

two (2) unpermitted sewage lagoons. Nine (9) trailers were served by the north lagoon and twelve (12) trailers were served by the south lagoon. The receiving stream for the lagoons is a tributary to Big Piney River.

- B. Big Piney River and its tributaries are waters of the state as the term is defined by Section 644.016 (26), RSMo.
- C. Domestic wastes are water contaminants as the term is defined in Section 644.016(23), RSMo.
- D. On May 14, 2007, Department staff performed a complaint investigation at the MHP and observed that both lagoons were covered in duckweed and had brush growing on the berms. Staff also observed duckweed on the outside of the berm surrounding the south lagoon, indicating that it had recently overflowed.
- E. On May 16, 2007, the Department sent a letter to Mr. L. McGowen informing him of the violations observed on May 14, 2007 and requiring him to cease the discharge. In this letter the Department recommended that Mr. L. McGowen either (1) connect to an area-wide treatment system, (2) construct a Texas County sanitarian-approved on-site system, or (3) hire an engineer to design a Department-approved collection and wastewater treatment system.
- F. On or about May 15, 2007, the Department received a letter from Mr. L. McGowen stating that he was in the process of hiring an engineer to address his wastewater treatment system deficiencies.
- G. On November 15, 2007, Department staff met with Mr. L. McGowen to discuss wastewater treatment options. Staff reviewed the Public Water Supply District Number Two (2) water usage records for the MHP for the period of December 2006 through November 2007 and determined that the north lagoon averaged 1,317 gallons per day (gpd) and the south lagoon averaged 1,974 gpd.
- H. On January 15, 2008, Department staff conducted a Geohydrologic Evaluation at the MHP. The Evaluation listed the collapse potential as moderate, and indicated that both lagoons were in various stages of decomposition; both lagoons appeared to be leaking from their bases and the south lagoon exhibited effluent flowing into the ditch beside the road. The Evaluation also indicated that the receiving tributary is a losing stream.
- I. On March 3, 2008, the Department sent a letter to Mr. L. McGowen stating that the Evaluation documented that the lagoons were not adequate methods for sewage treatment. In this correspondence, the Department requested that Mr. L. McGowen submit a preliminary engineering report to the Department within ninety (90) days receipt of the letter. On June 6, 2008, the Department received a letter from the MHP stating that the cost of hiring an engineer and construction firm was impossible, and

that they would work with the Texas County Health Department to resolve the violations.

- J. On September 23, 2008, the Department sent a follow-up letter to Mr. L. McGowen requesting submission of an engineering report for the method of sewage treatment he intended to use in the MHP.
- K. On November 5, 2008, the Department sent a letter to Mr. L. McGowen requesting that he submit an engineering report by January 15, 2009. The Department received a letter, dated January 12, 2009, from Mr. L. McGowen, which stated that due to economic conditions, he could not afford to construct a new wastewater treatment system at the MHP.
- L. On February 11, 2009, the Department issued Notice of Violation (NOV) number 18530 SE to Mr. L. McGowen for operating two (2) lagoons without a Missouri State Operating Permit (MSOP).
- M. On January 14, 2011, the Department received a letter from Mr. L. McGowen explaining that he made a business decision to close the MHP by October 1, 2011, and the two (2) lagoons serving the MHP by December 1, 2011.
- N. On May 27, 2011, the Department received a letter from Mr. L. McGowen's son, Mr. Kevin McGowen, stating that Mr. L. McGowen planned to close the two (2) lagoons according to Department-approved closure plans by December 1, 2011, keep six (6) mobile homes on the property, and install onsite septic systems for the remaining mobile homes under the approval of the Texas County Health Department (Health Department).
- O. On November 28, 2011, the Department received correspondence from the Health Department stating that, on October 3, 2011, Health Department staff completed a final inspection at the MHP and observed that six (6) onsite septic systems had been installed as approved by the Health Department.
- P. 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. CONCLUSIONS OF LAW

Violations of the Law and its implementing regulations alleged herein and found to have been committed by Mr. L. McGowen at the MHP are as follows:

- 1. Operating, using, or maintaining water contaminant sources — unpermitted wastewater lagoons — which intermittently discharge to a tributary to Big Piney River, waters of the state, without a MSOP in violation of 644.051.2 and

644.076.1 RSMo and 10 CSR 20-6.010(1)(A) and (5)(A).

2. Placing or causing or permitting to be placed a water contaminant, domestic wastewater, in a location where it is reasonably certain to cause pollution of waters of the state in violation of 655.051.1(1) and 644.076.1, RSMo.

IV. AGREEMENT

- A. The Department and Mr. L. McGowen desire to amicably resolve all claims that might be brought against Mr. L. McGowen for the violations alleged above in Section III, Conclusions of Law, without Mr. L. McGowen 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. L. McGowen under this AOC. If Mr. L. McGowen sells or otherwise transfers the facility, then Mr. L. McGowen shall cause as a condition of such sale or transfer, that the buyer will assume the obligations of Mr. L. McGowen under this AOC in writing. In such event, Mr. L. McGowen shall provide thirty (30) days prior written notice of such assumption to the Department.
- C. Mr. L. McGowen, 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 two-thousand dollars and zero cents (\$2,000). The payment shall be in the form of a certified or cashier's check made payable to "*Texas County School Treasurer, as custodian of the Texas County School Fund*". The check and signed copy of the AOC shall be delivered to:

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

- D. Mr. L. McGowen agrees that he will not expand the number of lots in the MHP above six (6) without first obtaining written approval from the Department for any proposed expansion of the MHP.
- E. Until such time that the two (2) wastewater lagoons serving the MHP are closed according to Department-approved closure plans, Mr. L. McGowen agrees to land apply wastewater from the lagoons at a rate and volume that allow even distribution of wastewater over the land application area and prevent runoff into waters of the state. Mr. L. McGowen agrees to provide on-site attendance during land application

and land apply wastewater only when the soil conditions are suitable to allow all wastewater to infiltrate into the soil and when soils are not frozen or saturated. Mr. L. McGowen agrees to monitor land application equipment such that any malfunctions in the operation of the equipment are detected and corrected before any over application of waste occurs to the spreading site, and maintain monitoring records that include the application date, the number of gallons applied, and the location where the wastewater was applied for each land application event.

- F. Within thirty (30) days of the effective date of this AOC, Mr. L. McGowen agrees to submit to the Department closure plans for the two (2) wastewater lagoons which formerly served the MHP. The closure plans shall comply with Standard Conditions for National Pollutant Discharge Elimination System (NPDES) Permits, Part III, Section I, Closure Requirements, and shall be submitted to:

Ms. Corinne Rosania
Compliance and Enforcement Section
Water Protection Program
Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102-017

If the Department comments and/or requests modification of the closure plans, Mr. L. McGowen shall make the modifications as directed by the Department and/or address the Department's comments and resubmit the document within fifteen (15) days receipt of the Department's comments or modification request.

- G. Within one-hundred twenty (120) days of receiving Department approval on the closure plans, Mr. L. McGowen agrees to complete closure of the existing lagoons in accordance with the Department-approved closure plans and submit a written report to the Department documenting that the existing lagoons have been closed in accordance with the Department-approved closure plans.
- H. Should Mr. L. McGowen fail to meet the terms of this AOC, including the terms set out in Paragraphs C through G, Mr. L. McGowen 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 "Texas County Treasurer, as custodian of the Texas 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

- I. No portion of the stipulated penalties paid pursuant to this AOC may be used to reduce Mr. McGowen's federal or state tax obligation.
- J. Nothing in this AOC forgives Mr. McGowen 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.
- K. 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.
- L. 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. McGowen for his records.
- M. Mr. McGowen shall comply with the Law, Chapter 644, RSMo, and its implementing regulations at all times in the future.

V. RIGHT OF APPEAL

By signing AOC No. 2011-WPCB-1167, Mr. McGowen waives any right of appeal pursuant to Sections 621.250, 640.010, 640.013, 644.056.3, and 644.079.2, RSMo, 10 CSR 20-1.020, 10 CSR 20-3.010, 10 CSR 20-6.020(5), and Chapters 536, 640, and 644, RSMo, the Missouri Constitution, or any other source of law. AOC No. 2011-WPCB-1167 will become final and fully enforceable, as provided in Section 644.076, RSMo upon the date the Department signs.

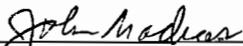
VI. CORRESPONDENCE AND DOCUMENTATION

Correspondence or documentation with regard to conditions outlined in this AOC shall be directed to:

Ms. Corinne Rosania
Compliance and Enforcement Section

Water Protection Program
Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102-0176

Agreed to and Ordered this 1st day of March, 2011



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

Agreed to and Ordered this 17 day of Feb., 2011 2012



Lonnie McGowen, Owner
L&R Mobile Home Park

Copies of the foregoing served by certified mail to:

Mr. Lonnie McGowen CERTIFIED MAIL #
P.O. Box 37
Houston, MO 65483

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

Ms. Gary Gaines, Regional Director
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Southeast Regional Office
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