

Heartland Dairy Complex which houses approximately 6,377 animal units of dairy cows. Wastes from the Dairy Complex are piped to one (1) of two (2) earthen storage basins, or one (1) reserve storage basin. Wastewater from the earthen storage basins is land applied in accordance with the Department approved nutrient management plan. The facility operates pursuant to the requirements and conditions of Missouri State Operating Permit No. MO-0119962 which does not allow discharge of process wastes.

- B. Permit No. MO-0119962, Part C, Special Conditions, Section 2 (g) (4) requires twice daily inspections of pressurized underground lines including one inspection completed immediately following startup, and documentation and correction of any deficiencies found as a result of inspection.
- C. Troublesome Creek is waters of the state as defined in 644.016(26) RSMo.
- D. Section 644.076.1, RSMo, makes it unlawful to violate the MCWL and regulations promulgated pursuant thereto and establishes civil penalties of up to ten thousand dollars (\$10,000.00) per day per violation.
- E. On September 15, 2011, the Department received notification from the Company that on September 14, 2011, wastewater seepage from an underground force main had been discharged into Troublesome Creek. The seepage was discovered prior to beginning land application activities.
- F. On September 15, 2011, Department staff performed an environmental investigation of the wastewater discharge to Troublesome Creek. Staff observed an excavation in "East of Silo" field which exposed the ruptured irrigation line that was the source of the discharge. Staff observed that the rupture in the eight (8)-inch pressurized line had occurred on the bottom of the pipe directly above the point where the pipe had been reduced to a six (6)-inch line. Staff observed that the water in Troublesome Creek, downstream of the wastewater discharge, was dark and had the odor of process wastewater. Staff observed dead fish and dead freshwater mussels in Troublesome Creek downstream of the discharge. At the request of Department staff, a Missouri Department of Conservation (MDC) agent then conducted a fish kill investigation.
- G. Analysis of water samples taken from Troublesome Creek on September 15, 2011, indicated that the sample taken 0.5 miles downstream from the discharge had a value of 17.3 mg/L for Ammonia as Nitrogen, which is in exceedance of the acute criteria of 9.42mg/L for waters with a pH of 7.94. Sample analysis also indicated a rise in the Specific Conductivity of the sample taken 100 feet downstream of the discharge when compared to the sample taken upstream of the discharge.
- H. On October 11, 2011, the Department received the Report of Pollution Investigations and Fishkills (Report) from the MDC. In the Report, the investigating MDC agent reported that during his September 15, 2011,

investigation, he had observed that the discharge from the Dairy Complex had impacted approximately 600 yards of Troublesome Creek and that there were four (4) dead fish and thirty-one (31) dead freshwater mussels with a calculated value of \$27.57.

- I. On November 1, 2011, the Department issued a Notice of Violation (NOV) to Sharpe Land and Cattle Company as a result of violations observed during the September 15, 2011, environmental investigation conducted by Department staff.
- J. On December 22, 2011, the Department issued construction permit (CP) No. CPCF00038 to the Company, for construction of a twelve (12)-inch force main under Troublesome Creek to transfer wastewater from the Dairy Complex's wastewater basins to land application systems east of Troublesome Creek.
- K. On April 11, 2012, the Department received a letter from Sharpe Holdings Inc. stating that the Company has replaced the section of broken pipe that had resulted in the discharge of process wastewater, expanded monitoring of force main lines, and includes monitoring on work orders for land application. The Company further states that it took prompt action to mitigate and address the discharge by constructing a dam downstream from the discharge and pumping the affected water from Troublesome Creek and land applying it to adjacent farmland. In addition, the Company states that it flushed Troublesome Creek with fresh water from a nearby lake and that following these procedures the water in Troublesome Creek was clear and had no odor. Also in the letter, the Company responded to the violations listed in the Department's February 14, 2012, letter, citing precautions taken by the Company's to prevent the discharge of process wastewater and describing inspection practices meant to detect problems in the irrigation system.
- L. On July, 10, 2012, the Department received plans submitted by the Company for Department review and approval, to convert the six (6)-inch diameter portion of the repaired irrigation line to freshwater irrigation only rather than decommission the line.
- M. On December 12, 2012, the Department received a written procedure submitted by the Company, for Department review and approval, to clean the eight (8)-inch force main in East of Silo field prior to utilization for transport of fresh water to the force main under Troublesome Creek.
- N. On December 18, 2012, the Department sent the Company correspondence stating the procedure to clean the eight (8)-inch force main in East of Silo field prior to utilization for transport of fresh water to the force main under Troublesome Creek had been approved.

Construction without a Permit

- O. On September 15, 2011, Department staff conducted a routine quarterly compliance inspection of the Dairy Complex and observed a small stream of clear water running into the northeast corner of the lagoon south of the cafeteria and rehabilitation complex. The Company's general manager informed Department staff that they would investigate the origins of the water.
- P. On November 23, 2011, Department staff conducted a routine quarterly compliance inspection of the Dairy Complex and asked the environmental manager if he had located the source of clear water that had been observed running into the northeast corner of the lagoon south of the cafeteria and rehabilitation complex during the previous inspection. The environmental manager stated the clear water was discharge from a newly constructed force main that transfers wastewater from the recently constructed Sampson House to the lagoon. Department staff reviewed the field and found that the Department had not received a CP application for construction of a wastewater force main for Sampson House.
- Q. On December 29, 2011, the Department issued a Notice of Violation (NOV) to the Company for construction of a wastewater force main without a permit, as a result of violations observed during the November 23, 2011, routine quarterly compliance inspection conducted by Department staff.
- R. On April 11, 2012, the Department received a letter from the Company in response to the Department's February 14, 2012, letter offering to negotiate an AOC and a civil penalty. In the letter, the Company states that it installed the force main for Sampson house in order to prevent a discharge of wastewater. On June 25, 2012, the Company submitted a complete construction permit (CP) application for construction of the Sampson House wastewater force main, including the application fee, and as built plans and specifications for the force main constructed to serve the Sampson House.

III. CITATIONS AND CONCLUSIONS OF LAW

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

- 1. Discharge of water contaminants into waters of the state, which reduced the quality of such waters below the Water Quality Standards established by the Missouri Clean Water Commission in violation of Sections 644.051.1(2) and 644.076.1, RSMo, and 10 CSR 20-7.031(3)(A) (C and G);
- 2. Failure to operate as a no discharge operation in violation of Permit No. MO-0119962 General Conditions 4. (b) and Section 644.076.1, RSMo;

3. Causing pollution of Troublesome Creek, waters of the state, or placed or caused or permitted to be placed a water contaminant, wastewater from CAFO, in a location where it was reasonably certain to cause pollution of waters of the state in violation of Sections 644.051.1(1) and 644.076.1, RSMo;
4. Failure to properly monitor pressurized pipelines as required by Special Conditions Section 2 (g) (4) of Permit number MO-0119962 in violation of Section 644.076.1, RSMo; and
5. Causing or permitting construction, installation or modification of any sewer system or of any water contaminant source, point source or wastewater treatment facility without first receiving a CP in violation of Sections 644.051.2 and 644.076.1, RSMo, and 10 CSR 20-6.010(1)(A) and (4)(A).

IV. AGREEMENT

- A. The Department and the Company desire to amicably resolve all claims that might be brought against the Company for the violations alleged above in Section III, Citations and Conclusions of MCWL, without the Company 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 Company, 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 twenty thousand dollars and no cents (\$20,000.00). The payment shall be in the form of a certified check or cashier's check made payable to "Lewis County Treasurer, as custodian of the Lewis County School Fund." The check in the amount of twenty thousand dollars and no cents (\$20,000.00) 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
Missouri Department of Natural Resources
P.O. Box 477
Jefferson City, MO 65102-0176

- D. The Company agrees to pay the State's investigative costs, damages, and the value of the fish killed, in the amount of one-thousand nine-hundred and twenty-five dollars and eighty cents (\$1,925.80) 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 and twenty-five dollars and eighty cents (\$1,925.80) is due

and payable upon execution of this AOC by the Company. The check shall be delivered to:

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

- E. This AOC resolves only those claims related to the violations alleged in the Notices of Violation identified herein and only releases Sharpe Holdings, Inc. from liability resulting therefrom. This AOC constitutes the final, complete and exclusive agreement and understanding among the parties related to the violations alleged in the Notices of Violation identified herein. The Department reserves all legal and equitable remedies available to enforce the provisions of this AOC and nothing in this AOC constitutes a permit, or a modification of any existing permit. Sharpe Holdings, Inc. is responsible for achieving and maintaining compliance with all applicable federal, State and local laws, regulations and permits. This AOC shall not be construed to create rights in, or grant any cause of action to any third party not a party to this AOC.
- F. 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.
- G. The effective date of the AOC shall be the date the Department signs the Order.
- H. The Company agrees to comply with the terms and conditions of its Permit, the MCWL, Chapter 644, RSMo, and the implementing regulations at all times in the future.

V. RIGHT OF APPEAL

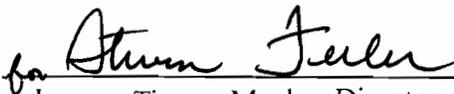
By signing this AOC number 2012-WPCB-1193, the Company waives any right to appeal, seek judicial review, or otherwise challenge this order pursuant to Sections 621.250, 640.010, 640.013, 644.056.3, and 644.079.2, RSMo, 10 CSR 20-1.020, 10 CSR 20-3.010, 10 CSR 20-6.020(5), and Chapters 536, 640, and 644, RSMo, the Missouri Constitution, or any other source of law. AOC number 2012-WPCB-1193 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 operations outlined in this AOC shall be directed to:

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

Agreed to and Ordered this 28th day of January, 2013



Leanne Tippett Mosby, Director
Division of Environmental Quality
Missouri Department of Natural Resources

Agreed to and Ordered this 4th day of January, 2013



Chris Powell, General Manager
Sharpe Land and Cattle Company

Copies of the foregoing served by certified mail to:

Mr. Chris Powell
Sharpe Land and Cattle Company
12609 255th St.
LaBelle, MO 63447

CERTIFIED MAIL:

c. Ms. Diane Huffman
Chief, NPDES and Facilities Management Branch
Water, Wetlands, and Pesticides Division
U.S. Environmental Protection Agency, Region VII
11201 Renner Road
Lenexa, KS 66219

Mr. Jack McManus, Chief Counsel
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