

*original
Renick signed*

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

IN THE MATTER OF:)
)
 Village of Renick)
 Wastewater Treatment Facility)
) No. 2015-WPCB-1160
SERVE:)
)
 The Honorable John Muehe, Mayor)
 Village of Renick)

ABATEMENT ORDER ON CONSENT

I. NOTICE TO RECIPIENTS OF ABATEMENT ORDERS

The issuing of this Abatement Order on Consent (AOC) No. 2015-WPCB-1160, by the Department of Natural Resources, is a formal administrative action by the state of Missouri and is being issued because the wastewater treatment facility (WWTF) serving the village of Renick 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 the village of Renick 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. The village of Renick has a population of approximately 172 and as part of its business owns and operates a no-discharge wastewater treatment facility (WWTF) located in the SW ¼, SW ¼, Sec. 30, Township 53 North, Range 13 West of Randolph County, Missouri. The storage basin has a population equivalent of 215, a design flow of 19,800 gallons per day (gpd), and has an actual flow of 13,000 gpd. Wastewater contained in the storage basin is irrigated through a center pivot on a 38 acre agricultural field pursuant to the conditions and requirements contained in Missouri State Operating Permit (MSOP) NO. MO-0104019.

- B. Among other conditions and requirements MSOP No. MO-0104019, requires that wastewater to be stored and land applied during suitable conditions so that there is no-discharge from the storage basin or irrigation site. Emergency discharges are only authorized when excess wastewater has accumulated above feasible irrigation rates due to precipitation exceeding the 1-in-10 year rainfall event or the 25-year-24-hour rainfall event. Pursuant to MSOP No. MO-0104019, the village is required to sample any discharge from Outfall No. 001, chemically analyze the sample for the effluent parameters contained in Part A, and submit the results to the department on its quarterly Discharge Monitoring Reports (DMRs).
- C. The village is also required to maintain records and submit to the department, by January 28th each year, an annual operating report for the previous calendar year using the report forms provided by the department. The village is further required to include the following information in the annual report: i) record of maintenance and repairs performed during the year, average number of times per month the WWTF is checked to see if it is operating properly, and description of any unusual operating conditions encountered during the year; ii) the reason(s) the emergency discharge(s) occurred; and (iii) a summary of the irrigation operations.
- D. Domestic wastewater is a water contaminant as defined by Section 644.016(24) RSMo and Coon Creek and its tributaries are waters of the state as the term is defined by Section 644.016(27) RSMo.
- E. On May 29, 2009, the department renewed MSOP No. MO-0104019 which included a Schedule of Compliance (SOC) requiring the village to submit to the department an Operation and Maintenance (O&M) manual by November 29, 2009, and an engineering study identifying the reason for frequent discharges from the storage basin by May 29, 2010. The SOC further required the village to submit to the department, an application for a construction permit by November 29, 2010, if upgrades are necessary and complete the improvements by December 29, 2011.
- F. On November 23, 2009, the village's wastewater operator contacted the department to report a discharge from the storage lagoon which began on November 23, 2009. The operator reported that the cause of the discharge was due to wet weather and Inflow and Infiltration (I&I) entering the wastewater collection system. The operator called the department on December 26, 2009, to report the lagoon had ceased discharging.
- G. On November 30, 2009, the department received updated sections of the village's O&M manual and on December 11, 2009, the department sent a letter to the village requesting a complete copy of its O&M manual by January 1, 2010. On January 14, 2010, the department received a copy of the O&M manual from the village.
- H. On March 24, 2010, and May 10, 2010, the department received letters from the village requesting an extension of the MSOP requirement to submit an engineering study by May 29, 2010. On May 24, 2010, the department sent a

letter to the village granting an extension of June 14, 2010, to submit either an engineering report or provide a date when the report would be submitted.

- I. On October 29, 2010, the department received the village's semi-annual I&I report with records of repairs made and also irrigation records for 2006 to 2010.
- J. On December 22, 2010, department staff conducted an inspection of the no-discharge system and a file review of the MSOP. Based on records maintained by the village pursuant to MSOP No. MO-0104019, staff found that the village failed to operate the no-discharge system as no-discharge. Records document that discharges from the storage basin occurred on 668 days during the four years prior to the inspection. The department documented that the village failed to maintain the irrigation center pivot and pump in order to prevent a discharge from the storage lagoon. As of the date of the inspection, department staff found that the village failed to submit an engineering study as required by the SOC contained in the MSOP.
- K. On December 26, 2010, the department received records of pivot arm failures and repairs made from the village's wastewater operator. These records indicated that the irrigation system was broken 94 days during the year 2010.
- L. On January 11, 2011, the department issued Notice of Violation (NOV) No. NER2010122909433498 to the village for failure to operate and maintain the WWTF; failure to operate as a no-discharge WWTF; failure to submit an engineering study; and failure to provide operational pumps and working alarm systems.
- M. On June 23, 2011, the department received a Preliminary Engineering report prepared by Shafer, Kline, & Warren, Inc., recommending conversion of the irrigation pump station to a submersible type, replacing the currently used leased land application area with a purchased site, and updating the east and north pump stations. On June 28, 2011, the department sent correspondence to the village recommending that it submit the preliminary engineering report to the Missouri Water and Wastewater Review Committee (MWWRC) as part of a funding proposal, or submit a construction permit application to the department.
- N. On March 21, 2013, department staff conducted an inspection of the no-discharge system and observed deep-rooted vegetation growing through riprap placed on the berm of the storage basin. Department staff observed the irrigation pump station and found that the equipment was worn; there is only one pump installed in the irrigation pump vault; and that the pipes and valves were severely rusted. Staff also found that one of the pumps in the East Lift Station was not operational and the East Lift Station and Rebarco Lift station did not have a working alarm. As part of the inspection, staff reviewed the files associated with the MSOP and found that, from December 22, 2010, through July 10, 2011, the WWTF discharged every day and the village failed to report the discharge within 24 hours, as required by the Standard Conditions Part I of MSOP No. MO-0104019.

- O. On May 3, 2013, the department issued NOV No. NER2013040414485328 to the village for failure to upgrade WWTFs; failure to operate as a no-discharge WWTF; and failure to provide operational pumps and working alarm systems.
- P. On July 2, 2013, the department received a response from Mr. Douglas Farrow, wastewater operator, to the NOV sent to the village on May 3, 2013. Mr. Farrow's response listed improvements completed by the village correcting the unsatisfactory features documented in the March 21, 2013, inspection report. The improvements the village completed included; 1) improved land application practices to prevent discharges; 2) removed deep rooted vegetation; 3) pumped the lagoon down to the two foot level of freeboard; 4) repaired the pump at the East lift station; and 5) alarms at the lift stations were repaired.
- Q. On July 23, 2013, department staff met with Mayor Muehe, Shafer, Kline & Warren, Inc., and other village representatives to discuss the upgrades completed by the village. Mr. Muehe informed the department that all required pumps were replaced, the alarms were working at the East and Rebarco lift stations, and due to improved land application practices, and there has not been a discharge since July 10, 2011. Mr. Muehe also informed the department that the village has removed the deep-rooted vegetation and the damaged ladder to the outfall. The engineer for Shafer, Kline & Warren, Inc. informed the department that the village intended to purchase 30 acres for land application and in order for upgrades to occur; funding was needed through the MWWRC.
- R. On March 27, 2014, the department received a Wastewater System Improvements State Revolving Fund (SRF) Application prepared by Shafer, Kline, & Warren, Inc., proposing the purchase of a site and the construction of a fixed sprinkler irrigation system to replace the currently used leased land application system, and for upgrading the east and north pump stations.
- S. On December 9, 2014, the department sent the village comments regarding their SRF application. The department further requested that the village respond to the comments. To date, the department has not received a response to the comments.
- T. Section 644.076.1, RSMo, makes it unlawful to violate the MCWL and regulations promulgated pursuant thereto and establish civil penalties of up to \$10,000.00 per day per violation.

III. CITATIONS AND CONCLUSIONS OF LAW

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

1. Failed to submit an engineering study and an operation and maintenance manual by the required date required by Part "D", SOC, of MSOP No. MO-0104019, in violation of Sections 644.076.1, RSMo, and 10 CSR 20-6.010(7)(A).

2. Failed to provide at least two operational pumps at the lift station, in violation of Section 644.076.1 and 10 CSR 20-8.020 (10)(A)3.
3. Failed to provide a working alarm system for the lift stations as required by the Standard Conditions, Part I, Section B, Parts 3 and 15 of MSOP No. MO-0104019, in violation of Sections 644.051.1 (3) and 644.076.1, RSMo, and 10 CSR 20-8.020 (10)(B)10 and 10 CSR 20-8.130(7).

IV. AGREEMENT

- A. The department and the village desire to amicably resolve all claims that may be brought against the village for violations alleged above in Section III, Citations and Conclusions of Law, without the village 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 the village under this AOC.
- C. In the period of time from the effective date of this AOC until the new or upgraded WWTF is completed, the village agrees to operate and maintain the existing WWTF at all times in compliance with the conditions and requirements of MSOP No. MO-0104019 to the best capability of the system. All units or components of the existing WWTF shall be maintained in an operable condition, even if this requires the purchase and installation of new parts or equipment, or repair of the WWTF.
- D. Within 60 days effective date of this AOC, the village agrees to submit a written contingency plan describing alternative options for the disposal of wastewater so there is no discharge from the lagoon, other than emergency discharges authorized pursuant to Section "D", Special Conditions of MSOP No. MO-0104019.
- E. Within 30 days of signing the land acquisition agreement, the village shall respond to and adequately address, to the department's satisfaction, all of the department's comments on the facility plan submitted with SRF application.
- F. Within 90 days of the department's approval of the WWTF plan, the village shall submit to the department for review and approval, 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 for improvements that will enable the effluent to comply with all applicable limitations contained in the MSOP.
- G. Within 30 days of receipt of department comments on the city's construction permit application, the village shall respond to and adequately address, to the

department's satisfaction, all of the department's comments on the construction permit application.

- H. Within 365 days of the date the department issues the village a construction permit, the village shall complete construction of the improvements as approved by the department.
- I. Within 30 days of the effective date of this AOC, the village agrees to submit a copy of its current O&M manual for its wastewater collection and land application systems.
- J. Within 30 days of completing construction, submit to the department a Statement of Work Complete Form, 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 department-approved plans and specifications. A complete application requesting the issuance of the modified MSOP and must be updated O&M.
- K. Within 180 days of the effective date of this AOC, the village shall develop and implement a Maintenance and Repair (M&R) Program for its wastewater collection and treatment systems and submit the M&R Program to the department for review. The M&R Program shall include the following: (1) a schedule for routine and systematic inspection, maintenance and repair of the wastewater collection and land application systems to identify all short and long term capital investment projects and activities that will be necessary to ensure current and long term compliance with the village's MSOP; (2) a process to reevaluate the assumptions, schedules, and conclusions of the village's M&R Program at a minimum of every two years or as necessary to ensure it continues to provide a viable planning tool; and (3) a written or electronic system to document information regarding Sanitary Sewer Overflow (SSO) events, bypasses, and basement backups.
- L. Within thirty (30) days receipt of department comments on the village's M&R Program, the village shall respond to and adequately address, to the department's satisfaction, all of the department's comments on the M&R Program.
- M. 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 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 district's right to request an extension and may be grounds for the department to deny the village an extension.

- N. Should the village fail to meet the terms of this AOC, including the deadlines for completion of construction set out in Paragraphs D through L, the village shall be subject to pay stipulated penalties in the following amount:

<u>Days of Violation</u>	<u>Amount of Penalty</u>
1 to 30 days	\$100.00 per day
31 to 90 days	\$250.00 per day
91 days and above	\$500.00 per day

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

Department of Natural Resources
Accounting Program
P.O. Box 477
Jefferson City, MO 65102-0477

- O. Nothing in this AOC forgives the village 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 non-compliance 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.
- 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 AOC. The department shall send a fully executed copy of this AOC to the village for its records.
- R. The village shall comply with the MCWL, Chapter 644, RSMo and its implementing regulations at all times in the future.

V. COST ANALYSIS FOR COMPLIANCE

Pursuant to Section 644.145, the Cost Analysis for Compliance (CAFCOM), which addresses the obligations included within this Order through December 31, 2015, based upon the village's cost estimate of \$717,666.00 through completion of corrective actions outlined in the village's WWTF plan. As part of the AOC the City agreed to develop and implement a M&R Program for its wastewater collection and treatment systems. The department estimates cost to develop an M&R Program will cost less than \$10,000.00. This CAFCOM does not address future improvements that may be necessary to comply

with the MCWL or its implementing regulations. This AOC requires the village to complete the construction of a WWTF in accordance with a department approved WWTF plan, designs, and specifications.

VI. RIGHT OF APPEAL

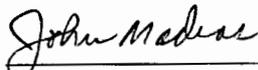
By signing this AOC, the village consents to its terms and waives any right to appeal, seek judicial review, or otherwise challenge the terms and conditions of this AOC pursuant to Sections 621.250, 640.010, 640.013, 644.056.3, 644.079.2, Chapter 536 RSMo, 644.145, RSMo, 10 CSR 20-1.020, 10 CSR 20-3.010, 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:

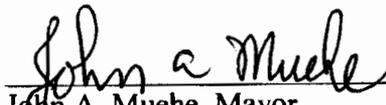
Mr. Kurtis Cooper
Department of Natural Resources
Water Protection Program
Compliance and Enforcement Section
P.O. Box 176
Jefferson City, MO 65102-0176

Agreed to and Ordered this 8th day of December, 2015



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

Agreed to and Ordered this 21 day of Nov, 2015



John A. Muehe, Mayor
Village of Renick

Copies of the foregoing served by certified mail to:

The Honorable John A. Muehe, Mayor CERTIFIED MAIL # 7012 2920 0002 0660 5699
Village of Renick
P.O. Box 87
Renick, MO 65278-0087

c: Ms. Diane Huffman, Environmental Protection Agency
Mr. Chris Wieberg, Chief, Operating Permits Section
Ms. Irene Crawford, Director, Northeast Regional Office
Missouri Clean Water Commission
Accounting Program