

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

IN THE MATTER OF:

Westbridge Place Subdivision
Wastewater Treatment Lagoon

SERVE:

Phil Singleton, Trustee and Representative of
Westbridge Place Homeowners

Kevin & Cynthia Armstrong, Owners
Lot 12, Westbridge Place Subdivision

Terry & Linda Burnette, Owners
Lots 13 & 14, Westbridge Place Subdivision

William & Carolyn Davis, Owners
Lots 4 & 5, Westbridge Place Subdivision

Paul & Deborah Griffin, Owners
Lot 8, Westbridge Place Subdivision

Floyd & Katherine Harrison, Owners
Lot 11, Westbridge Place Subdivision

Zachary & Joyce Johnston, Owners
Lots 6 & 7, Westbridge Place Subdivision

William & Lois Latimer, Owners
Lots 19 & 20, Westbridge Place Subdivision

Michael & Cynthia Mirly, Owners
Lot 10, Westbridge Place Subdivision

Martin & Susan Neumann, Owners
Lots 2 & 3, Westbridge Place Subdivision

No. 2012-WPCB-1180

RECEIVED

AUG 28 2012

WATER PROTECTION PROGRAM

Robert & Anna Sander, Owners)
 Lot 1, Westbridge Place Subdivision)
 Jerry & Jennifer Singleton, Owners)
 Lot 9, Westbridge Place Subdivision)
 Gordon & Judith Walton, Owners)
 Lots 15, 16 & 17, Westbridge Place Subdivision)
 Brian & Patricia Wibbenmeyer, Owners)
 Lot 18, Westbridge Place Subdivision)
 David McDowell, Owner)
 Lot 21 (Lagoon), Westbridge Place Subdivision)

ABATEMENT ORDER ON CONSENT

I. NOTICE TO RECIPIENTS OF ABATEMENT ORDERS

The issuance of this Abatement Order on Consent (AOC) number 2012-WPCB-1180 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 lagoon serving Westbridge Place Subdivision (Subdivision) 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 Kevin & Cynthia Armstrong, Terry & Linda Burnette, William & Carolyn Davis, Paul & Deborah Griffin, Floyd & Katherine Harrison, Zachary & Joyce Johnston, William & Lois Latimer, Michael & Cynthia Mirly, Martin & Susan Neumann, Robert & Anna Sander, Jerry & Jennifer Singleton, Gordon & Judith Walton, and Brian & Patricia Wibbenmeyer (Homeowners) or Mr. David McDowell 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. The Subdivision includes 15 single-family homes located near the intersection of State Highway FF and US Highway 61 in the City of Jackson, Missouri. Wastewater generated by the Subdivision is treated by an aerated two-cell lagoon

(Lagoon) that is located on Lot 21 of the Subdivision and is owned by Mr. David McDowell. The Lagoon has a design flow of 2,200 gallons per day and a design population equivalent of 22. The Lagoon is located in the S½, SE¼, Section 18, Township 32 North, Range 13 East, of Cape Girardeau County, Missouri. Effluent discharges from the Lagoon through outfall No. 001 to a tributary to Cane Creek pursuant to the conditions and requirements of Missouri State Operating Permit (permit) number MO-0100277.

- B. Permit number MO-0100277 was issued to Mr. David McDowell as the owner and the Westbridge Place Subdivision Homeowners as the continuing authority on September 1, 2006, and expired by its own terms on August 31, 2011. Permit number MO-0100277 also included a Schedule of Compliance (SOC) to install disinfection equipment and comply with final effluent limitations for Fecal Coliform and Total Residual Chlorine by August 30, 2011.
- C. The tributary to Cane Creek and Cane Creek are classified as waters of the state as defined by Section 644.016(26) RSMo.
- D. On July 15, 2010, the Department received a Preliminary Engineering Report from Bowen Engineering and Surveying recommending the installation of Ultra Violet (UV) disinfection equipment. On August 5, 2010, the Department sent a letter to Bowen Engineering and Surveying stating that the installation of UV disinfection equipment is acceptable and that the Subdivision may proceed with development of final plans and should submit an application for a construction permit.
- E. On December 14, 2011, Department staff conducted an inspection of the Lagoon and observed that the aerator in the first cell of the Lagoon was not operational and erosion damage to the Lagoon berms from weathering and animal activities. Department staff also noted the lack of stormwater diversions to prevent stormwater from flowing into the lagoon and the absence of disinfection equipment. As part of this inspection, Department staff reviewed the file for this facility and found that the Department did not receive an application for a construction permit for the required disinfection improvements or an application for renewal of Permit number MO-0100277. On January 23, 2012, the Department issued a Notice of Violation (NOV) to the Westbridge Place Subdivision Homeowners in care of Mr. Phil Singleton due to violations found during the inspection.
- F. On February 8, 2012, the Department issued construction permit CP-0001238 to Mr. McDowell to upgrade the Lagoon to include UV disinfection equipment. Pursuant to 10 CSR 20-6.010 (3) "All applicants for construction permits or operating permits shall show, as part of their application, that a permanent organization exists which will serve as the continuing authority for the operation, maintenance, and modernization of the facility".
- G. Neither Mr. McDowell or the Westbridge Place Subdivision Homeowners meet the continuing authority requirements contained in 10 CSR 20-6.010 (3)(B).

III. CITATIONS AND CONCLUSIONS OF LAW

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

1. Failed to improve wastewater treatment Lagoon as required in Part "B", Standard Conditions, and part "D", Schedule of Compliance, of Permit number MO-0100277 in violation of Section 644.076.1, RSMo, and 10 CSR 20-6.010(7)(A).
2. Failed to apply for renewal of Permit number MO-0100277 at least 180 days before expiration of Permit number MO-0100277 in violation of Sections 644.051.10 and 644.076.1, RSMo, and 10 CSR 20-6.010(5)(C).
3. Failure to establish a continuing authority for the operation, maintenance, and modernization of the facility in violation of Section 644.076.1, RSMo, and 10 CSR 20-6.010(3).

IV. AGREEMENT

- A. The Department, the Homeowners and Mr. McDowell desire to amicably resolve all claims that may be brought against the Homeowners and Mr. McDowell for violations alleged above in Section III, Citations and Conclusions of Law, without the Homeowners and Mr. McDowell admitting to 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 the Homeowners and Mr. McDowell under this AOC.
- C. In the interim until upgrades required by construction permit CP-0001238 are complete, the Homeowners and Mr. McDowell shall operate and maintain the Lagoon so that the effluent will comply with interim effluent limitations contained in permit number MO-0100277. All units or components of the existing Lagoon shall be maintained in an operable condition, even if this requires the purchase and installation of new parts or equipment and the repair of the Lagoon.
- D. ~~Within 90 days~~ from the effective date of this AOC, the Homeowners and Mr. McDowell shall establish a valid continuing authority for the operation, maintenance, and modernization of the wastewater treatment lagoon, pursuant to 10 CSR 20-6.010 (3) and submit to the Department a complete renewal application. "Form B", for Permit number MO-0100277. *when DNR signs, will get letter.*
- E. ~~Within 15 days~~ receipt of comments from the Department on the application to renew Permit number MO-0010277, the Homeowners and/or Mr. McDowell shall *need continuing authority*

respond to and adequately address to the Department's satisfaction all of the Department's comments.

- F. Within 60 days from the effective date of this AOC, the Homeowners and/or Mr. McDowell shall complete upgrades to the Lagoon that will enable the effluent to comply with the Law and its implementing regulations and all conditions and requirements of its permit.
- G. Within 30 days of completing construction, submit to the Department a "Statement of Work Completed" form, signed, sealed and dated by a professional engineer registered in the State of Missouri certifying that the project is complete and operable in accordance with Department-approved plans and specifications.
- H. Immediately upon becoming aware that a deadline or milestone as set forth in this AOC will not be completed by the required deadline, the Homeowners and/or Mr. McDowell 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, the Homeowners and Mr. McDowell 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 the Homeowners and Mr. McDowell's right to request an extension and may be grounds for the Department to deny the Homeowners and Mr. McDowell an extension.
- I. Should the Homeowners and Mr. McDowell fail to meet the terms of this AOC, including the deadlines for completion of construction set out in Paragraphs C through G, the Homeowners and Mr. McDowell 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	\$500.00 per day
31 to 90 days	\$1,000.00 per day
91 days and above	\$2,500.00 per day

- J. Stipulated penalties will be paid in the form of a certified or cashier's check made payable to "Cape Girardeau County Treasurer, as custodian of the Cape Girardeau 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 Subdivision, MO 65102-0176

- K. The stipulated penalties provided for in this AOC shall be in addition to any other rights, remedies or sanctions available to the Department for the Homeowners' and Mr. McDowell's violation of this AOC or applicable law.
- L. The Homeowners' and Mr. McDowell's duty to comply with the requirements of this AOC is not conditional on the receipt of any federal, state, or local funds.

Failure to comply is not an excuse due to lack of federal or state grant funding, or by the processing of any application for the same. Application for construction grant state revolving loan funds, or any other grants or loans, or delay caused by inadequate Lagoon planning or plans and specifications on the part of the Homeowners and Mr. McDowell shall not be cause for extension of any required compliance date in this AOC.

- M. The terms stated herein constitute the entire and exclusive agreement of the parties. There are no other obligations of the parties with respect to the matters addressed herein, be they express or implied, oral or written, except those within expressly set forth herein. The terms of this AOC supersede all previous related memoranda or understanding, notes, conversations, and agreements, express or implied. This AOC may not be modified orally.
- N. 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.
- O. 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 the Homeowners and Mr. McDowell for their records.
- P. The Homeowners and Mr. McDowell 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, the Homeowners and Mr. McDowell consent to and waive 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. Bobbie Pennington
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 21st day of September, 2012

John Madras

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

Agreed to and Ordered this 21 day of August, 2012

Phil Singleton

Phil Singleton, Trustee
Westbridge Place Subdivision

Agreed to and Ordered this 21st day of August, 2012

Kevin & Cynthia Armstrong

Kevin & Cynthia Armstrong, Owners
Lot 12, Westbridge Place Subdivision

Agreed to and Ordered this _____ day of _____, 2012

Terry & Linda Burnette

Terry & Linda Burnette, Owners
Lots 13 & 14, Westbridge Place Subdivision

Agreed to and Ordered this _____ day of _____, 2012

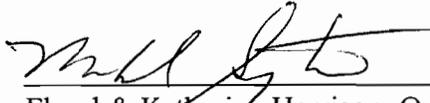
William & Carolyn Davis

William & Carolyn Davis, Owners
Lots 4 & 5, Westbridge Place Subdivision

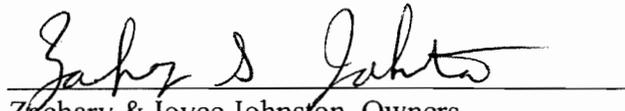
Agreed to and Ordered this 21 day of August, 2012


Paul & Deborah Griffin, Owners
Lot 8, Westbridge Place Subdivision

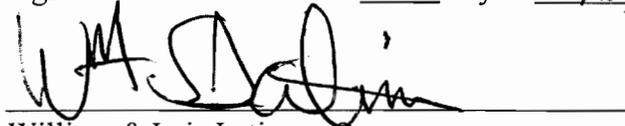
Agreed to and Ordered this 21 day of August, 2012


~~Floyd & Katherine Harrison~~, Owners Mike Smythe
Lot 11, Westbridge Place Subdivision

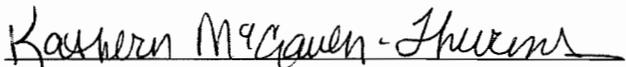
Agreed to and Ordered this 21 day of August, 2012


Zachary & Joyce Johnston, Owners
Lots 6 & 7, Westbridge Place Subdivision

Agreed to and Ordered this 21 day of August, 2012


William & Lois Latimer, Owners
Lots 19 & 20, Westbridge Place Subdivision

Agreed to and Ordered this 21 day of August, 2012


~~Michael & Cynthia Mirly~~, Owners Thurman
Lot 10, Westbridge Place Subdivision

Agreed to and Ordered this 21 day of August, 2012

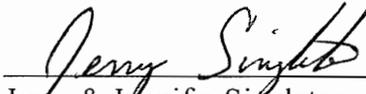

Martin & Susan Neumann, Owners
Lots 2 & 3, Westbridge Place Subdivision

Agreed to and Ordered this _____ day of _____, 2012



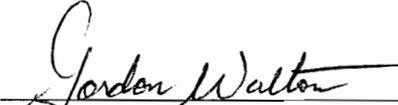
Robert & Anna Sander, Owners
Lot 1, Westbridge Place Subdivision

Agreed to and Ordered this 22 day of August, 2012



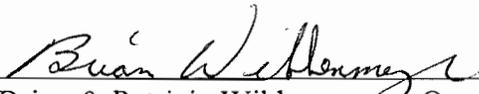
Jerry & Jennifer Singleton, Owners
Lot 9, Westbridge Place Subdivision

Agreed to and Ordered this 21st day of August, 2012



Gordon & Judith Walton, Owners
Lots 15, 16 & 17, Westbridge Place Subdivision

Agreed to and Ordered this 21st day of August, 2012



Brian & Patricia Wibbenmeyer, Owners
Lot 18, Westbridge Place Subdivision

Agreed to and Ordered this 21st day of AUGUST, 2012

David McDowell, Owner
Lot 21 (Lagoon), Westbridge Place Subdivision

Copies of the foregoing served by certified mail to:

Phil Singleton, Trustee and representative of
Westbridge Place Subdivision
141 Hartford Drive
Jackson, MO 63755

CERTIFIED MAIL

Daniel Statler, Attorney
Statler Law Firm
107 S Broadview Street
Cape Girardeau, MO 63703

CERTIFIED MAIL

Kevin & Cynthia Armstrong
350 Concord Lane
Jackson, MO 63755-7135

CERTIFIED MAIL

Terry & Linda Burnette
368 Concord Lane
Jackson, MO 63755-7135

CERTIFIED MAIL

William & Carolyn Davis
3272 State Highway FF
Jackson, MO 63755-7140

CERTIFIED MAIL

Paul & Deborah Griffin
208 Concord Lane
Jackson, MO 63755-6814

CERTIFIED MAIL

Floyd & Katherine Harrison
336 Concord Lane
Jackson, MO 63755-7135

CERTIFIED MAIL

Zachary & Joyce Johnston
3304 State Highway FF
Jackson, MO 63755-7141

CERTIFIED MAIL

William & Lois Latimer
309 Concord Lane
Jackson, MO 63755-7135

CERTIFIED MAIL

Michael & Cynthia Mirly
140 Hartford Drive
Jackson, MO 63755-7137

CERTIFIED MAIL

Martin & Susan Neumann
3232 State Highway FF
Jackson, MO 63755-7140

CERTIFIED MAIL

Robert & Anna Sander
3192 State Highway FF
Jackson, MO 63755-7139

CERTIFIED MAIL

Daniel Statler, Attorney
Statler Law Firm
107 S Broadview Street
Cape Girardeau, MO 63703

CERTIFIED MAIL

Kevin & Cynthia Armstrong
350 Concord Lane
Jackson, MO 63755-7135

CERTIFIED MAIL

Terry & Linda Burnette
368 Concord Lane
Jackson, MO 63755-7135

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William & Carolyn Davis
3272 State Highway FF
Jackson, MO 63755-7140

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Paul & Deborah Griffin
208 Concord Lane
Jackson, MO 63755-6814

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Mike Smythe
336 Concord Lane
Jackson, MO 63755-7135

CERTIFIED MAIL

Zachary & Joyce Johnston
3304 State Highway FF
Jackson, MO 63755-7141

CERTIFIED MAIL

William & Lois Latimer
309 Concord Lane
Jackson, MO 63755-7135

CERTIFIED MAIL

Kathern Thurman
140 Hartford Drive
Jackson, MO 63755-7137

CERTIFIED MAIL

Martin & Susan Neumann
3232 State Highway FF
Jackson, MO 63755-7140

CERTIFIED MAIL

Robert & Anna Sander
3192 State Highway FF
Jackson, MO 63755-7139

CERTIFIED MAIL

Jerry & Jennifer Singleton
141 Hartford Drive
Jackson, MO 63755-7137

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Gordon & Judith Walton
353 Concord Lane
Jackson, MO 63755-7135

CERTIFIED MAIL

Brian & Patricia Wibbenmeyer
329 Concord Lane
Jackson, MO 63755-7135

CERTIFIED MAIL

on this _____ day of _____, 2012

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

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

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

Jackson Bostic, Director
Southeast Regional Office
2155 N. Westwood Blvd.
Poplar Bluff, MO 63901

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

Jerry & Jennifer Singleton
141 Hartford Drive
Jackson, MO 63755-7137

CERTIFIED MAIL

Gordon & Judith Walton
353 Concord Lane
Jackson, MO 63755-7135

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Brian & Patricia Wibbenmeyer
329 Concord Lane
Jackson, MO 63755-7135

CERTIFIED MAIL

on this ____ day of _____, 2012

c: Ms. Diane Huffman
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901 North Fifth Street
Kansas City, KS 66101

Refaat Mefrakis, Chief
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Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102-0176

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Jackson Bostic, Director
Southeast Regional Office
2155 N. Westwood Blvd.
Poplar Bluff, MO 63901

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

Ms. Wallis Warren, Commissioner
Missouri Clean Water Commission
2671 Jefferiesburg Road
Beaufort, MO 63013

Mr. Dennis Wood, Commissioner
Missouri Clean Water Commission
P.O. Box 112
284 Lillian Lane
Kimberling City, MO 65686

Mr. Buddy Bennett, Commissioner
Missouri Clean Water Commission
1922 N Main Street
Higginsville, MO 64037-1527

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

Ms. Wallis Warren, Commissioner
Missouri Clean Water Commission
2671 Jefferiesburg Road
Beaufort, MO 63013

Mr. Dennis Wood, Commissioner
Missouri Clean Water Commission
P.O. Box 112
284 Lillian Lane
Kimberling City, MO 65686

Mr. Buddy Bennett, Commissioner
Missouri Clean Water Commission
1922 N Main Street
Higginsville, MO 64037-1527

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

IN THE MATTER OF:

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Wastewater Treatment Lagoon

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3. Failure to establish a continuing authority for the operation, maintenance, and modernization of the facility in violation of Section 644.076.1, RSMo, and 10 CSR 20-6.010(3).

IV. AGREEMENT

- A. The Department, the Homeowners and Mr. McDowell desire to amicably resolve all claims that may be brought against the Homeowners and Mr. McDowell for violations alleged above in Section III, Citations and Conclusions of Law, without the Homeowners and Mr. McDowell admitting to 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 the Homeowners and Mr. McDowell under this AOC.
- C. In the interim until upgrades required by construction permit CP-0001238 are complete, the Homeowners and Mr. McDowell shall operate and maintain the Lagoon so that the effluent will comply with interim effluent limitations contained in permit number MO-0100277. All units or components of the existing Lagoon shall be maintained in an operable condition, even if this requires the purchase and installation of new parts or equipment and the repair of the Lagoon.
- D. *30 days* ~~Within 90 days~~ from the effective date of this AOC, the Homeowners and Mr. McDowell shall establish a valid continuing authority for the operation, maintenance, and modernization of the wastewater treatment lagoon, pursuant to 10 CSR 20-6.010 (3) and submit to the Department a complete renewal application. "Form B", for Permit number MO-0100277. *when DNR signs, will get letter.*
- E. *30 days* ~~Within 15 days~~ receipt of comments from the Department on the application to renew Permit number MO-0010277, the Homeowners and/or Mr. McDowell shall *need continuing authority*

respond to and adequately address to the Department's satisfaction all of the Department's comments.

- F. Within 60 days from the effective date of this AOC, the Homeowners and/or Mr. McDowell shall complete upgrades to the Lagoon that will enable the effluent to comply with the Law and its implementing regulations and all conditions and requirements of its permit.
- G. Within 30 days of completing construction, submit to the Department a "Statement of Work Completed" form, signed, sealed and dated by a professional engineer registered in the State of Missouri certifying that the project is complete and operable in accordance with Department-approved plans and specifications.
- H. Immediately upon becoming aware that a deadline or milestone as set forth in this AOC will not be completed by the required deadline, the Homeowners and/or Mr. McDowell 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, the Homeowners and Mr. McDowell 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 the Homeowners and Mr. McDowell's right to request an extension and may be grounds for the Department to deny the Homeowners and Mr. McDowell an extension.
- I. Should the Homeowners and Mr. McDowell fail to meet the terms of this AOC, including the deadlines for completion of construction set out in Paragraphs C through G, the Homeowners and Mr. McDowell 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	\$500.00 per day
31 to 90 days	\$1,000.00 per day
91 days and above	\$2,500.00 per day

- J. Stipulated penalties will be paid in the form of a certified or cashier's check made payable to "Cape Girardeau County Treasurer, as custodian of the Cape Girardeau 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 Subdivision, MO 65102-0176

- K. The stipulated penalties provided for in this AOC shall be in addition to any other rights, remedies or sanctions available to the Department for the Homeowners' and Mr. McDowell's violation of this AOC or applicable law.
- L. The Homeowners' and Mr. McDowell's duty to comply with the requirements of this AOC is not conditional on the receipt of any federal, state, or local funds.

Failure to comply is not an excuse due to lack of federal or state grant funding, or by the processing of any application for the same. Application for construction grant state revolving loan funds, or any other grants or loans, or delay caused by inadequate Lagoon planning or plans and specifications on the part of the Homeowners and Mr. McDowell shall not be cause for extension of any required compliance date in this AOC.

- M. The terms stated herein constitute the entire and exclusive agreement of the parties. There are no other obligations of the parties with respect to the matters addressed herein, be they express or implied, oral or written, except those within expressly set forth herein. The terms of this AOC supersede all previous related memoranda or understanding, notes, conversations, and agreements, express or implied. This AOC may not be modified orally.
- N. 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.
- O. 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 the Homeowners and Mr. McDowell for their records.
- P. The Homeowners and Mr. McDowell 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, the Homeowners and Mr. McDowell consent to and waive 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. Bobbie Pennington
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 21st day of September, 2012

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

Agreed to and Ordered this 21 day of August, 2012

Phil Singleton
Phil Singleton, Trustee
Westbridge Place Subdivision

Agreed to and Ordered this 21st day of August, 2012

Kevin & Cynthia Armstrong
Kevin & Cynthia Armstrong, Owners
Lot 12, Westbridge Place Subdivision

Agreed to and Ordered this _____ day of _____, 2012

Terry & Linda Burnette
Terry & Linda Burnette, Owners
Lots 13 & 14, Westbridge Place Subdivision

Agreed to and Ordered this _____ day of _____, 2012

William & Carolyn Davis
William & Carolyn Davis, Owners
Lots 4 & 5, Westbridge Place Subdivision

Agreed to and Ordered this 21 day of August, 2012


Paul & Deborah Griffin, Owners
Lot 8, Westbridge Place Subdivision

Agreed to and Ordered this 21 day of August, 2012


Floyd & Katherine Harrison, Owners *Mike Smythe*
Lot 11, Westbridge Place Subdivision

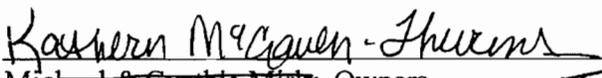
Agreed to and Ordered this 21 day of August, 2012


Zachary & Joyce Johnston, Owners
Lots 6 & 7, Westbridge Place Subdivision

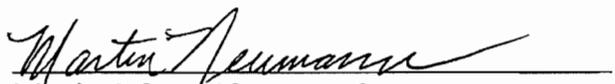
Agreed to and Ordered this 21 day of August, 2012


William & Lois Latimer, Owners
Lots 19 & 20, Westbridge Place Subdivision

Agreed to and Ordered this 21 day of August, 2012


Michael & Cynthia Mirly, Owners *Thurman*
Lot 10, Westbridge Place Subdivision

Agreed to and Ordered this 21 day of August, 2012


Martin & Susan Neumann, Owners
Lots 2 & 3, Westbridge Place Subdivision

Agreed to and Ordered this _____ day of _____, 2012



Robert & Anna Sander, Owners
Lot 1, Westbridge Place Subdivision

Agreed to and Ordered this 22 day of August, 2012



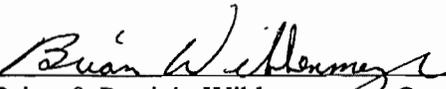
Jerry & Jennifer Singleton, Owners
Lot 9, Westbridge Place Subdivision

Agreed to and Ordered this 21st day of August, 2012



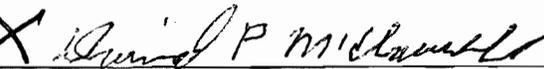
Gordon & Judith Walton, Owners
Lots 15, 16 & 17, Westbridge Place Subdivision

Agreed to and Ordered this 21st day of August, 2012



Brian & Patricia Wibbenmeyer, Owners
Lot 18, Westbridge Place Subdivision

Agreed to and Ordered this 21st day of AUGUST, 2012



David McDowell, Owner
Lot 21 (Lagoon), Westbridge Place Subdivision

Copies of the foregoing served by certified mail to:

Phil Singleton, Trustee and representative of
Westbridge Place Subdivision
141 Hartford Drive
Jackson, MO 63755

CERTIFIED MAIL

Daniel Statler, Attorney
Statler Law Firm
107 S Broadview Street
Cape Girardeau, MO 63703

CERTIFIED MAIL

Kevin & Cynthia Armstrong
350 Concord Lane
Jackson, MO 63755-7135

CERTIFIED MAIL

Terry & Linda Burnette
368 Concord Lane
Jackson, MO 63755-7135

CERTIFIED MAIL

William & Carolyn Davis
3272 State Highway FF
Jackson, MO 63755-7140

CERTIFIED MAIL

Paul & Deborah Griffin
208 Concord Lane
Jackson, MO 63755-6814

CERTIFIED MAIL

Mike Smythe
336 Concord Lane
Jackson, MO 63755-7135

CERTIFIED MAIL

Zachary & Joyce Johnston
3304 State Highway FF
Jackson, MO 63755-7141

CERTIFIED MAIL

William & Lois Latimer
309 Concord Lane
Jackson, MO 63755-7135

CERTIFIED MAIL

Kathern Thurman
140 Hartford Drive
Jackson, MO 63755-7137

CERTIFIED MAIL

Martin & Susan Neumann
3232 State Highway FF
Jackson, MO 63755-7140

CERTIFIED MAIL

Robert & Anna Sander
3192 State Highway FF
Jackson, MO 63755-7139

CERTIFIED MAIL

Jerry & Jennifer Singleton
141 Hartford Drive
Jackson, MO 63755-7137

CERTIFIED MAIL

Gordon & Judith Walton
353 Concord Lane
Jackson, MO 63755-7135

CERTIFIED MAIL

Brian & Patricia Wibbenmeyer
329 Concord Lane
Jackson, MO 63755-7135

CERTIFIED MAIL

on this ____ day of _____, 2012

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

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

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

Jackson Bostic, Director
Southeast Regional Office
2155 N. Westwood Blvd.
Poplar Bluff, MO 63901

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

Ms. Wallis Warren, Commissioner
Missouri Clean Water Commission
2671 Jefferiesburg Road
Beaufort, MO 63013

Mr. Dennis Wood, Commissioner
Missouri Clean Water Commission
P.O. Box 112
284 Lillian Lane
Kimberling City, MO 65686

Mr. Buddy Bennett, Commissioner
Missouri Clean Water Commission
1922 N Main Street
Higginsville, MO 64037-1527