

- C. The tributary to Bear Creek is a water of the state as the term is defined by Section 644.016 (27).
- D. Pursuant to the MSOP the company is required to develop and implement a Stormwater Pollution Prevention Plan (SWPPP) that includes an analysis of the Best Management Practices (BMPs) that are designed to ensure that the highest statutory and regulatory requirements are achieved and the highest quality water attainable for the facility is discharged and maintain inspection logs, available upon request.
- E. On April 12, 2011, the Department conducted a compliance inspection of the company. Prior to the inspection, staff conducted a review of MSOP No. MO-R80H138 and found that the company did not have a SWPPP for the site and noted that BMP inspection logs were not being recorded. During the inspection, Department staff observed multiple areas with oil staining the ground and two areas where oil was floating on pooled water.
- F. On April 20, 2011, the Department issued Notice of Violation (NOV) No. NEW2011041512244464 to Mr. Zhang for violations of the MCWL observed during the April 12, 2011 inspection. The inspection report required Mr. Zhang to clearly mark the outfall locations, remove and properly dispose of all contaminated soils and materials, develop a SWPPP and submit written statements to the Department by May 11, 2011 explaining what actions have been taken to correct all the unsatisfactory features and prevent a reoccurrence in the future.
- G. On June 5, 2012, the Department conducted an investigation of the company in response to a reported environmental concern stating the company was causing pollution to a tributary to Bear Creek. Staff met with Mr. Ken Fegele and Mr. Bobby Tallmen, who granted permission to access the site. Mr. Fegele and Mr. Tallmen accompanied staff throughout part of the tour of the facility. During the inspection, Department staff observed a tar-like substance on the ground, an open chemical tote, a bucket with a missing cap and oil dripping onto the ground from a piece of equipment. Department staff requested to see a copy of the company's SWPPP; however, a copy of the SWPPP was not available at the time of the inspection.
- H. On June 29, 2012, the Department issued NOV No. 2012061510423852 to Mr. Zhang for violations of the MCWL observed during the June 5, 2012, investigation. The inspection report required Mr. Zhang to clearly mark the outfall location, remove and properly dispose of the contaminated soil, submit copies of the requested records to the Northeast Regional Office, and submit a written statement to the Department explaining what actions have been taken to correct the violations and prevent a reoccurrence in the future by July 20, 2012.
- I. On December 11, 2012, the Department received correspondence from Mr. James Pan, of J & P Iron and Metal, stating the spills had been cleaned up and the chemical containers had been moved.
- J. On December 19, 2012, the Department conducted a follow up inspection to the June 5, 2012, investigation. During the inspection, Department staff documented the company did not have a SWPPP and the company was not keeping monthly inspection logs, as required by the MSOP. Department staff also observed oil staining on the ground.

- K. On December 21, 2012, the Department issued NOV No. NER2012122008172982 to Mr. Jin Zhang and Mr. James Pan. The correspondence with the NOV informed the company the matter had been referred to the Water Protection Program.
- L. On January 11, 2013, the Department issued NOV No. BFUCWN10017 to Mr. Zhang for failing to pay the annual permit fee in the amount of \$150.00.
- M. On March 7, 2013, the Department sent Mr. Jim Zhang and Mr. James Pan a letter requesting the company develop and implement a SWPPP; conduct and log all monthly inspections; provide employee training as required by the MSOP; and comply with the MCWL and its implementing regulations in order to resolve the violations.
- N. On April 4, 2013, the Department received the inspection reports for February 2011 to December 2012 from Mr. Pan.
- O. On November 13, 2013 the Department sent Mr. Zhang and Mr. Pan a Letter of Warning for non-payment of the annual operating permit fees.

III. CONCLUSIONS OF LAW

Violations of the MCWL its implementing regulations alleged herein and found to have been committed by the company are as follows:

1. Caused pollution of a tributary to Bear Creek, 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 to water of the state, in violation of Sections 655.051.1(1) and 644.076.1, RSMo; and
2. Failed to develop and implement a SWPPP, document monthly site inspections, and provide proof of personnel training as required by the requirements of the MSOP, in violation of Sections 644.051.1(3) and 644.076.1, RSMo.

IV. AGREEMENT

- A. The Department and the company desire to amicably resolve all claims that may be brought against the company for violations alleged above in Section III, Citations and Conclusions of Law, without the company 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 company under this AOC. .
- C. The company 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 four thousand dollars and zero cents (\$4,000.00). The Department and the company further agree that two thousand five hundred dollars and zero cents (\$2,500.00) of such civil penalty shall be suspended as described in paragraph D below. The payment of one thousand five hundred dollars and zero cents (\$1,500.00)

shall be made in the form of a certified or cashiers check made payable to "Ralls County School Treasurer, as custodian of the Ralls County School Fund." A check in the amount of one thousand five hundred dollars and zero cents (\$1,500.00) is due and payable upon execution of this AOC by the company. The check and signed copies of the AOC shall be delivered to:

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

- D. The suspended penalty described in paragraph C. of two thousand five hundred dollars and no cents (\$2,500.00) shall be suspended upon the condition that the company does not violate the any provision of the MCWL and respective regulations for a period of two (2) years from the execution of this Agreement. Once a violation of the MCWL is documented by the Department, the Department shall send a written demand for the suspended penalty to the company. The company shall have fifteen (15) days from receipt of the written demand to submit the suspended penalty to the address listed in paragraph C.
- E. Within thirty (30) days of the effective date of this AOC, the company shall develop and submit a SWPPP to the Department, for review and approval. The SWPPP shall include, but not be limited to, an assessment of all stormwater discharges associated with the facility, a listing of BMPs; implemented to control and minimize the amount of potential contaminants that may enter storm water, and a schedule for a monthly site inspection and a brief written report.
- F. Within fifteen (15) days of receipt of Department comments on the SWPPP, the company shall respond to and adequately address, to the Department's satisfaction, all of the Department's comments on the SWPPP. Immediately implement and maintain the SWPPP once approved by the Department.
- G. The company agrees to maintain site inspection reports and a current copy of the company's SWPPP at the site during normal working hours and to comply with all permit conditions and requirements, including but not limited to, developing and implementing a SWPPP, document monthly site inspections, provide proof of personnel training maintenance, contained in MSOP No. MO-R80H138.
- H. Submit a permit renewal application for MSOP No. MO-R80H138 at least thirty (30) days prior to permit expiration.
- I. Immediately upon becoming aware that a deadline or milestone as set forth in this AOC will not be completed by the required deadline, the company 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; iii) and proposing an extension to the deadline. Within five (5) days of notifying the Department, the company 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 company's right to request an extension and may be grounds for the Department to deny the company an extension.

- J. Should the company fail to meet the terms of this AOC, including the terms set out in paragraphs C through H, the company shall pay stipulated penalties in the following amount:

<u>Days of Violation</u>	<u>Amount of Penalty</u>
1 to 30 days	\$100.00 per day
31 to 90 days	\$250.00 per day
91 days and above	\$500.00 per day

Stipulated penalties will be paid in the form of a certified check made payable to “*Ralls County Treasurer, as custodian of the Ralls County School Fund.*” Any such stipulated penalty shall be paid within ten (10) days of demand by the Department and shall be delivered to:

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

- K. Nothing in this AOC forgives the company 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 for 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 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.
- L. 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.
- M. 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 the Company for their records.
- N. The Company shall comply with the Law, Chapter 644, RSMo and its implementing regulations at all times in the future.

V. RIGHT OF APPEAL

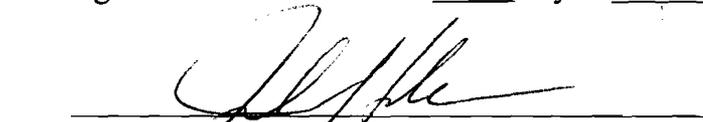
By signing AOC No. 2014-WPCB-1291, the company waives any right of appeal pursuant to Sections 621.250, 640.010, 640.013, 644.056.3, and 644.079.2, RSMo, 10 CSR 20-1.020, 10 CSR 20-3.010, 10 CSR 20-6.020(5), and Chapters 536, 640, and 644, RSMo, the Missouri Constitution, or any other source of law. AOC No. 2014-WPCB-1291 will become final and fully enforceable, as provided in Section 644.076, RSMo upon the date the Department signs.

VI. CORRESPONDENCE AND DOCUMENTATION

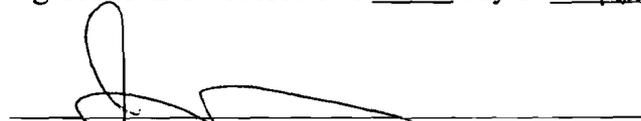
Correspondence or documentation with regard to conditions outlined in this AOC shall be directed to:

Ms. Brittnie Brauner
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 6 day of June, 2014


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

Agreed to and Ordered this 22 day of May, 2014


Mr. Jin Zhang, Owner
J & P Iron and Metal, Inc..


Mr. James Pan
J & P Iron and Metal, Inc..

Copies of the foregoing served by certified mail to:

Mr. Jin Zhang
J & P Iron and Metal, Inc.
3599 Warren Barret Drive
Hannibal, MO 63401

CERTIFIED MAIL

- c. Ms. Irene Crawford, Northeast Regional Office
- Mr. Chris Wieberg, Operating Permits Section
- Ms. Janet Pointer, Accounting Program
- Ms. Diane Huffman, U.S. Environmental Protection Agency
- Missouri Clean Water Commission