

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

IN THE MATTER OF:

Voss Trailer Court
Wastewater Treatment Facility

No. 2012-WPCB-1174

SERVE:

Eugene Voss, Owner
Voss Trailer Court

ABATEMENT ORDER ON CONSENT

I. NOTICE TO RECIPIENTS OF ABATEMENT ORDERS

The issuance of this Abatement Order on Consent (AOC) number 2012-WPCB-1174 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 (facility) serving the Voss Trailer Court 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. Litigation may occur without further 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. Eugene Voss (Owner) of liability for, or preclude the Department from, initiating a judicial enforcement action to recover civil penalties for any, including future, violations of the Law and the violations cited in this AOC, or to seek injunctive relief, pursuant to Chapter 644, RSMo.

II. FINDINGS OF FACT

- A. Voss Trailer Court wastewater treatment facility treats domestic wastewater generated by the Voss Trailer Court located in Linn and is owned by Mr. Eugene Voss. The facility consists of a single cell lagoon followed by a settling tank, a duplex recirculating tank, and a recirculating sand filter bed. The facility has a population design equivalent of 38, a design flow of 3,750 gallons per day, and an actual flow of 1,250 gallons per day. The facility is located in the NW ¼, SW ¼, SW ¼, Section 14, Township 43N, and Range 8W of Osage County. Treated effluent discharges to the unnamed tributary to Pointers Creek pursuant to Missouri State Operating Permit (permit) number MO-0131792.
- B. The unnamed tributary to Pointers Creek and Pointers Creek are waters of the state as defined by Section 644.016(26) RSMo.
- C. On July 23, 2010, the Department issued permit number MO-0131792 to Mr. Voss for the facility serving the Voss Trailer Court. Permit number MO-0131792 requires that Mr. Voss sample and chemically analyze the effluent discharge from the facility and submit the results to the Department on a monthly Discharge Monitoring Report (DMR) on or before the 28th day of the month following the reporting period. Pursuant to “Part I, Section A.1” Standard Conditions of permit number MO-0131792, Mr. Voss is required to take a representative sample of effluent discharge for chemical analysis if there is a discharge at any time during the reporting period.
- D. Since August of 2010, Mr. Voss failed to submit complete and timely DMRs as required by permit number MO-0131792.

III. CONCLUSIONS OF LAW

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

1. Failing to submit complete and timely DMRs as required in Part “A” of permit number MO-0131792 in violation of Section 644.0761.1 RSMo and 10 CSR 20-7.015(9)(A).

IV. AGREEMENT

- A. The Department and Mr. Voss desire to amicably resolve all claims that might be brought against Mr. Voss for the violations alleged above in Section III, Conclusions of Law, without Mr. Voss 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. Voss under this AOC. If Mr. Voss sells or otherwise transfers the facility, then Mr. Voss shall cause as a condition of such sale or transfer that the buyer will assume the obligations of Mr. Voss under this AOC in writing. In such event, Mr. Voss shall provide thirty (30) days prior written notice of such assumption to the Department.

- C. Mr. Voss, in compromise and satisfaction of the Department claims relating to the above-referenced violations, agrees, without admitting liability or fault, to pay a civil penalty in the amount of five thousand four hundred seventy-seven dollars and fifty-five cents (\$5,477.55). The Department and the Owner further agree that two thousand two hundred fifty-six dollars and zero cents (\$2,256.00) of the civil penalty shall be suspended for a period of two (2) years on the condition that Mr. Voss does not violate the Law and its implementing regulations or the terms of this AOC. The payment shall be in the form of a certified check or cashier's check made payable to "The Osage County Treasurer, as custodian of the Osage County School Fund." The check in the amount of three thousand two hundred twenty-one dollars and fifty-five cents (\$3,221.55) is due and payable upon execution of this AOC by Mr. Voss. The check and signed copies 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. Voss shall submit to the Department all missing DMRs. If Mr. Voss is not able to submit the missing DMRs, Mr. Voss shall submit to the Department a written response explaining why he is not able to submit the DMRs.
- E. Mr. Voss shall submit to the Department complete and timely DMRs on or before the 28th day of the month following the reporting period as required by "Part I, Section A.1" Standard Conditions of permit number MO-0131792.
- F. Should Mr. Voss fail to meet the terms of this AOC, including the requirements set out in paragraphs C through E, Mr. Voss 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 "The Osage County Treasurer, as custodian of the Osage 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

- G. The stipulated penalty provided for in this AOC shall be in addition to any other rights, remedies or sanction available to the Department for Mr. Voss violation of this AOC or applicable law.
- H. No portion of the civil penalty or stipulated penalties paid pursuant to this AOC may be used to reduce Mr. Voss's federal or state tax obligation.
- I. Nothing in this AOC forgives Mr. Voss 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.
- J. 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.
- 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 Agreement. The Department shall send a fully executed copy of this AOC to Mr. Voss for its records.
- M. Mr. Voss shall comply with the Law, Chapter 644, RSMo and its implementing regulations at all times in the future.

V. RIGHT OF APPEAL

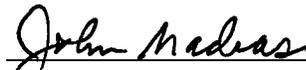
By signing this AOC, Mr. Voss consents to and waives any right to appeal, seek judicial review, or otherwise challenge the terms and conditions of this AOC pursuant to Sections 621.250, 640.010, 640.013, 644.056, 644.079, and 644.145, RSMo, and 10 CSR 20-1.020, 10 CSR 20-3.010, 10 CSR 20-6.020(5), the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

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

Agreed to and Ordered this 17 day of March, 2012



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

Agreed to and Ordered this 17 day of March, 2012



Eugene Voss, Owner
Voss Trailer Court

Copies of the foregoing served by certified mail to:

Eugene Voss
Voss Trailer Court
P.O. Box 121
Linn, MO 65051

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

Ms. Irene Crawford, Regional Director
Northeast Regional Office
Department of Natural Resources
1709 Prospect Dr.
Macon, MO 63552-2602

Refaat Mefrakis, Chief
NPDES Permits & Engineering Section
Water Protection Program
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
216 Tanner Street
Sikeston, MO 63801

Mr. Ben A. "Todd" Parnell, III, Vice Chair
Missouri Clean Water Commission
Drury University
900 N. Benton
Springfield, MO 65802

Mr. John Cowherd, Commissioner
Missouri Clean Water Commission
1303 Deer Lane
Mount Vernon, MO 65712

Mr. Buddy Bennett, Commissioner
Missouri Clean Water Commission
7361 Summer Azure Lane
Higginsville, Missouri 64037

Mr. Samuel D. Leake, Commissioner
Missouri Clean Water Commission
41690 Harrison Trail
Perry, MO 63462