

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 homeowners of liability for, or preclude the Department from, initiating a judicial enforcement action to recover civil penalties for any, including future, violations of the Law and the violations cited in this AOC, or to seek injunctive relief, pursuant to Chapter 644, RSMo.

II FINDINGS OF FACT, CASSIDY ROAD LAGOON

- A. On April 5, 2011, the Department responded to an environmental complaint regarding the discharge of wastewater from an unpermitted lagoon and discovered the unpermitted lagoon on property owned by Mr. and Mrs. Lyndell Salmons, more specifically described as Lot six (6) of the Grothoff Subdivision, located in the SE 1/4, Section 8, T43N, R12W, Cole County, Missouri.
- B. Missouri American Water Company (MAWC), owns a wastewater treatment facility (WWTF) known as Grothoff WWTF that operates pursuant to Missouri State Operating Permit #MO-0095656 and is located within 200 feet of the lagoon.
- C. Wastewater generated by the three (3) private homes owned by the homeowners on Cassidy Road flows to the lagoon. The Department observed that the lagoon is not fenced, has very little freeboard and the ground around a clean out in the collection line showed evidence of sanitary sewer overflows. Effluent from the lagoon flows to an unnamed tributary to Honey Creek.

- D. On April 20, 2011, the Department sent Letters of Warning (LOW) to the homeowners connected to the lagoon. The letter included a Report of Investigation and Schedule of Compliance (SOC) that outlined the options available to return to compliance. In this letter the Department requested that the homeowners sign and return the compliance schedule that outlined the actions they planned to take to correct the violations.
- E. On May 23, 2011, the Department met with the homeowners, a representative of the Cole County Health Department and a representative of MAWC. The purpose of the meeting was to provide the homeowners an explanation of all available options to comply with the Law. Additionally, the Department informed the homeowners that each must submit a written response to the April 5, 2011, LOW once MAWC provides them with an estimate for connection to Grothoff WWTF.
- F. On September 6, 2011, MAWC sent a letter to each of the homeowners providing them with a cost estimate to connect to Grothoff WWTF.
- G. On September 28, 2011, the Department sent a letter to the homeowners, providing them with a copy of the SOC included with the April 20, 2011, LOW and requesting that the homeowners provide a written response to the Department by October 10, 2011.
- H. On October 19, 2011, the Department received a letter from Mr. Steve Hughes, indicating that he and Ms. Jessica Evers intend to connect to Grothoff WWTF but need additional time to obtain financing. The Department did not receive a written response from Jerry and Wendy Lange or Wendy Skaggs.

III. CITATIONS AND CONCLUSIONS OF LAW

Violations of the Law and its implementing regulations alleged herein and found at the lagoon are as follows:

1. Since at least 2011, operated, used, or maintained a water contaminant source, wastewater lagoon, without a Missouri State Operating Permit in violation of Sections 644.051.2 and 644.076.1, RSMo, and 10 CSR 20-6.010(1)(A) and (5)(A); and
2. Caused pollution of an unnamed tributary to Honey 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.

IV. AGREEMENT

- A. The Department and the homeowners desire to amicably resolve all claims that might be brought against them for the violations alleged above in Section III, Citations and Conclusions of Law, without the homeowners admitting the validity or accuracy of such claims.
- B. The provisions of this AOC shall apply to and be binding upon the homeowners, 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 homeowners under this AOC. If the homeowners sell or otherwise transfer the property connected to the lagoon, the homeowners shall cause as a condition of such sale or transfer, that the buyer will assume the obligations of the homeowners under this AOC in writing. In such event, the

homeowners shall provide thirty (30) days prior written notice of such assumption to the Department.

- C. The homeowners, in compromise and satisfaction of the Department's claims relating to the above-referenced violations, agree, without admitting liability or fault, to pay a civil penalty in the amount of four thousand dollars and no cents (\$4,000.00). The homeowners further agree that the entire four thousand dollars and no cents (\$4,000.00) shall be suspended on the condition that the homeowners do not violate the Law, its implementing regulation thereunder, and the agreed schedules in section IV, paragraph D of this AOC. The signed copy of the AOC shall be delivered to:

Missouri Department of Natural Resources
Water Protection Program
P.O. Box 176
Jefferson City, MO 65102-0176

- D. The homeowners agree to connect to the Grothoff WWTF according to the following schedule:
1. Within fifteen (15) days of the effective date of this AOC, submit to the Department a plan for connection to the Grothoff WWTF.
 2. Within thirty (30) days of completion of the sewer main extension the homeowners shall complete connection of their home's service line to the newly constructed sewer main extension and permanently disconnect from the lagoon.
- E. Should the homeowners fail to meet the terms of this AOC, including the deadlines for completion of closure as set forth in paragraph D of this Agreement, the homeowners shall pay stipulated penalties in the following amount:

<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 cashier's check made payable to "Cole County Treasurer, as custodian of the Cole County School Fund" and shall be paid within ten (10) days of demand by the Department and shall be delivered to:

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

- F. The stipulated penalties provided for in this AOC shall be in addition to any other rights, remedies or sanction available to the Department for the homeowners' violation of this AOC, or applicable law.
- G. No portion of the civil penalty or stipulated penalties paid pursuant to this AOC may be used to reduce the homeowners' federal or state tax obligation.
- H. Nothing in this AOC forgives the homeowners for 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 any noncompliance with the laws of the state of Missouri.
- I. 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 within as 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 homeowners for their records.
- L. The homeowners shall comply with the Law, Chapter 644, RSMo, and its implementing regulations at all times in the future.

V. RIGHT OF APPEAL

By signing this AOC No. 2012-WPCB-1182, the homeowners waive any right of appeal 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 No. 2012-WPCB-1182 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 outlined in this AOC shall be directed to:

Ms. Mary Ann Sutter
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 27th day of April, 2012

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

Agreed to and Ordered this _____ day of _____, 2012

Stephen P. Hughes
Stephen P. Hughes, owner
3209 Cassidy Road

Jessica Evers
Jessica M. Evers, owner
3209 Cassidy Road

Agreed to and Ordered this 17 day of MARCH, 2012

Jerry B. Lange
Jerry B. Lange, owner
3213 Cassidy Road

Wendy Lange
Wendy Lange, owner
3213 Cassidy Road

Agreed to and Ordered this 19 day of MARCH, 2012

Wendy K. Skaggs
Wendy K. Skaggs, owner
3217 Cassidy Road

Copies of the foregoing served by certified mail to:

Mr Stephen Hughes and Ms. Jessica Evers
3209 Cassidy Road
Jefferson City, MO 65101

CERTIFIED MAIL #

c. Ms. Diane Huffnan
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. Refaat Mefrakis, Chief
NPDES Permits & Engineering Section
Water Protection Program
Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102-0176

Ms. Irene Crawford, Regional Director
Northeast Regional Office
Department of Natural Resources
1709 Prospect Dr.
Macon, MO 63552-2602

Dr. Samuel M. Hunter, Chair
Missouri Clean Water Commission
P O Box 984
216 Tanner Street
Sikeston, MO 63801

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

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

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

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
284 Lillian Lane
Kimberling City, MO 65686