

BEFORE THE
DEPARTMENT OF NATURAL RESOURCES
STATE OF MISSOURI

IN THE MATTER OF:)	
)	
City of Lathrop)	
Wastewater Collection System)	2012-WPCB-1146
and Treatment Facility)	
)	
SERVE:)	
)	
C. Gene Schoonover, Mayor)	
City of Lathrop)	

ABATEMENT ORDER ON CONSENT

I. NOTICE TO RECIPIENTS OF ABATEMENT ORDERS

The issuance of this Abatement Order on Consent (AOC) number 2012-WPCB-1146 by the Missouri Department of Natural Resources (Department) is a formal administrative action by the State of Missouri and is being issued because the City of Lathrop (City) wastewater treatment facility (WWTF) is in violation of the Missouri Clean Water Law (Law) and its implementing regulations. This AOC is issued under the authorities of Sections 644.056 and 644.079, RSMo. Failure to comply with this AOC is, by itself, a violation of the Law Section 644.076.1, RSMo. Litigation may occur without further notice if there is not compliance with the requirements of this AOC. This AOC does not constitute a waiver or a modification of any requirements of the Law, or its implementing regulations, all of which remain in full force and effect. Compliance with the terms of this AOC shall not relieve the City of liability for, or preclude the Department from, initiating a judicial enforcement action to recover civil penalties for any future, violations of the Law, or to seek injunctive relief, pursuant to Chapter 644, RSMo.

II. FINDINGS OF FACT

- A. The City is a fourth class municipality with a population of approximately 2,086. As part of the services it provides its citizens, the City owns and operates a WWTF, located in the W ½, SW ¼, of Section 19, Township 55 North, Range 30 West, Clinton County, Missouri. The City's WWTF consists of a three (3) cell aerated lagoon. The WWTF has a design flow of 0.230 million gallons per day (MGD). Sludge production is 34.5 dry tons per year and sludge is retained in the lagoon. The City also owns and maintains sewer lines throughout the city limits that collect and carry wastewater to its WWTF. The collection system consists of five (5) lift stations and approximately 13.4 miles of sanitary sewer main, which includes 12.73 miles of gravity sewer and 0.67 miles of force main. Effluent from the WWTF discharges from outfall # 001 to Shoal Creek, a class C stream, pursuant to the requirements and conditions of Missouri State Operating Permit (permit) No. MO-0112704.
- B. Permit No. MO-0112704 requires the City to sample the effluent discharged from outfall #001 and chemically analyze the effluent sample for the water contaminants listed in Part "A" every month. Permit No. MO-0112704 further requires the effluent to comply with the effluent limitations contained in Part "A" and requires the results of the analysis to be submitted to the Department on monthly discharge monitoring reports (DMRs) by the 28th day of the following month. Part "A" of the permit also requires the facility to meet a removal efficiency of 65% or more for Total Suspended Solids (TSS) and Biochemical Oxygen Demand (BOD).
- C. Shoal Creek is waters of the state as defined in 644.016(26) RSMo.
- D. On October 27, 2009, Department staff conducted a Compliance Inspection of the City's wastewater collection system. The pre-inspection file review included information from the City's monthly DMRs submitted to the Department which revealed that the WWTF failed to comply with the removal efficiency for TSS in February, April, May, June, August, September, and October of 2008 and March and May of 2009 and for BOD in September 2008. Data included in the City's DMRs also showed that the effluent discharged from the WWTF violated the permitted effluent limitation for TSS during the months of April and August of 2008 and May of 2009.

- E. On January 28, 2010, the Department issued a Notice of Violation (NOV) to the City for violations observed during the file review portion of the October 27, 2009, investigation. In the transmittal letter for the NOV, the Department required the City to submit an Inflow and Infiltration (I/I) Assessment and Reduction Plan, and an Inspection and Maintenance (I&M) Program to the Department by June 3, 2010. The city was also required to develop and submit to the Department, written procedures to track and respond to Sanitary Sewer Overflows (SSOs) and bypasses by April 4, 2010.
- F. On June 24, 2010, the Department sent a letter to the City identifying the deficiencies in the I/I Assessment and Reduction Plan and the I&M Program submitted to the Department on June 15, 2010, and requiring the City to address the deficiencies and resubmit both documents to the Department by September 21, 2010.
- G. On September 22, 2010, Department staff investigated an environmental concern regarding SSOs at the intersection of Park Street and Colonial Drive. During this investigation, Department staff observed the following: i) evidence of sewage back ups at three (3) addresses on Park Street and one (1) address on Colonial Drive; ii) sludge and debris built up inside several manholes in the area; iii) sand gravel and pieces of clay pipe in the bottom of several manholes; iv) several manholes receiving a constant flow of clear water from both the north and the south which is not characteristic of sewer pipe flow; (v) water collecting in standing pools rather than flowing in several manholes; and vi) a steady flow of water through a crack into a manhole.
- H. On November 13, 2010, the Department issued a NOV to the City for failure to operate and maintain facilities to comply with the Law, based on observations during the September 22, 2010, investigation.
- I. On March 30, 2011, the Department sent a letter to the City identifying deficiencies with the I/I Assessment and Reduction Plan received by the Department on December 1, 2010. In this letter, the Department required the City to address the deficiencies and resubmit the I/I Assessment and Reduction Plan to the Department by April 25, 2011.
- J. On March 26, 2011, the Department sent three (3) LOWs to the City for violations of the permitted effluent limitation for TSS during the months of July, August and September 2011.

III. CITATIONS AND CONCLUSIONS OF LAW

The Department finds that the following violations of the Law, Chapter 644, RSMo, and its implementing regulations have occurred:

- A. Caused pollution of waters of the state or placed or caused or permitted to be placed, water contaminants in a location where they are reasonably certain to cause pollution of waters of the state, in violation of Sections 644.051.1(1) and 644.076.1, RSMo.
- B. Failure to prevent a discharge of untreated wastewater as required in Standard Conditions Part 1, Section B of permit No. MO-0112704 in violation of Section 644.076.1, RSMo, and 10 CSR 20-7.00105 (9)(E).
- C. Failure to comply with removal efficiencies of BOD and TSS as required in part A of permit No. MO-0112704 in violation of Section 644.076.1, RSMo.

IV. AGREEMENT

- A. The Department and the City desire to amicably resolve all claims that might be brought against the City for the violations alleged above in Section III, Citations and Conclusions of Law, without the City admitting the validity or accuracy of such claims.
- B. The provisions of this AOC shall apply to and be binding upon the parties executing this Order, their successors, assigns, agents, subsidiaries, affiliates, and lessees, including the officers, agents, servants, corporations, and any persons acting under, through, or for the parties.
- C. The City, in compromise and satisfaction of the Department claims relating to the above-referenced violations, agrees, without admitting liability or fault, to pay a civil penalty in the amount of four thousand dollars (\$4,000.00). The Department and the City agree that three thousand dollars (\$3,000.00) shall be suspended on the condition the City comply with all requirements and conditions contained in the AOC. The payment shall be in the form of a certified check or cashier's check made payable to "Clinton County School Fund." The penalty payment in the amount of one thousand dollars (\$1,000.00) is due and payable upon execution of

this AOC by the City. The check and signed copy of the AOC shall be delivered to:

Accounting Program
Missouri Department of Natural Resources
P.O. Box 477
Jefferson City, MO 65102-0176

- D. Within 30 days of the effective date of this AOC, the City shall install an indicating, totalizing, and recording flow measurement device at the headworks of the WWTF in order to measure influent.
- E. Within 180 days of installation of the indicating, totalizing, and recording flow measurement device, the City shall submit a complete Facility Plan for the WWTF pursuant to 10 CSR 20-8.110. The Facility Plan shall emphasize a hydraulic evaluation, an assessment of the lagoon's retention time, an assessment of removal efficiencies for TSS and BOD, and recommendations for any upgrades needed to produce effluent that complies with permitted effluent limitations.
- F. The City shall fully implement all of the requirements of Appendix A of this AOC, Wastewater Collection and Treatment System Management Program, and if required complete improvements to its collection system that work toward eliminating incidents of SSOs from its collection system and bypasses at the WWTF. If the Department comments and/or requests modification of any documents submitted to the Department pursuant to Appendix A, the City shall make the modifications as directed by the Department and/or address the Department's comments and resubmit the document(s) within 30 days of receipt of the Department's comment(s).
- G. Immediately upon becoming aware that a deadline or milestone as set forth in this AOC will not be completed on time, the City shall notify the Department by telephone or electronic mail which i) identifies the deadline that will not be completed; ii) the reason for failing to meet the deadline; and iii) a proposed extension to the deadline. Within five (5) days of notifying the Department, the City shall submit to the Department for review and approval a written request

containing the same basic provisions of i, ii, and iii listed above. The Department may grant an extension if it deems appropriate. Failure to submit a written notice to the Department may constitute a waiver of the City's right to request an extension and may be grounds for the Department to deny the City an extension.

- H. Should the City fail to meet the terms of this AOC, including any of the deadlines set out in paragraphs D and E above, the Department may impose stipulated penalties and the City agrees to pay such stipulated penalties, in the following amounts:

<u>Days of Violation</u>	<u>Amount of Penalty</u>
1 to 30 days	\$ 500.00 per day
31 to 90 days	\$1,000.00 per day
91 days and above	\$2,500.00 per day

Stipulated penalties will be paid in the form of a certified or cashiers check made payable to "State of Missouri (Clinton County School Fund)." Any such stipulated penalty shall be paid within ten (10) days of demand by the Missouri Department of Natural Resources and shall be delivered to:

Accounting Program
Missouri Department of Natural Resources
P.O. Box 477
Jefferson City, MO 65102-0176

- I. Pursuant to Section 644.145 RSMo, the Department hereby finds, and the City agrees, that the City will be able to meet its obligations under the AOC in a manner that remains within the City's financial capabilities and remains affordable for the City's customers. The City has also reviewed, and concurs with, the Department's Finding of Financial Affordability prepared for the City and finds no objections with the information included in the Financial Affordability document.
- J. Nothing in this AOC forgives the City from future noncompliance with the laws of the state of Missouri, nor requires the Department or state of Missouri to forgo pursuing by any legal means any noncompliance with the laws of the state of Missouri.

- K. The stipulated penalty provided for in this AOC shall be in addition to any other rights, remedies or sanction available to the Department for the City's violation of this AOC, or applicable law.
- L. The terms stated herein constitute the entire and exclusive agreement of the parties. There are no other obligations of the parties, be they expressed or implied, oral or written, except those that are expressly set forth herein. The terms of this AOC supersede all previous memoranda or understanding, notes, conversations, and agreements, expressed or implied.
- M. The effective date of this AOC shall be the date the Department signs the AOC.
- N. The City agrees to comply with the terms and conditions of its permit, the Law, Chapter 644, RSMo, and the implementing regulations at all times in the future.

V. RIGHT OF APPEAL

By signing this AOC number 2012-WPCB-1146, the City waives any right to appeal, seek judicial review, or otherwise challenge this order pursuant to Sections 621.250, 640.010, 640.013, 644.056.3, and 644.079.2, RSMo, 10 CSR 20-1.020, 10 CSR 20-3.010, 10 CSR 20-6.020(5), and Chapters 536, 640, and 644, RSMo, the Missouri Constitution, or any other source of law. AOC number 2012-WPCB-1146 will become final and fully enforceable, as provided in Section 644.076, RSMo upon the date the Department signs.

VI. CORRESPONDENCE AND DOCUMENTATION

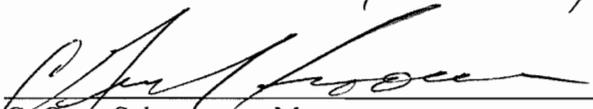
Correspondence or documentation with regard to conditions pertinent to wastewater operations outlined in this AOC shall be directed to:

Ms. Kristi Savage-Clarke
Compliance and Enforcement Section
Water Protection Program
Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102-0176

Agreed to and Ordered this 24 day of August, 2012


for John Madras, Director
Water Protection Program
Missouri Department of Natural Resources

Agreed to and Ordered this 7 day of August, 2012


C. Gene Schoonover, Mayor
City of Lathrop

c. Ms. Diane Huffman
Chief, NPDES and Facilities Management Branch
Water, Wetlands, and Pesticides Division
U.S. Environmental Protection Agency, Region VII
901 North Fifth Street
Kansas City, KS 66101

Mr. Jack McManus
Chief Counsel
Agriculture and Environment Division
Office of the Attorney General
P.O. Box 899
Jefferson City, MO 65102-0899

Ms. Dorothy Franklin
Acting Regional Director
Kansas City Regional Office
Department of Natural Resources
500 NE. Colbern Road
Lee's Summit, MO 64086-4710

Mr. Refaat Mefrakis
Section Chief, Permits
Water Pollution Control Program
P.O. Box 176
Jefferson City, MO 65109

Janet Pointer
Accounting Program
Missouri Department of Natural Resources
P.O. Box 477
Jefferson City, MO 65102-0176

Dr. Samuel M. Hunter, Chair
Missouri Clean Water Commission
1288 State Highway HH
Sikeston, MO 63801

Mr. Ben A. "Todd" Parnell, III, Vice Chair
Missouri Clean Water Commission
Drury University
900 N. Benton
Springfield, MO 65802

Mr. Samuel D. Leake, Commissioner
Missouri Clean Water Commission
41690 Harrison Trail
Perry, MO 63462

Mr. John Cowherd, Commissioner
Missouri Clean Water Commission
1303 Deer Lane
Mount Vernon, MO 65712

Mr. Buddy Bennett, Commissioner
Missouri Clean Water Commission
7361 Summer Azure Lane
Higginsville, MO 64037

Ms. Wallis Warren, Commissioner
Missouri Clean Water Commission
2671 Jefferiesburg Road
Beaufort, MO 63013

Mr. Dennis Wood, Commissioner
Missouri Clean Water Commission
P.O. Box 112
Kimberling City, MO 65686

APPENDIX A

WASTEWATER COLLECTION AND TREATMENT SYSTEM MANAGEMENT PROGRAM

I. Definitions

- A. Building/Private Property Backup. Any release of wastewater from the City's Sanitary Sewer System to buildings or private property. The City is not responsible for any backup caused by blockages, flow conditions, or malfunctions of a private service connection or other piping/conveyance system that is not owned or operationally controlled by the City or overland flooding not emanating from the City's Sanitary Sewer System.
- B. Bypass. The diversion of waste streams from any portion of a treatment facility including any discharge from the wastewater treatment facility that receives less than secondary treatment, whether or not authorized by the permit.
- C. Collection System and Sanitary Sewer System. The sewage collection and transmission system including all pipes, force mains, gravity sewer lines, pumping stations, manholes, and appurtenances thereto that are owned or operated by the City and designed to convey wastewater to the City's wastewater treatment facility or to one or more points of discharge.
- D. Infiltration. Water other than wastewater that enters a Sanitary Sewer System, including sewer service connections and foundation drains, from the ground through such means of defective pipes, pipe joints, connections, or manholes.
- E. Inflow. Water other than wastewater that enters a Sanitary Sewer System, including service connections, from sources such as, but not limited to roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm and sanitary sewers, catch basins, cooling towers, stormwater, surface runoff, street wash waters, or drainage.
- F. Inflow and Infiltration (I/I). The total quantity of water from inflow, infiltration and rain induced infiltration without distinguishing the source.
- G. Private Service Connection. The portion of the Collection System, not owned by the City,

used to convey wastewater from building or buildings to that portion of the Collection System owned by the City.

- H. Sanitary Sewer Overflow (SSO). An overflow, spill, diversion, or release of wastewater from the City's Collection System to waters of the state, as well as to public or private property including Building/Private Property Backups.
- I. Wastewater Treatment Facility (WWTF). The sewage treatment plant and all associated components of such sewage treatment plant, operated by the City.

II. Information Collection and Utilization

SSO, Bypass and Basement Backup Tracking and Data Management System (Tracking and Management System). Within ninety (90) days of the effective date of Abatement Order on Consent (AOC) number 2012-WPCB-1146, the City shall submit to the Missouri Department of Natural Resources (Department), for review and approval, a description of a written or electronic Tracking and Management System that documents information regarding SSO events, bypasses and basement backups; and allows the City to organize and analyze information regarding SSO events, bypasses and basement backups collected by the City. The City shall immediately implement the provisions of the Tracking and Management System upon receiving the Department's approval and to the extent practicable, incorporate this system into a computer-based program that allows authorized City personnel access to the information.

The Tracking and Management System shall include all information necessary for the City to establish an effective and useful information collection system for SSOs, bypasses, backup events, and responses to such events. The Tracking and Management System shall also be designed and operated in a manner that allows the City to use the system for operation and maintenance activities, long term management of the City's wastewater treatment system, and development of the I/I Assessment and Reduction Plan pursuant to Section III of this Appendix and the Maintenance and Repair Program provisions required by Section IV of this Appendix. The Tracking and Management System shall also incorporate the quality assurance and quality control practices the City will follow to ensure the accuracy and

reliability of data collected and managed. The Tracking and Management System shall include, but not be limited to, the following:

- (1) The date and time (or best estimate) that the SSO, bypass or backup event began;
- (2) Precipitation data (including intensity and duration);
- (3) The source of information for the SSO, bypass or backup event, e.g., employee observation, electronic reporting or warning system, citizen complaint;
- (4) The specific (and general) location of the SSO, bypass or backup (i.e., street address and specific basin or geographic area of the City);
- (5) The best estimate (unless monitored) of the duration of the discharge, including the ending date and time;
- (6) The best estimate (unless monitored) of the volume discharged, including flow metering data, where applicable;
- (7) Sampling results from any sampling performed;
- (8) If applicable, the water body into which the wastewater was released;
- (9) The specific cause(s) of the discharge, if known, including for backups, whether it was caused by the City's collection system or private service connections;
- (10) Measurements taken to respond to the discharge event and minimize the duration and/or impacts of the discharge;
- (11) The specific measures the City intends to use to prevent recurrence of the discharge;
- (12) The date and time a repair crew arrived on-site and the personnel involved, if repair was required; and
- (13) The date and time of notification to the Department's Kansas City Regional Office.

III. I/I Assessment and Reduction Plan

- A. Within 90 days of the effective date of this AOC the City shall submit to the Department for review and approval a plan developed by a professional engineer registered in the State of Missouri, to assess I/I. The I/I Assessment Plan shall divide the collection system into designated areas that will be prioritized based on known problem areas and include a schedule to inspect the lines in the designated areas. Sewer lines that were installed within the last 15 years may be excluded from the plan unless the City has reason to believe they are a major source of I/I. In the event the Department comments on the I/I Assessment Plan, the City shall submit a written response to address and satisfy said Department comments. The written response shall be submitted within 30 days receipt of said comments or within the time frame specified in the Department's correspondence.
- B. Within 18 months of the date the Department approves the I/I Assessment Plan, the City shall complete all required work contained in the I/I Assessment Plan as approved by the

Department.

- C. Within 120 days of completing all required work contained in the I/I Assessment Plan, the City shall submit a Capital Improvement Plan (CIP) to the Department for review and approval. The CIP shall be developed by a professional engineer registered in the State of Missouri. The CIP shall prioritize improvements to address deficiencies in the wastewater collection system that were identified during the I/I Assessment. The CIP shall include a schedule to obtain construction permits, if necessary, and complete the recommended improvements. The schedule contained in the Department approved CIP shall become fully enforceable as a condition for compliance with this AOC.
- D. Within 30 days of completing all of the activities of the CIP the City shall submit to the Department a letter certifying that all of the activities detailed in the CIP have been completed as approved by the Department.

IV. Maintenance and Repair Program

- A. Within 180 days of the effective date of AOC number 2012-WPCB-1146, the City shall submit to the Department and implement a Maintenance and Repair Program developed by the City for its collection system. The suggested guidance for developing the Maintenance and Repair Program is the United States Environmental Protection Agency's Guide for Evaluating Capacity, Management, Operation, and Maintenance (CMOM) Programs at Sanitary Sewer Collection Systems (Document No. EPA 305-B-05-02). The City's Maintenance and Repair Program shall include a schedule for routine and systematic inspection, maintenance and repair of the collection system and identify all known short and long term capital investment projects and activities the City anticipates will be necessary to ensure current and long term compliance with the City's permit.
- B. The City's Maintenance and Repair Program shall include a process to reevaluate the assumptions, schedules, and conclusions of the City's Maintenance and Repair Program, including information developed through implementation of the I/I Assessment and Reduction Plan, and revise the City's Maintenance and Repair Program as necessary to ensure it continues to provide a viable planning tool that enables the City to continue to effectively and efficiently operate the City's wastewater treatment system and comply with

its permit. The reevaluation process shall be planned no less frequently than every two years after preparation of the City's Maintenance and Repair Program.

V. Reporting and Record Keeping

A. Immediate Reporting. The City shall verbally notify the Department within 24 hours from the time the City becomes aware of any discharges from the WWTF that receives less than secondary treatment, regardless of whether or not the discharge is a violation of the City's permit and each SSO event, with the exception of backups that are contained within a building. The City shall also submit a written report to the Department within five (5) days from the time the City becomes aware of any dry weather bypasses or SSOs as described above and report wet weather bypasses and SSOs with its Discharge Monitoring Reports.

(1) The written report shall contain the date, time, location, and estimated volume of the event, precipitation information (amount and duration), if any, and any additional information the City determines may be helpful in explaining the event and its circumstances or impacts.

(2) Reporting required under this Subsection to the Department is in addition to any reporting required by the City's permit.

B. Semi Annual Reporting. Immediately upon the Department's approval of the I/I Assessment and Reduction Plan, the City shall submit in writing to the Department six (6) month status reports on or before the 28th day of April and October every year thereafter until termination of AOC number 2012-WPCB-1146. The April reports shall cover activities that occurred during September, October, November, December, January, February and March; and the October reports shall cover activities that occurred during April, May, June, July, August, and September. The Semi Annual Reports shall contain a summary of the status and progress of all projects and programs required by the Appendix, including, but not limited to:

(1) A summary of information collected pursuant to Section II of this Appendix, including a tabulation of each SSO, bypass and backup event.

(2) A list of all confirmed I/I sources, the date (best estimate) of confirmation, whether the Inflow source or Infiltration source is on private or public property, and the removal or correction date. If the source has not yet been removed or corrected then include the expected date. If the source is located on private property, identify all actions taken by the City and the date taken to secure the source(s) removal or correction.

- (3) A description of all preventative maintenance activities undertaken by the City. This shall include information identifying specific pipe segments, manholes, pump stations or other structures within the collection system which were inspected, cleaned, repaired or replaced. Where available, maps shall be submitted documenting the information provided in the report.
- (4) The status of implementation of all plans required by Sections III and IV of this Appendix, including a statement as to whether specific schedule milestone dates in the schedules included in each approved plan were met. Upon completion of a specific project in the approved plans, the City shall submit a certification that the specified work has been completed, including the following documentation of the completed work to the Department:
 - (a) For work performed by a private contractor, City personnel shall complete an inspection report for the completed project and the certification by the City's Engineer that the specified work has been completed; and
 - (b) For work performed by the City personnel a copy of the work order for the project verified by The City's Engineer as complete.
- (5) A list of all permit violations within the quarter. This tabular listing shall include the date of the violation, the parameter exceeded, the permit limit, the reported amount, and any additional relevant information included in each Discharge Monitoring Report (DMR) within the quarter, or on the cover letter for the DMR (i.e., claim of upset, etc.).

C. The City shall maintain copies of all written submissions prepared pursuant to this Appendix for at least 36 months after termination of AOC number 2012-WPCB-1146.

VI. Requesting Termination of Reporting Requirements

Upon successful completion of all construction activities identified within the approved I/I Assessment and Reduction Plan under Section III of Appendix A; full and successful implementation of all action required pursuant to Sections II and IV of Appendix A; and reporting as required by Section V of Appendix A, the City may submit a report to the Department demonstrating such compliance and implementation of the required actions and request termination of the reporting requirements contained in Section V subparagraph B of Appendix A. The Department will consider termination of the reporting requirements contained in Section V subparagraph B of Appendix A when all actions identified above have been completed and the City demonstrates that it has corrected deficiencies within the physical structures comprising the City's wastewater treatment system, has significantly improved operation and maintenance processes, data collection and utilization, and has eliminated, to the

extent feasible, SSOs, bypasses and backups. The reporting requirements of this Appendix shall remain in effect until a written notice of termination is issued by an authorized representative of the Department.