

effective February 22, 2008, and expired February 21, 2013. Pursuant to the operating permit, the lagoon discharges to an unnamed, unclassified tributary to Petite Saline Creek.

- B. MSOP number MO-0115495 contains a Schedule of Compliance requiring the Village to complete upgrades that will enable the effluent to comply with final effluent limitations for Fecal Coliform and Total Residual Chlorine, which went into effect February 20, 2013. To date, the Village has not submitted a construction permit application for disinfection upgrades as required by MSOP number MO-0115495.
- C. Petite Saline Creek and its tributaries are waters of the state as the term is defined by Section 644.016 (27), RSMo.
- D. Domestic wastewater is a water contaminant source as the term is defined in Section 644.016(24), RSMo.
- E. On June 27, 2011, the Department issued a Letter of Warning to the Village for exceeding Total Suspended Solids effluent limitations in March 2011. On August 17, 2011, the Department received correspondence from the Village stating that the Village would try to comply with effluent limits in the future.
- F. On May 1, 2012, Department staff conducted a compliance inspection of the lagoon as a result of an environmental concern received by the Department. The environmental concern stated that the lagoon was not being operated properly and there was a strong odor emanating from the lagoon. During the inspection, the inspector documented there was a light sulfuric smell, the wastewater was light brown in color, and the secondary cell was completely covered in duckweed. The inspector observed a new aerator had recently been installed in the lagoon without receiving a construction permit from the Department. The inspector examined the outfall and noticed there was no sign marking the outfall location, the bottom of the outfall pipe was rusting out, and there was evidence of sulfuric bacteria on the rocks below the outfall. The inspector reviewed the Village's Discharge Monitoring Reports (DMRs) and noted the lagoon exceeded its permitted effluent limitations for Biochemical Oxygen Demand during the months of August, October, and November of 2011. Department records also indicate that the Village failed to comply with the Schedule of Compliance and failed to submit semi-annual infiltration and inflow (I/I) reports since October 2010.
- G. On May 2, 2012, the Department issued the Village Notice of Violation number NER2012050214325232 for violations documented during the May 1, 2012, inspection.
- H. On November 13, 2012, the Department received a facility plan and complete application for the Missouri State Revolving Fund Loan Program. The facility plan

recommends constructing a new, no-discharge wastewater treatment facility, and closing the existing lagoon.

1. On November 26, 2012, the Department received an application from the Village to renew MSOP number MO-0115495.
- J. 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.

III. CONCLUSIONS OF LAW

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

1. Failed to submit engineering reports and upgrade the lagoon as required in Part "B", Standard Conditions, and Part "E", Schedule of Compliance, of MSOP number MO-0115495, in violation of Section 633.076.1, RSMo, and 10 CSR 20-6.010(7)(A);
2. Caused or permitted construction, installation, or modification of any sewer system or of any water contaminant source, point source, or wastewater treatment facility without first receiving a construction permit, in violation of Sections 644.051.2 and 644.076.1, RSMo, and 10 CSR 20-6.010(1)(A) and (4)(A);
3. Failed to submit I/I reports as required by Special Condition of MSOP number MO-0115495, in violation of Sections 644.076.1, RSMo;
4. Failed to comply with the effluent limits contained in Part "A" of MSOP number MO-0115495, in violation of Sections 644.051.1(3) and 644.076.1, RSMo; and
5. Failed to submit complete, accurate, and timely DMRs as required in Part "A" of MSOP number MO-0115495, in violation of Section 644.076.1, RSMo, and 10 CSR 20-7.015(9)(A)1.

IV. AGREEMENT

- A. The Department and the Village desire to amicably resolve all claims that might be brought against the Village for the violations alleged above in Section III, Conclusions of Law, without the Village 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. 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 Village under this AOC. If the Village sells or otherwise transfers the facility, then the Village shall cause as a condition of such sale or transfer, that the buyer will assume the obligations of the Village under this AOC in

writing. In such event, the Village shall provide thirty (30) days prior written notice of such assumption to the Department.

- C. The Village, 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 three thousand seven hundred fifty dollars and zero cents (\$3,750.00). The civil penalty shall be paid in the form of certified checks or cashier's checks made payable to "Cooper County School Treasurer, as custodian of the Cooper County School Fund." The Department and the Village further agree that three thousand seven hundred fifty dollars and zero cents (\$3,750.00) of the civil penalty shall be suspended on the condition that the Village does not violate the terms of this AOC. Upon determination that the Village has failed to meet the terms of this AOC, including the schedule set out in paragraphs D through G, the Department shall send written demand for the suspended penalty in the amount of three thousand seven hundred fifty dollars and zero cent (\$3,750.00) to the Village. The Village shall have fifteen (15) days from the receipt of the written demand to submit the suspended penalty which shall be delivered to:

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

- D. The Village agrees to submit timely, accurate, and complete DMRs to the Department in the future.
- E. In the period of time from the effective date of this AOC until upgrades or replacement of the wastewater lagoon are completed, the Village shall operate and maintain the existing lagoon at all times in compliance with the conditions and requirements of MSOP number MO-0115495. All units or components of the existing wastewater lagoon shall be maintained in an operable condition, even if his requires the purchase and installation of new parts or equipment, or repair of the wastewater lagoon.
- F. Within thirty (30) days of the execution of this AOC, the Village agrees to submit to the Department missing DMRs for the months of December 2010 and February and October 2012, and the 2011 and 2012 semi-annual I/I reports that were due in April and October each year. In the event that the DMRs or I/I reports are not available, the Village agrees to submit a written response to the Department detailing the reason the DMRs or I/I reports are not available.
- G. The Village shall complete upgrades or replacement of its wastewater lagoon that will enable the effluent to comply with the MCWL and its implementing regulations and all conditions and requirements of MSOP number MO-0115495, including final effluent limitations. All required reports, plans and specifications shall be prepared

and sealed by a professional engineer licensed to practice in the State of Missouri pursuant to the following schedule:

1. Within thirty (30) days receipt of Department comments on the Village's facility plan, the Village agrees to respond to and adequately address, to the Department's satisfaction, all of the Department's comments on the facility plan.
 2. Within ninety (90) days of the date the Department approves the facility plan, the Village agrees to submit to the Department for review and approval, a complete application for a construction permit, including applicable fees, design summary, plans, and specifications signed and sealed by a professional engineer licensed to practice in the State of Missouri for upgrades or replacement of the lagoon that will enable the effluent to comply with all applicable effluent limitations contained in the operating permit. The Village also agreed to submit to the Department for review and approval a closure plan for the existing lagoon developed in accordance with MSOP number MO-0115495 Standard Conditions Part III, Section I.
 3. Within thirty (30) days receipt of Department comments on the Village's construction permit application, and if applicable, closure plan, the Village agrees to respond to and adequately address, to the Department's satisfaction, all of the Department's comments on the construction permit application and closure plan.
 4. Within one hundred eighty (180) days from issuance of the construction permit or by April 1, 2015, whichever date comes first, the Village agrees to complete construction of the approved upgrades and submit to the Department a complete application requesting modification of the operating permit and a Statement of Work Completed, 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 the Department-approved plans and specifications.
 5. Within thirty (30) days of completing construction of the improvements, the Village agrees to achieve compliance with the effluent limitations contained in Part "A" of the operating permit.
- H. Immediately upon becoming aware that a deadline or milestone as set forth in this AOC will not be completed by the required deadline, the Village 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 (5) days of notifying the Department, the Village 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 Village's right to request an extension and may be grounds for the Department to deny the Village an extension.

- I. Should the Village fail to meet the terms of this AOC, including the terms set out in Paragraph C through Paragraph G, the Village 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 cashier's check made payable to "Cooper County Treasurer, as custodian of the Cooper County School Fund." Any such stipulated penalty shall be paid within ten (10) days of demand by the Department and shall be delivered to:

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

- J. No portion of the penalties paid pursuant to this AOC may be used to reduce the Village's federal or state tax obligation.
- K. Nothing in this AOC forgives the Village from future non-compliance with the laws of the State of Missouri, nor requires the Department or the 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 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.
- L. 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.
- M. 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 Village for their records.
- N. The Village shall comply with all conditions and requirements of MSOP number MO-0115495, the MCWL, Chapter 644, RSMo, and its implementing regulations at all times in the future.

V. **AFFORDABILITY FINDING**

Pursuant to Section 644.145, the Department's Affordability Finding, which addresses the obligations included within this AOC, based upon the Village's cost estimate of one million one hundred thousand dollars and zero cents (\$1,100,000.00), is attached hereto as Exhibit 1. This Affordability Finding does not address future improvements that may be necessary to comply with the MCWL or its implementing regulations. This AOC requires the Village to submit complete, accurate and timely DMRs and I/I reports, and upgrade or replace the existing lagoon so that the Village's wastewater treatment facility can comply with permitted effluent limitations. The Village 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**

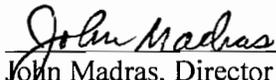
By signing AOC Number 2013-WPCB-1218, the Village consents to its terms and waives any right to appeal, seek judicial review, or otherwise challenge the terms and conditions of this AOC, or the affordability finding referenced herein, pursuant to Sections 621.250, 640.010, 640.013, 644.056.3, 644.079.2, 644.145 RSMo, Chapter 536 RSMo, 10 CSR 20-1.020, 10 CSR 20-6.020(5), the Missouri Constitution, or any other source of law. AOC No. 2013-WPCB-1218 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:

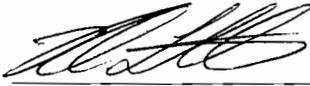
Ms. Corinne Rosania
Compliance and Enforcement Section
Water Protection Program
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102-0176

Agreed to and Ordered this 1st day of July, 2013



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

Agreed to and Ordered this 11th day of June, 2013



Randon Leathers, Chairman
Windsor Place Village

Copies of the foregoing served by certified mail to:

Mr. Randon Leathers, Chairman CERTIFIED MAIL:
Windsor Place Village
17008B Highway 87
Boonville, MO 65233

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

Ms. Irene Crawford
Director, Northeast Regional Office
1709 Prospect Drive
Macon, MO 63552

Mr. Chris Wieberg, Chief
Operating Permits Section
Water Protection Program
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102-0176

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
Kimberling City, MO 65686

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

Windsor Place Village
Wastewater Treatment Lagoon, MO-0115495
Disinfection Upgrades

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 Village of Windsor Place is responsible for providing sewage collection and treatment services for approximately 170 households. The village is served by a two (2)-cell wastewater treatment lagoon with a design flow of 49,230 gallons per day. The lagoon operates pursuant to Missouri State Operating Permit number MO-0115495.

Residential Connections: ~170¹

Commercial Connections: 0

Total Connections: ~170¹

New Permit Requirements or Requirements Now Being Enforced:

The lagoon’s operating permit includes a Schedule of Compliance for upgrades to meet final Fecal Coliform effluent limitations. The current operating permit also contains Ammonia monitoring. The Abatement Order on Consent (AOC) is a result of the village failing to upgrade to meet final limitations and failing to properly operate the facility. The village intends to construct a new no-discharge lagoon with subsurface application of wastewater on MFA Biomass ground. The AOC will require the village to submit Discharge Monitoring Reports and Inflow and Infiltration Reports, to properly operate and maintain the existing lagoon, and to meet final effluent limitations by upgrading the facility with disinfection equipment or constructing a new no-discharge system.

¹ Residential Households - <http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>

Range of Anticipated Costs Associated with Complying with Requirements:

The village plans to install a new no-discharge system with land application of wastewater. The village estimates the new no-discharge system will cost \$1,100,000² to construct.

(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);*

The village has never passed a bond issue and does not collect a property tax. The village will place a bond issue on the April 2, 2013 ballot to finance wastewater upgrades. The village also plans on pursuing a low interest Missouri State Revolving Fund loan. The village has a wastewater account that has been funded by monthly wastewater fees.

Rate Capacity or Pay as You Go Option: N/A

Municipal Bond Rating (if applicable): N/A

Bonding Capacity: N/A

*(General Obligation Bond capacity allowed by constitution:
cities=up to 20% of taxable tangible property
sewer districts=up to 5% of taxable tangible property)*

Current outstanding debt: \$0.00

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

Prior to 2013, residents of the village paid \$25² per month for wastewater services. Rates increased to \$40² a month on January 1, 2013, and will eventually increase to \$50² per month.

Current annual operating costs ² <i>(exclude depreciation):</i>	<u>\$12,200</u>
Current per year user rate ² :	<u>\$300 (\$25*12months = \$300 per year)</u>
Estimated capital cost of pollution control options ² :	<u>\$1,100,000</u>
Annual cost of additional ² <i>(operating costs and debt service):</i>	<u>\$20,000</u>
Estimated resulting user rate per year ² :	<u>\$600 (\$50*12 = \$600 year)</u>
Median Household Income (MHI) ³ :	<u>\$48,417³</u>
Usage rates as a percentage of MHI <i>(Rate/MHI):</i>	<u>1.24% (\$600/ \$48,417) *100 = 1.24%</u>

² Electronic correspondence from Mr. Randon Leathers, Village of Windsor Board Member, on October 29, 2012

³ Median Household Income data is from the 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, which can be found online at: <http://www.epa.gov/npdes/pubs/csofc.pdf>

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

(3) An evaluation of the overall costs and environmental benefits of the control technologies;

The village plans to spend approximately 1.1 million dollars² to construct a new no-discharge system with land application of wastewater. The no-discharge system will eliminate the village's discharge of domestic wastewater to waters of the state.

(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:

The no-discharge system will eliminate the village's requirement to upgrade the lagoon to meet Ammonia limitations in the next permit cycle.

Potentially Distressed Populations	
Unemployment for Windsor Place ⁴	5.8%
Median Household Income for Windsor Place ³	\$48,417
Percent Population Growth/Decline (1990-2010) ⁵	N/A
Percent of Households in Poverty ⁶	12.1%

⁴ Unemployment data from Missouri Department of Economic Development for September 2012 – <http://www.missourieconomy.org/pdfs/urel1209.pdf>

⁵ Village was not yet incorporated in 2000

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/cp1/cp-1-27.pdf>

⁶ Poverty data – American Community Survey

<http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>

Opportunity for cost savings or cost avoidance:

None Noted

Opportunity for changes to implementation/compliance schedule:

None Noted

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

The village is proposing to spend approximately 1.1 million dollars to build a no-discharge system and close the old system. The village estimates that the no-discharge system will be completed by January 1, 2014.

(6) An assessment of factors set forth in the United States Environmental Protection Agency'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	Above BBB or Baa	BBB or Baa	Below BBB or Baa	N/A
Overall net debt as a % of full market property value	Below 2%	2% - 5%	Above 5%	N/A
Unemployment Rate ⁴	>1% below Missouri average	± 1% of Missouri average	>1% above Missouri average	2 <i>(State unemployment rate of 6.3% - Village unemployment rate of 5.8%) = 0.5%</i>
Median household income ³	More than 25% above Missouri MHI	± 25% of Missouri MHI	More than 25% below Missouri average	2 <i>((Village MHI of 48,417 - MO MHI of 44,306) / MO MHI of 44,306)*100= 9.3%</i>
Property tax revenues as a % of full market property value	Below 2%	2% - 4%	Above 4%	N/A
Property tax collection rate	Above 98%	94% - 98%	Below 94%	N/A

Average Score for Financial Capability Matrix: $(2+2) / 2 = 2$

Residential Indicator (from Criteria #2 above): Medium

Financial Capability Matrix

Financial Capability Indicators Score from above ↓	Residential Indicator (User rate as a % of MHI)		
	Low (below 1.0%)	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: Medium

(7) An assessment of any other relevant local community economic conditions.

The village of Windsor was incorporated in 2006. In terms of economic strength, Cooper County is below average when compared to other counties in the State. The percentage of labor force is 1% below the State average, the per capita wealth⁷ is 31% below the State average, and the per capita income is the 19% below the State's average.

In terms of retail sales, Cooper County loses retail customers to surrounding counties and county residents spend less than the state average on retail goods and services. The buying power index of Cooper County residents is about average compared to the rest of the regional economy⁸.

Conclusion and Finding

There have been no changes to the AOC as a result of this finding of affordability. As a result of reviewing the above criteria, the Department hereby finds that the action described above will result in a medium burden with regard to the community's overall financial capability and a medium financial impact for most individual customers/households.

⁷ 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.

⁸ http://www.missourieconomy.org/pdfs/central_wia_retail_trade_analysis.pdf