

STATE OF MISSOURI
DEPARTMENT OF NATURAL RESOURCES



Matt Blunt, Governor • Doyle Childers, Director

www.dnr.mo.gov

NOV -5 2007

Mr. Alan Wyatt
Region G-Mark Twain Solid Waste Management District
101 E. Washington
P.O. Box 96
Macon, MO 63552

Dear Mr. Wyatt:

This letter provides notice to Region G-Mark Twain Solid Waste Management District that the Department of Natural Resources, Solid Waste Management Program's (SWMP's) evaluation of the district's performance related to appropriate and effective use of district grant funds pursuant to 260.335.5, RSMo, found the district to be seriously out of compliance. Specifically, the SWMP determined the district failed to comply with the laws, regulations and terms and conditions governing use of such public monies. Based upon the information summarized below, effective November 1, 2007, the department has designated Region G as "high risk".

On October 26, 2007, the Solid Waste Management Program (SWMP) received the final Independent Accountant's Report Applying Agreed Upon Procedures of the district conducted by the department's contract audit firm, Casey and Company, L.L.C. (A copy is enclosed.) The performance audit of Region G was completed in accordance with 260.325.10, RSMo. Findings within the audit report are significant. They show the district's current financial position as unacceptable and that the district has failed to comply with the terms and conditions governing use of district grant funds. As you know, the SWMP disburses funding to the district based upon board approved district grant applications and subgrantees are then paid by the district from these funds. The audit report contains significant findings and questioned costs totaling \$155,573 as a direct result of the district obligating to subgrantees more cash than remains available in the district's bank accounts. (During the district's financial statement audit, it was determined the "out-of-balance" amount reconciled to \$147,367.) This cash shortfall resulted from the inappropriate disbursement of district grant funds to a former employee and loans of district grant funds that were not known to or approved by the SWMP.

Information provided by the district's executive board and contracted administrative staff related to the district's financial statement audits for the periods ended December 31, 2004, 2005, and 2006 conducted by Charles E. Montgomery, CPA, concurs with the significant findings within the performance audit. Specifically, the financial position of



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the district is unacceptable and the district is out of compliance with grant terms and conditions. The financial statement audits identified questioned costs totaling \$260,824. These costs relate to inappropriate disbursements identified within the reports as "Receivable-other" made to a former employee (\$86,785); loans of district grant funds made without written agreements, without repayment schedules, and without the required SWMP approval identified within the reports as "Due from Mark Twain Waste and Energy Corporation" (\$124,039); and money borrowed against future district grant funds without the required SWMP approval identified within the reports as "Notes Payable" (\$50,000, which includes \$20,000 already repaid to the bank from district grant funds).

Additionally, the financial statement audits identified the district as making a \$100,000 loan to the Mark Twain Waste and Energy Corporation (MTWEC) that was approved by the SWMP, however, the district failed to enter into the required written agreement and repayment schedule with the MTWEC. Further, without the knowledge or approval of the SWMP, the district board appears to have co-signed for bank loans for the MTWEC totaling \$220,150. These activities may result in questioned costs and disallowances in future periods.

The remainder of this letter and its attachments provides guidance related to the district's operations during the "high risk" status; the corrective action plan; specific timeframes for completion of corrective action; and the district's FY2008 financial assistance agreement (FAA) with the SWMP.

It is our intent to work in partnership with Region G to return the district to compliant status. The SWMP will continue to allocate solid waste management funds to Region G for solid waste management projects. However, the SWMP will not be forwarding the allocations to the district. Beginning immediately and continuing through June 30, 2008, the SWMP will be making payments on behalf of Region G from the district's allocations and these payments will be made directly to the district's subgrantees and vendors. This action is intended to provide the district time to reinstate adequate management and accounting system controls to ensure protection of district grant funds, which are public monies.

Audit Results (Performance and Financial)

As stated above, the SWMP recently received the final Independent Accountants' Report on Applying Agreed-Upon Procedures for Region G-Mark Twain Solid Waste Management District conducted by Casey and Company, L.L.C. of Columbia, Missouri. We have reviewed the findings made by the accounting firm and the district's responses to those findings. Due to the serious nature of the issues identified within this report and the district's financial statement audits for the periods ended December 31, 2004, 2005, and 2006, we have prepared a list of actions (enclosed) that we are requiring the district take to correct these issues. The enclosed

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corrective action plan addresses the findings in the same order as the issues appear in the Independent Accountant's Report on Applying Agreed Upon Procedures.

As early resolution is in the best interest of the district and program, the SWMP is meeting with the executive board and district planner on November 9, 2007, to ensure a common understanding of these significant audit findings and the need to timely take needed corrective action. Following this audit resolution meeting, Region G's written concurrence with the corrective action plan should be received in our office no later than 30 days from the date of this meeting.

The audit process is one of the tools the department uses to fulfill its responsibility to fully account for the use of state resources, past and present. We are committed to working cooperatively with you to address these significant audit issues and view the audit process as a constructive method of evaluating your district's operational and grant procedures to identify areas where improvements may be needed. As stated above due to the serious nature of the audit findings, the district must make tangible progress to resolve all audit issues and to establish procedures to prevent future problems by the dates established in the corrective action plan.

Audit Disallowances -- Summarized

The following is a summary of questioned costs and the SWMP's determinations related to disallowance. Detailed information can be found in the audit reports, "high risk" corrective action plan, and special terms and conditions. Funds being held by the department from the district's FY2007 allocations will be used to pay district subgrantees awarded funds provided to the district during the audit period and which have been improperly disbursed by the district. Any funds later recovered by the SWMP or the district will be redirected to appropriate recycling, recovery, and solid waste management projects within the cities and counties of the Region G area.

Current Disallowances --

Following review of the questioned costs, the SWMP has determined the following costs are disallowed:

<u>Source of Information</u>	<u>Description</u>	<u>Amount</u>
Financial Statement Audit	"Receivable—Other"	\$86,785
Financial Statement Audit	"Notes Payable"	\$50,000
	TOTAL DISALLOWED	\$136,785

These disallowed costs will be withheld from the district operation allocations as follows:

<u>Period to be Withheld</u>	<u>Amount</u>
FY 2008	\$50,000
FY 2009	\$50,000
FY 2010	\$36,785
TOTAL WITHHELD	\$136,785

Potential Future Disallowances --

If the following amounts are determined to be unrecoverable, the costs will be disallowed.

<u>Source of Information</u>	<u>Description</u>	<u>Amounts</u>
Financial Statement Audit	“Due from Mark Twain Waste and Energy Corporation”	\$124,039
Financial Statement Audit	“Due from Mark Twain Waste and Energy Corporation”	\$100,000
	“Potential” ADDITIONAL DISALLOWANCE	\$224,039

If these amounts prove to be unrecoverable, the disallowed costs will be withheld from the district operation and district grant allocations as follows:

<u>Period to be Withheld</u>	<u>Amount</u>	<u>Type of Funding</u>
FY 2010	\$63,215	\$13,215 District operation; \$50,000 District grants
FY 2011	\$100,000	\$50,000 District operation; \$50,000 District grants
FY 2012	\$60,824	\$60,824 District grants
TOTAL WITHHELD	\$224,039	

Additionally, the district has co-signed for MTWEC bank loans totaling \$220,150. These loan guarantees were not approved by the SWMP. Any use of solid waste management funds to cover payments for these MTWEC loans could result in future disallowances.

Any funds recovered by the district are district grant funds. These recovered district grants funds may only be used for district grant projects approved by the SWMP and not for district operation or plan implementation projects.

District Reporting

The performance audit identifies inaccurately prepared district program and financial reports being filed with the SWMP. The \$155,573 in questioned costs is directly attributable to grant

agreement obligations reported on the quarterly financial summary reports filed by the district with the SWMP that do not reconcile to cash held in the district's bank accounts and as reported on the district's bank statements. As funds were disbursed inappropriately and loans were made without approval, it appears these reports may have been intentionally falsified. The district's financial statement audits concur with the finding and identify obligations to subgrantees that cannot be met as follows: FY2004 \$41,950; FY2005 \$74,866; and FY2006 \$147,367.

The SWMP on July 30, 2007, notified the district that additional district funds were being withheld until the district met the reporting requirements. On September 19, 2007, the district requested that an additional extension be granted to allow for completion of the reports. The following reports have yet to be filed and new dates for submittal are shown:

<u>Report Title</u>	<u>Original Due Date</u>	<u>Extension</u>
FY 2006 Assessment Inventory	April 1, 2006	January 31, 2008
Quarterly Project and Financial Summary Reports	April 30, 2007	December 31, 2007*
Quarterly Project and Financial Summary Reports	July 30, 2007	December 31, 2007*
Quarterly Project and Financial Summary Reports	October 30, 2007	December 31, 2007*
Annual Report	October 30, 2007	December 31, 2007

* Note: The narrative portions of the quarterly project reports may document project activities for all three quarters and be submitted as a single consolidated report by the district.

As previously discussed with the board, financial statement audits of Region G have not been timely submitted. The audit for the periods ending December 31, 2000, 2001, 2002, and 2003 was not received until May 21, 2007, and does not include all required reports as set forth in the general terms and conditions. The district's financial statement audits for the periods ended December 31, 2004, 2005, and 2006 were not begun until the new administrative contractor was hired in July, 2007. Therefore, we are reminding the district of its responsibility to ensure the financial statement audit for the period ended December 31, 2007, is completed and submitted to the SWMP within 180 days of the end of the period in accordance with 10 CSR 80-9.050(7)(J) and the district's by-laws.

In the future, should the district fail to submit reports within the established timeframes, the SWMP plans to follow the process established in 10 CSR 80-9.050((9)(C) for withholding funds from the district as a penalty for failing to timely and accurately meet reporting requirements.

Financial Assistance Agreements and Attachments

As you know, the department is charged with the responsibility of awarding district grant funds to solid waste management districts. The tonnage fees imposed on Missouri landfills and transfer stations that transfer waste out of Missouri generate the funds for the district grant activities. All financial awards made by the department are subject to the state of Missouri's legislative appropriations process, availability of funds, and authorization by the department.

The FY2008 district grant cycle will allow the district to access these public funds on a quarterly basis throughout the fiscal year. The SWMP routinely notifies the district of quarterly amounts as they have accrued and the funds are then available to the district. These funds are required to be spent as outlined in the Missouri Solid Waste Management Law. At least 50 percent of this funding must be allocated for projects of cities and counties within the district. Districts may allocate up to 50 percent of this grant money for implementation of a solid waste management plan and district operation. During FY2008, due to the district's noncompliance with the terms and conditions for use of previous grant awards, the SWMP will withhold funding to the district until the district is in compliance with the "high risk" corrective action plan. Additionally, the SWMP has disallowed funds due to questioned costs identified in the district's financial statement audit. Of these funds, \$50,000 will be withheld from the FY2008 Region G allocation. These withheld funds will be reallocated to compliant districts in accordance with 10 CSR 80-9.050(9)(E).

We are requesting the board take immediate action to allow SWMP to make direct payments to the district's subgrantees and other vendors from the district's allocation. Once the board takes this action, the SWMP will have the authority and could, on behalf of the district, begin making payments to district subgrantees and vendors. This change in payment processing could occur as soon as November 6, 2007. The district will need to provide appropriate invoices and supporting documentation for vendor payments including board approval for payments to be made by the SWMP. Additional details regarding this process are included in Region G's special terms and conditions. This alternative process will remain in place until June 30, 2008.

Two copies of the FY2008 FAA are enclosed. I recommend you review the attached FAA, general terms and conditions, and special terms and conditions. These documents have been revised to allow for the implementation of the revised regulations, which became effective on October 30, 2007. Whenever possible, the SWMP strives to work with the districts to proactively ensure compliance with applicable requirements in order to avoid future audit deficiencies. Please review the district grant agreement carefully. By signing both and returning one of the enclosed district grant FAAs to the SWMP, the district's executive board is acknowledging agreement with the FAA and the additional "high risk" requirements including the corrective action plan.

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Please sign and return one copy of the original District Grant FAA to the following address:
Department of Natural Resources, Solid Waste Management Program, P.O. Box 176, Jefferson
City, Missouri 65102, Attention: Resource Planning Section.

If you have questions, please contact Mr. Jim Hull or Ms. Brenda Ardrey of the department's
SWMP at (573) 751-5401. Thank you for your interest in solid waste management, we look
forward to working with you in this very worthwhile endeavor.

Sincerely,

DEPARTMENT OF NATURAL RESOURCES

[Original signed by Doyle Childers]

Doyle Childers
Director

DC:bak

Enclosures

c: Senator Wes Shoemyer, Missouri Senate
Senator Chuck Graham, Missouri Senate
Senator Bill Stouffer, Missouri Senate
Representative Brian Munzlinger, Missouri House of Representatives
Representative Rachel L. Bringer, Missouri House of Representatives
Representative Tom Shively, Missouri House of Representatives
Representative Paul Quinn, Missouri House of Representatives
Representative Terry L. Witte, Missouri House of Representatives
Representative Steve Hobbs, Missouri House of Representatives
Representative Therese Sander, Missouri House of Representatives
Mr. Jim McNichols, Legislative Liaison, Department of Natural Resources
Mr. Daniel R. Schuette, Director, Division of Environmental Quality
Ms. LaVerne Brondel, Director, Division of Administrative Support
Mr. Ed Schneider, Director, Internal Audit Program
Ms. Leanne Tippet Mosby, Deputy Director, Division of Environmental Quality
Ms. Linda Jaegers, Fiscal & Administrative Manager, Division of Environmental Quality
Ms. Rachel Burkemper, Solid Waste Advisory Board Chair
Ms. Robin Fitzgerald, Planner, Region G- Mark Twain SWMD