



population equivalent is 66. Effluent from the lagoon discharges through Outfall No. 001 to a tributary to Owl Creek pursuant to the requirements and conditions of Missouri State Operating Permit (MSOP) No. MO-0114979

- B. Owl Creek and its tributaries are waters of the state as the term is 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. On December 8, 2006, the department issued MSOP No. MO-0114979 to Mr. Overton, that included a Schedule of Compliance (SOC) requiring Mr. Overton to: i) install disinfection facilities by December 6, 2011, to comply with final effluent limitations for Fecal Coliform; ii) present an evaluation to show that disinfection is not required to protect one or both recreational uses or; iii) present Use Attainability Analysis that demonstrates that one or both designated recreational uses are not attainable in the classified waters receiving the effluent.
- E. MSOP No. MO-0114979 requires Mr. Overton to collect a representative sample the effluent discharged from Outfall No. 001 each quarter and chemically analyze the effluent sample for the water contaminants listed in Part "A". MSOP No. MO-0114979 requires Mr. Overton to submit the chemical analysis to the department on Discharge Monitoring Reports (DMRs) by the 28th day of the month following the quarter.
- F. DMRs submitted to the department by Mr. Overton reported no-discharge on 18 of the past 24 quarters.
- G. On June 12, 2012, the department received a renewal application for MSOP No. MO-0114979.
- H. On January 11, 2013, department staff conducted a compliance inspection of the MHP. During the inspection, department staff observed that the perimeter fence was less than five feet in height, sections of the fence appeared to be damaged or sagging around the lagoon and moderate erosion caused by rodent damage was visible on both cells. Department staff also noted the outfall was not clearly marked. As part of this inspection, department staff reviewed the department's file for this WWTF and found Mr. Overton failed to complete the SOC required by MSOP No. MO-0114979.
- I. Due to violations found during the January 11, 2013, inspection, the department issued Notice of Violation (NOV) No. NER 2013011514035058 to Mr. Overton on March 6, 2013. The inspection report associated with the NOV required Mr. Overton to submit an engineering report to the department by March 27, 2013, recommending options for complying with permitted effluent limitations for Fecal Coliform.
- J. On March 21, 2013, the department received a letter from Mr. Overton describing actions being taken to address issues listed in the inspection report and stating that he would submit engineering plans to the department by July 1, 2013. The department did not receive an engineering report from Mr. Overton.

- K. On March 5, 2014, the department received an electronic correspondence from Brush & Associates stating that an engineering report would be submitted to the department by April 15, 2014, and that construction of the upgrades will be completed by November 1, 2014.
- 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.

### III. CITATIONS AND CONCLUSIONS OF LAW

Violations of the MCWL and its implementing regulations alleged herein and found to have been committed by Mr. Overton at the WWTF are as follows:

1. Failed to install disinfection facilities by December 6, 2011, present an evaluation to show that disinfection is not required to protect one or both recreational uses or present Use Attainability Analysis as required in Part "B", Standard Conditions, and Part "D", SOC, of MSOP No. MO-0114979, in violation of Section 644.076.1, RSMo, 10 CSR 20-6.010(7)(A), and 10 CSR 20-6010(7)(C);
2. Failed to apply for renewal of the MSOP at least 180 days before expiration of MSOP No. MO-0114979, in violation of Sections 644.051.11 and 644.076.1, RSMo, 10 CSR 20-6.010(5)(C); and
3. Failed to clearly mark the outfall as required by the special conditions of MSOP No. MO-0114979, in violation of Section 644.076.1, RSMo; failed to provide a lockable gate, in violation of 10 CSR 20-8.020(11)(C)11.F; failed to provide adequate fencing to prevent unauthorized access, in violation of 10 CSR 20-8.020(11)(C)11.A.

### IV. AGREEMENT

- A. The department and Mr. Overton desire to amicably resolve all claims that may be brought against the district for violations alleged above in Section III, Citations and Conclusions of Law, without Mr. Overton 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 Mr. Overton under this AOC.
- C. Mr. Overton 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 \$6,000.00. The department and Mr. Overton further agree that \$4,000.00 of the civil penalty shall be suspended as described in Paragraph D below. The payment of the civil penalty in the amount of \$2,000.00

shall be in the form of a certified check or cashier's check made payable to  
"Callaway County Treasurer, as custodian of the Callaway County School Fund"  
The check in the amount of \$2,000.00 is due and payable upon execution of this  
AOC by Mr. Overton. The check and signed copy of the AOC shall be delivered  
to:

Accounting Program  
Department of Natural Resources  
P.O. Box 477  
Jefferson City, MO 65102-0477

- D. The suspended penalty described in Paragraph C in the amount of \$4,000.00 shall be suspended for a period of two years from the execution of this AOC upon the condition that Mr. Overton does not violate the terms of the AOC. Upon determination that the respondent has failed to meet the terms of this AOC, including the requirements of Paragraphs F through Q, the department shall send a written demand for the suspended penalty to Mr. Overton. Mr. Overton shall have 15 days from receipt of the written demand to submit the suspended penalty to the address listed in Paragraph C.
- E. In the period of time from the effective date of this AOC until the new or upgraded WWTF is completed, Mr. Overton shall operate and maintain the existing WWTF at all times in compliance with the conditions and requirements of MSOP No. MO-0114979. All units or components of the existing WWTF shall be maintained in an operable condition, even if this requires the purchase and installation of new parts or equipment, or repair of the WWTF.
- F. Mr. Overton agrees to prevent a discharge from the lagoon between the months of April 1 and October 31 or until department approved upgrades are complete that will enable the effluent to comply with final effluent limitations for Fecal Coliform or if applicable Escherichia coli (E. coli). Mr. Overton agrees to pump and haul the wastewater from the lagoon to a permitted WWTF with the capacity to treat the wastewater. Mr. Overton shall continue pumping and hauling wastewater as necessary, to prevent any discharge from the lagoon. Mr. Overton shall maintain pumping and hauling receipts and submit copies of the receipts to the department each month. The records shall be submitted to the department by the 10<sup>th</sup> day of the following month and include the date the wastewater was pumped; number of gallons pumped; and the name of the wastewater hauler and the name of the permitted WWTF accepting the wastewater.
- G. Mr. Overton agrees to collect representative samples of the effluent discharged from Outfall No. 001 anytime there is a discharge during the monitoring period as required MSOP No. MO-0114979. Mr. Overton agrees comply with the analytical and sampling methods referenced in 10 CSR 20.7.015(9)(D) and submit the results to the department on DMRs by the 28<sup>th</sup> day of the month following the reporting period.

- H. Within 45 days of the effective date of this order, Mr. Overton agrees submit to the department for review and approval an engineering report, prepared by a professional engineer licensed to practice in the state of Missouri evaluating the current condition of the lagoon. The engineering report shall recommend alternatives to upgrade, replace or eliminate the discharge that will result in compliance with all applicable effluent limitations, including E. Coli, and all conditions and requirements of its MSOP. Although not required at this time, the plan may also include alternatives that will result in compliance with future effluent limitations for Ammonia as Nitrogen. If applicable, Mr. Overton agrees to submit a complete Antidegradation submittal pursuant to the Missouri Antidegradation Rule and Implementation Procedure; and use these evaluations to recommend one of the alternatives that will result in compliance with the MCWL and its implementing regulations. The engineering report shall be developed in accordance with Missouri Clean Water Regulation 10 CSR 20-8.
- I. Within 15 days of receipt of department comments on the engineering report or Antidegradation submittal, Mr. Overton agrees respond in writing to the department addressing all department comments on the engineering report or Antidegradation submittal to the department's satisfaction.
- J. If the department approved alternative is to upgrade or replace the lagoon, Mr. Overton agrees to submit to the department for review and approval a complete application for a construction, plans and specifications sealed by a professional engineer licensed to practice in the state of Missouri and the applicable permit fee for the improvements recommended in the department approved engineering report. The plans and specifications shall be developed in accordance with 10 CSR 20.8. Mr. Overton agrees to submit the application for a construction permit and applicable supporting documents to the department within 45 days of the date the department approves the engineering report.
- K. If the department approved alternative is connection to an area wide wastewater collection and treatment system, Mr. Overton agrees to submit to the department for review and approval: (i) plans and specifications sealed by an engineer for the sewer extension; (ii) written approval from the area wide wastewater system accepting the connection; and (iii) if applicable a complete application for a construction permit and fee. Mr. Overton agrees to submit the plans and specifications, written approval and if applicable a complete application for a construction permit and fee within 45 days of the date the department approves the engineering report.
- L. If the department approved alternative will not include future use of the lagoon Mr. Overton agrees to submit to the department a closure plan for the lagoon developed pursuant to MSOP Standard Conditions Part III. Mr. Overton agrees to submit the lagoon closure plan within 45 days of the date the department approves the engineering report.

- M. Within 15 days of receipt of department comments on the lagoon closure plan, Mr. Overton agrees respond in writing to the department addressing all department comments on the lagoon closure plan to the department's satisfaction.
- N. Within 120 days of the date the department issues a construction permit or approves the plans and specifications for sewer extension to connect to an area wide sewer system, Mr. Overton agrees to complete construction pursuant to the department approved plans and specifications and achieve compliance with all applicable permitted effluent limitations or divert the flow from the MHP to the area wide sewer system.
- O. Within 15 days of completing construction, Mr. Overton agrees 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 and if applicable a complete application for the modified and renewed MSOP, including the appropriate fee.
- P. Within 120 days of diverting the wastewater from the lagoon to a department approved WWTF or an area wide sewer system, but not before receiving written approval form the department for the lagoon closure plan Mr. Overton agrees to: (i) complete closure of the lagoon pursuant to the closure plan as approved by the department; (ii) stabilize the disturbed area with perennial vegetation with 70 percent fully established plant density over 100 percent of the disturbed area; and (iii) submit to the department a letter certifying that the lagoon was closed pursuant to the closure plan approved by the department.
- Q. Immediately upon becoming aware that a deadline or milestone as set forth in this AOC will not be completed by the required deadline, Mr. Overton 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 days of notifying the department, Mr. Overton 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 Mr. Overton's right to request an extension and may be grounds for the department to deny Mr. Overton an extension.
- R. Should Mr. Overton fail to meet the terms of this AOC, including the deadlines for completion of construction set out in Paragraphs D through L, Mr. Overton 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	\$50.00 per day
31 to 90 days	\$100.00 per day
91 days and above	\$250.00 per day

Stipulated penalties will be paid in the form of a certified or cashier's check made payable to "Callaway County Treasurer, as custodian of the Callaway 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 65102-0477

- S. Nothing in this AOC forgives Mr. Overton 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.
- T. 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.
- U. 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 Mr. Overton for his records.
- V. Mr. Overton shall comply with the MCWL, Chapter 644, RSMo and its implementing regulations at all times in the future.

V. RIGHT OF APPEAL

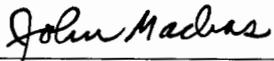
By signing this AOC, Mr. Overton consents to its terms and waives any right to appeal, seek judicial review, or otherwise challenge the terms and conditions of this AOC pursuant to Sections 621.250, 640.010, 640.013, 644.056.3, 644.079.2, Chapter 536 RSMo, 644.145, RSMo, 10 CSR 20-1.020, 10 CSR 20-3.010, 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:

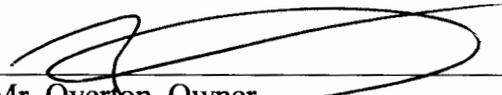
Mr. Peter Burch  
Department of Natural Resources  
Water Protection Program  
Compliance and Enforcement Section  
P.O. Box 176  
Jefferson City, MO 65102-0176

Agreed to and Ordered this 8<sup>th</sup> day of April, 2015



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

Agreed to and Ordered this 1<sup>st</sup> day of April, 2015



Mr. Overton, Owner  
Little Dixie Mobile Home Park

Copies of the foregoing served by certified mail to:

Mr. Keith Overton, Chairman      CERTIFIED MAIL:  
Little Dixie Mobile Home Park  
12380 W Rocheport Gravel Road  
Rocheport, MO 65279

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