

BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES

In the Matter of:)
)
 City of Humansville) **Order No. 2020-WPCB-1573**
)
 Proceeding under the)
 Missouri Clean Water Law)

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MAR 26 2020
Water Protection Program

ABATEMENT ORDER ON CONSENT

The issuing of this Abatement Order on Consent (AOC) No. 2020-WPCB-1573, by the Missouri Department of Natural Resources (Department), is a formal administrative action by the State of Missouri and is being issued because the City of Humansville (Respondent) violated the Missouri Clean Water Law (MCWL). This AOC is issued under the authorities of Sections 644.056 and 644.079, Revised Statutes of Missouri (RSMo). Failure to comply with this AOC is, by itself, a violation of Section 644.076.1, RSMo. Litigation may occur without further 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 or administrative penalties for any future violations of the MCWL, or to seek injunctive relief, pursuant to Chapter 644, RSMo.

FINDINGS OF FACT

1. The Respondent is a fourth class municipality with a population of approximately 1,048 residents. The Respondent owns and operates a wastewater treatment facility (WWTF) that consists of a three-cell partially-aerated lagoon. The WWTF has a design population equivalent

of 1,300, a design flow of 160,800 gallons per day and an actual flow of 120,000 gallons per day. Treated effluent discharges through Outfall No. 001 of the WWTF to Brush Creek, subject to the conditions and requirements of Missouri State Operating Permit No. MO-0025739 (Permit).

2. Polk County Records confirm that the property on which the WWTF is located is owned by the Respondent.

3. Brush 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 by Section 644.016(24), RSMo.

5. The Permit requires the Respondent to collect representative samples of the effluent discharged from Outfall No. 001 and analyze the sample for the contaminants listed in Part "A" every quarter. The Permit requires the effluent to comply with the limitations contained in Part "A" of the Permit and requires the Respondent to submit the results of the analysis to the Department on quarterly Discharge Monitoring Reports (DMRs) by the 28th day of the month following the reporting period. See Exhibit A of this AOC for a list of permitted effluent limitations.

6. Pursuant to Standard Condition Part 1, Section B of the Permit, all bypasses must be reported to the Department within 24 hours of becoming aware of the event.

7. Pursuant to Standard Conditions Part 1, Section A of the Permit, laboratory and test procedures must conform to reference methods listed in 10 CSR 20-7.015. The permittee shall also retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by the permit, and records of all data used to complete the application for

the permit, for a period of at least three years from the date of the sample, measurement, report or application.

8. Pursuant to Section 644.076.1, RSMo, it is unlawful for any person to cause or permit any discharge of water contaminants from any water contaminant or point source located in Missouri, in violation of Sections 644.006 to 644.141, or any standard, rule or regulation promulgated by the Clean Water Commission.

9. On July 19, 2018, in preparation for a compliance inspection of the WWTF, Department staff conducted a record review of DMRs submitted to the Department by the Respondent and found that the effluent discharged from the WWTF failed to comply with effluent limitations contained in the Permit. See Exhibit A of this AOC for a list of violations of permitted effluent limitations. During the compliance inspection, Department staff observed one of the three aerators was out of service as well as remnants of a bypass on the riprap below the emergency overflow structure. At the time of the inspection, representatives of the Respondent stated that a bypass occurred in the spring of 2018 and confirmed that it was not reported to the Department. Staff also observed that the Respondent failed to check and calibrate the WWTF's pH meter with valid pH buffers and certified thermometer. The Respondent also failed to provide records of quality assurance and quality control measures taken at the WWTF as required by the standard conditions of the Permit.

10. On August 10, 2018, the Department issued Notice of Violation No. 19350SE to the Respondent for violations documented during the July 19, 2018, inspection.

STATEMENT OF VIOLATIONS

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

11. Violated permitted effluent limitations contained in Part "A" of the Permit, in violation of Sections 644.051.1(3) and 644.076.1, RSMo, and Missouri Clean Water Commission Regulation 10 CSR 20-7.015;

12. Failed to provide proper notification to the Department of all bypasses as required by the standard conditions of the Permit, in violation of Section 644.076.1, RSMo; and

13. Failed to operate and maintain facilities to comply with the MCWL and applicable permit conditions, in violation of Sections 644.051.1(3) and 644.076.1, RSMo.

AGREEMENT

14. 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.

15. 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 Respondent under this AOC.

16. Sections 644.076.1 and 644.079, RSMo, authorize the imposition of penalties for violations of the MCWL and establish monetary penalties of up to \$10,000 per day per violation. The penalty contained in this AOC was calculated using the Penalty Assessment Protocol described in 10 CSR 20-3.010.

17. The Respondent, in compromise and satisfaction of the Department's claims relating to the above-referenced violations, agrees, without admitting liability or fault, to pay an administrative penalty in the amount of \$4,000. The payment shall be in the form of a check

made payable to "Polk County Treasurer, as custodian of the Polk County School Fund." The check in the amount of \$4,000 is due and payable upon execution of this AOC by the Respondent. The check and signed copy of the AOC shall be delivered to:

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

18. Immediately upon the effective date of this AOC, the Respondent is ordered and agrees to operate and maintain the existing WWTF at all times in compliance with the conditions and requirements of the Permit. 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.

19. Immediately upon the effective date of this AOC, the Respondent is ordered and agrees to notify the Department of any bypasses in accordance with the Permit and 40 C.F.R. 122.41(m)(3)(i).

20. Within 60 days of the effective date of this AOC, if the facility is utilizing batch discharge as part of the operational procedures, the Respondent is ordered and agrees to submit a request for an operating permit modification by submitting Form B2 (Application for Operating Permit for Domestic Wastewater (>100,000 gallons per day), Form --MO 780-1805) along with a brief statement of the reason for the modification.

21. Within 90 days of the effective date of this AOC, the Respondent is ordered and agrees to develop and implement a written Standard Operating Procedure (SOP) for the WWTF and propose operational changes that may help achieve compliance with permitted effluent limitations. In addition to operational monitoring requirements in 10 CSR 20-9, the SOP should include records of detention time, the date and time of discharges, collection of samples early in

the week and/or month, and repeat sampling if needed. The Respondent shall submit the SOP to the Department for review and comment.

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

23. Although it is not required, the Department highly recommends the Respondent consider the option of eliminating discharges from WWTF by connecting to an area-wide wastewater treatment and collection system or the option of transferring the WWTF asset to a reputable utilities operating company. Either option will negate the need for the Respondent to maintain and comply with a Permit. Should the Respondent be interested in pursuing either of these options, please contact the Department for more information.

SUBMISSIONS

24. All other documentation submitted to the Department for compliance with this AOC shall be submitted within the timeframes specified to:

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

OTHER PROVISIONS

25. 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 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 Respondent's right to request an extension and may be grounds for the Department to deny the Respondent an extension.

26. Should the Respondent fail to meet the terms of this AOC, 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 per day
31 to 90 days	\$250 per day
91 days and above	\$500 per day

Stipulated penalties will be paid in the form of a check made payable to "Polk County Treasurer, as custodian of the Polk 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

27. 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 AOC resolve any future violations of this AOC or any law or regulation. Consistent with 10 CSR 20-3.010(5), this AOC shall not be construed as satisfying any claim by the state or federal government for natural resource damages.

28. 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 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 of understanding, notes, conversations, and agreements, express or implied. This AOC may not be modified orally.

29. 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.

30. 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.

COST ANALYSIS FOR COMPLIANCE

31. Pursuant to Section 644.145, RSMo, the Cost Analysis for Compliance (CAFCom) addresses the obligations included within this AOC and is enclosed. 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 upgrades or replacement of the WWTF in accordance with a Department approved WWTF plan, designs, and specifications.

WAIVER OF APPEAL RIGHTS

32. 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, including the CAFCom referenced herein, 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.

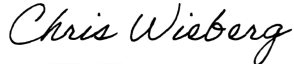
SIGNATORY AUTHORITY

Agreed to and Ordered on this 23rd day of March, 2020



Mayor Carl Long
City of Humansville

Agreed to and Ordered on this 30th day of March, 2020



DEPARTMENT OF NATURAL RESOURCES
Chris Wieberg, Director
Water Protection Program

c: Cindy Davies, Director, Southwest Regional Office
General Counsel's Office
Accounting Program

Exhibit A: Violations of Permitted Effluent Limitations Reported by the Facility in Discharge Monitoring Reports

Reporting Date	Effluent Parameter	Daily			Weekly			Monthly		
		Effluent Limit	Reported Value	Violates limit by (times)	Effluent Limit	Reported Value	Violates limit by (times)	Effluent limit	Reported value	Violates limit by (times)
8/31/2019	<i>E. coli</i> (#/100mL)	1030	548	n/a	---	---	---	206	301	1.5
5/31/2019	<i>E. coli</i> (#/100mL)	1030	1300	1.3	---	---	---	206	482	2.3
11/30/2019	Ammonia as Nitrogen (mg/L)	12.2	0.5	n/a	---	---	---	2.6	10.5	4.0
8/31/2019	Ammonia as Nitrogen (mg/L)	5.8	1.5	n/a	---	---	---	1.4	1.5	1.1
4/30/2019	Ammonia as Nitrogen (mg/L)	5.8	1.6	n/a	---	---	---	1.4	1.6	1.1
4/30/2018	Ammonia as Nitrogen (mg/L)	5.8	5.7	n/a	---	---	---	1.4	5.7	4.1
3/31/2018	Ammonia as Nitrogen (mg/L)	11.4	4.6	n/a	---	---	---	3.0	4.6	1.5
1/31/2018	Ammonia as Nitrogen (mg/L)	11.4	6.3	n/a	---	---	---	3.0	6.3	2.1
10/31/2019	Suspended Solids (percent removal)	---	---	---	---	---	---	65 minimum	0	No removal
3/31/2019	Total Suspended Solids (mg/L)	---	---	---	45	37	n/a	30	27	1.2
2/28/2019	Total Suspended Solids (mg/L)	---	---	---	45	35	n/a	30	35	1.2