's website.

(iv) With respect to receipt and analysis of self monitoring reports and other notices from industrial users, self monitoring is required as part of the user's industrial wastewater discharge permit under NLVMC 13.28.12, with further guidance on recordkeeping set forth in NLVMC 13.28.20 and other reporting and notification requirements in NLVMC 13.28.28. The City's sample collection and analytical methods are set forth in NLVMC 13.28.24.

(v) With respect to conducting inspections, including random sampling and analysis of industrial user effluent, the City has the authority under NLVMC 13.28.26 to enter any industrial user's premises and conduct all necessary inspections, sampling and analysis.

(vi) With respect to evaluation of the necessity of a plan or other action to control Slug Discharges, the City includes notification requirements for industrial users in permits as specified in NLVMC 13.28.12. NLVMC 13.28.28 paragraphs E and F establish specific notification and reporting requirements regarding Slug Plans and Slug Discharge notifications.

(vii) With respect to investigation of instances of noncompliance with pretreatment standards and requirements, the City's authority is set forth in NLVMC 13.28.32, "Compliance and Enforcement," and procedures shown in the Enforcement Response Plan adopted by City Council on October 6, 2016.

(viii) With respect to the enforcement of pretreatment standards and requirements, the City may seek legal and equitable remedies for non-compliance with its pretreatment standards and requirements in accordance with the provisions of NLVMC 13.28.32. The City may terminate the ability of an Industrial User to discharge to the POTW under NLVMC 13.28.16 and, for emergencies, pursuant to NLVMC 13.28.32,

paragraphs C.7. and C.8. The City has the authority to issue administrative penalties for violations of pretreatment standards and requirements of up to $10,000 per day per violation. The City may seek civil penalties of up to $25,000 per violation per day. The City has established criminal enforcement authority to seek penalties for up to $1,000 per violation per day and/or imprisonment for up to six months.

(ix) With respect to the public participation requirements of 40 CFR Part 25, including public notification of industrial users in significant noncompliance with pretreatment standards, such notice is provided in NLVMC 13.28.32.B. Further, as a municipality with a city council form of government, changes to the City's legal authority is a public process that follows the City's administrative procedures.

(x) Confidentiality requirements are met in NLVMC 13.28.22.

Copies of the NLVMC Chapter 13.28 and City Enforcement Response Plan were provided to EPA in a submittal dated January 23, 2018.

The City believes that the foregoing information will be sufficient to establish and confirm the legal authority for the City's pretreatment program as required by the Consent Decree. Please let me know if you have any questions or concerns, or if there is any further information you require.

Sincerely,

Micaela Moore

Micaela Rustia Moore
City Attorney

MRM:mlm

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