



- Outfall No. 001 is for a single cell no-discharge lagoon located in the SE ¼, NE ¼, NW ¼, Section 5, Township 56 North, Range 5 West. The system has a wet-weather (1-in-10-year) design flow of 6,512 gallons per day (gpd) and a dry weather design flow of 2,065 gpd. The design population equivalent is 81 and the design production is 1.22 dry tons per year. Sludge is retained in the lagoon. Wastewater is land applied to a hayfield east of the lagoon.
  - Outfall No. 002 is for a septic tank with effluent pumped to a recirculating sand filter, located in the NE ¼, NE ¼, NW ¼, Section 5, Township 56 North, Range 5 West, in Ralls County. The system has a design flow of 4,856 gpd and an actual flow of 186 gpd. The design population equivalent is 65 and the design sludge production is 0.5 tons per year. Effluent from Outfall No. 002 discharges to an unnamed tributary of Little Bear Creek, pursuant to Missouri State Operating Permit (MSOP) No. MO-0122564.
- B. Little Bear Creek, and its tributaries are waters of the state as the term is defined by Section 644.016(27) RSMo.
- C. Domestic wastewater is a water contaminant as the term is defined in Section 644.016(24), RSMo.
- D. The Department issued the MSOP to the Scott Brothers on November 17, 2006, which expired on November 16, 2011. The MSOP included final effluent limitations for Fecal Coliform and a Schedule of Compliance (SOC) requiring the Scott Brothers to complete upgrades to enable the effluent to comply with final effluent limitations for Fecal Coliform by November 15, 2011.
- E. On October 4, 2011, the Department received a Preliminary Engineering Report for a proposed disinfection upgrade from Klinger and Associates, P.C., and on June 12, 2012, the Department issued Construction Permit No. CP0001312 to the Scott Brothers for an ultraviolet disinfection system.
- F. The Department re-issued the MSOP to Scott Brothers, on September 1, 2012, which is set to expire by its own terms on August 31, 2017. The MSOP requires the Scott Brothers to sample the effluent discharged from Outfall No. 002 and chemically analyze the effluent sample for the water contaminants listed in Part “A” every quarter. The MSOP also requires the effluent to comply with the limitations contained in Part “A” and requires the results of the analysis to be submitted to the Department on quarterly Discharge Monitoring Reports (DMRs) by the 28<sup>th</sup> day of the month following the reporting period.
- G. The September 1, 2012, MSOP includes interim effluent limitations for Fecal Coliform, final effluent limitations for E. coli, and a SOC requiring the Scott Brothers to complete improvements to the WWTF that will enable the effluent discharging from Outfall No. 002 to comply with the final limitations for E. coli by January 1, 2014.

- H. The September 1, 2012, MSOP also includes interim monitoring and final effluent limitations for Ammonia as Nitrogen and a SOC that required the Scott Brothers to complete improvements to the WWTF that will enable the effluent discharging from Outfall No. 002 to comply with final limitations for Ammonia as Nitrogen by September 1, 2014.
- I. Quarterly DMRs submitted to the Department document that the effluent discharged from the Scott Brothers' WWTF at Outfall No. 002 failed to comply with the applicable permitted effluent limitations for Fecal Coliform during the second quarter of 2012; and second, third, and fourth quarters of 2013.
- J. Quarterly DMRs submitted to the Department document that the effluent discharged from the Scott Brothers' WWTF at Outfall No. 002 failed to comply with the applicable permitted effluent limitations for E. coli during the second and third quarters of 2014.
- K. Quarterly DMRs submitted to the Department document that the effluent discharged from the Scott Brothers' WWTF at Outfall No. 002 failed to comply with the applicable permitted effluent limitations for Biochemical Oxygen Demand during the second quarter of 2014.
- L. Quarterly DMRs submitted to the Department document that the effluent discharged from the Scott Brothers' WWTF at Outfall No. 002 failed to comply with the applicable permitted effluent limitations for pH during the first quarter of 2013 and the third quarter of 2014.
- M. Quarterly DMRs submitted to the Department document that the effluent discharged from the Scott Brothers' WWTF at Outfall No. 002 failed to comply with applicable permitted effluent limitations for Total Suspended Solids during the second quarter of 2014.
- N. The MSOP requires the Scott Brothers to monitor the lagoon freeboard once a month, and daily monitor the, irrigation period, volume irrigated, application area, application rate, and rainfall data from Outfall No. 001 and submit a report detailing the results of the Land Application Operational Monitoring and Irrigated Wastewater contained in Part "A" of the MSOP by the 28<sup>th</sup> day of October each year. The Department has not received the Scott Brothers' land application and irrigation information for the months of January, February, March, July, August, October, November, and December 2012, to satisfy the requirements of the 2013 annual report.
- O. On December 11, 2013, Department staff conducted an inspection of the WWTF with the operator, present. During the inspection, staff observed the following unsatisfactory conditions: 1) failure to provide a locked gate; 2) failure to maintain the inner berm of the lagoon at three to one (3:1) slope; and 3) failure to place and maintain proper warning signs. Department staff reviewed the files associated with MSOP No. MO-0122564 and found that the WWTF had exceeded

its permitted effluent limitations during the second and third quarters of 2012, and the second, third, and fourth quarters of 2013. Staff further found that CP000312 had expired on June 11, 2013, and the Scott Brothers failed to complete construction of the ultraviolet disinfection system; failed to comply with the final effluent limitations for E. coli by December 31, 2013; and failed to submit a progress report regarding attaining compliance with the final effluent limitations for Ammonia as Nitrogen.

- P. Based upon the violations documented during the December 11, 2013, inspection, the Department issued Notice of Violation (NOV) No. NER2013122314055070 to Mr. Steve McDowell, manager of the district, and NOV No. NER2014011514005040 to the Scott Brothers, on January 14, 2014.
- Q. On July 17, 2014, the Department received correspondence from the Scott Brothers stating that they are working with the water district to resolve the issues; they have locked the gates around the WWTF; signs are in place; the water district will repair the berms; they will submit an application for an ultraviolet disinfection unit; and are working with an engineer on how to address the ammonia limitations at the WWTF.
- R. On July 22, 2014, the Department received a complete application for a construction permit, including plans and specifications for a disinfection system from Klinger & Associates, on behalf of the Scott Brothers. On October 10, 2014, the Department issued Construction Permit No. CP0001670 to the Scott Brothers construction for one ultraviolet disinfection module, Model AT 1500 by Norweco for the WWTF. Construction Permit No. CP0001670 will expire on October 9, 2016.
- S. Section 644.076.1, RSMo, makes it unlawful to violate the MCWL and regulations promulgated pursuant thereto and establishes civil penalties of up to \$10,000.00 per day per violation.

### III. CITATIONS AND CONCLUSIONS OF LAW

Violations of the MCWL and its implementing regulations alleged herein and found to have been committed by the Scott Brothers at the WWTF are as follows:

1. Failed to install disinfection equipment in order to meet final effluent limitations for E. coli by December 31, 2013, as required in Part "B", Standard Conditions, and Part "D", SOC of MSOP No. MO-0122564, in violation of Section 644.076.1, RSMo and 10 CSR 20-6.010(7)(A).
2. Failed to comply with effluent limitations contained in Part "A" of MSOP No. MO-0122564, in violation of Sections 644.051.3 and 644.076.1, RSMo.
3. Caused pollution of tributary of Little Bear Creek, waters of the state, or placed or caused or permitted to be placed, a water contaminant in a location where it is reasonably certain to cause pollution of waters of the state, in violation of Sections 644.051.1(1), RSMo.

4. Failed to provide a lockable gate, in violation of 10 CSR 20-8.020(11)(C)11.F; failed to maintain the inner berms of the lagoon to be no less than a three-to-one (3:1) slope as required by MSOP No. MO-0122564, in violation of Section 644.076.1, RSMo and 10 CSR 8.020(13)(A)3.C; failed to provide proper warning signs on all sides of the perimeter fence as required by Section Condition No. 12 of MSOP No. MO-0122564, in violation of Section 644.076.1, RSMo and 10 CSR 20-8.200(11)(C)11.G.
5. Failed to submit a complete Annual Operating Report, as required by Part "A" of MSOP No. MO-0122564, in violation of Section 644.076.1, RSMo and 10 CSR 20-6.010(7)(A).

#### IV. AGREEMENT

- A. The Department and the Scott Brothers desire to amicably resolve all claims that may be brought against the Scott Brothers for violations alleged above in Section III, Citations and Conclusions of Law, without the Scott Brothers admitting to the validity or accuracy of such claims.
- B. 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 of the Scott Brothers under this AOC.
- C. The Scott Brothers, in compromise and satisfaction of the Department's claims relating to the above-referenced violations, agrees, without admitting liability or fault, to pay a civil penalty in the amount of \$3,000.00. The payment shall be in the form of a certified check or cashier's check made payable to "Ralls County Treasurer, as custodian of the Ralls County School Fund." The check in the amount of \$3,000.00 is due and payable upon execution of this AOC by the Scott Brothers. The check and signed copies of the AOC shall be delivered to:

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

- D. Within 30 days of the effective date of this AOC, the Scott Brothers agree and are ordered to ensure that the lagoon berms are repaired so the inner and outer slopes are no less than 3:1; clay soil is compacted into the damaged areas, and install riprap on the berms to prevent future damage.
- E. Within 60 days of the effective date of this AOC, the Scott Brothers agree and are ordered to submit the missing land application and irrigation information for the months of January, February, March, July, August, October, November, and December 2012, including the following: lagoon freeboard; irrigation period; volume irrigated; application area; application rate; and rainfall.

- F. In the period of time from the effective date of this AOC until the new or upgraded WWTF is completed, the Scott Brothers shall operate and maintain the existing WWTF at all times in compliance with the conditions and requirements of MSOP No. MO-0122564. All units or components of the existing WWTF shall be maintained in an operable condition, even if this requires the purchase and installation of new parts or equipment, or repair of the WWTF.
- G. On or before April 1, 2016, the Scott Brothers agree and are ordered to complete construction of the disinfection improvements in accordance with the plans and specifications associated with Construction Permit No. CP0001670 and achieve compliance with the final effluent limitations for E. coli.
- H. Within 30 days of completing construction, the Scott Brothers agree and are 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 is complete and operable in accordance with Department approved plans and specifications, and a complete application with applicable fee to modify the MSOP.
- I. Immediately upon becoming aware that a deadline or milestone as set forth in this AOC will not be completed by the required deadline, the Scott Brothers 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 Scott Brothers shall submit to the Department for review and approval a written request containing the same basic provisions of i, ii, and iii listed above. 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 Scott Brothers' rights to request an extension and may be grounds for the Department to deny the district an extension.
- J. Should the Scott Brothers fail to meet the terms of this AOC, including the deadlines for completion of construction set out in Paragraphs D through P, the Scott Brothers 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 certified or cashier's check made payable to "Ralls County Treasurer, as custodian of the Ralls 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

- K. Nothing in this AOC forgives the Scott Brothers 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 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 express or implied, oral or written, except those 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.
- L. 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.
- M. 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 Scott Brothers for their records.
- N. The Scott Brothers shall comply with the MCWL, Chapter 644, RSMo and its implementing regulations at all times in the future.

V. RIGHT OF APPEAL

By signing this AOC No. 2016-WPCB-1319, the Scott Brothers consent 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.

VI. CORRESPONDENCE AND DOCUMENTATION

Correspondence or documentation with regard to conditions outlined in this AOC shall be directed to:

Ms. Joan Doerhoff  
Department of Natural Resources  
Water Protection Program  
Compliance and Enforcement Section  
P.O. Box 176  
Jefferson City, MO 65102-0176

Agreed to and Ordered this 6th day of May, 2016

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

Agreed to and Ordered this \_\_\_\_ day of \_\_\_\_\_, 2016

  
\_\_\_\_\_  
Brian Scott, Owner

  
\_\_\_\_\_  
Tracy Scott, Owner

Copies of the foregoing served by certified mail to:

Mr. Brian and Mr. Tracy Scott      CERTIFIED MAIL # 7013 2250 0002 2840 0576  
Route 1, P.O. Box 172BB  
Hannibal, MO 63401

- c: Ms. Diane Huffman, Environmental Protection Agency
- Mr. Chris Wieberg, Chief, Operating Permits Section
- Accounting Program
- Ms. Irene Crawford, Director, Northeast Regional Office
- Missouri Clean Water Commission
- Mr. Michael Holliday, 999 Broadway, Hannibal, MO 63401