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BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES

Water Protection Program

In the Matter of:

City of Russellville

**Proceeding under the
Missouri Clean Water Law**

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Order No. 2017-WPCB-1399

ABATEMENT ORDER ON CONSENT

**TO: The Honorable Sharon Morgan, Mayor
City of Russellville
P.O. Box 128
Russellville, MO 65074**

NOTICE TO RECIPIENTS OF ABATEMENT ORDERS ON CONSENT

The issuing of this Abatement Order on Consent (AOC) No. 2017-WPCB-1399, 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 Russellville (City) is responsible for violations of 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. Additional enforcement action 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 City 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 City is a fourth class municipality with a population of approximately 807 residents and 313 wastewater connections. The City owns and operates a wastewater treatment facility (WWTF) that consists of a three-cell lagoon with primary aeration and sludge retained in the lagoon. The WWTF is located in the SW ¼, SE ¼, Section 3, Township 43 North, Range 14 West, in Cole County, Missouri. The design flow of the WWTF is 159,711 gallons per day (gpd), the actual flow is 57,500 gpd, and the design population equivalent is 1,580. The design sludge production is 15.8 dry tons per year. The WWTF currently operates pursuant to the terms and conditions of Missouri State Operating Permit No. MO-0106348 (Permit). Treated effluent from the WWTF discharges from Outfall No. 001 to a tributary to Roark Branch, a Class C Stream.

2. Roark Branch and its tributaries are “waters of the state” as the term is defined by Section 644.016(27), RSMo.

3. Domestic wastewater is a “water contaminant” as the term is defined in Section 644.016(24), RSMo.

4. The Permit was issued to the City on August 21, 2009, and expired by its own terms on August 20, 2014. The Permit included final effluent limitations for Ammonia as Nitrogen that became effective on September 1, 2012. Section “F,” Schedule of Compliance (SOC), of the Permit required the City to: 1) if modifications to the WWTF are required to meet the final effluent limits, submit engineering plans, specifications, and a construction permit application by August 21, 2010; 2) if completion of construction will be more than one year,

submit interim progress reports every 12 months from August 21, 2009; 3) if modifications to the WWTF are not needed to meet the final effluent limits, submit a letter to the Department by August 21, 2010, stating that modifications are not needed to meet the final effluent limitations; and 4) meet final effluent limits by August 21, 2012.

5. The Permit requires the City to sample the effluent discharged from Outfall No. 001 and chemically analyze the effluent sample for the water contaminants listed in Table A every month. The Permit also requires the effluent to comply with the effluent limitations contained in Table A and requires the results of the analysis to be submitted to the Department on monthly Discharge Monitoring Reports (DMRs).

6. Monthly DMRs submitted to the Department document that the effluent discharged from the City's WWTF failed to comply with the applicable permitted effluent limitations for Ammonia as Nitrogen during the months of May, June and July 2014; May and September 2015; and July and August 2016.

7. On February 18, 2011, the Department received a Preliminary Engineering Report (PER) submitted by Bartlett & West, Inc., on behalf of the City, and transmitted through the Missouri Water and Wastewater Review Committee. The PER recommended converting the WWTF to a land application system.

8. On August 29, 2011, the Department received a letter stating that the City completed a flow study and needed to submit an addendum to the PER with a different recommended alternative and cost analysis. On December 2, 2011, the Department received the addendum to the PER.

9. On March 11, 2014, Department staff conducted a routine municipal Sanitary Sewer Overflow (SSO) compliance inspection and routine compliance inspection of the WWTF.

Staff found that the western-most aerator in the first baffled cell was not operational. Staff noted that, while most of the berms were sufficiently sloped, there were multiple locations where erosion had occurred. Staff also observed a small hole in the berm between the first and second basins, near the water surface of the second basin. Staff observed that the receiving stream had a path of bright green filamentous algae from the outfall to the first road culvert. During a review of the WWTF's file, staff noted that the WWTF routinely exceeded effluent limitations for Ammonia as Nitrogen.

10. On April 8, 2014, the Department issued Notice of Violation No. NER2014040109143324 to the City for failure to upgrade the WWTF, causing pollution, and discharging water contaminants into a tributary to Roark Branch.

11. On May 11, 2015, the Department received an amended PER submitted by Bartlett & West, Inc., on behalf of the City. The PER recommended that the City construct a moving bed biological reactor (MBBR).

12. On May 1, 2016, the Department reissued the Permit to the City, which expires by its own terms on December 31, 2019. The Permit includes interim and final effluent limitations for E. coli. The final effluent limitations for E. coli become effective on May 1, 2019.

13. On April 19, 2017, the Department received a Facility Plan submitted by Bartlett & West, Inc., on behalf of the City. The Facility Plan recommended that the City construct an MBBR with ultraviolet disinfection equipment.

14. The January 2013 Russellville Wastewater Facility Plan, completed by A Civil Group, includes information from a flow study conducted from April 1, 2011 to June 10, 2011. During that time period, the City's WWTF experienced 4.03 million gallons of wet weather flow as a result of Inflow and Infiltration (I&I) into the collection system. During 2014 and 2015, the

City reported 14 SSOs. Eight of the SSOs were a result of wet weather, indicating I&I problems in the City's collection system that need to be addressed.

STATEMENT OF VIOLATIONS

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

15. Failed to comply with the SOC as required in Part "B," Standard Conditions, and Part "F," SOC, of the Permit to meet final effluent limits for Ammonia as Nitrogen by August 21, 2012, in violation of Sections 644.076.1, RSMo, and 10 CSR 20-6.010(7);

16. Failed to comply with the effluent limits for Ammonia as Nitrogen contained in Table A of the Permit during the months of May, June and July 2014; May and September 2015; and July and August 2016, in violation of Sections 644.051.1(3) and 644.076.1, RSMo; and

17. Caused pollution of a tributary to Roark Branch, waters of the state, or placed or caused or permitted to be placed water contaminants in a location 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

18. The Department and the City desire to amicably resolve claims that may be brought against the City for the violations alleged above.

19. 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 City under this AOC.

20. 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 City, 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 \$6,000. The parties further agree that \$6,000 will be suspended for a period of two years from the effective date of this AOC on the condition that the City complies with the conditions and requirements of this AOC. Upon determination that the City has failed to meet the terms of this AOC, including the schedule set out in Paragraphs 22 through 27, the Department shall send a written demand for the suspended penalty in the amount of \$6,000 to the City. The City shall have 15 days from receipt of the written demand to submit the check for the suspended penalty, made payable to the "Cole County Treasurer, as custodian of the Cole County School Fund," to:

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

Wastewater Treatment Facility Operations and Upgrades

21. From the effective date of this AOC until the new or upgraded WWTF is completed, the City shall operate and maintain the existing WWTF at all times in compliance with the monitoring requirements included in Table A of the Permit and the final effluent limitations for Biochemical Oxygen Demand, Total Suspended Solids, Oil and Grease, and pH, and all other 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.

22. By August 1, 2018, the City is ordered and agrees to submit to the Department for review and approval: 1) a complete application for a construction permit, plans, specifications, and design summary, sealed by a professional engineer licensed to practice in the State of Missouri and the applicable permit fee for the improvements recommended in the Department approved Facility Plan; and 2) a complete Form B2 – Application for Operating Permit for Domestic Wastewater to modify the Permit following construction activities and the applicable permit modification fee.

23. Within 30 days of receipt of Department comments on the construction or operating permit applications, the City is ordered and agrees to respond to the Department addressing all Department comments to the Department's satisfaction.

24. Within three years of the date the Department issues the City a construction permit, the City is ordered and agrees to complete construction of the improvements as approved by the Department to the extent that the improvements are substantially complete and operable.

25. Within 60 days of substantially completing construction, the City shall submit to the Department a Statement of Work Completed Form, signed, sealed, and dated by a professional engineer licensed to practice in the State of Missouri certifying that the project is complete and operable in accordance with Department approved plans and specifications. By submitting the Statement of Work Completed form, the City requests that the Department issue the Permit modification.

26. Within 60 days of issuance of the modified Permit, the City shall achieve compliance with the final effluent limitations contained in Table A of the Permit.

27. Within 120 days of diverting the wastewater flow from any portion of the existing WWTF, but not before receiving written approval from the department for a WWTF closure

plan, the City is ordered and agrees to: i) complete closure of the WWTF pursuant to a closure plan as approved by the department; and ii) stabilize the disturbed area with perennial vegetation with 70 percent fully established plant density over 100 percent of the disturbed area, if applicable.

Wastewater Collection System Rehabilitation

28. Within 60 days of the effective date of this AOC, the City is ordered and agrees to submit to the Department, for review and approval, a Maintenance and Repair Program for the wastewater collection system. The suggested guidance for developing the Maintenance and Repair Program is the U.S. Environmental Protection Agency's Guide For Evaluating Capacity, Management, Operation, and Maintenance Programs at Sanitary Sewer Collection Systems (Document No. EPA 305-B-05-002). The City's Maintenance and Repair Program must include a schedule for routine and systematic inspection, maintenance and repair of the collection system and identify all known short or long term capital investment projects and activities the City anticipates will be necessary to ensure current and long term compliance with the Permit.

SUBMISSIONS

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

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

30. For any plan or submittal from the City that is required by this AOC and subject to Department approval under this AOC, the Department may approve, disapprove, require revisions, or otherwise modify any such plan or submittal. Any such Department decision shall

be conveyed in writing to the City. If the Department requires revisions, the City shall submit a revised version of the plan or submittal within 30 days after receiving notice of the Department's required revisions, or within such other timeframe as the Department may specify. If the Department approves or modifies in writing such plan or submittal, it shall become enforceable under this AOC, and the City shall commence work and implement such approved or modified plan in accordance with the schedule and provisions contained therein.

OTHER PROVISIONS

31. Immediately upon becoming aware that a deadline or milestone as set forth in this AOC will not be completed by the required deadline, the City 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 City 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 City's right to request an extension and may be grounds for the Department to deny the City an extension.

32. Should the City fail to meet the terms of this AOC, including the deadlines set out in Paragraphs 22 through 27, the City 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 per day
31 to 90 days	\$100 per day
91 days and above	\$250 per day

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

33. Compliance with this AOC resolves only the specific violations described herein, and this AOC shall not be construed as a waiver or modification of 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.

34. Nothing in this AOC forgives the City 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.

35. 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.

36. 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 City for its records.

37. The City shall comply with the MCWL, Chapter 644, RSMo and its implementing regulations at all times in the future.

COST ANALYSIS FOR COMPLIANCE

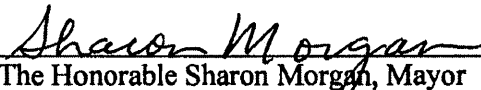
Pursuant to Section 644.145, the Cost Analysis for Compliance (CAFCOM), which addresses the obligations included within this AOC, is attached hereto as Exhibit 1. This CAFCOM does not address future improvements that may be necessary to comply with the MCWL or its implementing regulations. This AOC requires the City to submit a Maintenance and Repair Program for the collection system and complete upgrades to comply with final effluent limitations for Ammonia as Nitrogen.

NOTICE OF APPEAL RIGHTS


By signing this AOC, the City 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 Cost Analysis for Compliance referenced herein, pursuant to Sections 621.250, 640.010, 640.013, 644.056, 644.079, 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 14th day of July, 2017


The Honorable Sharon Morgan, Mayor
City of Russellville

Agreed to and so Ordered on this 21st day of July, 2017


DEPARTMENT OF NATURAL RESOURCES
David J. Lamb, Acting Director
Water Protection Program

c: **Ms. Diane Huffman, Environmental Protection Agency**
Mr. Chris Wieberg, Chief, Operating Permits Section
Ms. Irene Crawford, Director, Northeast Regional Office
Ms. Hannah Humphrey, Community Services Coordinator
Missouri Clean Water Commission
General Counsel's Office