

BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES

In the Matter of:)	
)	
Calvey Creek Sewer District)	
7380 Highway O)	Order No. 2016-WPCB-1413
Robertsville, MO 63072)	
)	
Serve:)	
Scott Gable, President)	
Calvey Creek Sewer District)	

ABATEMENT ORDER ON CONSENT

NOTICE TO RECIPIENTS OF ABATEMENT ORDERS ON CONSENT

The issuing of this Abatement Order on Consent (AOC) No. 2016-WPCB-1413, by the Department of Natural Resources, is a formal administrative action by the state of Missouri and is being issued because Calvey Creek Sewer District (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 was organized and incorporated on July 15, 1988. The Respondent owns and operates two wastewater treatment lagoons. The Catawissa lagoon is located in the NE ¼, NE ¼, Section 34, Township 43 North, Range 2 East and the Robertsville lagoon is located in the SE ¼, SW ¼, NW ¼, Section 32, Township 43 North, Range 2 East, Franklin County, Missouri.

- a. The Catawissa Lagoon is a three cell lagoon with sludge retained in the lagoon. Catawissa has a design flow of 185,000 gallons per day (gpd), an actual flow of approximately 50,000 gpd, and a design population equivalent of 1,850. Actual sludge production is 37 dry tons per year. Catawissa discharges treated effluent into Winch Creek, a Class C receiving stream, pursuant to the requirements and conditions of Missouri State Operating Permit (MSOP) No. MO-0115410. Winch Creek has the beneficial uses of irrigation, Livestock and Wildlife watering, Protection of Warm Water Aquatic Life, Human Health-Fish Consumption, Whole Body Contact Recreation (B), and Secondary Contact Recreation. The MSOP was issued on September 1, 2015, and expires on September 30, 2017.
- b. The Robertsville Lagoon is a three cell aerated lagoon with sludge retained in the lagoon. Robertsville has a design flow of 74,000 gpd, an actual flow of 12,000 gpd, and a design population equivalent of 740. Designed sludge production is 15 dry tons per year. Robertsville discharges treated effluent into the Meramec River (P) waterbody pursuant to the requirements and conditions of MSOP No. MO-0115401. Meramec River has the beneficial uses of Livestock and Wildlife

Watering, Protection of Warm Water Aquatic Life and Human Health—Fish Consumption, Cool Water Fisheries, Whole Body Contact Recreation (A), Secondary Contact Recreation, and industrial. The MSOP was issued on April 15, 2011, and expires on April 14, 2016.

2. The MSOP NO. MO-0115410 issued to the Respondent for Catawissa lagoon on August 1, 2008, included a Schedule of Compliance (SOC) requiring the Respondent to install equipment to comply with the final permitted limits for Fecal Coliform by no later than April 1, 2011. The Respondent was required to follow an activity schedule summarized as follows:

- a. By June 30, 2009, the Respondent shall submit a construction permit application and schedule towards meeting disinfection requirements.
- b. By April 1, 2011, construction must be complete and submit a Statement of Work Complete signed by the owner and licensed professional engineer in the state of Missouri.

3. The MSOP No. MO-0115401 issued to the Respondent for Robertsville lagoon on October 15, 2004, included a SOC requiring the Respondent to install equipment to comply with the final permitted limits for Fecal Coliform by no later than June 30, 2007. The Respondent was required to follow an activity schedule summarized as follows:

- a. By June 30, 2005, the Respondent shall submit a report on the ability of the existing treatment system to meet effluent limits of Fecal Coliform and if the system is not able to consistently meet effluent limits, the report shall also describe proposed disinfection facilities that will enable the system to comply with effluent limits for Fecal Coliform.

- b. By December 30, 2005, the Respondent shall submit a construction permit application for disinfection if needed to meet effluent limits for Fecal Coliform.
 - c. By June 30, 2007, the Respondent shall complete construction of improvements necessary to comply with permitted effluent limitations for Fecal Coliform.
4. MSOP No. MO-0115410 requires the Respondent to sample the effluent discharged from the Catawissa lagoon through Outfall No. 001 and chemically analyze the effluent sample for the water contaminants listed in Part "A" every month. MSOP No. MO-0115410 further requires the effluent to comply with the effluent limitations contained in Part "A" and requires the results of the analysis to be submitted quarterly to the department on Discharge Monitoring Reports (DMRs) by the 28th day of the month following the reporting period.
5. MSOP No. MO-0115401 requires the Respondent to sample the effluent discharged from the Robertsville lagoon through Outfall No. 001 and chemically analyze the effluent sample for the water contaminants listed in Part "A" every quarter. MSOP No. MO-0054038 further requires the effluent to comply with the effluent limitations contained in Part "A" and requires the results of the analysis to be submitted to the department on quarterly DMRs by the 28th day of the month following the reporting period. (The prior MSOP issued October 15, 2004, required the monthly analysis and reporting.)
6. Winch Creek and its tributaries are waters of the state as the term is defined by Section 644.016(27), RSMo.
7. Meramec River and its tributaries are waters of the state as the term is defined by Section 644.016(27), RSMo.

8. Domestic wastewater and sludge are water contaminants as the term is defined in Section 644.016(24), RSMo.

9. Fecal Coliform and E. coli are water contaminant(s) as the term is defined in Section 644.016(24), RSMo.

10. Monthly DMRs submitted to the department document that the effluent discharged from Catawissa failed to comply with the applicable permitted effluent limitations for Fecal Coliform and E. coli during the months of April-October 2011, September 2012, April and July 2014, and September 2015.

11. Quarterly DMRs submitted to the department document that the effluent discharged from Robertsville failed to comply with the applicable permitted effluent limitations for Fecal Coliform and E. coli during the months of July-September 2007, July-September 2008, April and June-October 2009, April-July 2010, and April and October 2011 and the first and second quarters 2012, third quarter 2014, and first, second and third quarters 2015.

12. On March 8, 2011, the department sent a letter informing the Respondent that the Catawissa MSOP contained a SOC for disinfection upgrades. The letter stated that DMRs for the last two years indicated the effluent discharged from the Catawissa lagoon did not comply with permitted effluent limitations for Fecal Coliform.

13. On June 24, 2011, the department issued a Letter of Warning (LOW) to the Respondent for failure to comply with permitted effluent limitations for Fecal Coliform at the Catawissa lagoon.

14. On July 11, 2011, the Respondent sent to the department a response to June, 24, 2011, LOW. The letter stated that the Respondent was in the process of a major upgrade with

the construction of a mechanical plant at Catawissa which would include Ultraviolet disinfection and that this new plant would also treat flows from Robertsville. The Respondent also stated that the plans were nearly complete, are awaiting easements, have funding, and hope to be in full compliance as soon as the Respondent can complete the improvements with the new mechanical plant.

15. On February 22, 2012, the department conducted a routine compliance inspection of Catawissa and Robertsville. Staff met with the operator who granted access to the sites and accompanied the inspector throughout the inspections.

- a. During the inspection of the Catawissa lagoon, staff observed that the water in the lagoon and the effluent were green and that the outfall was not marked. As part of the inspection, staff collected samples of the effluent which were analyzed and lab results showed that the Biochemical Oxygen Demand (BOD) concentration was 74.3 milligrams per liter (mg/L). During the inspection, staff reviewed the flow logs which indicate that after precipitation events; the flow exceeds the design flow of 185,000 gpd. As part of the inspection, staff reviewed the department's file and found that Respondent failed to submit monthly DMRs in September 2008, February 2009, and June and December 2011.
- b. During the inspection of the Robertsville lagoon, staff observed that the water in the lagoon and the effluent were green and that the outfall was not marked. As part of the inspection staff reviewed the department's file for the Robertsville lagoon and found the following violations: i) the effluent failed to comply with permitted effluent limitations for Fecal Coliform in June 2011; ii) the Respondent

failed to report all required effluent parameters for the second and third quarters of 2011; iii) failed to report flow in November and December 2011; and iv) failed to comply with the SOC contained in the MSOP requiring the Respondent to complete construction necessary to achieve compliance with permitted effluent limitations for Fecal Coliform by June 30, 2007.

16. On March 12, 2012, department issued Notice of Violation (NOV) No. 08152970 to the Respondent for violations identified during the February 22, 2012, inspection and file review for the Catawissa lagoon. The NOV required the Respondent to submit a written statement to the department within three weeks of receipt of the NOV explaining what actions have been taken to correct the unsatisfactory features and prevent a reoccurrence in the future.

17. On March 14, 2012, the department issued NOV No. 11124032 to the Respondent for violations identified during the February 22, 2012, inspection and file review for the Robertsville lagoon. The NOV required the Respondent to submit written statement to the department within three weeks of receipt of the NOV explaining what actions have been taken to correct the unsatisfactory features and prevent a reoccurrence in the future.

18. On April 26, 2012, the department received a response to the NOVs issued on March 12, 2012 and March 14, 2012. The Respondent explained that the Board of Supervisors had recently changed and that the new board has received no support from the prior members and thus has had to learn all the rules, regulations, and processes as issues arose. The Respondent stated that they would work with the department to correct the issues at both the Catawissa and Robertsville.

19. On December 4, 2012, the department issued NOV No. 14285208 to the Respondent for failure to complete upgrades to the Robertsville lagoon and NOV No. 13244824 to the Respondent for failing to complete upgrade Catawissa as required MSOPs.

20. On April 8, 2013, the department conducted a routine compliance inspection of Catawissa and Robertsville lagoons. Staff met with the operator who granted access to the sites and accompanied the inspector throughout the inspections.

- a. During the Catawissa inspection, staff observed that the water in the lagoon and the effluent were green. As part of the inspection, staff collected samples of the effluent which were analyzed and lab results showed that the BOD concentration of 62.8 mg/L. As part of the inspection staff reviewed the department's file for the Catawissa lagoon and found that Respondent failed to submit monthly DMRs for 2013 and failed to submit Whole Effluent Toxicity testing results for 2012.
- b. During the Robertsville inspection, staff observed that the water in the lagoon and the effluent were green. As part of the inspection, staff collected samples of the effluent which were analyzed. Results showed a BOD concentration of 46 mg/L and Total Suspended Solids (TSS) concentration of 92.0 mg/L. As part of the inspection staff reviewed the department's file for the Robertsville lagoon and found that Respondent failed to report all required effluent parameters for the fourth quarters of 2012, failed to report flow in February and November 2012, exceeded effluent permitted effluent limitations for E. coli during the second quarter 2012 and E. coli and TSS in the third quarter of 2012.

21. On April 12, 2013, the department issued NOV No. 10073642 to the Respondent for violations identified during the April 8, 2013, inspection and file review. The NOV required the Respondent to submit written statement to the department within 15 days of receipt of the NOV explaining what actions have been taken to correct the unsatisfactory features and prevent a reoccurrence in the future.

22. On April 22, 2013, the department issued NOV No. 09243384 to the Respondent for violations identified during the April 8, 2013, inspection and file review. The NOV required the Respondent to submit a written statement to the department within 15 days of receipt of the NOV explaining what actions have been taken to correct the unsatisfactory features and prevent a reoccurrence in the future. The NOV also stated that the Respondent was being referred to the Water Pollution Control Branch Compliance and Enforcement Section for further enforcement actions.

23. On May 13, 2013, the department received correspondence from the Respondent responding to the NOVs issued on April 12, 2013 and April 22, 2013. The Respondent stated that they would submit future DMRs and collect influent samples. The letter also stated that the Respondent was working towards installing disinfection and provided a schedule for the completion of the upgrades by May 31, 2014.

24. On May 15, 2013 the department received a MSOP renewal application for the Catawissa lagoon.

25. On December 31, 2013, and on February 25, 2015, the department received construction permit applications from the Respondent to install a Peracetic Acid Disinfection System at Robertsville and Catawissa, respectively. In March 2015, the Respondent sent revised

facility plans to the department to install chlorination/dechlorination disinfection systems. On April 7, 2015, the department issued Robertsville Construction Permit No. CP0001619 to install a chlorination/dechlorination disinfection system that included 75 linear feet of 8-inch pipe, two Norweco Model LF4800 tablet feeders for chlorination and dechlorination, two 1,500-gallon chlorine contact basins in series, and all necessary appurtenances. The construction permit will expire on its own terms on April 6, 2017. On August 18, 2015, the department issued Catawissa Construction Permit No. CP0001628 to install a chlorination/dechlorination disinfection system included approximately 211 linear feet of 10-inch pipe, four Norweco Model LF4800 tablet feeders for chlorination and dechlorination, three 2,320-gallon chlorine contact basins in series, Greyline Model OCF 5.0 open channel flow monitor, and all necessary appurtenances. The construction permit will expire on its own terms on August 17, 2017.

26. On May 18, 2015, the department's Financial Assistance Center (FAC) received a Rural Sewer Grant application from the Integrity Engineering on the behalf of the Respondent to fund the installation of the chlorination/dechlorination disinfection systems described in the Respondent's Construction Permit Nos. CP0001619 and CP0001628.

27. On September 1, 2015, the department reissued MSOP No. MO-0115410 for Catawissa.

28. On March 9, 2015, FAC sent the Respondent via mail the approval to bid the project for installing chlorination/dechlorination disinfection systems at the Catawissa and Robertsville facilities.

29. Section 644.076.1, RSMo makes it unlawful to violate the MCWL and regulations promulgated pursuant thereto and establishes penalties up to \$10,000.00 per day per violation.

STATEMENT OF VIOLATIONS

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

Catawissa

30. Failed to complete upgrades necessary to achieve compliance with permitted effluent limitations for Fecal Coliform as required in Part "B", Standard Conditions, and Part "E", SOC, of MSOP No. MO-0115410, in violation of Section 644.076.1, RSMo, and 10 CSR 20-6.010(7)(A).

31. Failed to submit complete and timely DMRs as required in Part "C" of MSOP No. MO-0115410, in violation of Section 644.076.1, RSMo, and 10 CSR 20-7.015(9)(D)1.

32. Failed to comply with the effluent limits contained in Part "A" of MSOP No. MO-0115410, in violation of Sections 644.051.1(3) and 644.076.1, RSMo.

33. Caused pollution of Winch Creek, waters of the state, or placed or caused or permitted to be placed (a) water contaminant(s) in a location(s) where it is reasonably certain to cause pollution of waters of the state, in violation of Sections 644.051.1(1) and 644.076.1, RSMo.

Robertsville

34. Failed to complete upgrades necessary to achieve compliance with permitted effluent limitations for Fecal Coliform as required in Part "B", Standard Conditions, and Part "D", SOC, of MSOP No. MO-0115401, in violation of Section 644.076.1, RSMo, and 10 CSR 20-6.010(7)(A).

35. Failed to submit complete and timely DMRs as required in part "C" of MSOP No. MO-0115401, in violation of Section 644.076.1, RSMo, and 10 CSR 20-7.015(9)(D)1.

36. Failed to comply with the effluent limits contained in Part "A" of MSOP No. MO-0115401, in violation of Sections 644.051.1(3) and 644.076.1, RSMo.

37. Caused pollution of Meramec River, waters of the state, or placed or caused or permitted to be placed (a) water contaminant(s) in a location(s) where it is reasonably certain to cause pollution of waters of the state, in violation of Sections 644.051.1(1) and 644.076.1, RSMo.

AGREEMENT

38. 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.

39. 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.

40. 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 \$19,142.60. The department and Respondent further agree that \$17,642.60 of the civil penalty shall be suspended as described in Paragraph 41 below. The payment of the civil penalty in the amount of \$1,500.00 shall be in the form of a check made payable to the "Franklin County Treasurer, as custodian of the Franklin County School Fund" in eight consecutive monthly installments of no less than \$200.00 each. The first payment is due

and payable upon execution of this AOC by the Respondent and the subsequent payments shall be due and payable by the first day of each preceding month. 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 65102-0176

41. The suspended penalty described in Paragraph 40 in the amount of \$17,642.60 shall be suspended for a period of five years from the execution of this AOC upon the condition that the Respondent does not violate the terms of the AOC, the MCWL, or the requirements of MSOP Nos. MO-0115410 and MO-0115401. Upon determination that the Respondent has failed to meet the terms of this AOC, including the requirements of Paragraphs 42 through 47 the department shall send a written demand for the suspended penalty to the Respondent. The Respondent shall have 15 days from receipt of written demand to submit the suspended penalty to the address listed in Paragraph 40 of this AOC.

42. In the period of time from the effective date of this AOC until the upgrades to the Catawissa and Robertsville lagoons are completed, the Respondent shall operate the existing lagoons at all times in compliance with the conditions and requirements of MSOP Nos. MO-0115410 and MO-0115401. All units or components of the existing lagoons shall be maintained in an operable condition, even if this requires the purchase and installation of new parts or equipment, or repair.

43. On or before April 1, 2017, the Respondent agrees and is ordered to complete construction of the chlorination/dechlorination disinfection systems described in the

Respondent's Construction Permit Nos. CP0001619 and CP0001628 and achieve compliance with all applicable permitted effluent limitations.

44. 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 and if applicable, a complete application for the modified MSOPs, including applicable fee.

45. Within 180 days of the effective date of this AOC, the Respondent agrees and is ordered to develop a Maintenance and Repair Program (M&R) for its wastewater collection and treatment systems and submit the M&R Program to the department for review. The M&R Program shall include but not be limited to the following: (1) a schedule and a budget for routine and systematic inspection, maintenance and repair of the wastewater collection and treatment systems to identify and correct sources of Inflow and Infiltration and other defects and all short and long term capital investment projects and activities that will be necessary to ensure current and long term compliance with the Respondent's MSOPs; and (2) a process to reevaluate the assumptions, schedules, and conclusions of the Respondent's M&R Program at a minimum of every two years to ensure it continues to provide a viable planning tool.

46. Within 30 days receipt of department comment's on the Respondent's M&R Program, the Respondent shall respond to and adequately address, to the department's satisfaction, all of the departments comments on the M&R Program.

47. Within five days receipt of correspondence from the department informing the Respondent the department that it has reviewed the M&R Program and has not comments, the

Respondent agrees and is ordered to implement the M&R Program pursuant to the schedule submitted to the department as a condition of compliance with this AOC.

SUBMISSIONS

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

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

OTHER PROVISIONS

49. 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.

50. Should the Respondent fail to meet the terms of this AOC, including the deadlines for completion of construction set out in Paragraphs 18 through 31, 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	\$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 check made payable to “Franklin County Treasurer, as custodian of the Audrain 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

51. 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.

52. 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.

53. 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.

54. 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 his records.

COST ANALYSIS FOR COMPLIANCE

55. Pursuant to Section 644.145, the Cost Analysis for Compliance (CAFCom), which addresses the obligations included within this Order through December 31, 2017, based upon the Respondent's cost estimate of \$150,346.00 through completion of corrective actions outlined in the Respondent's Rural Sewer Grant Application as attached hereto as Exhibit 1. In addition to the city's cost estimate, the department estimates the development of an M&R Program will cost less than \$20,000.00. This CAFCom does not address future improvements that may be necessary to comply with the MCWL or its implementing regulations. This AOC requires the Respondent to complete the construction of chlorination/dechlorination disinfection systems described in Construction Permit Nos. CP0001619 and CP0001628 and develop and implement a M&R Program. The department will update the Affordability Finding addressing the cost to implement the M&R Program and the CCSD agrees to provide such additional information requested by the department as is reasonably necessary to assist in developing any required Affordability Finding in the future

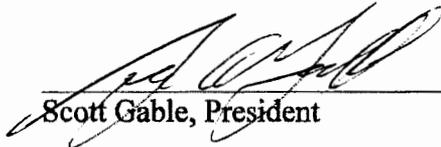
NOTICE OF APPEAL RIGHTS

56. 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.

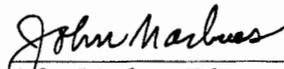
SIGNATURE AUTHORITY

Agreed to and Ordered this 13th day of July, 2016



Scott Gable, President

Agreed to and Ordered this 25th day of July, 2016



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

Copies of the foregoing served by certified mail to:

Mr. Scott Gable, President
Calvey Creek Sewer District
7380 Highway O
Robertsville, MO 63072

CERTIFIED MAIL # 7013 3020 0001 2161 7239

c: Ms. Diane Huffman, Environmental Protection Agency
Ms. Dorothy Franklin, Director, St. Louis Regional Office
Missouri Clean Water Commission
Accounting Program