



Creek pursuant to the conditions and requirements of Missouri State Operating Permit (MSOP) No. MO-0116955.

- B. Cedar Creek and its tributaries are waters of the state as the term is defined by Section 644.016(27) RSMo.
- C. Domestic wastewater is a water contaminant as the term is defined in Section 644.016(24), RSMo.
- D. On January 4, 2008, the Department issued the MSOP to the company which expired by its own terms on January 3, 2013. The MSOP required the company to sample the effluent discharged from Outfall No. 001 and chemically analyze the effluent sample for the water contaminants listed in Part "A" every quarter. The MSOP also required the effluent to comply with the limitations contained in Part "A" and required the results of the analysis to be submitted to the Department on quarterly Discharge Monitoring Reports (DMRs) by the 28<sup>th</sup> day of the month following the reporting period.
- E. The MSOP included interim effluent limitations for Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), final effluent limitations for BOD, TSS, Fecal Coliform, and pH, and a Schedule of Compliance (SOC) for the company to complete improvements to the WWTF that would enable the effluent to comply with the final limitations for Fecal Coliform by January 3, 2013.
- F. A quarterly DMR submitted to the Department documented that the effluent discharged from the company's WWTF failed to comply with the applicable permitted effluent limitations for TSS during the fourth quarter 2012.
- G. A quarterly DMR submitted to the Department documented that the effluent discharged from the company's WWTF failed to comply with the applicable permitted effluent limitations for BOD during the fourth quarter 2012.
- H. A quarterly DMR submitted to the Department documented that the effluent discharged from the company's WWTF failed to comply with the applicable permitted effluent limitations for Fecal Coliform during the second quarter 2013.
- I. On January 9, 2013, the Department received a renewal application for the MSOP from Mr. Bob Burch, General Manager
- J. On March 28, 2013, Department staff inspected the WWTF and, based on the violations found during the March 28, 2013, inspection, the Department issued Notice of Violation (NOV) No. NER2013040410213726 to the company on May 28, 2013. In the letter and report that accompanied the NOV, the Department required the company to: collect a wastewater influent sample at least once per year; submit a written statement to the Department by June 18, 2013, explaining what action will be taken to correct the unsatisfactory feature of failing to comply with effluent limits; submit a construction permit application and activity schedule to be in compliance with disinfection requirements; submit missing

reports; install an all-weather access road to the WWTF; and coordinate with the Compliance and Enforcement Section of the Water Pollution Control Branch.

- K. On July 19, 2013, the Department received an application from Mr. Dennis Sievers from The Sewage Doctor, LLC, on behalf of the company, for a construction permit and engineering report for a no-discharge lagoon with land application system.
- L. On September 1, 2013, the Department reissued MSOP No. MO-0116955 which requires effluent discharging from the company's WWTF to comply with final limits for *E. coli* immediately upon issuance of MSOP MO-0116955.
- M. On October 29, 2013, the Department issued the company Construction Permit No. CP0001563 for a no-discharge system that consists of a new once-cell lagoon with land application system. The construction of the new one-cell lagoon also consists of closing the existing lagoon. Construction Permit No. CP0001563 expires on October 28, 2014.
- N. On October 29, 2013, the Department issued the company MSOP No. MO-G823050, which authorizes the operation of a no-discharge WWTF and also authorizes the land application of wastewater.
- O. Section 644.076.1, RSMo, makes it unlawful to violate the MCWL and regulations promulgated pursuant thereto and establishes civil penalties of up to \$10,000.00 per day per violation.

### III. CITATIONS AND CONCLUSIONS OF LAW

Violations of the MCWL and its implementing regulations alleged herein and found to have been committed by the Company at the facility are as follows:

1. On December 6, 2012, March 28, 2013, and June 30, 2013, failed to comply with effluent limits contained in Part A of MSOP No. MO-0116955, in violation of Sections 644.051.1(3) and 644.076.1, RSMo.
2. Caused pollution of an unnamed tributary to Cedar Creek, 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.
3. Failed to collect an influent sample in order to ensure a removal efficiency of 65% is being met by the WWTF, as required by the effluent limitations and monitoring requirements of MSOP No. MO-0116955, in violation of Section 644.076.1, RSMo.
4. Failed to submit a construction permit application, submit an activity schedule, submit interim progress reports, and to be in compliance with disinfection requirements as required in Part B, Standard Conditions, and Part E, SOC of

MSOP No. MO-0116955, in violation of Sections 644.076.1 RSMo, and 10 CSR 20-6.010(7)(A).

5. Failed to apply for renewal of the MSOP at least 180 days before expiration of the MSOP, in violation of Sections 644.051.9 and 644.076.1, RSMo, and 10 CSR 20-6.010(5)(C).

#### IV. AGREEMENT

- A. The Department and the company desire to amicably resolve all claims that may be brought against the company for violations alleged above in Section III, Citations and Conclusions of Law, without the company admitting to the validity or accuracy of such claims.
- B. The provisions of this AOC shall apply to and be binding upon the parties executing this AOC, their successors, assigns, agents, subsidiaries, affiliates, and lessees, including the officers, agents, servants, corporations, and any persons acting under, through, or for the parties. Any changes in ownership or corporate status, including but not limited to any transfer of assets or real or personal property, shall not affect the responsibilities of the company under this AOC.
- C. The company, in compromise and satisfaction of the Department's claims relating to the above-referenced violations, agrees, without admitting liability or fault, to pay a civil penalty in the amount of \$10,000.00. The payment of the civil penalty shall be in the form of a certified check or cashier's check made payable to "Callaway County Treasurer, as custodian of the Callaway County School Fund." The check in the amount of \$10,000.00 is due and payable upon execution of this AOC by the company. The check and signed copies of the AOC shall be delivered to:

Accounting Program  
Department of Natural Resources  
P.O. Box 477  
Jefferson City, MO 65102-0477
- D. In the period of time from the effective date of this AOC until the new or upgraded WWTF is completed, the company shall operate and maintain the existing WWTF at all times in compliance with the conditions and requirements of MSOP No. MO-0116955. All units or components of the existing WWTF shall be maintained in an operable condition, even if this requires the purchase and installation of new parts or equipment, or repair of the WWTF.
- E. On or before October 29, 2014, the company shall complete construction of the improvements as approved by the Department, and achieve compliance with the final effluent limitations contained in MSOP No. MO-0116955 or the requirements contained in MSOP No. MO-G823050.
- F. Within 15 days of completing construction, the company shall submit to the Department a Statement of Work Complete Form, signed, sealed and dated by a

professional engineer registered in the state of Missouri certifying that the project is complete and operable in accordance with Department approved plans and specifications, and a Form J to request for termination of MSOP No. MO-0116955. The company shall also close the existing lagoon according to the closure requirements of Section I in Standard Conditions Part III of MSOP No. MO-0116955.

- G. Immediately upon becoming aware that a deadline or milestone as set forth in this AOC will not be completed by the required deadline, the company shall notify the Department by telephone or electronic mail i) identifying the deadline that will not be completed; ii) identifying the reason for failing to meet the deadline; and iii) proposing an extension to the deadline. Within five days of notifying the Department, the company 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 company's right to request an extension and may be grounds for the Department to deny the company an extension.
- H. Should the company fail to meet the terms of this AOC, including the deadlines for completion of construction set out in Paragraphs D through F, the company shall be subject to pay stipulated penalties in the following amount:

<u>Days of Violation</u>	<u>Amount of Penalty</u>
1 to 30 days	\$100.00 per day
31 to 90 days	\$250.00 per day
91 days and above	\$500.00 per day

Stipulated penalties will be paid in the form of a certified or cashier's check made payable to "Callaway County Treasurer, as custodian of the Callaway County School Fund." Any such stipulated penalty shall be paid within ten days of demand by the Department and shall be delivered to:

Accounting Program  
Department of Natural Resources  
P.O. Box 477  
Jefferson City, MO 65102-0477

- I. Nothing in this AOC forgives the company from future non-compliance with the laws of the state of Missouri, nor requires the Department or state of Missouri to forego pursuing by any legal means for any non-compliance with the laws of the state of Missouri. The terms stated herein constitute the entire and exclusive agreement of the parties. There are no other obligations of the parties, be they express or implied, oral or written, except those expressly set forth herein. The terms of this AOC supersede all previous memoranda or understanding, notes, conversations, and agreements, express or implied. This AOC may not be modified orally.

- J. By signing this AOC, all signatories assert that they have read and understood the terms of this AOC, and that they have the authority to sign this AOC on behalf of their respective party.
- K. The effective date of the AOC shall be the date the Department signs the AOC. The Department shall send a fully executed copy of this AOC to the company for its records.
- L. The company shall comply with the MCWL, Chapter 644, RSMo and its implementing regulations at all times in the future.

V. RIGHT OF APPEAL

By signing this AOC, the company consents to its terms and waives any right to appeal, seek judicial review, or otherwise challenge the terms and conditions of this AOC pursuant to Sections 621.250, 640.010, 640.013, 644.056.3, 644.079.2, Chapter 536 RSMo, 644.145, RSMo, 10 CSR 20-1.020, 10 CSR 20-3.010, 10 CSR 20-6.020(5), the Missouri Constitution, or any other source of law.

VI. CORRESPONDENCE AND DOCUMENTATION

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

Mr. John Corley  
Department of Natural Resources  
Water Protection Program  
Compliance and Enforcement Section  
P.O. Box 176  
Jefferson City, MO 65102-0176

Agreed to and Ordered this 30<sup>th</sup> day of October, 2014



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

Agreed to and Ordered this 24<sup>th</sup> day of October, 2014



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Bob Burch, General Manager  
Columbia Freightliner Sales, Inc.

Copies of the foregoing served by certified mail to:

CERTIFIED MAIL:

Mr. Bob Burch  
Kansas City Freightliner Sales, Inc.  
General Manager, Columbia Freightliner Sales, Inc.  
Kansas City, MO 64161

c: Mr. Chris Wieberg, Chief, Operating Permits Section  
Ms. Irene Crawford, Director, Northeast Regional Office  
Missouri Clean Water Commission