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WATER PROTECTION DIV.

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

IN THE MATTER OF:

Glendale Village Mobile Home Park
Wastewater Treatment Facility

No. 2012-WPCB-1196

SERVE:

Mr. Thomas Straughan, Owner
Glendale Village Mobile Home Park

ABATEMENT ORDER ON CONSENT

I. NOTICE TO RECIPIENTS OF ABATEMENT ORDERS

The issuing of this Abatement Order on Consent (AOC) number 2011-WPCB-1196 by the Missouri Department of Natural Resources (Department) is a formal administrative action by the State of Missouri and is being issued because the wastewater treatment facility serving Glendale Village Mobile Home Park is in violation of the Missouri Clean Water Law (Law) and its implementing regulations. 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 Law, 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 of the Law, or its implementing regulations, all of which remain in full force and effect. Compliance with the terms of this AOC shall not relieve Mr. Thomas Straughan 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 Law, or to seek injunctive relief, pursuant to Chapter 644, RSMo.

II. FINDINGS OF FACT

- A. Glendale Village Mobile Home Park (Glendale MHP) is located at 1222 East Karsch Boulevard in Farmington, Missouri and is owned by Mr. Thomas Straughan. The wastewater treatment facility (WWTF) serving Glendale MHP consists of a three-cell aerated lagoon with a design population equivalent of 22. Three (3) mobile homes are presently connected to the lagoon. Design flow of the lagoon is 2,200 gallons per day (gpd), actual flow is 2,100 gpd, and design sludge production for the lagoon is 0.33 dry tons per year. The lagoon is located in the SW ¼, NW ¼, Section 5, T35N, R6E, of St. Francois County and discharges effluent from one (1) outfall pursuant to the requirements and conditions of Missouri State Operating Permit (Permit) No. MO-0057380 to an unclassified, unnamed tributary to Wolf Creek (tributary) with designated use of protection of warm water aquatic life.
- B. Unnamed tributary to Wolf Creek is “waters of the state” as the term is defined by Section 644.016 (26), RSMo.
- C. Domestic wastewater is a “water contaminant” as the term is defined in Section 644.016(23), RSMo.
- D. The Department issued Permit No. MO-0057380 to Mr. Straughan on February 1, 2008, for the Glendale MHP (WWTF).
- E. Part “A” of the Permit requires Mr. Straughan to sample effluent from Outfall No. 001 once per quarter, test for specified parameters and report results by submitting Discharge Monitoring Reports (DMR) to the Department on a quarterly basis. The Permit includes interim effluent limitations effective through the fourth (4th) quarter of 2010 and final effluent limitations for fecal coliform and total residual chlorine effective the first (1st) quarter 2011.
- F. Part “D” of the Permit, Schedule of Compliance (SOC), required Mr. Straughan to submit to the Department a preliminary engineering report (PER) recommending upgrades necessary to meet the final effluent limits for fecal coliform and total residual chlorine by November 1, 2008; an application for Construction Permit to by August 1, 2009; an interim progress report by February 1, 2010; and to complete construction of all upgrades by February 1, 2011.
- G. On October 14, 2009, the Department issued a LOW to Mr. Straughan for failure to submit a PER by November 1, 2008, as required by Part “D” of the Permit. In the letter Mr. Straughan was directed to submit a response to the LOW to the Department within 30 days receipt of the letter. On November 6, 2009, the Department received a letter from Taylor Engineering, LLC in response to the October 14, 2009 LOW stating that Taylor Engineering had been retained by Mr. Straughan to prepare a PER for the Glendale MHP WWTF.

- H. On November 3, 2010, Department staff conducted a routine compliance inspection of the Glendale MHP WWTF accompanied by Mr. Straughan. During the inspection, Department staff observed that the three-cell lagoon was not discharging and the water in the lagoon was a dark green color with no odor. Department staff noted the final cell of the lagoon was completely covered with duckweed and recommended that Mr. Straughan physically remove the duckweed.
- I. On November 30, 2010, the Department sent Mr. Straughan an inspection report and NOV No. 18871SE documenting violations identified during the November 3, 2010, inspection which included failure to comply with permit effluent limits for Biochemical Oxygen Demand (BOD) during the third (3rd) and fourth (4th) quarters 2008 and first (1st) quarter 2010 and for Total Suspended Solids (TSS) during the fourth (4th) quarter 2008, fourth (4th) quarter 2009, and first (1st) quarter 2010; and failure to submit a PER by November 1, 2008 as required by Permit No. MO-0057380.
- J. On May 3, 2012, Department staff conducted an inspection of the Glendale MHP WWTF accompanied by Mr. Thomas Straughan. Staff observed that the three-cell lagoon was not discharging, there was no evidence the lagoon had recently discharged, water levels in all cells were below the inlet and outlet discharge pipes of the cells, and the water level in the third cell had a depth of approximately one (1) foot. Mr. Staughan stated that he intended to remove all trailers except his personal residence and close two of the lagoon cells and utilize the remaining cell for treatment of domestic wastewater generated by his single-family residence.
- K. Section 644.076.1, RSMo, makes it unlawful to violate the Law and regulations promulgated pursuant thereto and establishes civil penalties of up to ten thousand dollars (\$10,000.00) per day per violation.

III. CITATIONS AND CONCLUSIONS OF LAW

The Department finds that the following violations of the Law, Chapter 644, RSMo, and its implementing regulations have occurred at the Glendale MHP:

- 1) 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 of waters of the state, the unnamed tributary of Wolf Creek, in violation of Sections 644.051.1(1) and 644.076.1, RSMo.
- 2) Failed to submit a preliminary engineering report, an application for construction permit, an interim progress report, and statement of work complete, as required in part "B", Standard Conditions, and part "D", Schedule of Compliance, of Missouri State Operating Permit No. MO-0057380 in violation of Section 644.076.1, RSMo, and 10 CSR 20-6.010(7)(A).

IV. AGREEMENT

- A. The Department and Mr. Straughan desire to amicably resolve all claims that might be brought against Mr. Straughan for the violations alleged above in Section III, Conclusions of Law, without Mr. Straughan admitting 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. Straughan under this AOC. If Mr. Straughan sells or otherwise transfers the facility, then Mr. Straughan shall cause as a condition of such sale or transfer, that the buyer will assume the obligations of Mr. Straughan under this AOC in writing. In such event, Mr. Straughan shall provide 30 days prior written notice of such assumption to the Department.
- C. Within 30 days of the effective date of this AOC, Mr. Straughan shall submit to the Department, for review and approval, a closure plan for the Glendale MHP lagoon developed in accordance with Department Guidelines, described in Standard Conditions for National Pollutant Discharge Elimination System (NPDES) Permits, Part III, Section I, under Closure Requirements. The Closure Plan shall include a description of the method or procedure to be utilized to permanently disable or remove the collection system for Glendale MHP.
- D. If the Department comments on and/or requests modification of the closure plan, Mr. Straughan shall respond to and adequately address, to the Department's satisfaction, all of the Department's comments on and resubmit the closure plan within 15 days of receipt of the Department's comments.
- E. On or before December 31, 2012, Mr. Straughan shall complete closure of the Glendale MHP lagoon and permanently disable or remove the collection system as approved by the Department and make any modifications to the remaining single cell lagoon necessary to comply with 19 CSR 20-3.060(6)(D) and 701.046, RSMO, including obtaining any applicable permit from the Department of Health and Senior Services. Mr. Straughan shall not begin closure until he has received approval of the Closure Plan from the Department.
- F. On or before January 31, 2013, Mr. Straughan shall submit to the Department a completed Form J, Request for Termination of a State Operating Permit.

- G. Mr. Straughan shall not re-establish a MHP on the property unless a wastewater disposal system has first been approved and permitted by the Department.
- H. Immediately upon becoming aware that a deadline or milestone as set forth in this AOC will not be completed by the required deadline, Mr. Straughan 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 (5) days of notifying the Department, Mr. Straughan 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. Straughan's right to request an extension and may be grounds for the Department to deny Mr. Straughan an extension.
- I. Should Mr. Straughan fail to meet the terms of this AOC, including the terms set out in Paragraphs D through J, Mr. Straughan shall pay stipulated penalties in the following amount:

<u>Days of Violation</u>	<u>Amount of Penalty</u>
1 to 30 days	\$500.00 per day
31 to 90 days	\$1,000.00 per day
91 days and above	\$2,500.00 per day

Stipulated penalties will be paid in the form of a certified or cashier's check made payable to "St. Francois County Treasurer, as custodian of the St. Francois County School Fund." Any such stipulated penalty shall be paid within ten (10) days of demand by the Department and shall be delivered to:

Accounting Program
Missouri Department of Natural Resources
P.O. Box 477
Jefferson City, MO 65102-0176

- J. The stipulated penalties provided for in this AOC shall be in addition to any other rights, remedies or sanction available to the Department for Mr. Straughan's violation of this AOC or applicable law.
- K. No portion of the stipulated penalties paid pursuant to this AOC may be used to reduce Mr. Straughan's federal or state tax obligation.
- L. Nothing in this AOC forgives Mr. Straughan 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 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 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.

- M. 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.
- N. 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. Straughan for his records.
- O. Mr. Straughan shall comply with the Law, Chapter 644, RSMo, and its implementing regulations at all times in the future.

V. RIGHT OF APPEAL

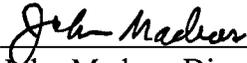
By signing this AOC, Mr. Thomas Straughan consents to and waives any right to appeal, seek judicial review, or otherwise challenge the terms and conditions of this AOC pursuant to Sections 621.250, 640.010, 640.013, 644.056, 644.079, and 644.145, RSMo, and 10 CSR 20-1.020, 10 CSR 20-3.010, 10 CSR 20-6.020(5), 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:

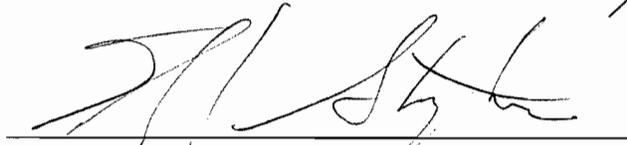
Ms. Laura Guinn
Compliance and Enforcement Section
Water Protection Program
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102-0176

Agreed to and Ordered this 27th day of August, 2012



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

Agreed to and Ordered this 15 day of Aug, 2012



Thomas Straughan, Owner
Glendale Village Mobile Home Park

Copies of the foregoing served by certified mail to:

Mr. Thomas Straughan
P.O. Box 254
Farmington, MO 63640

CERTIFIED MAIL #

- c. Ms. Diane Huffman
Chief, NPDES and Facilities Management Branch
Water, Wetlands, and Pesticides Division
U.S. Environmental Protection Agency, Region VII
901 North Fifth Street
Kansas City, KS 66101

Mr. Jackson Bostic, Director
Southeast Regional Office
Missouri Department of Natural Resources
2155 Northwest Boulevard
Poplar Bluff, MO 63901

Mr. Refaat Mefrakis, P.E., Chief
NPDES Permits & Engineering Section
Water Protection Program
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102-0176

Dr. Samuel M. Hunter, Chair
Missouri Clean Water Commission
P O Box 984
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Sikeston, MO 63801

Mr. Ben A. "Todd" Parnell, III, Vice Chair
Missouri Clean Water Commission
Drury University
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Mr. John Cowherd, Commissioner
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Mr. Buddy Bennett, Commissioner
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