

BEFORE THE
DEPARTMENT OF NATURAL RESOURCES
STATE OF MISSOURI

IN THE MATTER OF:)	
)	
City of Owensville)	
Wastewater Collection System)	2014-WPCB-1201
and Treatment Facility)	
)	
SERVE:)	
)	
Ron Miller, Mayor)	
City of Owensville)	

ABATEMENT ORDER ON CONSENT

I. NOTICE TO RECIPIENTS OF ABATEMENT ORDERS

The issuing of this Abatement Order on Consent (AOC) number 2014-WPCB-1201 by the Missouri Department of Natural Resources is a formal administrative action by the State of Missouri and is being issued due to violations of the Missouri Clean Water Law (MCWL), its implementing regulations and Missouri State Operating Permit (MSOP) No. MO-0041068. Failure to comply with this AOC is, by itself, a violation of the MCWL Section 644.076.1, RSMo. Litigation may occur without further administrative 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 an administrative or judicial enforcement action to recover civil penalties for any, including future, violations of the MCWL, or to seek injunctive relief, pursuant to Chapter 644, RSMo.

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II. FINDINGS OF FACT

- A. The city is a fourth class municipality with a population of approximately 2,676 residents. As part of the services it provides to its citizens, the city owns and operates a wastewater treatment facility located in the SW ¼, SW ¼, of Section 26, Township 42 North, Range 5 West, of the Owensville East Quadrangle in Gasconade County. The city's facility consists of a lagoon with polishing cell, covered settling cell, and Ultra Violet (UV) disinfection. There are also two (2) large overflow basins where wet weather flows can be diverted. The facility has a design flow of 0.6 million gallons per day (MGD) and an actual flow of 0.468 MGD. The city also owns and maintains sewer lines throughout the city that collect and carry wastewater to its facility. Effluent from the city's facility discharges from outfall # 001 to a tributary to Red Oak Creek, pursuant to the requirements of MSOP No. MO-0041068 which was issued on June 29, 2010, and expires by its own terms on June 28, 2015. The tributary to Red Oak Creek is waters of the state as defined in Section 644.016(23) RSMo and is listed in 10 CSR 20-7.031 Table H, as a class C stream as defined in 10 CSR 20-7.031(1)(F)(4) and is listed on the 303(d) list for 2010 due to low Dissolved Oxygen (DO).
- B. Permit No. MO-0041068 requires the city to sample the effluent discharged from outfall # 001 and chemically analyze the effluent sample for the water contaminants listed in Part "A" every month. Permit No. MO-0041068 further requires the effluent to comply with the effluent limitations contained in Part "A" and requires the results of the analysis to be submitted to the Department on monthly discharge monitoring reports (DMRs) by the 28th day of the following month.
- C. A bypass is "the diversion of wastewater from any portion of a wastewater treatment facility or sewer system to waters of the state" as defined in 10 CSR 20-2.010(11).
- D. The city diverts excess wastewater to two (2) Overflow Basins during wet weather events, where it is stored until it can be passed through the facility. When the Overflow Basins reach maximum capacity, partially treated, excess wastewater bypasses to the tributary to Red Oak Creek.
- E. The city completed upgrades to its facility in June of 2010. The upgrades were needed in order to meet final effluent limitations.
- F. On March 9, 2011, the Department sent a letter to the city stating that it had appeared on the Quarterly Noncompliance Report for violation of permitted effluent limitations for Biochemical Oxygen Demand (BOD) and Ammonia during the months of June through September 2010. In the letter, the Department required the city to submit a written response within ten (10) days receipt of the letter explaining the reasons for the violations and identifying actions taken to prevent recurrence. On March 24, 2011, the Department received a written response from the city explaining that the effluent limitation violations for BOD and Ammonia during the months of June

through September 2010 were caused by problems with the air distribution system, improperly installed monitoring flumes, and samples collected from the wrong location by the sampling agency.

- G. On March 14, 2011, the Department received a report of bypass from the city stating that the lower overflow basin was bypassing partially treated wastewater at approximately 700 gallons per minute (GPM) and that a written report would follow. On March 21, 2011, the Department sent a letter to the city requiring the city to take all reasonable steps to minimize the time and volume of the bypass event, conduct weekly sampling and analysis of samples for pH, BOD, Total Suspended Solids (TSS) and Ammonia, submit a self-reporting bypass form within five (5) days cessation of the bypass, and submit an engineering report evaluating the performance of the facility on or before June 24, 2011. To date, the Department has not received the engineering report.
- H. On March 22, 2011, the Department received a letter from the city regarding its initial bypass report stating that the city had contracted with a company to sample the overflow weekly, and would submit the results of that sampling in a written report once the bypass concluded.
- I. On March 28, 2011, Department staff investigated the bypass from the city's overflow basins and photographed the discharge flowing from the lower overflow basin into a spillway which flows to the receiving stream. The investigator could find no explanation for the large amounts of runoff and wastewater filling the overflow basins. When interviewed by Department staff, city personnel stated the facility was operating at near capacity and the bypass was caused by large amounts of snowmelt and rain water entering their collection system.
- J. On April 20, 2011, the Department received a five (5)-day self-reporting bypass form from the city stating that the bypass began March 14, 2011, and ceased April 4, 2011. In the report, the city stated that approximately seventeen (17) million gallons of wastewater had been discharged from the overflow basins to the receiving stream during the 23-day bypass. In the report, the city also stated that there had been some cleanup of the overflow site, and that they had operated the facility at maximum capacity in order to drain the overflow basins.
- K. On April 25, 2011, the Department received a report of bypass from the city stating that the lower overflow basin was bypassing partially treated wastewater at approximately 700 GPM and that a written report would follow. On May 2, 2011, the Department received a letter from the city regarding its April 25, 2011, bypass report stating it had contracted with a company to sample the overflow weekly, and would submit the results of that sampling in a written report once the bypass concluded. To date that five (5)-day self-reporting bypass form has not been received by the Department.

- L. On June 3, 2011, the Department sent a letter to the city for failing to submit complete DMRs for November and December 2010 and inflow and infiltration (I&I) reports for October 2010 and April 2011. In the letter, the Department required a written response explaining the reason for the violation and identifying actions take to correct the violations within ten (10) days receipt of the letter.
- M. On June 24, 2011, the Department received a letter from the city detailing its I&I work for 2009, 2010, and the first quarter of 2011. Most of the work completed was repair of deteriorated clay sewer mains and work yet to be completed included rehabilitation of approximately 50 brick manholes. Enclosed with the I&I report was a copy of the December 2010 DMR for outfall # 001 and S1 and S2.
- N. On October 17, 2011, Department staff conducted a compliance inspection of the city's facility and observed that the water in the polishing cell was light brown and there was a small amount of foaming on the surface. The water in the aeration cells could not be observed because the cells are covered with mats. Staff observed that the effluent was clear and that there were no solids, sludge or debris visible in the receiving stream. Effluent samples were collected from Flume No. 3 during the inspection. The inspection report noted that chemical analysis of effluent samples collected from Flume No. 3 during the compliance inspection indicated that the effluent was within permitted effluent limitations. The inspection report also noted that the facility's effluent had failed to comply with permitted effluent limitations frequently since June of 2010, and required submission of a written plan no later than December 30, 2011, detailing actions and a timeline for eliminating effluent limitation violations.
- O. On November 16, 2011, the Department issued a Notice of Violation (NOV) to the city for failure to comply with the effluent limits contained in Part "A" of the permit.
- P. On December 29, 2011, the Department received correspondence from the city's engineer regarding the October 17, 2011, compliance inspection and the resulting NOV. In the letter, the engineer stated that the city has been underreporting flows because the Parshall Flume No. 2 was not installed correctly. In the report the engineer also stated that in his opinion algal blooms in the polishing reactor were the cause of the BOD effluent limitation violations.

Q. DMRs submitted by the city from June 30, 2010, to present indicate violation of effluent limitations for BOD and Ammonia as well as violations for TSS and DO. Specific violations are listed in the table below.

June 2010-January 2012 Effluent Limitation Violations

Monitoring Period End Date	BOD mg/L (9/13)	Ammonia mg/L (May-Oct 1.3/3.4) (Nov-Apr 1.5/4.0)	TSS mg/L (15/20)	DO mg/L (min 5.0)
June 30, 2010	57.2 139.2	6.22 11.10	42.6 120	0.85
July 31, 2010	18.36 27.44	8.93 13.9	-*	-
August 31, 2010	20.9 28.96	4.9 9.4	-	-
September 30, 2010	18.8 32.01	3.7 10.8	-	-
November 30, 2010	6.63 13.13	-	-	-
December 31, 2010	12.10 16.20	-	-	-
January 31, 2011	12.33 17.62	2.95 5.34	-	-
February 28, 2011	10.44 18.44	-	-	-
June 30, 2011	12.83 16.38	2.52 6.84	18.4 18.4	-
July 31, 2011	14.67 15.03	-	-	-
September 30, 2011	10.39 16.44	-	-	-
October 31, 2011	8.36 14.0	2.58 6.28	-	-
November 30, 2011	11.33 12.52	-	-	-
January 31, 2012	14.17 16.94	2.27 3.8	-	-
April 30, 2012	12.79	-	-	-
May 31, 2012	12.38	-	-	-

* "-" = no effluent limitation violation for that parameter for the specific monitoring period

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. Since June 30, 2010, failed to comply with the effluent limits contained in Part “A” of permit number MO-0041068, in violation of Sections 644.051.1(3) and 644.076.1, RSMo.
2. Caused pollution of waters of the state or placed or caused or permitted to be placed, water contaminants in a location where they are reasonably certain to cause pollution of waters of the state, in violation of Sections 644.051.1(1) and 644.076.1, RSMo.
3. Failed to report a bypass event as required by the Standard Conditions Section “B” (2) (5) of permit number MO-0041068, in violation of Section 644.076.1, RSMo, and 10 CSR 20-7.015 (9) (E).
4. Operated, used or maintained a water contaminant source, domestic wastewater overflow basins, which discharged from an unpermitted outfall to an unnamed tributary to Red Oak Creek, waters of the state, without a permit, in violation of Sections 644.051.2 and 644.076.1, RSMo, and 10 CSR 20-6.010(1)(A) and (5)(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, Citations and 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 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 city, 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 dollars and no cents (\$3,000.00). The payment shall be in the form of a certified check or cashiers check made payable to “Gasconade County Treasurer, as Custodian of the Gasconade County School Fund.” The check in the amount of three thousand dollars and no cents (\$3,000.00) is due and payable upon execution of this AOC by the city. 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 city shall complete the Supplemental Environmental Project (SEP) Plan attached to this AOC as Exhibit 1 which is hereby incorporated by reference, and which further describes the city's future efforts to address inflow and infiltration to the city's wastewater collection system from properties owned by private individuals. The Department and the city agree that the SEP Plan is intended to secure significant environmental protection and improvements, which are not otherwise required by law. The following terms and conditions apply to the SEP Plan described in Exhibit 1:

1. The city shall complete the SEP pursuant to the plan and time schedule set forth in the SEP Plan. If the city fails to complete the SEP within three (3) years of the effective date of the AOC.
2. The city shall spend at least fifteen thousand dollars and no cents (\$15,000.00) implementing the SEP identified in the SEP Plan. No part of this expenditure shall include federal or state funds, including federal or state low interest loans, contracts, or grants. The city shall include documentation of expenditures made in connection with the SEP as part of the SEP Completion Report required below.
3. The city hereby certifies that it is not required to perform or develop this SEP by any federal, state, or local law or regulation; nor is the city required to perform or develop this SEP by agreement, grant, or injunctive relief in any other case.
4. SEP Progress Reports. Beginning with the first full year after the commencement of the SEP Plan and continuing every year thereafter until the SEP is completed, the city shall provide to the Department an update on the SEP Plan implementation progress and those actions taken to complete the SEP in the preceding year, the actions planned to implement the SEP in the forthcoming year, any current foreseeable delays in implementing the SEP, the action being taken to address such delays, and an itemized accounting of the costs expended for the preceding period and to-date.
5. The city shall submit to the Department a SEP Completion Report for the information described in Exhibit 1 no later than 120 days from the date of completion. The SEP Completion Report shall contain the following information: (1) a detailed description of the SEP as implemented; (2) itemized costs; (3) an acknowledgement that the SEP has been fully implemented in accordance with the SEP Plan and the provisions of this AOC; and (4) a summary of the environmental and public health benefits resulting from implementation of the SEP.
6. In the event that the Department rejects a SEP Completion Report as required above, the city shall submit a revised completion report within thirty (30) days receipt of the Department's rejection letter.

7. Any public announcement, oral or written, made by the city pertaining to the city undertaking the SEP shall include the following language: "This project was undertaken in connection with the settlement of an enforceable action by the Missouri Department of Natural Resources."
 8. Failure to Substantially Complete a SEP. If the total amount expended on implementing the SEP is less than \$15,000.00, the city shall be subject to a stipulated penalty equal to the difference between the amount spent and \$15,000.00.
- E. The city shall report to the Department all known sewer system overflows (SSOs) and bypass events within twenty-four (24) hours of each SSO event, followed by a written report to the Department within five (5) days of the SSO event for its entire collection and treatment system. The city shall also maintain reports of all SSO occurrences for the Department's inspections.
 - F. The city shall monitor periodic violations of the permitted effluent limitations for ammonia as nitrogen, and evaluate to determine the cause of the violations. The city shall include detailed updates on the cause of the violations and actions taken to reduce the incidence of the violations in its semi-annual reports.
 - G. The city shall complete improvements to its collection system to work toward eliminating SSOs and bypasses. The city shall fully implement all of the requirements of Exhibit 2 of this AOC, Wastewater Collection System and Treatment Facilities Correction and Management Program in accordance with the timeline submitted pursuant to Exhibit 2, Paragraph 3.A. If the Department comments and/or requests modification of any documents submitted to the Department pursuant to Exhibit 2, the city shall submit a written response to the Department to address and satisfy said Department comments. The written response shall be submitted within thirty (30) days receipt of said comments or within the time frame specified in the Department's correspondence, whichever is earlier.
 - H. In the period of time from the effective date of this AOC until repairs to the collection system and any recommended upgrades for the facility are completed, the city shall operate and maintain the existing facility and collection system at all times so as to produce the best effluent quality possible and comply with the terms and conditions of permit number MO-0041068. All units or components of the existing facility shall be maintained in an operable condition, even if this requires the purchase and installation of new parts or equipment and the repair of the facility.
 - I. 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, identifying: i) 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.

- J. Should the city fail to meet the terms of this AOC, including any of the deadlines set out in paragraphs D through I above, the Department may impose stipulated penalties and the city agrees to pay such stipulated penalties, in the following amounts:

<u>Days of Violation</u>	<u>Amount of Penalty</u>
1 to 30 days	\$500.00 per day
31 to 90 days	\$1,000.00 per day
91 days and above	\$2,500.00 per day

Stipulated penalties will be paid in the form of a certified or cashiers check made payable to "State of Missouri (Gasconade County School Fund)." Any such stipulated penalty shall be paid within ten (10) days demand by the Missouri Department of Natural Resources and shall be delivered to:

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

- K. Nothing in this AOC forgives the city from future noncompliance with the laws of the State of Missouri, nor requires the Department or State of Missouri to forgo pursuing by any legal means any noncompliance with the laws of the State of Missouri.
- L. 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.
- M. The effective date of the AOC shall be the date the Department signs the Order.
- N. The city 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. AFFORDABILITY FINDING

Pursuant to Section 644.145, the Department's Affordability Finding, which addresses the obligations included within this AOC, through completion of the milestones contained in the Order and Exhibits 1 and 2, is attached hereto as Exhibit 3. This Affordability Finding does not address future improvements that may be necessary to comply with the

MCWL or its implementing regulations. This Order requires the city to complete an inflow and infiltration (I&I) assessment plan for its wastewater collection system that includes a schedule for completing various improvements to such system and submit the I&I assessment to the Department for review and approval. The Department intends to prepare an Affordability Finding addressing such improvements in connection with Department approval of such I&I assessment plan. 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 Order, the city consents to its terms and waives any right to appeal, seek judicial review, or otherwise challenge the terms and conditions of this Order, 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.

VII. CORRESPONDENCE AND DOCUMENTATION

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

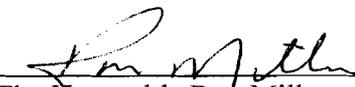
Ms. Kristi Savage-Clarke
Compliance and Enforcement Section
Water Protection Program
Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102-0176

Agreed to and Ordered this 28th day of February, 2014



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

Agreed to and Ordered this 3rd day of February, 2014



The Honorable Ron Miller
Mayor, City of Owensville

Copies of the foregoing served by certified mail to:

The Honorable Ron Miller CERTIFIED MAIL:
Mayor, City of Owensville
107 W. Sears Avenue
Owensville, MO 65066

- c. Ms. Diane Huffman, Environmental Protection Agency
Mr. Chris Wieberg, Chief, Operating Permits Section
Ms. Dorothy Franklin, Director, St. Louis Regional Office
Ms. Janet Pointer, Accounting Specialist, Accounting Program
Missouri Clean Water Commission