

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

IN THE MATTER OF:)
)
 Woodcock Mobile Home Park)
) No. 2014-WPCB-1298
SERVE:)
)
 Mr. Alfred Woodcock)

ABATEMENT ORDER ON CONSENT

I. NOTICE TO RECIPIENTS OF ABATEMENT ORDERS

The issuing of this Abatement Order on Consent (AOC) No. 2014-WPCB-1298, by the Missouri Department of Natural Resources, is a formal administrative action by the state of Missouri and is being issued because the wastewater lagoon serving Woodcock Mobile Home Park (MHP) is in violation of the Missouri Clean Water Law (MCWL). 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 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 for 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 Mr. Alfred Woodcock of liability for, or preclude the Department from, initiating an administrative or 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. Mr. Alfred Woodcock owns and operates a MHP that consists of eight mobile homes. Wastewater generated by the homes in the MHP is treated by a four-cell lagoon and effluent from the lagoon discharges through Outfall No. 001 to a tributary of Hoosier Creek, pursuant to conditions and requirements of Missouri State Operating Permit (MSOP) No. MO-0114367. The lagoon is located in the NW ¼, SW ¼ of Section 12, Township 41 North, Range 1 West, in Franklin County, Missouri, and has a design flow of 530 gallons per day (gpd) and an actual flow of 500 gpd. The design population equivalent is 13, and the design sludge production is 0.2 dry tons per year.
- B. Hoosier Creek and its tributaries are waters of the state as the term is defined by Section 644.016(27) RSMo.
- C. Domestic wastewater is a “water contaminant” as the term is defined in Section 644.016(24), RSMo.
- D. On November 9, 2007, the Missouri Department of Natural Resources issued MSOP No. MO-0114367 to Mr. Woodcock, which included a Schedule of Compliance (SOC) requiring him to: (1) install disinfection facilities to comply with final effluent limitations for E. coli; or (2) demonstrate to the Department through an approved evaluation showing that disinfection is not required to

protect one or both recreational uses; or (3) demonstrate to the Department that one or both designated recreational uses are not attainable in the classified waters receiving the effluent through an approved Use Attainability Analysis. The final effluent limitations for Fecal Coliform became effective November 29, 2010.

- E. MSOP No. MO-0114367 requires Mr. Woodcock to sample the effluent discharge from his lagoon once per quarter and chemically analyze the effluent sample for the parameters listed in Part "A". MSOP No. MO-0114367 further requires Mr. Woodcock to submit the results of the analysis to the Department on quarterly Discharge Monitoring Reports (DMRs). The parameters listed in MSOP No. MO-0114367 includes Flow, Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), pH, Ammonia as Nitrogen, Temperature, and Fecal Coliform. MSOP No. MO-0114367 establishes limitations for BOD, TSS, pH, and E. coli.
- F. Quarterly DMRs submitted to the Department by Mr. Woodcock as required by MSOP No. MO-0114367 document that the effluent discharged from the lagoon failed to comply with the permitted effluent limitations for Fecal Coliform in the second quarter of 2012, and for TSS in the first and second quarters of 2012.
- G. On September 16, 2013, Department staff conducted a compliance inspection at the WWTF. Staff noted that the owner had not met the SOC deadline to either install disinfection equipment or demonstrate why it is not needed. Based on violations found during the inspection the Department issued Notice of Violation (NOV) No. SLR 12164416 to Mr. Woodcock on November 8, 2013. As part of the NOV, the Department required Mr. Woodcock to submit an engineering report that either: (1) demonstrated that disinfection equipment was not needed to comply with final effluent limitation for Fecal Coliform; or (2) that contained plans, specifications, and an activity schedule specific to an upgrade for disinfection, and a construction permit application. The Department required Mr. Woodcock to submit the engineering report by November 25, 2013.
- H. On August 1, 2013, a new permit was issued to Mr. Woodcock with a SOC to comply with final permitted effluent limitations for Ammonia as Nitrogen by August 1, 2016.

III. CITATIONS AND CONCLUSIONS OF LAW

Violations of the MCWL and its implementing regulations alleged herein and found to have been committed by Mr. Woodcock are as follows:

- A. Failure to install disinfection facilities; present an evaluation to show that effluent limits can be met without disinfection equipment, or present a demonstration that such limits are not required and will not violate the Water Quality Standard for *E. coli*, as required Part E, Schedule of Compliance of MSOP No. MO-0114367, in violation of Section 644.076.1, RSMo and 10 CSR 20-6.010(7)(A).
- B. Failure to comply with the effluent limits contained in Part "A" of MSOP No. MO-0114367, in violation of Sections 644.051.1(3) and 644.076.1, RSMo.
- C. Caused pollution of an unnamed tributary of Hoosier Creek, waters of the state, or placed or caused or permitted to be placed, a water contaminant in a location where it is reasonably certain to cause pollution of waters of the state, in violation of Sections 644.051.1(1) and 644.076.1, RSMo.

IV. AGREEMENT

- A. The Department and Mr. Woodcock desire to amicably resolve all claims that may be brought against Mr. Woodcock for violations alleged above in Section III,

Citations and Conclusions of Law, without Mr. Woodcock admitting to 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 Mr. Woodcock under this AOC.
- C. Mr. Woodcock, in compromise and satisfaction of the Department claims relating to the above-referenced violations agrees, without admitting liability or fault, to pay a civil penalty in the amount of four thousand dollars and no cents (\$4,000.00). The Department and Mr. Woodcock further agree that four thousand dollars and no cents (\$4,000.00) of the civil penalty shall be suspended for a period of two (2) years on the condition that Mr. Woodcock does not violate MCWL and its implementing regulations or the terms of this AOC. Upon determination that Mr. Woodcock has failed to meet the conditions of this AOC, the Mr. Woodcock agrees to pay the civil penalty of four thousand dollars and no cents (\$4,000.00) within fifteen (15) days of the demand by the Department to Mr. Woodcock. The check shall be delivered to:
- Missouri Department of Natural Resources
Accounting Program
P.O. Box 477
Jefferson City, MO 65102-0176
- D. In the period of time from the effective date of this AOC until recommended upgrades for the facility are completed, Mr. Woodcock shall operate and maintain the existing facility at all times so as to produce the best effluent quality possible and comply with the terms and conditions of MSOP No. MO-0114367. 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. During the period between April 1 and October 31, Mr. Woodcock shall pump and haul the wastewater from the WWTF to a permitted facility as frequently as necessary to prevent discharges. Mr. Woodcock shall maintain pumping and hauling receipts, and shall submit the receipts from the previous month to the Department by the tenth (10th) day of the following month, for every month that pumping and hauling occurs. The receipts shall include the following information: (a) the date the wastewater was pumped; (b) the number of gallons pumped; (c) the name of the wastewater hauler; and (d) the name of the permitted facility accepting the wastewater.
- E. Within fifteen (15) days of the effective date of this AOC, Mr. Woodcock agrees to retain a professional engineer licensed to practice in the state of Missouri and submit a letter from the engineer to the Department stating that the engineer has been retained to complete any engineering report required in Section IV Paragraph F of this AOC.
- F. Within sixty (60) days of the effective date of this AOC, Mr. Woodcock agrees to submit to the Department for review and approval, an engineering report developed in accordance with Missouri Clean Water Regulation 10 CSR 20-8.020. The engineering report shall include a comprehensive evaluation of the current condition of the facility, wastewater treatment options, and recommendations that will enable the effluent to comply with the permit effluent limitations for E. coli, and for Total Residual Chlorine, if applicable. Although it

is not required at this time, the engineering report may also include alternatives that will result in compliance with final effluent limitations for Ammonia as Nitrogen based on the U.S. Environmental Protection Agency's 2013 Final Aquatic Life Ambient Water Quality Criteria for Ammonia – Freshwater.

- G. Within fifteen (15) days of receipt of Department comments on the engineering report, Mr. Woodcock agrees to respond to and adequately address, to the Department's satisfaction, all of the Department comments on the engineering report.
- H. Within forty-five (45) days of Department approval of the engineering report, Mr. Woodcock agrees to submit to the Department a complete application for a construction permit including the applicable fee, design summary, plans and specifications signed and sealed by a professional engineer licensed to practice in the state of Missouri.
- I. If the Department comments on and/or requests modification of the construction permit application, Mr. Woodcock shall respond to and adequately address, to the Department's satisfaction, all of the Department's comments on the construction permit application and resubmit the construction permit application within fifteen (15) days of receipt of the Department's comments.
- J. Within one hundred twenty (120) days from the date the Department issues the construction permit, Mr. Woodcock agrees to complete all construction of the upgrades in accordance with Department approved plans and specifications in the construction permit.
- K. Within fifteen (15) days of completing construction, Mr. Woodcock agrees to submit to the Department: (1) a Statement of Work Completed Form, signed, sealed and dated by a professional engineer registered in the state of Missouri certifying that the project was completed in accordance with Department approved plans and specifications; and (2) a complete application for the modified MSOP No. MO-0114367 to reflect the upgrades, and with the applicable fee.
- L. Within fifteen (15) days of completion of construction activities, the effluent shall comply with all final effluent limitations, as required in Part "A" of MSOP No. MO-0114367.
- M. Immediately upon becoming aware that a deadline or milestone as set forth in this AOC will not be completed on time, Mr. Woodcock 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, Mr. Woodcock 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 Mr. Woodcock's right to request an extension and may be grounds for the Department to deny him an extension.
- N. Nothing in this AOC forgives Mr. Woodcock 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 for 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.

- E., 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.
- F. 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 Mr. Woodcock for his records.
- G. Mr. Woodcock agrees to comply with the terms and conditions of its MSOP, the MCWL, and Chapter 644, RSMo and its implementing regulations at all times in the future.

V. RIGHT OF APPEAL

By signing this AOC, Mr. Woodcock consents to its terms 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, 644.056.3, 644.079.2, Chapter 536 RSMo, 644.145, RSMo, 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.

VI. CORRESPONDENCE AND DOCUMENTATION

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

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

RECEIVED

Agreed to and Ordered this 3 day of October, 2014

SEP 22 2014

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

WATER PROTECTION PROGRAM

Agreed to and Ordered this 1 day of September, 2014

Alfred Woodcock
 Mr. Alfred Woodcock, Owner
 Woodcock Mobile Home Park

Copies of the foregoing served by certified mail to:

Mr. Alfred Woodcock, Owner CERTIFIED MAIL
 Woodcock Mobile Home Park
 1053 North & South Road
 Sullivan, MO 63080

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