

B stream with designated uses of livestock and wildlife watering, protection of aquatic life, and whole body contact.

- B. Little Blue River and its tributaries are waters of the state as the term is defined by Section 644.016 (26), RSMo.
- C. Domestic wastewater is a water contaminant source as the term is defined in Section 644.016(23), RSMo.
- D. On March 23, 2011, staff from the Department's Kansas City Regional Office conducted a complaint investigation at the Restaurant after receiving a report of a fish kill in the unnamed tributary to Little Blue River. The City of Belton reported a fish kill to the Department, which was approximately 300 yards downstream of the Restaurant. The report claimed approximately six (6) minnows were dead in the unnamed tributary to Little Blue River. On the same day as the complaint investigation, staff members from the Missouri Department of Conservation (MDC) conducted an investigation of the reported fish kill; however, the MDC investigators and Department staff did not find any evidence of a fish kill in the unnamed tributary to Little Blue River.
- E. During the investigation, Department staff observed wastewater discharging into the unnamed tributary of Little Blue River from the Restaurant's sanitary clean-out pipe. Department staff observed dried sludge leading from the Restaurant to the stream. The City of Belton and Restaurant personnel stated the Restaurant's grease trap was full which created backpressure on the sanitary sewer line. Upon further investigation, the staff determined the caps for the clean-out pipes had been removed to relieve backpressure on the sanitary sewer connection.
- F. On May 24, 2011, the Department issued Notice of Violation number KC2011032917035155 to Mr. Angel for discharging wastewater into waters of the state without an operating permit and causing pollution to the unnamed tributary to Little Blue River.
- G. As a result of the above investigations, the State incurred costs for staff time in the amount of one-thousand nine-hundred twenty dollars and eighty-three cents (1,920.83).
- H. Section 644.096, RSMo, authorizes the State, or any political subdivision or agency, to recover actual damages, including all costs and expenses necessary to establish or collect any sums under Section 644.006 to 644.141, RSMo, and the costs and expenses of restoring any waters of the State to their condition as they existed before the violation, sustained by the State because of the violation.
- I. Section 644.076.1, RSMo, makes it unlawful to violate the Law and regulations promulgated pursuant thereto and establishes civil penalties of up to ten thousand dollars (\$10,000.00) per day per violation.

III. CONCLUSIONS OF LAW

Violations of the Law and its implementing regulations alleged herein and found to have been committed by the Mr. Angel at the Restaurant are as follows:

1. Operated, used, or maintained water contaminant source, domestic wastewater, which intermittently discharged to waters of the state 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 10 CSR 20-6.010(5)(A); and
2. Caused pollution of a tributary to Little Blue Creek, waters of the state, or placed or caused or permitted to be placed water contaminants in a location(s) 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 Mr. Angel desire to amicably resolve all claims that might be brought against Mr. Angel for the violations alleged above in Section III, Conclusions of Law, without Mr. Angel 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 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.
- C. Mr. Angel, 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 one-thousand dollars and zero cents (\$1,000.00). The civil penalty shall be paid in the form of certified check or cashier's check made payable to "Cass County School Treasurer, as custodian of the Cass County School Fund." A check in the amount of one-thousand dollars and zero cents (\$1,000.00) is due and payable within 30 days of the effective date of this AOC. 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. Mr. Angel agrees to pay the state's investigative costs in the amount of one-thousand nine-hundred twenty dollars and eighty-three cents (\$1,920.83) in the form of a certified check or cashier's check made payable to the "State of Missouri." The check in the amount of one-thousand nine-hundred twenty dollars and eighty-three cents (\$1,920.83) is due and payable upon execution of this AOC by Mr. Angel. The check shall be delivered to:

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

- E. No portion of the civil penalty paid pursuant to this AOC may be used to reduce Mr. Angel's federal or state tax obligation.
- F. Nothing in this AOC forgives Mr. Angel 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 any noncompliance 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 within are 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.
- G. 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.
- H. The effective date of the AOC shall be the date the Department signs the Agreement. The Department shall send a fully executed copy of this AOC to Mr. Angel for his records.
- I. Mr. Angel shall comply with the Law, Chapter 644, RSMo, and its implementing regulations at all times in the future.

V. RIGHT OF APPEAL

By signing AOC No. 2012-WPCB-1199, Mr. Angel waives 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-1199 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:

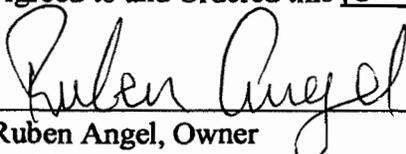
Mr. Graham Freeman
Compliance and Enforcement Section
Water Protection Program
Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102-0176

Agreed to and Ordered this 2nd day of October, 2012



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

Agreed to and Ordered this 18 day of August, 2012



Ruben Angel, Owner
Guichos Restaurant

Copies of the foregoing served by certified mail to:

Mr. Ruben Angel
Guichos Restaurant
1220 NE Magnolia Street
Lee's Summit, MO 64086

CERTIFIED MAIL #

- 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

Ms. Andrea Collier
Kansas City Regional Office
500 NE Colbern Road
Lee's Summit MO, 64086

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
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Mr. Samuel D. Leake, Commissioner
Missouri Clean Water Commission
41690 Harrison Trail
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Ms. Wallis Warren, Commissioner
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