

BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES

In the Matter of:)	
)	
Hickory Hills Water & Sewer Company,)	
)	Order No. 2016-WPCB-1392
Shamrock Heights Lagoon and)	
Meramec Sewer Company)	
)	
Serve:)	
Cheryl Norton, President)	
Missouri American Water Company)	

ABATEMENT ORDER ON CONSENT

NOTICE TO RECIPIENTS OF ABATEMENT ORDERS ON CONSENT

The issuing of this Abatement Order on Consent (AOC) No. 2016-WPCB-1392, by the Department of Natural Resources, is a formal administrative action by the state of Missouri and is being issued to Missouri American Water Company, (MAWC) to resolve violations of the Missouri Clean Water Law (MCWL) and its implementing regulations relating to the Hickory Hills Water and Sewer Company's sewer utility. 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 MAWC 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.

1. MAWC is a for profit business registered and in good standing with the Missouri Secretary of State.

HICKORY HILLS WATER & SEWER FINDINGS OF FACT

2. The Hickory Hills Water and Sewer Company is a water and sewer utility company regulated by the Missouri Public Service Commission. As part of its business Hickory Hills owned and operated a wastewater collection system and a single cell wastewater lagoon located in part of the NE 1/4 of Section 30, Township 45 North, Range 15 West, in Moniteau County, Missouri.

3. On March 19, 2004, the department issued Missouri State Operating Permit (MSOP) No. MO-0082121 to Hickory Hills. The MSOP authorized the discharge of treated wastewater from the single cell lagoon through Outfall No. 001 in accordance with the effluent limitations and monitoring requirements set forth in the MSOP.

4. Hickory Hills was abandoned by its owner and placed into receivership on January 2, 2007.

5. On July 10, 2008, department staff conducted an inspection of the Hickory Hills wastewater lagoon and observed that wastewater discharging from the lagoon. Staff observed that below the outfall, Scott Branch was grayish black in color and included sludge, duckweed and debris associated with wastewater. This is a violation of the Missouri Clean Water Commission's Water Quality Standards. On August 13, 2008, the department sent a Notice of Violation (NOV) to Hickory Hills.

6. On February 24, 2009, department staff conducted an inspection of the Hickory Hills wastewater lagoon and observed that below the outfall, Scott Branch was dark gray in color and included debris associated with wastewater. This is a violation of the Missouri Clean

Water Commission's Water Quality Standards. On April 16, 2009, the department sent an NOV to Hickory Hills.

7. On January 27, 2010, department staff conducted an inspection of Hickory Hills and observed wastewater bypassing over the lagoon berm at two different locations and flowing into Scott Branch. Department also observed that the discharge from the lagoon was causing pollution of Scott Branch and violating the Missouri Clean Water Commission's Water Quality Standards. As part of this inspection staff found that Hickory Hills failed to submit timely application to renew the MSOP and that Hickory Hills had been operating the wastewater lagoon without an MSOP since the MSOP expired on March 18, 2009. On February 19, 2010, the department sent an NOV to Hickory Hills.

8. On December 19, 2014, Hickory Hills, as a corporation, was administratively dissolved by the Missouri Secretary of State for failure to file a registration report.

9. Beginning in 2014 and continuing into 2015, the department, the Missouri Public Service Commission, the court-appointed receiver for Hickory Hills, and MAWC engaged in discussions and proceedings aimed at MAWC's possible acquisition of certain assets of Hickory Hills' treatment works, which might enable MAWC to correct some of the conditions described in Paragraphs 6 and 7 above and restore compliant water and sewer services to the customers in the Hickory Hills and Temple Terrace subdivisions in Moniteau County.

10. On November 30, 2015, the department received an application to renew MSOP No. MO-0082121 from MAWC.

11. On or about December 10, 2015, MAWC obtained the wastewater collection and treatment system from Hickory Hills.

SHAMROCK HEIGHTS SUBDIVISION FINDINGS OF FACT

12. MAWC purchased and began operating the Shamrock Heights Subdivision wastewater treatment facility (WWTF) in 2011. The Shamrock Heights WWTF consists of two separate two-cell lagoons located in part of the SW 1/4 of Section 25, Township 44 North, Range 11 West, in Cole County, Missouri. MAWC has made several collection system improvements since purchasing the system. On January 1, 2013, the department issued MSOP No. MO-0097632 to MAWC for the Shamrock Heights wastewater lagoons. The MSOP authorized the discharge of wastewater from Outfalls No. 001 and No. 002 in accordance with the effluent limitations and monitoring requirements set forth in the MSOP. The MSOP included a schedule to complete improvements that will enable the effluent to comply with final effluent limitations for E. coli by January 1, 2014, and Ammonia by January 1, 2024.

MERAMEC SEWER FINDINGS OF FACT

13. MAWC purchased and began operating the Meramec Sewer WWTF in 2013. Meramec Sewer consists of an extended aeration system with seasonal chlorination located in part of Land Grant 3011, in Jefferson County, Missouri. In September 2014, MAWC obtained a construction permit to upgrade the disinfection method to ultra violet. The construction was not initiated; however; due to a Jefferson County building code requirement (code 405.060 A8 a) which would have made it necessary to place the disinfection unit approximately 4.5 feet above the height of the existing WWTF so that it was above the 100 year floodplain. The original construction plan called for installing the UV within the existing disinfection chamber. Designing and constructing a new chamber 4.5' higher in elevation added significant costs to this project and MAWC decided to pursue a variance to avoid these costs and the impacts they would have on their customers' rates. MAWC has since been granted a

variance (2/19/2016) by the county that allows them to keep the structure at the current elevation.

MISSOURI DEPARTMENT OF NATURAL RESOURCES' CONCLUSIONS OF LAW

Violations of the MCWL and its implementing regulations alleged herein at Hickory Hills are:

14. All violations alleged in Paragraphs 15 through 22 occurred prior to MAWC's ownership of the assets of Hickory Hills.

15. Failed to operate and maintain WWTF to comply with the MCWL and applicable MSOP conditions in violation of Sections 644.051.1(3) and 644.076.1, RSMo.;

16. 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;

17. Caused pollution of Scott Branch, waters of the state, or placed or caused or permitted to be placed water contaminants in a location where they are reasonably certain to cause pollution of waters of the state in violation of Section 644.051.1(1) and 644.076.1, RSMo.;

18. Discharged wastewater to Scott Branch, waters of the state at a location other than Outfall No. 001 that which is authorized by MSOP No. MO-0082121 in violation of Section 644.076.1, RSMo.;

19. Failed to provide oral and/or written notification to the department for all bypasses as stated in the Standard Conditions of the MSOP No. MO-0082121 in violation of Section 644.076.1, RSMo.;

20. Failed to operate the WWTF so that there is no discharge of sludge to waters of the state as required by the Standard Conditions of MSOP No. MO-0082121 in violation of Section 644.076.1, RSMo;

21. Failed to comply with the Schedule of Compliance (SOC) as required in MSOP No. MO-0082121 in violation of Section 644.076.1, RSMo; and

22. Failed to submit timely Discharge Monitoring Reports as required in Part "A" of MSOP No. MO-0082121 in violation of Section 644.076.1, RSMo, and 10 CSR 20-7.015(9)(A)1.

Violations of the MCWL and its implementing regulations alleged herein at Shamrock Heights are:

23. Failed to upgrade WWTFs as required in Part "D", SOC, of MSOP No. MO-0097632 in violation of Section 644.076.1, RSMo, and 10 CSR 20-6.010(7)(A); and

24. Failed to comply with the effluent limits contained in Part "A" of MSOP No. MO-0097632 in violation of Sections 644.051.1(3) and 644.076.1, RSMo.

25. MAWC engaged the department in good faith negotiations, beginning in March of 2013, toward an extended compliance schedule for E. Coli limits, Paragraphs 23 and 24 notwithstanding.

AGREEMENT

26. The department and MAWC desire to amicably resolve all claims that might be brought against MAWC for the violations alleged above without MAWC admitting the validity or accuracy of such claims. 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 MAWC under this AOC.

27. MAWC agrees and is ordered to complete the following.

Hickory Hill, MO-0082121 — Moniteau County

- a. Within 30 days of the effective date of this AOC submit complete application to the department to renew MSOP No. MO-0082121.
- b. Between January 1, 2016 and December 31, 2016, collect data including but not limited to smoke testing, flow monitoring and Geographic Information System information that will be used to prepare a Sanitary Sewer Evaluation Survey (SSES).
- c. On or before March 1, 2017, submit a facility plan and the SSES report, prepared by a professional engineer licensed to practice in Missouri, to the department for review and approval that includes priorities and recommendations for upgrading or replacing the WWTF and a Sanitary Sewer Overflow Elimination Plan (SSOEP) to correct any Inflow and Infiltration identified in the SSES.
- d. Within 30 days of receipt of the department's comment letter on the Facility Plan and SSOEP, submit a response in writing to the department addressing all department comments on the Facility Plan and SSOEP.
- e. On or before December 31, 2018, complete the improvements to that portion of the wastewater collection system owned by MAWC pursuant to the approved SSOEP for Hickory Hills.
- f. Within six months of department approval of the facility plan, submit a complete application for a construction permit; engineering plans and specifications (EP&S) prepared by a professional engineer licensed to practice in the state of Missouri

to upgrade or replace the WWTF that will result in compliance with the MCWL and its implementing regulation. If the existing lagoon will not be utilized in the upgrades submit a plan to close the lagoon to the department for review and approval.

g. Within 30 days of receipt of the department's comment letter on the EP&S, construction permit and the closure plan, if applicable, submit a response in writing to the department addressing all department comments.

h. Within 12 months of issuance of the construction permit, complete construction according to plans and specifications submitted to the department.

i. Within 15 days of completing construction, 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 complies with the MSOP effluent limitations contained in the operating permit.

j. If applicable, within 12 months of replacement of the lagoon, complete closure of the lagoon according to the department approved closure plan and submit documentation to the department that the lagoon has been closed.

k. In the interim, take all practicable efforts to operate and maintain the existing WWTF to comply with the conditions and requirements of the MSOP.

Shamrock Heights, MO-0097632 — Cole County

l. On or before September 1, 2016, submit a facility plan describing improvements planned for Shamrock Heights; a complete application for a construction permit; a lagoon closure plan and engineering plans and specifications. These must be prepared by a professional engineer licensed to practice in the state of Missouri.

m. Within 12 months of issuance of the construction permit, or by December 31, 2017 (whichever comes first), complete construction at Shamrock Heights according to the department approved plans and specifications and achieve compliance with effluent limits specified in the permit.

n. Within 12 months of completion of the construction project, complete closure of the inactive lagoon according to the department approved closure plan.

Meramec Sewer, MO-0091162 — Jefferson County

o. Submit a complete application for a construction permit and engineering plans and specifications for adding disinfection to the Meramec Sewer WWTF, MSOP No. MO-0091162. These must be prepared by a professional engineer licensed to practice in the state of Missouri.

p. On or before March 31, 2017, complete construction of the disinfection system according to the plans and specifications and achieve compliance with effluent limitations for E. coli contained in MSOP No. MO-0091162.

SUBMISSIONS

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

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

OTHER PROVISIONS

29. Immediately upon becoming aware that a deadline or milestone as set forth in this AOC will not be completed by the required deadline, MAWC agrees and is ordered to

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, MAWC agrees and is ordered to 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 MAWC's right to request an extension and may be grounds for the department to deny the extension.

30. Should MAWC fail to meet the terms of this AOC, including the deadlines for completion of construction set out in Paragraph 26, MAWC 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 checks made payable to "Cole County and Moniteau County Treasurer, as custodian of the Cole County and Moniteau 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

31. 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.

32. Nothing in this AOC forgives MAWC 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 which 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.

33. 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.

34. 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 MAWC for their records.

NOTICE OF APPEAL RIGHTS

35. 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 10 day of June, 2016

Cheryl D. Norton

Cheryl Norton, President
Missouri American Water Company

Agreed to and Ordered this 15th day of June, 2016

John Madras

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

Copies of the foregoing served by certified mail to:

Mr. Tim Ganz, Operations Manager
Missouri American Water Company
727 Craig Road
St. Louis, MO 63141

CERTIFIED MAIL # 7012 2920 0002 0660 6122

c: Ms. Irene Crawford, Director, Northeast Regional Office
Mr. Tim Duggan, Missouri Attorney General's Office
Ms. Diane Huffman, Environmental Protection Agency
Missouri Clean Water Commission
Accounting Program