

**BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES**

**In the Matter of:** )  
 )  
 **Wildwood Hills Subdivision** )  
 **Wastewater Treatment Facility** )  
 )  
 **Serve:** )  
 )  
 **Wildwood Sewer Association, Inc** )

**Order No. 2015-WPCB-1368**

RECEIVED  
AUG 10 2015  
Water Protection Program

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**ABATEMENT ORDER ON CONSENT**

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**NOTICE TO RECIPIENTS OF ABATEMENT ORDERS ON CONSENT**

The issuing of this Abatement Order on Consent (AOC) No. 2015-WPCB-1368, by the Department of Natural Resources, is a formal administrative action by the state of Missouri and is being issued because the Wildwood Sewer Association (Respondent) violated the Missouri Clean Water Law (MCWL). 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. 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 for 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 respondents of liability for, or preclude the department from, initiating an administrative or judicial enforcement action to recover civil penalties for any future violations of the MCWL, or to seek injunctive relief, pursuant to Chapter 644, RSMo.

## FINDINGS OF FACT

1. Wildwood Sewer Association, Inc. is a public benefit corporation in good standing and registered with the Missouri Secretary of State.
2. The Respondent owns and operated the Wildwood Hills Subdivision wastewater treatment facility (WWTF) located in the NW ¼, SW ¼, NW ¼, Section 21, Township 46 North, Range 1 West, in Warren County, Missouri. Wastewater generated by 12 homes and two trailers is treated by a single cell facultative lagoon with sludge retained in the lagoon. Effluent from the WWTF discharges from Outfall No. 001 to a tributary to Charrette Creek, pursuant to the conditions and requirements of Missouri State Operating Permit (MSOP) No. MO-0087955. MSOP No. MO-0087955 expired by its own terms on January 30, 2014.
3. Charrette Creek and its tributaries are waters of the state as the term is defined by Section 644.016(27), RSMo.
4. Domestic wastewater is a water contaminant as the term is defined in Section 644.016(24), RSMo.
5. On January 30, 2009, the department issued MSOP No. MO-0087955 to the Wildwood Hills Sewer Association. The MSOP included final effluent limitations for Fecal Coliform and Total Residual Chlorine that became effective on January 1, 2012. Part "D", Schedule of Compliance (SOC) required the Respondent to submit to the department: 1) an engineering report by September 30, 2009, identifying the steps to improve the existing WWTF or eliminate the discharge; 2) submit plans and specifications and an application with appropriate fees for a construction permit by March 31, 2010, to improve the existing WWTF or eliminate

the discharge; and 3) complete the project according to the department-approved plans and specification by December 31, 2011.

6. On September 11, 2013, the department received plans and specifications, from Lewis-Bade, Inc., with an application for a construction permit to install chlorination and dechlorination equipment at the WWTF.

7. On October 21, 2013, the department issued Construction Permit No. CP-0001585 to the Respondent for the construction of a tablet chlorinator and tablet dechlorinator. The construction permit expired on October 20, 2014.

8. On December 4, 2013, department staff conducted a routine compliance inspection of the WWTF. During the inspection, staff observed tall grasses, brush, and woody vegetation growing inside the WWTF, including large woody vegetation growing in the lagoon berms. Staff further observed that disinfection equipment had not been installed at the WWTF.

9. On December 19, 2013, the department sent an inspection report and issued Notice of Violation (NOV) No. 2797SL to the Respondent. In the inspection report, the department identified violations found during the inspection and required the Respondent to take actions to correct the violations.

10. On March 16, 2015, department staff sent correspondence to Lewis-Bade, Inc. to determine if construction of disinfection equipment according to the department-issued construction permit had been completed at the WWTF. On March 17, 2015, a representative of Lewis-Bade, Inc. responded to the department's March 16, 2015, correspondence and stated that a site visit revealed that disinfection equipment was not installed at the WWTF.

11. Section 644.076.1, RSMo makes it unlawful to violate the MCWL and regulations promulgated pursuant thereto and establishes penalties up to \$10,0000.00 per day per violation.

### **STATEMENT OF VIOLATIONS**

The Respondent has violated the MCWL and its implementing regulations as follows:

12. Failed to upgrade the WWTF as required in Part "D", SOC of MSOP No. MO-0087955, in violation of Section 644.076.1 RSMo, and 10 CSR 20-6.010(7)(A);

13. Since January 31, 2014, operated, used or maintained a water contaminant source, WWTF, which discharges to a tributary to Charrette Creek, waters of the state, without an MSOP, in violation of Sections 644.051.2 and 644.076.1, RSMo, and 10 CSR 20-6.010(1)(A) and (5)(A).

14. Failed to properly maintain vegetation on the lagoon berms, in violation of Section 644.076.1, RSMo, and 10 CSR 20-8.020(13)(A)3.G.

### **AGREEMENT**

15. The department and the Respondent desire to amicably resolve all claims that may be brought against the Respondent for violations alleged above in Statement of Violations.

16. 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 as the Respondent under this AOC.

17. The Respondent in compromise and satisfaction of the department's claims relating to the above referenced violations agree without admitting liability or fault, to pay a penalty in the amount of \$6,000.00. The department and the Respondent further agree that \$3,000.00 of the civil penalty shall be suspended as described in Paragraph 18 below. The payment of the civil penalty in the amount of \$3,000.00 shall be in the form of a check made payable to the "*Warren County Treasurer, as custodian of the Warren County School Fund*" and is due and payable upon execution of this AOC by the Respondent. The check and the signed copy of this AOC shall be delivered to:

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

18. The suspended penalty described in Paragraph 17 in the amount of \$3,000.00 shall be suspended for a period of two years from the execution of this AOC upon the condition that the Respondent 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 19 through 21, the department shall send a written demand for the suspended penalty to the Respondent. The Respondent shall have 15 days from receipt of the written demand to submit the suspended penalty to the address listed in Paragraph 17.

19. Within 30 days of the effective date of this Order, the Respondent agrees and is ordered to submit to the department a Form B – Application for Operating Permit.

20. Within 60 days of the effective date of this Order, the Respondent agrees and is ordered to complete construction pursuant to the department-approved plans and specifications and Construction Permit No. CP0001585.

21. Within 15 days of completing construction, the Respondent agrees and is ordered 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.

22. The Respondent is ordered and agrees to comply with the MCWL, Chapter 644, RSMo, and its implementing regulations at all times in the future.

**SUBMISSIONS**

23. All other documentation submitted to the department for compliance with this Order shall be submitted within the timeframes specified to:

Ms. Lauren Lewis  
Department of Natural Resources  
Water Protection Program  
Compliance and Enforcement Section  
P.O. Box 176  
Jefferson City, Missouri 65102-0176

**OTHER PROVISIONS**

24. Immediately upon becoming aware that a deadline or milestone as set forth in this AOC will not be completed by the required deadline, the Respondent 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, the Respondent shall submit to the department for review and approval a written request containing the same information. 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 Respondent's right to request an extension and may be grounds for the department to deny the extension.

25. Should the Respondent fail to meet the terms of this AOC, including the deadlines for completion of construction set out in Paragraphs 19 through 21, the Respondent 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	\$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 check made payable to “*Warren County Treasurer, as custodian of the Warren 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

26. Compliance with this AOC resolves only the specific violations described herein, and this AOC shall not be construed as a waiver or modification or any other requirements of the MCWL and regulations, or any other source of law. Nor does this Order resolve any future violations of this Order or any law or regulation. Consistent with 10 CSR 20-3.010(5), this Order shall not be construed as satisfying any claim by the state or federal government for natural resource damages.

27. Nothing in this AOC forgives the Respondent 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 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 within

are 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.

28. 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.

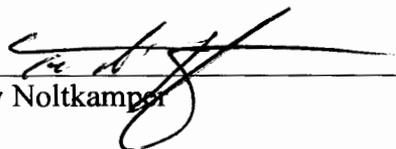
29. The effective date of the AOC shall be the date the department signs the AOC. The department shall send a fully executed copy of this AOC to the Respondent for their records.

**NOTICE OF APPEAL RIGHTS**

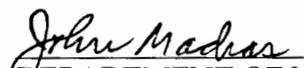
37. By signing this AOC, the Respondent consents to its terms and waive any right to appeal, seek judicial review, or otherwise challenge the terms and conditions of this AOC pursuant to Sections 621.250, 640.010, 640.013, 644.056.3, 644.079.2, Chapter 536 RSMo, 644.145, RSMo, 10 CSR 20-1.020, 10 CSR 20-3.010, 10 CSR 20-6.020(5), the Missouri Constitution, or any other source of law.

**SIGNATURE AUTHORITY**

Agreed to and Ordered this 5 day of August, 2015

  
\_\_\_\_\_  
Troy Noltkamper

Agreed to and Ordered this 8th day of September, 2015

  
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DEPARTMENT OF NATURAL RESOURCES  
John Madras, Director  
Water Protection Program