BEFORE THE
DEPARTMENT OF NATURAL RESOURCES
STATE OF MISSOURI

RECEIVED

APR 1 0 2015

WATER PROTECTION PROGRAM

IN THE MATTER OF:	)	
	)	
Hillcrest Manor Subdivision	)	
Wastewater Treatment Lagoon and	)	
Public Drinking Water System	)	
	)	No. 2014-WPCB-1316
SERVE:	)	
	)	
Josiah Cox, President	)	
Hillcrest Operating Utilities Company, Inc.	)	

ABATEMENT ORDER ON CONSENT

I. NOTICE TO RECIPIENTS OF ABATEMENT ORDERS

The issuing of this Abatement Order on Consent (AOC) No. 2014-WPCB-1316, by the Department of Natural Resources, is a formal administrative action by the state of Missouri and is being issued because the wastewater treatment facility (WWTF) and public water system (PWS) serving the Hillcrest Manor Subdivision are in violation of the Missouri Clean Water Law (MCWL) and Missouri Safe Drinking Water Law (MSDWL). 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 MCWL Section 644.076.1, RSMo and the MSDWL. Litigation may occur without further administrative 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 MCWL and MSDWL, or their implementing regulations, all of which remain in full force and effect. Compliance with the terms of this AOC shall not relieve Hillcrest Utility Operating Company Inc. of liability for, or preclude the Department from, initiating an administrative or judicial enforcement action to recover civil penalties for future violations of the MCWL and MSDWL, or to seek injunctive relief, pursuant to Chapters 644 and 640, RSMo. This AOC supersedes AOC No. 2013-WPCB-1217 executed on February 28, 2013. Upon the effective date of this AOC, AOC No. 2013-WPCB-1217 shall become null and void and of no further force or effect.

II. FINDINGS OF FACT

WASTEWATER

A. Hillcrest Operating Utilities Company Inc. is a Domestic, For Profit, General Business registered and in good standing with the Missouri Secretary of State's Office. The company, as part of its business, owns and operates the WWTF serving Hillcrest Manor Subdivision located in the NW¼, NE¼, Section 5, Township 30 North, Range 13 East, Cape Girardeau County, Missouri. The

lagoon is a four-cell aerated lagoon that receives and treats wastewater generated by 226 single family, duplex, and multi-family residences in the Hillcrest Manor Subdivision. The WWTF has a design flow of 92,126 gallons per day, an actual flow of 41,680 gallons per day, and a design population equivalent of 922. Effluent discharges from the WWTF through Outfall No. 001 to a tributary to Williams Creek pursuant to the conditions and requirements of Missouri State Operating Permit (MSOP) No. MO-0088072.

B. Tributary to Williams Creek and Williams Creek are classified as waters of the state as defined by Section 644.016(27) RSMo.

C. Domestic wastewater is a water contaminant as the term is defined in Section 644.016(24), RSMo.

D. MSOP No. MO-0088072 was transferred to Brandco Investments LLC on October 12, 2007. On June 14, 2012, the Department received an application to renew the MSOP from Brandco. The MSOP was reissued to Brandco on July 1, 2013 and expires by its own terms on September 30, 2017. The MSOP requires the owner to sample the effluent discharging from Outfall No. 001 of each lagoon and chemically analyze the effluent sample for the water contaminants listed in Part "A" once a quarter. The MSOP also requires the effluent to comply with the effluent limitations contained in Part "A" of the MSOP and requires the results of analysis to be submitted to the Department on monthly Discharge Monitoring Reports by the 28th day of the month following the reporting period.

E. The MSOP included a Schedule of Compliance (SOC) for Brandco to complete disinfection improvements to the lagoon that would enable the effluent to comply with final effluent limitations for Fecal Coliform and if appropriate Total Residual Chlorine by December 6, 2011. Brandco failed to install disinfection improvements by December 6, 2011.

F. On February 28, 2013, AOC No. 2013-WPCB-1217 between the Department and Brandco became effective, requiring Brandco to install disinfection improvements on or before April 1, 2014, and meet permitted effluent limitations within 30 days completion of construction.

G. On May 2, 2014, the Department received a Statement of Work Complete from Brandco for the installation of disinfection improvements including tablet chlorination and de-chlorination.

H. The July 1, 2013, MSOP includes a SOC for Brandco to complete improvements to the lagoon that would enable the effluent to comply with final effluent limitations for Ammonia that will become effective on July 1, 2016.

I. The WWTF violated permitted effluent limitations for Biochemical Oxygen Demand for August and September 2014, and *E. coli* for May, June, July, August and September 2014.

J. On October 2, 2014, the Department received an engineering report and construction permit application from the company for construction of an extended air WWTF to replace the existing WWTF

K. On October 22, 2014, The Missouri Public Service Commission authorized the company to acquire and operate the water and sewer systems. The order will take effect November 1, 2014, and the company estimates that the sale will close approximately 30 days later.

L. 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.

PUBLIC DRINKING WATER

M. The company's water system, identification No. MO4036038, previously owned by Brandco, serves the Hillcrest Manor Subdivision and both are located in Cape Girardeau County, Missouri.

N. The company's water system is a regulated public water system as defined in Section 640.102(6) RSMo and 10 CSR 60-2.015 because it is a system for the provision to the public of piped water for human consumption that either has 15 or more service connections, or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

O. The company's water system is 100% groundwater drawn from a single well which serves the population of Hillcrest Manor Subdivision which is approximately 400 people and has 206 residential connections. The well produces an estimated average of 43,000 gallons per day. The water storage structure consists of a 19,400 gallon storage tank and a hydro-pneumatic tank of approximately 2,100 gallons.

P. The company's water system is required to have a DS-I Distribution Classification Level operator in accordance with 10 CSR 60-14.010(4).

Q. Section 640.130 RSMo makes it unlawful to violate the MSDWL and regulations promulgated pursuant thereto and establishes civil penalties of up to $50.00 per day per violation.

III. CITATIONS AND CONCLUSIONS OF LAW

Violations of the MCWL and MSDWL and their implementing regulations alleged herein and found to have been committed by Brandco are as follows:

1. Failed to comply with the effluent limits contained in Part "A" of MSOP No. MO-0048666, in violation of the MCWL, Sections 644.051.1(3) and 644.076.1, RSMo.

2. Failed to comply with the Maximum Contaminant Level for Total Coliform and *E. coli* bacteria in violation of the MSDWL and regulations, Sections 640.100 through 640.140, RSMo and 10 CSR 60-4.020(7).

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. Within 30 days of the effective date of this AOC, the company agrees to submit to the Department an application to transfer ownership of the MSOP from Brandco to the company.

D. In the interim, until the company completes construction of a new WWTF, the company agrees to operate and maintain the existing WWTF at all times so as to produce the best effluent quality possible and comply with the terms and conditions of the MSOP. All units or components of the existing WWTF shall be maintained in the best possible condition, with extensive efforts being made to repair the blowers providing aeration to the lagoon cells.

E. If the Department comments on and/or requests modification of the preliminary engineering report and/or construction permit application, the company agrees to respond to and adequately address, to the Department's satisfaction, all of the Department's comments on the preliminary engineering report or construction permit application and resubmit the preliminary engineering report and/or construction permit application within 15 days of receipt of the Department's comments.

F. On or before July 1, 2015, the company agrees to complete construction of the new WWTF pursuant to the plans and specifications included with the construction permit application.

G. Within 15 days of completing construction, the company agree to 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 was completed in accordance with Department approved plans and specifications.

H. Within 30 days of completion of construction activities, the company agrees to achieve compliance with the all MSOP effluent limitations contained in the MSOP.

I. Within 30 days of the effective date of this AOC the company shall submit the overdue 2014 drinking water primacy fees to the Department's Budget and Fees Unit, Public Drinking Water Branch, P.O. Box 176, Jefferson City, Missouri 65102.

J. Within 60 calendar days the company shall submit two copies of an engineering report, plans and specifications prepared by a professional engineer registered in Missouri to the Department of Natural Resources Public Drinking Water Branch, P.O. Box 176, Jefferson City Missouri 65102. The engineering report, plans and specifications for the water system improvements should be designed in accordance with the August 2003 Public Drinking Water Branch Design Guide for Community Water Systems. The Report shall examine the wells, treatment system, storage facilities and distribution system for possible causes of the microbiological problem and shall propose corrections for any problems found and shall propose a new source or permanent chlorination facilities including detention that will provide 4-LOG (99.99%) virus inactivation for the well if the cause of the microbiological problem is not otherwise identified and corrected.

K. Within 30 calendar days of receipt of any request for additional information or changes in the engineering report, plans and specifications from the Public Drinking Water Branch the company shall submit the modifications to the Public Drinking Water Branch.

L. Within 60 calendar days of Department approval of the engineering report, the company shall submit a completed application for a construction permit plus two copies of engineering plans and specifications prepared by a professional engineer registered in Missouri to the Public Drinking Water Branch.

M. Within 30 calendar days of receipt of any request for additional information or changes in the engineering plans and specifications from the Public Drinking Water Branch, the company shall submit engineering plans and specification modifications to the Public Drinking Water Branch.

N. Within 90 calendar days of Department approval to construct, the company shall construct the public drinking water system improvements.

O. Within 21 calendar days of completion of construction, the company shall submit certification by the professional engineer stating that the project has been completed substantially in accordance with the approved plans and specifications to the Public Drinking Water Branch, P.O. Box 176, Jefferson City Missouri 65102, 573-751-5331.

P. Upon completion of the chlorination facilities and before these facilities are placed into operation, the company shall obtain an EPA approved chlorine test kit

such as Hach Pocket Colorimeter or an equivalent model that uses the DPD reagent.

Q. The company shall test and record the free chlorine residual on a daily basis as required by 10 CSR 60-4.080, Contaminant Levels and Monitoring, Operational Monitoring. A minimum of 0.5 parts per million (ppm) should be maintained on a daily basis. This testing must begin immediately upon activation of the chlorine disinfection system.

R. Within 60 days of the effective date of this AOC, the company shall have a professional water tank inspection and repair company inspect, drain, clean, and repair the sanitary defects of the 19,400 gallon water storage tank (stand pipe).

S. Within 30 consecutive days of construction completion, the company shall submit certification by the professional engineer stating that the project has been completed substantially in accordance with the approved plans and specifications to the Department's Infrastructure Engineering and Permits Section, Public Drinking Water Branch, P.O. Box 176, Jefferson City, Missouri 65102.

T. 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 agrees to 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 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.

U. The company agrees to fully implement all of the requirements of this AOC. Should the company fail to meet the terms of this AOC, including the deadlines for completion of construction set out in Paragraphs F-N, the company shall be subject to pay stipulated penalties in the following amount:

Days of Violation	Amount of Penalty
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 or cashier's check made payable to the "Cape Girardeau County Treasurer, as custodian of the Cape Girardeau County School Fund." Any such stipulated penalty shall be paid within ten days of demand by the Department and shall be delivered to:

Accounting Program

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

V. 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 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 with respect to the matters addressed herein, be they express or implied, oral or written, except those 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.

W. 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.

X. The effective date of the AOC shall be the date the Department signs the agreement. The Department agrees to send a fully executed copy of this AOC to the company for their records.

Y. The company shall comply with the MCWL, Chapter 644, RSMo and the MSDWL, Chapter 640, RSMo and their implementing regulations at all times in the future.

V. RIGHT TO APPEAL

By signing this AOC, the company 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. Kristi Savage-Clarke
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 6th day of April, 2014.

John Madras

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

Josiah Cox, President
Hillcrest Operating Utilities Company, Inc.

4-6-2015
Date

Copies of the foregoing served by certified mail to:

Mr. Josiah Cox
Central States Water Resources
3636 South Geyer Road, Suite 100
St. Louis, MO 63127

Certified Mail # 7013 2250 0002 2840 0590

c: Ms. Diane Huffman, Environmental Protection Agency
Mr. Chris Wieberg, Chief, Operating Permits Section
Mr. Jackson Bostic, Director, Kansas City Regional Office
Mr. Lance Dorsey, Public Drinking Water Branch
Accounting Program
Missouri Clean Water Commission