

BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES

In the Matter of:)
)
 Bonne Femme Mobile Home Park)
 Wastewater Treatment Facility) **Order No. 2016-WPCB-1375**
)
 Serve:)
 Karen Gaffey)

ABATEMENT ORDER ON CONSENT

NOTICE TO RECIPIENTS OF ABATEMENT ORDERS ON CONSENT

The issuing of this Abatement Order on Consent (AOC) No. 2016 WPCB-1375, by the Department of Natural Resources, is a formal administrative action by the state of Missouri and is being issued because Ms. Karen Gaffey (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 Respondent 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. The Respondent owns and operates a wastewater treatment facility (WWTF) located in the SE ¼, SW ¼, SW ¼, Section 3, Township 47 North, Range 12 West, in Boone

County, Missouri. Wastewater generated by 20 mobile homes in the Bonne Femme Mobile Home Park (MHP) is stored in two-cell storage basin and land applied on an adjacent field (no discharge system). The no discharge system has a design flow of 6,640 gallons per day and an actual flow of 2,900 gallons per day with a design population equivalent of 59. Design sludge production is 0.9 dry tons per year. The no discharge system is to be operated pursuant to the terms and conditions of Missouri State Operating Permit (MSOP) No. MO-0126977.

2. MSOP No. MO-0126977 was issued to the Respondent on December 5, 2008, and expires by its own terms on December 4, 2013. The department received an application to renew MSOP No. MO-0126977 on August 5, 2013. The MSOP requires wastewater to be stored and land applied during suitable conditions so that there is no discharge from the storage lagoon or the irrigation site. The MSOP allows an emergency discharge from the storage lagoon through Outfall No. 001 to a tributary to Bonne Femme Creek when excess wastewater has accumulated above feasible irrigation rates due to precipitation exceeding the 1-in-10 year, 365 day rainfall or the 25-year, 24 hour storm event.

3. When an emergency discharge event occurs the MSOP requires the Respondent to sample discharges from Outfall No. 001, analyze the sample for the parameters contained in Table A of the MSOP and submit the results to the department on quarterly monitoring reports.

4. MSOP No. MO-0126977 requires the Respondent to submit an annual Monitoring Report for Land Application Operational Monitoring to the department by January 28th of each year for the previous calendar year period. The annual monitoring report must include the lagoon freeboard, the hours irrigation occurred each day, the volume irrigated each day, acres application area each day, application rate for each day, and daily rainfall.

5. MSOP No. MO-0126977 requires the Respondent to collect one sample the effluent land applied and analyze the effluent for Total Kjeldahl as Nitrogen, Nitrate as Nitrogen, and Fecal Coliform. MSOP No. MO-0126977 required the Respondent to submit the results to the department by January 28th of each year for the previous calendar year period.

6. MSOP No. MO-012977 included a Schedule of Compliance (SOC) requiring the Respondent to rip-rap the lagoon berms to provide stabilization by December 5, 2009, and submit a written report to the department by January 5, 2010, documenting that the lagoon berms have been stabilized with rip-rap.

7. MSOP No. MO-0126977 included a SOC requiring the Respondent to replace the PVC pipe used for irrigation of wastewater by December 5, 2009, submit a written report to the department by January 5, 2010, that documents that the PVC pipe has been replaced

8. MSOP No. MO-0126977 included a SOC requiring the Respondent to remove sludge from the lagoons by December 5, 2013, pursuant to a Biosolids Management Plan (BSMP) approved by the department. MSOP No. MO-0126977 also required the Respondent to notify the department in writing, at least 180 days prior to the planned removal of biosolids and submit progress reports to the department every 12 months beginning December 5, 2008. To date the department has not received a BSMP or interim progress reports regarding the sludge status removal from the storage basin.

9. The department did not receive quarterly monitoring reports for the first, second, third, and fourth quarters of 2015.

10. On March 6, 2014, department staff conducted a routine compliance inspection of the Bonne Femme . During the inspection of the storage basin staff observed the following

deficiencies: all-weather access road had not been completed as required by the MSOP; the perimeter fence around the storage basins was damaged; the gate did not have a lock; trees growing on the north side of the storage basin; damage to the inner berm of the storage basin; riprap did not surround the entire storage basin, as required by the MSOP; the wastewater level marker minimum and maximum marks were not readable; the aerator in the primary cell was not functioning; and there was not adequate freeboard provided in the second cell of the storage basin.

11. On April 25, 2014, the department issued the Respondent Notice of Violation (NOV) No. NER2014040114245184 for the violations observed during the March 6, 2014, inspection. The NOV required the Respondent submit a written response for the violations to the department by November 4, 2014.

12. 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 violated the MCWL and its implementing regulations as follows:

13. Failed to submit timely and complete DMRs as required in Part "A" of MSOP MO-0126977, in violation of Section 644.076.1, RSMo, and 10 CSR 20-7.015(9)(D)1.

14. Failed to remove sludge from the lagoon and submit interim progress reports as required in Part "D", SOC of MSOP No. MO-0126977, in violation of Sections 644.076.1 RSMo, and 10 CSR 20-6.010(7)(A).

15. Failed to clearly mark the minimum and maximum operating water levels for the storage lagoon, as required by Special Conditions No. 7.b. of MSOP No.MO-0126977, in violation of Section 644.076.1, RSMo.
16. Failed to provide locked gate, in violation of 10 CSR 20-8.020(11)(C).
17. Failed to provide adequate fencing to prevent unauthorized access, in violation of 10 CSR 20-8.020(11)(c)11.A.
18. Failed to provide an all-weather access road from public right-of-way to the no discharge system, in violation of 10 CSR 20-8.020(11)(A)2.
19. Failed to provide a minimum of two feet of freeboard above the wastewater level in the lagoon, in violation of 10 CSR 20-8.020(13)(A)3.B.
20. Failed to maintain the inner berm slopes of the lagoon to be no less than three to one (3:1), in violation of 10 CSR 20-8.020(13)(A)3.C.
21. Failed to remove deep-rooted vegetation on the lagoon berms, in violation of 10 CSR 20-8.020(13)(A)3.G.
22. Failed to develop and implement an Operation and Maintenance Manual as required by Special Condition No. 7 of MSOP No. MO-0126977, in violation of Section 644.076.1 RSMo.

AGREEMENT

23. 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.
24. 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.

25. 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 \$4,000.00. The department and the Respondent agrees that \$2,000.00 of the civil penalty shall be suspended on the condition the city complies with all requirements and conditions contained in this AOC. The payment in the amount of \$2,000.00 shall be in the form of a check made payable to the "Boone County Treasurer, as custodian of the Boone 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

26. The suspended penalty described in Paragraph 26 in the amount of \$2,000.00 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 the determination that the Respondent has failed to meet the terms of this AOC, including the requirements of Paragraphs 32 through 35, the department shall send a written demand for the suspended penalty to the Respondent. The Respondent shall have 15 days from the receipt of the written demand to submit the suspended penalty to the address listed in Paragraph 30.

27. In the period of time from the effective date of this AOC until the wastewater flows from the Bonne Femme MHP are connected to the Boone County Regional Sewer District's wastewater collection and treatment system and the Bonne Femme MHP no discharge system is properly closed, the Respondent agrees and is ordered to operate and maintain the no discharge system at all times in compliance with the conditions and requirements of MSOP No. MO-0126977. All units or components of the no discharge system shall be maintained in an operable condition, even if this requires the purchase and installation of new parts or equipment, or repair.

28. Within 60 days of the effective date of this AOC, the Respondent agrees and is ordered to the department a closure plan for the no discharge system, developed in accordance with the Standard Conditions, Part III, Section I, of MSOP No. MO-0126977 and a Facility Closure Request Form (780-2512).

29. Within 15 days receipt of written comments from the department on the closure plan the Respondent agrees and is ordered to submit a written response addressing all comments to the department's satisfaction.

30. Within 180 days of the effective date of this AOC the Respondent agrees and is ordered complete construction of a sewer extension to connect the wastewater flows from the Bonne Femme MHP to district's wastewater collection and treatment system. The sewer extension shall be designed and sealed by a professional engineer registered in the state of Missouri in accordance with 10 CSR 20 Chapter 8 and shall be constructed in accordance with the registered professional engineer's design and plans. Prior to beginning construction of the sewer extension, the Respondent agrees and is ordered to obtain all necessary easements,

approval from the district for the connection and if applicable a construction permit from the department. If a construction permit from the department is not required for the sewer extension, Respondent agree and are ordered to submit to the department a copy of the plans and specifications sealed by a professional engineer licensed to practice in the state of Missouri at least 30 days prior to beginning construction of the sewer extension.

31. Within 15 days of completing construction of the sewer extension and diverting the flows from the Bonne Femme MHP to the district's wastewater system, the Respondent agrees and is ordered to submit to the department written notification that the construction of the sewer extension is complete and wastewater from the Bonne Femme MHP being transferred to the district.

32. Within 90 days of connecting the wastewater flows from Bonne Femme MHP to the Boone County Regional Sewer District area-wide sewer authority system and completing closure of the no discharge system, in accordance with the department approved closure plan, Respondent agrees and is ordered to submit to the department, a complete and approvable Request for Termination (Form J) for MSOP No. MO-0126977.

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

SUBMISSIONS

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

Mr. Travis Lyon
Department of Natural Resources
Water Protection Program
Compliance and Enforcement Section
P.O. Box 176
Jefferson City, Missouri 65102-0176

OTHER PROVISIONS

35. 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.

36. Should the Respondent fail to meet the terms of this AOC, including the deadlines for completion of corrective actions set out in Paragraphs 32 through 35, 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 "Boone County Treasurer, as custodian of the Boone 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

37. 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.

38. 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.

39. 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.

40. 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.

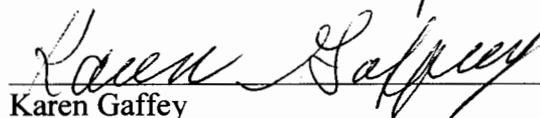
NOTICE OF APPEAL RIGHTS

Water Protection Program

41. By signing this AOC, the Respondent 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.

SIGNATURE AUTHORITY

Agreed to and Ordered this 24 day of Feb, 2016



Karen Gaffey
Bonne Femme Mobile Home Court

Agreed to and Ordered this 12 day of May, 2016



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

Copies of the foregoing served by certified mail to:

Ms. Karen Gaffey
Bonne Femme Mobile Home Court
5101 Boone Femme Church Road, Lot 19
Columbia, MO 65201
CERTIFIED MAIL # 7012 2920 0002 0660 6573

c: Ms. Diane Huffman, Environmental Protection Agency
Ms. Irene Crawford, Director, Northeast Regional Office
Missouri Clean Water Commission
Accounting Program