

**BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES**

**In the Matter of:** )  
 )  
City of Winfield Municipal Lagoon )  
 )  
**Serve:** ) **Order No. 2016-WPCB-1367**  
 )  
The Honorable Ryan Ruckel, Mayor )  
City of Winfield )  
 )

---

**ABATEMENT ORDER ON CONSENT**

---

**NOTICE TO RECIPIENTS OF ABATEMENT ORDERS ON CONSENT**

The issuing of this Abatement Order on Consent (AOC) No. 2016-WPCB-1367, by the Department of Natural Resources, is a formal administrative action by the state of Missouri and is being issued because the city of Winfield violated 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 city 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.

## FINDINGS OF FACT

1. The city of Winfield is a fourth class municipality with a population of approximately 1,404 residents and 494 wastewater connections. The city owns and operates a wastewater treatment facility (WWTF) that consists of a three-cell facultative lagoon. The WWTF is located in the NW ¼, NE ¼, SE ¼, Section 24, Township 49 North, Range 2 East, of Lincoln County. The design flow of the WWTF is 196,000 gallons per day and an actual flow of 59,400 gallons per day with a design population equivalent of 1,960. The design sludge production is 29.4 dry tons per year and sludge is retained in the lagoon. The WWTF currently operates pursuant to the terms and conditions of Missouri State Operating Permit (MSOP) No. MO-0088676. Treated effluent from the WWTF discharges from Outfall No. 001 to McLean Creek.

2. McLean Creek is waters of the state as the term is defined by Section 644.016(27), RSMo.

3. Domestic wastewater is a water contaminant as the term is defined in Section 644.016(24), RSMo.

4. MSOP No. MO-0088676 was re-issued to the city on March 18, 2011, and included final effluent limitations for *Escherichia coli* and Total Residual Chlorine that became effective on December 31, 2013. Section "E", Schedule of Compliance (SOC), of the MSOP required the city to submit an engineering report to the department by March 18, 2012, describing the WWTF upgrades and modifications necessary to allow the WWTF to meet the final effluent limitations. The SOC further required the city to submit an application for a construction permit to construct WWTFs as necessary to enable the WWTF to comply with the final effluent limitations by September 18, 2012. The SOC also required the city to submit a

construction progress report to the department by March 18, 2013, and complete construction of the upgrades and modifications by December 31, 2013.

5. MSOP No. MO-0088676 requires the city to sample the effluent discharged from Outfall No. 001 and chemically analyze the effluent sample for the water contaminants listed in Part "A" every month. MSOP No MO-0088676 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).

6. Monthly DMRs submitted to the department document that the effluent discharged from the WWTF failed to comply with the applicable permitted effluent limitations for E. coli during the months of July and September 2014 and April 2015.

7. Monthly DMRs submitted to the department document that the effluent discharged from the WWTF failed to comply with the applicable permitted effluent limitations for pH during the months of August through December 2013; April through December 2014; and April through June 2015

8. Part "D", Special Conditions, No. 9 of MSOP No. MO-0088676 requires the city to submit Inflow and Infiltration (I&I) reports every April and October, which address measures taken to locate and eliminate sources of I&I into the city's collection system. The department has not received I&I reports from the city since at least the re-issuance of MSOP No. MO-0088676 on March 18, 2011.

9. On January 27, 2012, the department received a copy of the city's Preliminary Engineering Report (PER) from MECO Engineering Company, Inc. The PER recommended installing an ultraviolet (UV) disinfection unit to comply with the SOC and the replacement of the Maple Street lift station.

10. On May 21, 2013, the department received an application for a construction permit from the city for the installation of a UV disinfection unit and the replacement of the Maple Street lift station.

11. On June 17, 2013, the department sent correspondence to the city requesting additional information for the construction permit application.

12. On January 14, 2014, department staff conducted a routine compliance inspection of the WWTF. During the inspection, staff documented that disinfection equipment had not been installed, as required by the SOC contained in MSOP No. MO-0088676.

13. On February 20, 2014, the department issued Notice of Violation (NOV) No. 09493534 to the city for failure to upgrade the WWTF.

14. On April 23, 2014, the city reported a Sanitary Sewer Overflow (SSO) to the department. The SSO occurred at the first manhole upstream of the city's west lift station. City staff reported that the high level alarm in the lift station did not activate. On April 23, 2014, department staff responded to the SSO event and observed that the tributary to McLean Creek was dark gray with sludge bottom deposits and visible floating solids. Staff estimated that over 50,000 gallons of wastewater were discharged during the SSO event. On May 27, 2014, the department issued NOV No. 3347 to the city for discharging water contaminants into and polluting waters of the state, and failing to operate and maintain the WWTF.

15. On October 2, 2014, the department received an environmental concern regarding a manhole overflowing by the Maple Street lift station. The city reported that due to heavy rain, the area around the lift station was flooded.

16. On June 3, 2015, the department sent correspondence to the city stating that the department had not received a response to the June 17, 2013, letter requesting additional

information for the construction permit application. The letter stated that the department was allowing the city 15 days to consult with the city's engineer and provide an adequate response to complete the submittal or the review of the application would be terminated.

17. On June 19, 2015, the department received correspondence from the city stating that they wished to withdraw their construction permit application for the installation of a UV disinfection unit and the replacement of the Maple Street lift station.

18. On July 10, 2015, department staff met with city officials. During the meeting, city officials stated that the city contracted with Ameren to camera the sewer lines.

19. Section 644.076.1, RSMo, makes it unlawful to violate the MCWL and regulations promulgated pursuant thereto and establishes civil penalties of up to \$10,000.00 per day per violation.

### **STATEMENT OF VIOLATIONS**

The city has violated the MCWL and its implementing regulations as follows:

20. Failed to upgrade the WWTF as required in Part "B" Standard Conditions, and Part "E", SOC, of MSOP No. MO-0088676, in violation of Section 644.076.1 RSMo, and 10 CSR 20-6.010(7)(A);

21. Operated, used or maintained a water contaminant source, lift station, which discharged to a tributary of McLean Creek waters of the state, without an MSOP, in violation of Sections 644.051.2 and 644.076.1, RSMo, and 10 CSR 20-6.010(1)(A) and (5)(A);

22. Failed to comply with the effluent limits contained in Part "A" of MSOP No. MO-0088676, in violation of Sections 644.051.1(3) and 644.076.1, RSMo;

23. Discharged water contaminants into waters of the state, which reduced the quality of such waters below the Water Quality Standards established by the Missouri Clean Water

Commission, in violation of Sections 644.051.1(2) and 644.076.1, RSMo, and 10 CSR 20-7.031(A),(B)&(C);

24. Caused pollution of waters of the state, or placed or caused or permitted to be placed water contaminants 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;

25. Failed to operate and maintain WWTFs, lift station alarm system, to comply with the MCWL and applicable MSOP conditions, in violation of Sections 644.051.1(3) and 644.076.1, RSMo; and

26. Failed to submit I&I reports every April and October as required in Part “D” Special Conditions No. 9 of MSOP No. MO-0088676, in violation of Section 644.076.1, RSMo.

### **AGREEMENT**

27. The department and the city desire to amicably resolve all claims that may be brought against the city for violations alleged above in Statement of Violations.

28. 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 city under this AOC.

29. 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 \$20,000.00 of which \$10,000.00 shall be suspended as described in Paragraph 33

below. The payment shall be in the form of a check made payable to the "*Lincoln County Treasurer, as custodian of the Lincoln County School Fund*". The check in the amount of \$10,000.00 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  
Department of Natural Resources  
P.O. Box 477  
Jefferson City, MO 65102-0477

30. The suspended penalty described in Paragraph 32 in the amount of \$10,000.00 shall be suspended for a period of two years from the execution of the AOC upon the condition that the city does not violate the terms of this AOC. Upon determination that the city has failed to meet the terms of this AOC, including the requirements of Paragraphs 34 through 44, the department shall send a written demand for the suspended penalty to the city. The city shall have 15 days from receipt of the written demand to submit the suspended penalty to the address listed in Paragraph 32.

31. In the period of time from the effective date of this AOC until the new or upgraded WWTF is completed, the city shall operate and maintain the existing WWTF at all times in compliance with the conditions and requirements of MSOP No. MO-0088676. 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.

32. Within 120 days of the effective date of this AOC, the city is ordered and agrees to submit to the department for review and approval, an I&I Assessment Plan containing: a schedule for locating sources of I&I, a description of the source(s) and cause(s), rating of priorities for correction, and a timeline for completing the assessment. The I&I Assessment Plan shall divide the collection system into designated areas that will be prioritized by the city based

upon known problem areas and will include a schedule to inspect the lines in a designated area. Sewer lines that were installed within the last 15 years may be excluded from the plan unless the city has reason to believe they are a major source of I&I. Within 30 days of receipt of department comments on the I&I Assessment Plan, the city is ordered and agrees to respond to the department in writing addressing all department comments to the department's satisfaction. Upon department approval, the city shall implement the provisions of the I&I Assessment Plan in accordance with the approved timeline, which shall be enforceable as a condition of compliance of this AOC.

33. Within 120 days of completing the I&I Assessment Plan, the city shall submit a Capital Improvement Plan (CIP) to the department for review and approval. The CIP shall be developed by a professional engineer registered in the state of Missouri and shall recommend and prioritize improvements to the wastewater collection system and include a schedule to complete the deficiencies discovered in the I&I Assessment and estimate the cost. Within 30 days of receipt of department comments on the CIP, the city is ordered and agrees to respond to the department in writing addressing all department comments to the department's satisfaction. Upon department approval, the city shall implement the provisions of the CIP in accordance with the approved timeline, which shall be enforceable as a condition of compliance of this AOC.

34. Within 30 days of completing all of the activities of the CIP, the city shall submit to the department a letter certifying that all of the activities detailed in the CIP have been completed according to the department-approved plan.

35. Within 365 days of the effective date of this AOC, the city is ordered and agrees to submit to the department for review and approval, a facility plan developed in accordance with the requirements of 10 CSR 20-8.110 and prepared by a professional engineer licensed to

practice in the state of Missouri. The facility plan shall evaluate the wastewater treatment system and recommend corrective actions to enable the WWTF to comply with the MCWL and the conditions and requirements of the MSOP. 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.

36. Within 30 days of receipt of department comments on the city's facility plan, the city is ordered and agrees to respond to and address, to the department's satisfaction, all of the department's comments on the facility plan.

37. Within 365 days of the department's approval of the facility plan, the city is ordered and agrees to submit to the department for review and approval, a complete application for a construction permit, plans, specifications, and design summary, sealed by a professional engineer licensed to practice in the state of Missouri and the applicable permit fee for the improvements recommended in the department approved facility plan.

38. Within 30 days of receipt of department comments on the city's construction permit application, the city is ordered and agrees to respond to and adequately address, to the department's satisfaction, all of the department's comments on the construction permit application.

39. Within 730 days of the date the department issues the city a construction permit, the city is ordered and agrees to complete construction of the improvements as approved by the department.

40. Within 60 days of completing construction, the city shall 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, and a complete application with the applicable fee to modify the MSOP.

41. Within 60 days of completing construction of the improvements, the city shall achieve compliance with the final effluent limitations contained in Part "A" of the MSOP.

### **SUBMISSIONS**

42. All other documentation submitted to the department for compliance with this order shall be submitted within the timeframes specified to:

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

### **OTHER PROVISIONS**

43. Immediately upon becoming aware that a deadline or milestone as set forth in this AOC will not be completed by the required deadline, the city 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 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 district an extension.

44. Should the city fail to meet the terms of this AOC, including the deadlines set out in Paragraphs 35 through 44, the city 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	\$50.00 per day
31 to 90 days	\$100.00 per day
91 days and above	\$250.00 per day

Stipulated penalties will be paid in the form of check made payable to “*Lincoln County Treasurer, as custodian of the Lincoln County School Fund.*” Any such stipulated penalty shall be paid within ten days of demand by the department and shall be delivered to:

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

45. Compliance with this AOC resolves only the specific violations described herein, and this AOC shall not be construed as a waiver or modification or any other requirements of the MCWL and regulations, or any other source of law. Nor does this order resolve any future violations of this order or any law or regulation. Consistent with 10 CSR 20-3.010(5), this order shall not be construed as satisfying any claim by the state or federal government for natural resource damages.

46. 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 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.

47. 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.

48. 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 city for its records.

49. The city shall comply with the MCWL, Chapter 644, RSMo and its implementing regulations at all times in the future.

#### **COST ANALYSIS FOR COMPLIANCE**

Pursuant to Section 644.145, the Cost Analysis for Compliance (CAFCOM), which addresses the obligations included within this AOC, is attached hereto as Exhibit 1. This CAFCOM does not address future improvements that may be necessary to comply with the MCWL or its implementing regulations. This AOC requires the city to complete I&I assessment of the wastewater collection system, submit Capital Improvement Plan upgrade or replace the WWTF in accordance with a department approved facility plan, designs, and specifications.

#### **NOTICE OF APPEAL RIGHTS**

By signing this AOC, the city 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.

**SIGNATORY AUTHORITY**

Agreed to and Ordered this 22<sup>nd</sup> day of February, 2016

  
\_\_\_\_\_  
The Honorable Ryan Ruckel, Mayor  
City of Winfield

Agreed to and Ordered this 25<sup>th</sup> day of February, 2016

  
\_\_\_\_\_  
DEPARTMENT OF NATURAL RESOURCES  
John Madras, Director  
Water Protection Program

Copies of the foregoing served by certified mail to:

The Honorable Ryan Ruckel, Mayor      CERTIFIED MAIL# 7012 2920 0002 0660 6481  
City of Winfield  
P.O. Box 59  
Winfield, MO 63389

c:    Ms. Diane Huffman, Environmental Protection Agency  
      Ms. Dorothy Franklin, Director, St. Louis Regional Office  
      Ms. Hannah Humphrey, Community Services Coordinator  
      Missouri Clean Water Commission  
      Accounting Program