

**BEFORE THE  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF MISSOURI**

AUG - 9 2013

**IN THE MATTER OF:**

The City of Steele  
Wastewater Collection System and  
Wastewater Treatment Facility

2013-WPCB-1090

**SERVE:**

The Honorable Keith Samford, Mayor  
City of Steele

**ABATEMENT ORDER ON CONSENT**

**I. NOTICE TO RECIPIENTS OF ABATEMENT ORDERS**

The issuance of this Abatement Order on Consent (AOC) number 2013-WPCB-1090 by the Missouri Department of Natural Resources is a formal administrative action by the State of Missouri and is being issued because the Department believes that the wastewater treatment facility serving the City of Steele is in violation of the Missouri Clean Water Law (MCWL) and its implementing regulations. This AOC is issued under the authorities of Sections 640.130, 640.131, 644.056 and 644.079, RSMo. Failure to comply with this AOC is, by itself, a violation of the MCWL. 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 MCWL, 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 MCWL 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 2,263 located in Pemiscot County, Missouri.
- B. As part of its services the City owns and operates a two-cell aerated lagoon, with a design flow of 0.39 million gallons per day (MGD) and an actual flow of 0.32 MGD, located in the SW ¼, SE ¼, Section 21, Township 17 North, Range 11 East, Pemiscot County, Missouri. Effluent discharges from Outfall #001 to an unnamed tributary to Ditch #11 pursuant to the conditions and requirements contained in Missouri State Operating Permit (MSOP) No. MO-0057444.
- C. On March 27, 2009, the Department renewed MSOP No. MO-0057444. Among other requirements and conditions MSOP No. MO-0057444 requires the City to complete the following:
- i) Sample the effluent discharged from outfall #001 and chemically analyze the effluent sample for the water contaminants listed in Part “A” every month;
  - ii) Submit to the Department analytical results of the effluent on monthly discharge monitoring reports (DMRs) by the 28<sup>th</sup> day of the following month;
  - iii) Develop and implement an Inspection & Maintenance (I&M) program for the wastewater collection system;
  - iv) Submit to the Department annual reports describing measures taken by the City during the previous year to eliminate sources of Inflow and Infiltration (I/I) in the collection system; and
  - v) Submit to the Department by March 27, 2010, an engineering report evaluating the wastewater treatment system’s ability to comply with permitted effluent limitations and recommending necessary improvements.
- D. On December 2 and 5, 2008, the Department conducted inspections of the facility and the collection system. On December 31, 2008, the Department issued an inspection report to the City documenting the following deficiencies:

- i) DMRs are often deficient, incomplete or incorrect;
  - ii) The City does not have a certified wastewater operator;
  - iii) The City is not performing influent analysis or operational control analysis twice per week;
  - iv) The security fencing around the lagoon was down;
  - v) Warning signs were not adequately posted;
  - vi) The berm of the lagoon is showing signs of severe erosion;
  - vii) Two of the City's lift stations did not have protective covers;
  - viii) The City is not maintaining a log of hourly flow readings for the lift stations; and
  - ix) Five (5) of the City's lift stations have only one (1) pump.
- E. On June 16, 2009, the Department issued a Letter of Warning (LOW) to the City for failure to comply with the permitted effluent limitation for Oil and Grease during the month of April 2009, and failure to report ammonia on its April DMR.
- F. On September 4, 2009, the Department issued a LOW to the City for failure to comply with permitted effluent limitation for total suspended solids (TSS) during the month of June 2009.
- G. On October 1, 2009, the Department issued a LOW to the City for failure to comply with permitted effluent limitation for TSS during the month of August 2009.
- H. On November 10, 2009, the Department issued a Notice of Violation (NOV) to the City for failure to comply with permitted effluent limitation for TSS during the month of September 2009, and for failure to comply with permitted effluent limitation for TSS during six (6) of the previous 12 months.
- I. On December 17, 2009, the Department issued a LOW to the City of failure to comply with permitted effluent limitation for TSS during the month of October 2009.

- J. On August 11, 2010, the Department conducted a follow-up inspection of the City's wastewater collection and treatment system. On August 31, 2010, the Department issued an inspection report to the City documenting the following deficiencies:
- i) The City is reporting its Dissolved Oxygen results for its operational control testing on its DMR as Biochemical Oxygen Demand (BOD);
  - ii) The City failed to submit the engineering report by March 27, 2010;
  - iii) Effluent discharged from the wastewater treatment facility failed to comply with permitted effluent limitation for TSS 11 of the past 24 months;
  - iv) The City does not have a certified wastewater operator;
  - v) The security fencing around the lagoon was down and warning signs were not adequately posted;
  - vi) The berm of the lagoon is showing signs of severe erosion;
  - vii) One (1) of the two (2) blower motors for the aeration of the wastewater lagoon was not operational;
  - viii) Two (2) of the City's lift stations did not have protective covers;
  - ix) The City is not maintaining log of hourly flow readings for the lift stations;  
and
  - x) Five (5) of the City's lift stations have only one (1) pump.
- K. According to DMRs submitted to the Department, effluent discharged from the wastewater treatment facility failed to comply with the permitted effluent limitation for TSS during the months of May, June, September, October, and December 2010; March June, July, August, September, and October 2011; and March 2012 and the permitted effluent limitation for BOD during the month of February 2012.
- L. Pursuant to Section 644.145 RSMo, the Department's Affordability Finding addressing the obligations included within this AOC based on the estimate of \$83,795.00 is attached hereto as Exhibit 1.

### III. CONCLUSIONS OF LAW

The Department alleges violations of the MCWL by the City herein at its municipal wastewater collection system and treatment facility. Alleged violations are as follows:

1. Failure to retain a certified wastewater operator to supervise the operation and maintenance of the lagoon as required by MSOP No. MO-0057444 is a violation of Section 644.076.1, RSMo and 10 CSR 20-9.020 (2) (B) and (D);
2. Failure to submit accurate and complete DMRs as required in part “A” of MSOP No. MO-0057444 is a violation of Section 644.076.1, RSMo, and 10 CSR 20-7.015(9)(A)1;
3. Failure to carry out the minimum requirements for laboratory testing to ensure adequate wastewater systems in-plant operational control is a violation of Section 644.076.1, RSMo, and 10 CSR 20-9.050 (5);
4. Failure to comply with effluent limitations contained in part “A” of MSOP No. MO-0057444 is a violation of Sections 644.051.1 (3) and 644.076.1, RSMo;
5. Failure to operate and maintain facilities to comply with MCWL and applicable MSOP conditions is a violation of Section 644.051.1 (3) and Section 644.076.1, RSMo;
6. Failure to submit annual reports addressing measures taken to locate and eliminate I/I as required in part “D”, Special Conditions, and failure to submit an engineering report as required in part “E”, Schedule of Compliance, of MSOP No. MO-0057444 is a violation of Section 644.076.1, RSMo and 10 CSR 20-6.010 (7) (A).

### 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, 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 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. 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 amount of twelve thousand dollars and zero cents (\$12,000.00). The Department and the City further agree that the entire civil penalty in the amount of \$12,000.00 will be suspended on the condition the City complies with all of the requirements and conditions contained in this AOC.
- D. Within thirty (30) days of the effective date of this AOC the City shall submit to the Department the missing DMR for September 2010 or a letter explaining the reason the DMR cannot be submitted.
- E. Within thirty (30) days of the effective date of this AOC, the City shall complete the following:
1. Retain or hire a certified wastewater operator to operate the wastewater lagoon;
  2. Carry out the requirements for laboratory testing to ensure in-plant operational controls;
  3. Repair the security fence around the wastewater lagoon;
  4. Post the required warning signs;
  5. Repair the blower motor that was not operational during the Department's August 11, 2010, inspection; and
  6. Repair the hour meters on all pumps used to pump wastewater to the wastewater lagoon and maintain a daily log of pump run times for each pump.
- F. Within seventy-five (75) days of the effective date of this AOC, the City shall submit a letter to the Department documenting that it has completed all of the required actions contained in Paragraph E above.

- G. Within sixty (60) days of the effective date of this AOC, the City shall submit to the Department for review and approval, an engineering report prepared by a professional engineer licensed in the state of Missouri, and developed in accordance with 10 CSR 20-8.020. The engineering report shall include an evaluation of the existing facility identifying the cause of the alleged violations including the erosion damage to the wastewater lagoon berm. The engineering report shall also include plans for installation of a flow totalizer, and flow measurement recording device at the headworks and shall also recommend operational and physical improvements that will enable the effluent to comply with effluent limitations and repair the erosion damage to the wastewater lagoon berm. The engineering report shall also include a proposed schedule to implement the improvements.
- H. If the Department comments on and/or requests modification of the engineering report, the City shall respond to and adequately address, to the Department's satisfaction, all of the Department's comments on and resubmit the engineering report within fifteen (15) days receipt of the Department's comments.
- I. The City shall complete all improvements pursuant to the schedule contained in the Department approved engineering report. The schedule to complete the improvements contained in the Department approved engineering report shall become fully effective and enforceable as a condition for compliance with this AOC on the date the Department approves the engineering report.
- J. The City shall implement 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 Sanitary Sewer Overflows from its collection system and bypasses at the facility. All documents submitted to the Department pursuant to Appendix A shall be subject to review and approval by the Department and shall be implemented by the City upon approval. 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 (15) fifteen days of receipt of the Department's comment(s).

- K. 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 i) identifying 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.
- L. Should the City fail to meet the terms of this AOC, including the deadlines set out in Appendix A, the City shall pay stipulated penalties in the following amount:

<u>Days of Violation</u>	<u>Amount of Penalty</u>
1 to 30 days	\$250.00 per day
31 to 90 days	\$500.00 per day
91 days and above	\$1,000.00 per day

Stipulated penalties will be paid in the form of a certified or cashiers check made payable to "Pemiscot County Treasurer, as custodian of the Pemiscot County School Fund." Any such stipulated penalty shall be paid within ten (10) days demand by the Department and shall be delivered to:

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

- M. The City's duty to comply with the terms of this AOC is not conditioned on the receipt of any federal, state, or local funds. Failure to comply is not excused by lack of federal or state grant funds, or by the processing of any application for the

same unless such application is subject to review by the Department and the Department is the cause of said delay. Application for construction grant state revolving loan funds, or any other grants or loans, or delay caused by inadequate facility planning or plans and specifications on the part of the City shall not be cause for extension of any required compliance date in this AOC.

- N. Nothing in this AOC forgives the City 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 future noncompliance with the laws of the State of Missouri.
- O. 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.
- P. 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.
- Q. 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 the City for its records.
- R. The City shall comply with the MCWL, Chapter 644, RSMo and its implementing regulations at all times in the future.
- S. In consideration of the City's compliance with Section IV, paragraphs C through J of this AOC, the Department agrees not to cause to bring an administrative or civil action for any damages, expenses, penalties, fees and costs against the City and its predecessors, representatives, and affiliates for the violations of the MCWL and its implementing regulations alleged in this AOC.

V. FINDING OF AFFORDABILITY

Pursuant to Section 644.145, the Department's Affordability Finding, which addresses the obligations included within this Order, based upon the City's cost estimate of eighty-

three thousand seven hundred ninety-five dollars (\$83,795.00) through Department approval of the engineering report is attached hereto as Exhibit 1. This Affordability Finding does not address future improvements that may necessary to comply with the MCWL or its implementing regulations. This Order requires the City to complete an engineering report of its wastewater treatment system and submit the engineering report to the Department for review and approval that includes a schedule for completing various improvements to such system. The Department intends to prepare an Affordability Finding addressing such improvements in connection with Department approval of such engineering report. The City agrees to provide such additional information requested by the Department as is reasonably necessary to assist in developing any required Affordability Finding in the future.

VI. RIGHT OF APPEAL

By signing this AOC, the City consents to 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, 644.079, and 644.145, RSMo, and 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. However, the City reserves the right to challenge any future actions or determinations of the Department.

VII. CORRESPONDENCE AND DOCUMENTATION

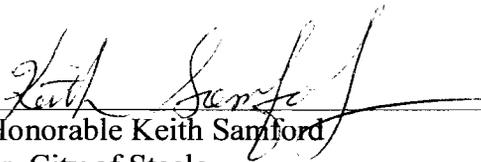
Correspondence or documentation with regard to conditions outlined in this AOC shall be directed to:

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 19<sup>th</sup> day of August, 2013

  
\_\_\_\_\_  
John Madras, Director  
Water Protection Program

Agreed to and Ordered this \_\_\_\_\_ day of \_\_\_\_\_, 2013

  
\_\_\_\_\_  
The Honorable Keith Samford  
Mayor, City of Steele

Copies of the foregoing served by certified mail to:

The Honorable Keith Samford      CERTIFIED MAIL:  
Mayor, City of Steele  
115 South Walnut  
Steele, MO 63877

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

Mr. Refaat Mefrakis P.E., Chief  
Permits and Engineering Section, Water Protection Program  
P.O. Box 176  
Jefferson City, MO 65102-0176

Mr. Jackson Bostic, Regional Director  
Southeast Regional Office  
2155 N. Westwood Blvd  
Poplar Bluff, MO 63901

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  
Mt. 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**

**1. Definitions**

- A. Building/Private Property Backup and Backup. Any release of wastewater from the City of Steele's (City) Sanitary Sewer System to buildings or private property. Steele 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 Steele or overland flooding not emanating from Steele'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 MSOP.
- 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 Steele and designed to convey wastewater to Steele'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 (facility). The sewage treatment plant and all associated components of such sewage treatment plant, operated by the City.

**2. Information Collection and Utilization**

- A. 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 2013-WPCB-1090, 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.
- B. The Tracking and Management System shall include all information necessary for the City to establish an effective and useful information collection and 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 3 of this Appendix and the Maintenance and Repair Program provisions required by Section 4 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 Southeast Regional Office.

### **3. I/I Assessment and Reduction Plan**

- A. Within three hundred sixty five (365) days of installation of the flow totalizer, the City shall submit an engineering report to the Department for review and approval, which includes an analysis of daily total flow readings at the plant, precipitation, SSO events, and daily hour meter readings from the lift stations pumps and shall compare wet weather flows to dry weather flows. The engineering report shall be prepared by a professional engineer registered in the State of Missouri. The engineering report shall be developed in accordance with 10 CSR 20-8.020, and shall recommend corrective actions to the City's collection system for any issues identified in the report and a schedule to implement corrective action.
- B. If the Department comments on and/or requests modification of the engineering report, the City shall respond to and adequately address to the Department's satisfaction, all of the Department's comments on and resubmit the engineering report within thirty (30) days of receipt of the Department's comments.

### **4. Maintenance and Repair Program**

- A. Within two hundred seventy (270) days of the effective date of AOC number 2013-WPCB-1090, the City shall develop a Maintenance and Repair Program for the City's 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 MSOP.
- 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 MSOP. The reevaluation process shall be planned no less frequently than every two years after preparation of the City's Maintenance and Repair Program.

## **5. Reporting and Record Keeping**

A. Immediate Reporting. The City shall verbally notify the Department within twenty-four (24) hours from the time the City becomes aware of any discharges from the facility that receives less than secondary treatment, regardless of whether or not the discharge is a violation of the City's MSOP 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 MSOP.

B. Semi Annual Reporting. 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 2 of this Appendix, including a tabulation of each SSO, bypass and backup event.
- (2) 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.

- (3) The status of implementation of all plans required by Sections 3 and 4 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.
- (4) A list of all MSOP violations within the quarter. This tabular listing shall include the date of the violation, the parameter exceeded, the MSOP 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 thirty-six (36) months after termination of AOC number 2013-WPCB-1090.

## **6. Requesting Termination of Reporting Requirements**

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. The City may request termination of reporting requirements at any time it believes that it has completed the tasks set forth in this Appendix. The written termination will not be unreasonable withheld. In the even that termination is withheld, the Department shall provide, in writing, an explanation for the reasons for termination being denied.

Missouri Department of Natural Resources  
Water Protection Program  
Affordability Determination and Finding  
(In accordance with RSMo 644.145)

City of Steele, Pemiscot County Missouri  
Aerated Lagoon MO-0057444

Section 644.145 RSMo requires the Missouri Department of Natural Resources to make a “finding of affordability” when “issuing permits under” or “enforcing provisions of” state or federal clean water laws “pertaining to any portion of a combined or separate sanitary sewer system or publicly-owned treatment works.”

Description:

The City of Steele (City) owns and operates a two-cell aerated wastewater lagoon (lagoon) with a design flow of 0.39 million gallons per day (MGD) and an actual flow of 0.32 MGD, located in the SW ¼, SE ¼, Section 21, Township 17 North, Range 11 East, Pemiscot County. Effluent from the lagoon discharges to a tributary to Ditch #11 pursuant to Missouri State Operating Permit (Permit) No. MO-0057444. Ditch #11 is a tributary to Ditch #6 which is a class P receiving stream with beneficial uses of livestock and wildlife watering, protection of warm water aquatic life and human health, and whole body contact recreation (B).

Residential Connections: 922<sup>1</sup>

Commercial Connections: 93

Total Connections: 1015

New Permit Requirements or Requirements Now Being Enforced:

The City’s Permit expires by its own terms on March 26, 2014, so there are no new Permit conditions being enforced.

The City does not retain a certified wastewater operator to supervise the operation and maintenance of the lagoon and has failed to carry out the minimum requirements for laboratory testing to ensure adequate in-plant operational control. The effluent discharged from the wastewater treatment facility failed to comply with the permitted effluent limitation for total suspended solids (TSS) during the months of May, June, September, October, and December

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<sup>1</sup> Missouri Department of Natural Resources Water, Protection Program Sewer Connections List, 2011 value

2010; March, June, July, August, September, and October 2011; and March 2012 and the permitted effluent limitation for Biochemical Oxygen Demand (BOD) during the month of February 2012. In addition, the City failed to operate and maintain facilities to comply with Missouri Clean Water Law and applicable permit conditions. The City failed to submit complete, accurate Discharge Monitoring Reports (DMRs) and failed to submit an annual report on its Inflow and Infiltration (I/I) assessment and reduction efforts.

The Department is negotiating an Abatement Order on Consent (AOC) with the City that will require the City to:

1. Submit an engineering report evaluating the facility, identifying the cause of the violations and recommending improvements that will enable the effluent to comply with effluent limitations;
2. Purchase and install a totalizing flow meter;
3. Develop and implement a Sanitary Sewer Tracking System;
4. Develop engineering report analyzing flow, precipitation, sewer system overflow events, daily pump readings, and wet and dry weather flows;
5. Retain a certified operator;
6. Develop and implement a Quality Assurance/Quality Control (QA/QC) program for laboratory procedures;
7. Develop and implement Maintenance and Repair Program; and
8. Correct operation and maintenance deficiencies at the facility.

Range of Anticipated Costs Associated with Complying with Requirements<sup>2</sup>:

Actions required to resolve past violations and bring the City's lagoon into compliance.

<b>Required Action</b>	<b>Initial Cost</b>	<b>Annual Cost</b>
Prepare and submit an engineering report evaluating the facility	\$15,700.00	
Purchase and install totalizing flow meter	\$23,450.00	
Develop and implement Sanitary Sewer Tracking System	\$11,000.00	\$2,000.00
Develop engineering report analyzing flow, precipitation SSO events daily pump readings, and wet and dry weather flows	\$19,600.00	
Retain a certified operator	\$45.00 <sup>3</sup>	
Develop and implement a QA/QC program	\$0.00	\$0.00
Develop and implement Maintenance and Repair Program	\$14,000.00	\$35,500.00
<b>Totals</b>	<b>\$83,795.00</b>	<b>\$37,500.00</b>

<sup>2</sup> Data supplied by the City and Waters Engineering via letter from Mr. David Shorr of Lathrop and Gage LLP dated February 29, 2012

<sup>3</sup> <http://dnr.mo.gov/forms/780-1089-f.pdf> cost for taking operator certification exam.

**(1) A community's financial capability and ability to raise or secure necessary funding** *(examine key indicators of the community's ability to raise funds);*

Current User Rates<sup>2</sup>: \$17.65 per 5,000 gallons/month or \$211.80/12 months

Municipal Bond Rating<sup>4</sup>: Not Rated

Bonding Capacity<sup>4</sup>: Approximately \$1,191,858.70

Current outstanding debt <sup>4</sup>(overall net debt): \$2,203,722.00

Other indicators:

The City has indicated that it will seek a twenty (20)-year bond issue to fund the cost of the pollution control measures outlined in the AOC<sup>2</sup>.

**(2) Affordability of pollution control options for the individuals or households of the community;**

Current annual operating costs<sup>5</sup> *(exclude depreciation)*: \$231,740

Current user rate<sup>2</sup>: \$17.65 per 5,000 gallons/month or \$211.80/year

Estimated capital cost of pollution control options<sup>2</sup>: \$83,750

Annual cost of additional<sup>2</sup> *(operating costs and debt service)*: \$37,500

Estimated resulting user rate<sup>2</sup>: Unknown

Median Household Income<sup>6</sup> (MHI): \$35,618.00

Usage Rates as a percent of MHI: 0.59%  
*( $17.65 \times 12 = 211.80 / 35615 = 0.00594 \times 100 = 0.59\%$ )*

<sup>4</sup> Data supplied by the City and Waters Engineering via letter from Mr. David Shorr of Lathrop and Gage LLP dated June 1, 2012.

<sup>5</sup> Data supplied by the City and Waters Engineering via telephone on July 5, 2012.

<sup>6</sup> Median Household Income data from American Community Survey – Median income in the past 12 months – <http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>

Note: The median household income is adjusted for inflation according to the method suggested in the EPA CSO guidance for financial capability assessment and schedule development (<http://www.epa.gov/npdes/pubs/csofc.pdf>)

Check Appropriate Box	Financial Impact	Residential Indicator (Usage Rate as a percent of MHI)
<input checked="" type="checkbox"/>	Low	Less than 1% MHI
<input type="checkbox"/>	Medium	Between 1% and 2% MHI
<input type="checkbox"/>	High	Greater than 2% MHI

The City's current sewer user rate is less than 0.60% of its MHI.

***(3) An evaluation of the overall costs and environmental benefits of the control technologies<sup>2</sup>;***

Actions required to resolve past violations and bring the City's lagoon into compliance.

Required Action	Initial Cost	Annual Cost
Prepare and submit an engineering report	\$15,700.00	
Purchase and install totalizing flow meter	\$23,450.00	
Submit and implement Sanitary Sewer Tracking System	\$11,000.00	\$2,000.00
Submit engineering report analyzing flow, precipitation SSO events daily pump readings, and wet and dry weather flows	\$19,600.00	
Submit and implement Maintenance and Repair Program	\$14,000.00	\$35,500.00
<b>Totals</b>	<b>\$83,750.00</b>	<b>\$37,500.00</b>

Effluent from the lagoon discharges to an unnamed tributary to Ditch #11 pursuant of MSOP Number MO-0057444. Beneficial uses include livestock and wildlife watering, protection of warm water aquatic life and human health, whole body contact recreation.

Under the Missouri Clean Water Law and the Federal Clean Water Act permitted facilities are required to produce effluent that complies with permitted effluent limitations. Discharge of effluent that violated the permitted effluent limitations has the potential to contaminate lakes and streams causing serious water quality problems that negatively impact the beneficial uses listed in 10 CSR 20-7.031. The City has committed to spending \$83,750.00 to complete the actions listed. The actions to be completed under this Finding of Affordability will ensure the City's wastewater treatment needs can be met without endangering the environment or public health. **A Finding of Affordability will need to be completed for the City's implementation of the corrective actions identified in the engineering reports.**

***(4) An inclusion of ways to reduce economic impacts on distressed populations in the community, including but not limited to low and fixed income populations. This requirement includes but is not limited to:***

Potentially Distressed Populations	
Unemployment <sup>7</sup> for City of Steele, Pemiscot County	9.7%
Median Household Income City of Steele, Pemiscot County <sup>6</sup>	35,618
Percent Population Growth/Decline <sup>8</sup> (1990-2010)	-9.3%
Percent of Households in Poverty <sup>9</sup>	35.9%

Opportunity for cost savings or cost avoidance:

The AOC establishes a schedule negotiated with the City to assess its wastewater treatment system and submit an engineering report identifying the cause of the effluent limitation violations and recommending improvements that will that will enable the effluent to comply with effluent limitations and a schedule to complete the recommended corrective actions.

Opportunity for changes to implementation/compliance schedule:

The AOC allows the City to request extension of milestones, should the City become aware of a milestone date that they will not be able to meet.

***(5) An assessment of other community investments relating to environmental improvements;***

The City has no other obligations under this AOC.

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<sup>7</sup> Unemployment data from Missouri Department of Economic Development for February 2012 – <http://www.missourieconomy.org/pdfs/ure11202.pdf>

<sup>8</sup> 2010 Census Population Data - <http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>  
 2000 Census Population Data - <http://www.census.gov/popest/data/cities/totals/2009/tables/SUB-EST2009-04-29.xls>  
 1990 Census Population Data – <http://www.census.gov/prod/cen1990/cpl/cp-1-27.pdf>

<sup>9</sup> Poverty data – American Community Survey - <http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>

***(6) An assessment of factors set forth in the United States Environmental Protection Agency's (EPA's) guidance, including but not limited to the "Combined Sewer Overflow Guidance for Financial Capability Assessment and Schedule Development" that may ease the cost burdens of implementing wet weather control plans, including but not limited to small system considerations, the attainability of water quality standards, and the development of wet weather standards;***

See Section (2) of this analysis for the residential indicator as outlined in the above-referenced EPA guidance.

**Secondary indicators for consideration:**

Socioeconomic, Debt and Financial Indicators

Indicators	Strong (3 points)	Mid-Range (2 points)	Weak (1 point)	Score
Bond rating indicator <sup>4</sup>	Above BBB or Baa	BBB or Baa	Below BBB or Baa	City Not Rated
Overall net debt <sup>4</sup> as a % of full market property value <sup>4</sup>	Below 2%	2% - 5%	Above 5%	1 $2,203,722.00/8,519,321.00=0.259 \times 100=25.9\%$
Unemployment Rate <sup>7</sup>	>1% below Missouri average	± 1% of Missouri average	>1% above Missouri average	1 $8.4\%-9.7\%=1.3\%$ Above Missouri average
Median household income <sup>6</sup>	More than 25% above Missouri MHI	± 25% of Missouri MHI	More than 25% below Missouri average	2 $44,306-35618=8688$ $8688/44,306=0.196$ $0.196 \times 100=19.6\%$
Property tax revenues <sup>4</sup> as a % of full market property value <sup>4</sup>	Below 2%	2% - 4%	Above 4%	3 $91,396.24/8,519,321=0.011$ $0.011 \times 100=1.1\%$
Property tax collection rate <sup>4</sup>	Above 98%	94% - 98%	Below 94%	1 $838 \text{ bills paid}/1,028 \text{ bills issued}=0.815 \times 100=81.5\%$

Average Score for Financial Capability Matrix:  $(1+1+2+3+1=8/5=1.6)$  1.6  
Residential Indicator (from Criteria #2 above): (0.59%) Low

### Financial Capability Matrix

Financial Capability Indicators Score from above ↓	Residential Indicator (User rate as a % of MHI)		
	Low (Below 1%)	Mid-Range (Between 1.0% and 2.0%)	High (Above 2.0%)
Weak (below 1.5)	Medium Burden	High Burden	High Burden
Mid-Range (1.5 – 2.5)	Low Burden	Medium Burden	High Burden
Strong (above 2.5)	Low Burden	Low Burden	Medium Burden

Estimated Financial Burden: Low (Residential indicator low at 0.59% and financial capability is Mid-Range at 1.6)

#### ***(7) An assessment of any other relevant local community economic condition.***

The City's population declined 9.3% from 1990-2010. In terms of economic strength, Pemiscot County is below average when compared to other counties in the State. The percentage of labor force is 11% below the State average, the per capita wealth<sup>10</sup> is 48% below the State average and the per capita income is 15% below the State average.

In terms of retail sales, Pemiscot County loses retail customers to surrounding counties and the county residents spend less than the State average on retail goods and services. The buying power index of Pemiscot County residents is about average when compared to the rest of the regional economy<sup>11</sup>.

### **Conclusion and Finding**

As a result of reviewing the above criteria, the Department hereby finds that the action described above will result in a low burden with regard to the community's overall financial capability and a low financial impact for most individual customers/households.

<sup>10</sup> Per capita wealth is calculated by taking a sum of appraised value of residential property, mobile homes and motor vehicles and this sum is then divided by county population.

<sup>11</sup> [http://www.missourieconomy.org/pdfs/se\\_wia\\_retail\\_trade\\_analysis.pdf](http://www.missourieconomy.org/pdfs/se_wia_retail_trade_analysis.pdf)