

BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES

In the Matter of:)
)
 Woodstock Mobile Home Park)
 Wastewater Treatment Facility) **Order No. 2016-WPCB-1398**
)
)

Serve:)
 James Moore)
 Woodstock MHP Limited)
 Partnership)

ABATEMENT ORDER ON CONSENT

NOTICE TO RECIPIENTS OF ABATEMENT ORDERS ON CONSENT

The issuing of this Abatement Order on Consent (AOC) No. 2016-WPCB-1398, by the Department of Natural Resources, is a formal administrative action by the state of Missouri and is being issued because Woodstock Mobile Home Park (MHP) Limited Partnership 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 Respondent 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. Woodstock MHP Limited Partnership is an active partnership (Respondent) registered with the Missouri Secretary of State doing business as Woodstock MHP Limited. The Application for Registration of a Foreign Limited Partnership (Articles of Organization) filed on June 30, 2003, lists Moore Enterprises (Irving, Texas) as a general partner.

2. The Respondent owns and operates two wastewater treatment plants (WWTPs) consisting of extended aeration systems with seasonal chlorination. The WWTPs serve approximately 122 mobile homes in the Woodstock MHP, located in Boone County, Missouri.

3. WWTP No. 001 is located in the SE $\frac{1}{4}$, NW $\frac{1}{4}$, NE $\frac{1}{4}$, Section 29, Township 48 North, Range 12 West. The design population equivalent is 476, the design flow is 23,000 gallons per day (gpd) and actual flow is 9,000 gpd. The design sludge production is 9.1 dry tons per year and the actual sludge production is 3.5 dry tons per year. The receiving stream for Outfall No. 001 is a tributary to Grindstone Creek.

4. WWTP No. 002 is located in the NE $\frac{1}{4}$, SE $\frac{1}{4}$, NE $\frac{1}{4}$, Section 29, Township 48 North, Range 12 West. The design population equivalent is 153, the design flow is 7,670 gpd, and the actual flow is 7,670 gpd. The design sludge production is 3 dry tons per year and actual sludge production is 2.4 dry tons per year. The receiving stream for Outfall No. 002 is a tributary of South Fork Grindstone Creek, which was reclassified on August 20, 2013, to Class C with whole body contact recreation B, with the beneficial uses of irrigation, Livestock and Wildlife watering, Protection of Warm Water Aquatic Life, Human Health-Fish Consumption, Secondary Contact Recreation.

5. The Missouri State Operating Permit (MSOP) authorizes the Respondent to discharge treated effluent from the Outfall Nos. 001 and 002 to a tributary to Grindstone Creek, and a tributary of South Fork Grindstone Creek, respectively, in accordance with the effluent limitations and monitoring requirements set forth in the MSOP.

6. MSOP No. MO-0082066 requires the Respondent to sample the effluent discharged from the outfalls and chemically analyze the effluent samples for the water contaminants listed in Part "A" once per quarter. MSOP No. MO-0082066 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 quarterly Discharge Monitoring Reports (DMRs) by the 28th day of the month following the reporting period.

7. MSOP No. MO-0082066 contained a Schedule of Compliance (SOC) that required the Respondent to achieve compliance with final permitted effluent limitations for Total Residual Chlorine (TRC) by May 30, 2011. The MSOP also required the Respondent to cease discharge by connection to an area-wide wastewater treatment system within 90 days of notice of its availability.

8. MSOP No. MO-0082066 requires the Respondent to submit an annual sludge report to the department by January 28th of each year for the previous calendar year period.

9. A tributary of Grindstone Creek and South Grindstone Creek are waters of the state as the term is defined by Section 644.016(24), RSMo.

10. Domestic wastewater is a water contaminant source as the term is defined by Section 644.016 (24), RSMo.

11. Quarterly DMRs submitted to the department document that the effluent discharged from the WWTP failed to comply with the applicable permitted effluent limitations for TRC during the second and third quarters of 2014; and first quarter of 2015.

12. Quarterly DMRs submitted to the department document that the effluent discharged from the WWTP failed to comply with the applicable permitted effluent limitations for Biochemical Oxygen Demand (BOD) during the fourth quarter of 2013 and second quarter of 2015.

13. Quarterly DMRs submitted to the department document that the effluent discharged from the WWTPs failed to comply with the applicable permitted effluent limitations for Fecal Coliform during the third quarter of 2014 and the second quarter of 2015.

14. Quarterly DMRs submitted to the department document that the effluent discharged from the WWTPs failed to comply with the applicable permitted effluent limitations for Total Suspended Solids (TSS) during the fourth quarter of 2013 and the second quarter of 2015.

15. The Respondent failed to submit DMR for the second quarter of 2014.

16. On January 9, 2013, the department received an application to renew the MSOP signed by Ms. Cynthia Lopez, Property Manager of the MHP.

17. On January 22, 2014, a representative from the Columbia Public Works Department (CPWD) sent correspondence to the company providing notice to the MHP management that the city of Columbia's sewer collection system was available for connection. The letter suggested to MHP management to schedule a meeting with the department and CPWD to discuss the MHP's possible connection to the city's sewer collection system.

18. On March 12, 2014, the department issued Notice of Violation (NOV) No. NER2014011413074722 to the Respondent for exceeding permitted effluent limitations for Fecal Coliform in the third quarter of 2013 (Outfall Nos. 001 and 002) and for exceeding BOD and TSS during the fourth quarter of 2013 (Outfall No. 002). The NOV also informed the Respondent the department had not received annual sludge reports for the years 2007, 2008, 2010, 2011, and 2012. The department requested a written response to these violations explaining why they were missing and the steps the Respondent would take to comply with the MCWL in the future.

19. On May 13, 2015, department staff conducted a compliance inspection at the MHP's WWTPs. During the inspection, staff observed a layer of sludge across the top of the clarifier, which crossed through a v-notch weir prior to being discharged through Outfall No. 001. Staff documented the WWTP's chlorinator consisted of a piece of pipe with chlorine tablets and did not observe a dechlorinator. Department staff documented Outfall No. 001 was discharging and staff set up a 24-hour composite sampler to analyze the effluent. Staff observed approximately six inches of sludge below the outfall and a buildup of sludge in the receiving stream.

20. Staff next observed the WWTP that discharges to Outfall No. 002 and found that only one aerator was functioning and the other aerator was missing a belt and pulley system. Department staff observed a layer of sludge across the top of the clarifier which crossed a v-notch weir prior to being discharged. Staff observed sludge on both sides of a board in the chlorinator. Staff further observed chlorine tablets in the chlorinator, but they did not reach the bottom of the chlorinator. Staff also observed the contact basin; however, the effluent was piped

directly to Outfall No. 002, rather than traveling through the basin. Staff documented that Outfall No. 002 was discharging and set up a 24-hour composite sampler for analysis.

Department staff further observed a thin layer of sludge below Outfall No. 002 and a buildup of sludge below the outfall.

21. As part of the inspection, staff conducted a file review of MSOP No. MO-0082066 and noted the following DMR violations: Flow and Temperature were not included on the first quarter 2014 DMR for both outfalls; during the second quarter of 2014, the effluent exceeded its permitted limitation for TRC at both outfalls; and during the third quarter of 2014, the effluent exceeded its permitted limitation for TRC at Outfall No. 001 and exceeded Fecal Coliform at Outfall No. 002.

22. In addition, staff found that the Respondent had failed to submit engineering plans, specifications, and a construction permit application to the department by May 30, 2009, and annual progress reports, to comply with the SOC for meeting final TRC limits by May 30, 2011.

23. Department staff returned to the MHP on May 14, 2015, to collect the composite samples from Outfall Nos. 001 and 002. The samples collected at these outfalls showed the effluent discharging from the WWTP exceeded effluent limitations for BOD, TSS, and TRC. Samples results are summarized in the chart below.

Parameter	Outfall 001		Outfall 002	
	Sample #151100	Sample #101100	Sample #151102	Sample #151103
BOD5	2.00 mg/L		76.6 mg/L	
TSS	< 5 mg/L		76.0 mg/L	
Fecal Coliform		< 10 mg/L		761 mg/L
TRC		2.36 mg/L		<0.04 mg/L

24. On June 12, 2015, the department issued NOV No. NER2015052708162976 to Mr. James Moore, Owner of Woodstock MHP limited Partnership for violations of the MCWL documented during the May 13, 2015, inspection. The inspection report associated with the NOV required Mr. Moore to submit missing DMRs; immediately take steps to prevent the discharge of sludge; and by July 6, 2015, provide documentation stating the broken aerator in the WWTP associated with Outfall No. 002 is working properly.

25. Section 644.076.1, RSMo makes it unlawful to violate the MCWL and regulations promulgated pursuant thereto and establishes penalties up to \$10,0000.00 per day per violation.

STATEMENT OF VIOLATIONS

The Respondents have violated the MCWL and its implementing regulations as follows:

26. Failed to connect the wastewater flow from the MHP's WWTPs to the city of Columbia within 90 days of notification of its availability as stated in the MCWL and applicable permit conditions, in violation of Sections 644.051.1(3) and 644.076.1, RSMo and 10 CSR 20-6.010(8)(A)4.

27. 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 to waters of the state, in violation of Sections 644.051.1(1) and 644.076.1, RSMo.

28. Failed to submit engineering plans, engineering specifications, and a construction permit application by May 30, 2009; failed to submit progress reports every 12 months from May 30, 2008; and failed to meet final effluent limitations by May 30, 2011, as required in Part "B" Standard Conditions, and Part "C", SOC of MSOP No. MO-0082066, in violation of Sections 644.076.1, RSMo, and 10 CSR 20-6.010(7)(A).

29. Failed to comply with the effluent limitations contained in Part "A: of MSOP No. MO-0082066, in violation of Sections 644.051.1(3) and 644.076.1, RSMo.

AGREEMENT

30. The department and the Respondent desires to amicably resolve all claims that may be brought against the Respondent for violations alleged above in Statement of Violations.

31. 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 Respondent under this AOC.

32. The Respondent in compromise and satisfaction of the department's claims relating to the above referenced violations agree without admitting liability or fault, to pay a penalty in the amount of \$16,000.00. The department and the Respondent agrees that \$8,500.00 of the civil penalty shall be suspended on the condition the city complies with all requirements and conditions contained in this AOC. The payment in the amount of \$7,500.00 shall be in the form of a check made payable to the "*Boone County Treasurer, as custodian of the Boone County School Fund*" and is due and payable upon execution of this AOC by the Respondent. The check and the signed copy of this AOC shall be delivered to:

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

33. The suspended penalty described in Paragraph 33 in the amount of \$8,500.00 shall be suspended for a period of two years from the execution of this AOC upon the condition that the Respondent does not violate the terms of the AOC. Upon the determination that the Respondent has failed to meet the terms of this AOC, including the requirements of Paragraphs 31 through 39, the department shall send a written demand for the suspended penalty to the Respondent. The Respondent shall have 15 days from the receipt of the written demand to submit the suspended penalty to the address listed in Paragraph 33.

34. In the period of time from the effective date of this AOC until the wastewater flows from the existing WWTPs are connected to the area-wide central authority sewer system and the WWTPs are properly closed, the Respondent agrees and are ordered to operate and maintain the existing WWTPs at all times in compliance with the conditions and requirements of MSOP No. MO-0082066. All units or components of the existing WWTPs shall be maintained in an operable condition, even if this requires the purchase and installation of new parts or equipment, or repair of the WWTPs.

35. Within 60 days of the effective date of this AOC, the Respondent agrees and is ordered to submit to the department for review and approval a written closure plan for the WWTFs developed pursuant to the Standard Conditions contained in Part III Section I of MSOP No. MO MO-0082066. In the event the Department comments on the closure plan, Respondent agrees and is ordered to respond and address all comments to the Department's satisfaction within 30 days receipt of written comments from the Department.

36. Within 120 days from the effective date of this AOC, the Respondent agrees and is ordered cease discharging effluent from both WWTPs and convey the wastewater to an area

wide wastewater collection and treatment system permitted by the Department. Respondent agrees and is ordered to comply with all local ordinances and state regulations including but not limited to obtaining all required approvals and permits to construct the sewer extension.

37. Within 90 days of conveying the wastewater to area-wide sewer system, Respondent agrees and is ordered to complete closure of the WWTPs, in accordance with the Department approved closure plan and submit to the Department, a complete and approvable Request for Termination (Form J) for MSOP No. MO-0109185.

38. The Respondent agrees and is ordered to comply with the MCWL, Chapter 644, RSMo, and its implementing regulations at all times in the future.

SUBMISSIONS

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

Mr. Travis Lyon
Department of Natural Resources
Water Protection Program
Compliance and Enforcement Section
P.O. Box 176
Jefferson City, Missouri 65102-0176

OTHER PROVISIONS

40. Immediately upon becoming aware that a deadline or milestone as set forth in this AOC will not be completed by the required deadline, the Respondent 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 Respondent shall submit to the department for review and approval a written request containing the same information. 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 Respondent's right to request an extension and may be grounds for the department to deny the extension.

41. Should the Respondent fail to meet the terms of this AOC, including the deadlines for completion of corrective actions set out in Paragraphs 36 through 37, the Respondent 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 check made payable to "*Boone County Treasurer, as custodian of the Boone 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

42. 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.

43. Nothing in this AOC forgives the Respondent 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 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 within are 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.

44. 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.

45. 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 Respondent for their records.

NOTICE OF APPEAL RIGHTS

46. By signing this AOC, the Respondent 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.

Agreed to and Ordered this 17 day of Feb, 2016

James A. Moore
Mr. James Moore, General Partner
Woodstock MHP, Ltd.

Agreed to and Ordered this ^{2:57h PM} 17 day of Feb, 2016

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

Copies of the foregoing served by certified mail to:

Mr. Brian McDaniel
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304 Pinto Circle
O'Fallon, MO 63368

Mr. James Moore
Moore Enterprises
4425 West Airport Freeway, Suite 475
Irving, TX 75062

Ms. Phebe La Mar
Smith Lewis, LLP
111 South Ninth Street, Suite 200
P.O. Box 918
Columbia, MO 65205-0918

c: Ms. Irene Crawford, Director, Northeast Regional Office
Ms. Diane Huffinan, Environmental Protection Agency
Missouri Clean Water Commission
Accounting Program