

to the conditions and requirements of Missouri State Operating Permit (MSOP) No. MO-GS10407. The receiving stream is an unnamed tributary of Loutre River, which enters Loutre River approximately 0.5 miles downstream of the CAFO.

- B. Loutre River and its tributaries are waters of the state as the term is defined by Section 644.016(27) RSMo.
- C. Agricultural wastes are water contaminants as the term is defined in Section 644.016(24), RSMo.
- D. MSOP No. MO-GS10407 was issued to Turkey Hill Farms, LLC on April 8, 2013, and is set to expire by its own terms on January 7, 2018. Pursuant to Item No. 4 in the Applicability Section of MSOP No. MO-GS10407, a discharge, regardless of the reason, is prohibited and is a violation of the permit.
- E. On August 1, 2013, Department staff responded to a report of an animal waste spill from the CAFO, which had occurred the previous evening. The spill was reported by Mr. Jeff Browning, an employee of Great River Engineering and a contractor for Turkey Hill Farms, LLC. Mr. Browning informed staff that the cause of the spill was due to a piece of heavy equipment striking and breaking a pipe which was part of the waste handling system. Mr. Browning estimated that approximately 5,000 gallons of swine effluent was discharged to the receiving stream and Loutre River. Turkey Hill Farms, LLC employees responding to the spill constructed two dams on Loutre River, upstream and downstream of the tributary's entrance, to contain the waste. Department staff walked the length of the tributary until its entrance into Loutre River, then along segments of the river both upstream and downstream of the tributary's entrance.
- F. During the investigation, Department staff observed that the water in the tributary and in Loutre River between the two constructed dams was light brown in color and had an odor characteristic of swine effluent. Department staff also took water quality measurements and collected grab samples of water for laboratory analysis. Dissolved Oxygen concentrations were much lower in the waste affected areas (~0.1 milligrams per liter [mg/L]) as compared to the unaffected areas (5.1-6.3 mg/L), and were well below the criteria for designated uses listed in Table A of the water quality standards. The conductivity level in the tributary (5,540 microsiemens per centimeter [μ S/cm]) was considerably higher than in the unaffected areas of Loutre River (235-245 μ S/cm). The Ammonia as Nitrogen concentration in the affected area of Loutre River (between the temporary dams) was 225 mg/L, far above the level (19.9 mg/L) considered acutely toxic in waters containing a warm-water fishery.
- G. Based upon the violations documented by Department staff during the August 1, 2013 inspection, the Department issued Notice of Violation No. NER2013080611114206 to Turkey Hill Farms, LLC for the incident on August 29, 2013.

- H. MCWL and Section 644.096, RSMo, authorizes the state, or any political subdivision or agency to recover actual damages, including all costs and expenses necessary to establish or collect any sums under Sections 644.006 to 644.141, RSMo, and the costs and expenses of restoring any waters of the state to their condition as they existed before violation, sustained by it because of any violation.
- I. The Department dispatched employees to investigate the July 31, 2013 swine effluent spill. The Department incurred costs and expenses, including but not limited to, water sampling and analysis, photographs, and travel expenses. These costs incurred by the Department total \$1,545.85.
- J. On May 6, 2014, the Department received a check in the amount of \$1,545.85 from Turkey Hill Farms, LLC as payment for the Department's investigative costs.
- K. Section 644.076.1, RSMo, makes it unlawful to violate the MCWL and regulations promulgated pursuant thereto and establishes civil penalties of up to \$10,000.00 per day per violation.

III. CITATIONS AND CONCLUSIONS OF LAW

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

- 1. On July 31, 2013, discharged water contaminants into waters of the state which reduced the quality of such waters below the Water Quality Standards, general and specific criteria, as established by the Missouri Clean Water Commission, in violation of Sections 644.051(2) and 644.076.1, RSMo, and 10 CSR 20-7.031.
- 2. On July 31, 2013, caused pollution of the unnamed tributary of Loutre River and Loutre River, 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, in violation of Sections 644.051.1(1) and 644.076.1, RSMo.
- 3. On July 31, 2013, operated, used, or maintained a water contaminant source, process waste from a CAFO, which discharged to an unnamed tributary of Loutre River and Loutre River, waters of the state, without a MSOP, in violation of Sections 644.051.2 and 644.076.1, RSMo, and 10 CSR 20-6.010(1)(A) and (5)(A).

IV. AGREEMENT

- A. The Department and Turkey Hill Farms, LLC desire to amicably resolve all claims that may be brought against Turkey Hill Farms, LLC for violations alleged above in Section III, Citations and Conclusions of Law, without Turkey Hill Farms, LLC 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 Turkey Hill Farms, LLC under this AOC.
- C. Turkey Hill Farms, LLC, 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 \$4,000.00. The payment shall be in the form of a certified or cashier's check made payable to "*Audrain County School Treasurer, as custodian of the Audrain County School Fund*". The check and signed copy of the AOC shall be delivered to:

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

Nothing in this AOC forgives Turkey Hill Farms, LLC 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 non-compliance 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.

- E. 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.
- F. 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 Turkey Hill Farms, LLC for its records.
- G. Turkey Hill Farms, LLC shall comply with the MCWL, Chapter 644, RSMo and its implementing regulations at all times in the future.

V. RIGHT OF APPEAL

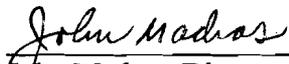
By signing this AOC No. 2014-WPCB-1304, Turkey Hill Farms, LLC consents to its terms and waives any right to appeal, seek judicial review, or otherwise challenge the terms and conditions of this AOC pursuant to Sections 621.250, 640.010, 640.013, 644.056.3, 644.079.2, Chapter 536 RSMo, 644.145, RSMo, 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:

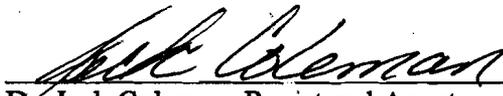
Ms. Joan Doerhoff
Department of Natural Resources
Water Protection Program
Compliance and Enforcement Section
P.O. Box 176
Jefferson City, MO 65102-0176

Agreed to and Ordered this 12th day of August, 2014



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

Agreed to and Ordered this 16 day of July, 2014



Dr. Jack Coleman, Registered Agent
Turkey Hill Farms, LLC

Copies of the foregoing served by certified mail to:

Dr. Jack Coleman, Registered Agent CERTIFIED MAIL #7012 2920 0002 0668 1891
Turkey Hill Farms, LLC
808 Hwy 24 and 36 East
Monroe City, MO 63456

c: Ms. Diane Huffman, Environmental Protection Agency
 Mr. Chris Wieberg, Chief, Operating Permits Section
 Accounting Program
 Ms. Irene Crawford, Director, Northeast Regional Office
 Mr. Henry Wilson, Professional Swine Management
 Missouri Clean Water Commission