

BEFORE THE
DEPARTMENT OF NATURAL RESOURCES
STATE OF MISSOURI

IN THE MATTER OF:)	
)	
Wallis Oil Co., Inc.)	
)	2014-WPCB-1310
)	
SERVE:)	
)	
Lynn Wallis, President)	

ABATEMENT ORDER ON CONSENT

I. NOTICE TO RECIPIENTS OF ABATEMENT ORDERS

The issuing of this Abatement Order on Consent (AOC) No. 2014-WPCB-1310 by the Department of Natural Resources is a formal administrative action by the state of Missouri and is being issued to Wallis Oil Co., Inc. (corporation) due to violations of the Missouri Clean Water Law (MCWL) that occurred as a result of fuel released into waters of the state following a tanker truck accident on February 13, 2014. Failure to comply with this AOC is, by itself, a violation of the MCWL Section 644.076.1, RSMo. 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, or its' implementing regulations, all of which remain in full force and effect. Compliance with the terms of this AOC shall not relieve the corporation of liability for, or preclude the Department from, initiating an administrative or judicial enforcement action to recover civil penalties for any, including future, violations of the MCWL, or to seek injunctive relief, pursuant to Chapter 644, RSMo.

II. FINDINGS OF FACT

- A. Ms. Lynn Wallis is the President of Wallis Oil Co., Inc., based in Cuba, Missouri. According to the Secretary of State's website, Wallis Oil Co., Inc. is an active corporation registered with the state of Missouri.

- B. On the morning of February 14, 2014, the Department's Environmental Emergency Response (EER) unit was notified that a tanker truck hauling a trailer containing approximately 7,600 gallons of ethanol went off of southbound Highway 55, near the 157 marker, in Ste. Genevieve County on the evening of February 13, 2014. The truck came to rest on the bridge, and caught fire, while the semi-trailer fell to the

creek below the bridge where ethanol was released into the Fourche a Du Clos Creek. According to the *Missouri State Highway Patrol Report, Incident No. 14-0213C097-41*, the truck was driven by the late Mr. William Randolph, who was employed with Wallis Oil Co., Inc. Both the semi-trailer and the truck-tractor were destroyed by fire.

- C. On this same day, the Department's EER Unit responded to the scene of the accident and observed fire suppressant foam and sheen from the fuel downstream of the accident and a large number of dead fish.
- D. On February 14, 2014, Missouri Department of Conservation (MDC) agents investigated the site of the fish kill and observed large numbers of dead fish and other aquatic wildlife in the creek. Based on MDC's *Report of Pollution Investigations and Fish Kills* dated February 24, 2013, the discharge resulted in an impact to a 1,000 yard stretch and fishkill.
- E. On March 6, 2014, the Department issued Notice of Violation No. 19376SE to Wallis Oil Company as a result of the Department's February 14, 2014, investigation of the fish kill that occurred in the tributary.
- F. The MCWL and Section 644.096, RSMo, authorize 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.
- G. The Department dispatched employees to investigate the February 14, 2014, fish kill. In doing so, the state of Missouri incurred costs and damages in the amount of \$2,047.57.
- H. Section 644.076.1, RSMo, makes it unlawful to violate the MCWL and regulations promulgated pursuant thereto.

CITATIONS AND CONCLUSIONS OF LAW

Violations of the MCWL and its implementing regulations alleged herein include:

1. Caused pollution of Fourche a Du Clos Creek, waters of the state, or placed or caused or permitted to be placed water contaminants (ethanol) 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.
2. Discharged water contaminants into waters of the state which reduced the quality of such waters below the Water Quality Standards established by the Missouri Clean Water Commission, in violation of Sections 644.051.1(2) and 644.076.1, RSMo, and 10 CSR 20-7.031 or applicable subsection of 10 CSR 20-7.031.

IV. AGREEMENT

- A. The Department and Wallis Oil Co., Inc. desire to amicably resolve all claims that might be brought against the Wallis Oil Co., Inc. for the violations alleged above in Section III, Citations and Conclusions of Law, without the Wallis Oil Co., Inc. admitting the validity or accuracy of such claims.
- B. Wallis Oil Co., Inc. agrees to pay the state's investigative costs, damages, and the value of the fish killed, in the amount of \$2,047.57 in the form of a check made payable to the "*State of Missouri*." The check is due and payable upon execution of this AOC by Wallis Oil Co., Inc. The check and this AOC shall be delivered to:

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

- C. Nothing in this AOC forgives Wallis Oil Co., Inc. from future non-compliance with the laws of the State of Missouri, nor requires the Department or state of Missouri to forgo 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 expressed or implied, oral or written, except those that are expressly set forth herein. The terms of this AOC supersede all previous memoranda or understanding, notes, conversations, and agreements, expressed or implied. This AOC may not be modified orally.
- D. By signing this AOC, all signatories assert that they have read and understand the terms of this AOC, and that they have the authority to sign this AOC on behalf of their respective party.
- E. 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 Wallis Oil Co., Inc. for its records.

V. RIGHT OF APPEAL

By signing this AOC No. 2014-WPCB-1310, Wallis Oil Co., Inc. waives any right to appeal, seek judicial review, or otherwise challenge this order pursuant to Sections 621.250, 640.010, 640.013, 644.056.3, and 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.

Agreed to and Ordered this 16th day of January, ²⁰¹⁵~~2014~~

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

Agreed to and Ordered this _____ day of _____, 2014

Lynn Wallis
Lynn Wallis, President
Wallis Oil Co., Inc.

Copies of the foregoing served by certified mail to:

Ms. Lynn Wallis, President
106 East Washington
Cuba, MO 65453

CERTIFIED MAIL # 7013 2250 0002 5557

- c. Ms. Diane Huffman, Environmental Protection Agency
Mr. Chris Wieberg, Chief, Operating Permits Section
Accounting Program
Mr. Jackson Bostic, Director, Southeast Regional Office
Missouri Clean Water Commission