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**BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES**

Water Protection Program

**In the Matter of:**

City of Mexico  
Wastewater Treatment Plant

**Serve:**

The Honorable Greg Miller, Mayor  
City of Mexico

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**Order No. 2016-WPCB-1369**

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**ABATEMENT ORDER ON CONSENT**

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**NOTICE TO RECIPIENTS OF ABATEMENT ORDERS ON CONSENT**

The issuing of this Abatement Order on Consent (AOC) No. 2016-WPCB-1369, by the Department of Natural Resources, is a formal administrative action by the state of Missouri and is being issued because the city of Mexico 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 city 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 city of Mexico is a third class Municipal Corporation with a population of approximately 11,571 residents and 5,256 wastewater connections. The city owns and operates a wastewater treatment facility (WWTF) that consists of an activated sludge plant with a trickling filter, peak flow basin, anaerobic sludge digestion, effluent re-aeration, and ultraviolet disinfection. The WWTF is located in the NE ¼, SW ¼, Section 24, Township 51 North, Range 9 West, of Audrain County, Missouri. The design flow of the WWTF is 3 million gallons per day and the actual flow is 1.89 million gallons per day with a design population equivalent of 38,235. The design sludge production is 600 dry tons per year and the actual sludge production is 573 dry tons per year. The WWTF currently operates pursuant to the terms and conditions of Missouri State Operating Permit (MSOP) No. MO-0036242. Treated effluent from the WWTF discharges from Outfall No. 001 to a tributary to South Fork of the Salt River.

2. South Fork of the Salt River 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. MSOP No. MO-0036242 was re-issued to the city on October 9, 2009, and included final effluent limitations for Cyanide, Copper, Lead, and Zinc that became effective on October 9, 2012. Section "E," Schedule of Compliance (SOC), of the MSOP required the city to submit a report by October 9, 2010, and October 9, 2011, detailing the progress made in attaining compliance with the final effluent limits. MSOP No. MO-0036242 was modified on November 27, 2012, which raised the effluent limits for Copper, Lead, and Zinc based on site-specific hardness data.

5. MSOP No. MO-0036242 requires the city to sample the effluent discharged from Outfall No. 001 and chemically analyze the effluent sample for the water contaminants listed in Part "A". MSOP No. MO-0036242 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 monthly or quarterly 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 Total Recoverable Copper during the first, second, third, and fourth quarters of 2014; and the second and third quarters of 2015.

7. On January 14, 2014, department staff conducted an inspection of the WWTF and documented that the city failed to comply with the effluent limits contained in Part "A" of MSOP No. MO-0036242 since October 9, 2013, and failed to meet the SOC contained in Part "E" of the MSOP. As a result of the violations documented during the inspection, the department issued Notice of Violation No. NER2014012213134758 to the city on February 10, 2014.

8. Since January 14, 2014, the city has communicated and cooperated with the department to investigate the source of the Total Recoverable Copper effluent violations. The city hired a consultant and prepared a Quality Assurance Project Plan to determine site specific conditions and provide data for the department to develop corresponding permitted effluent limits.

9. 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.

### **STATEMENT OF VIOLATIONS**

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

10. Failed to comply with the effluent limitations contained in Part A of MSOP No. MO-0036242 for Copper, in violation of Sections 644.051.1(3) and 644.076.1, RSMo, and 10 CSR 20-6.010(8)(A); and

11. Failed to meet the SOC as listed in Part "E" of MSOP No. MO-0036242 and as referenced in Standard Conditions (Part I, Section A.2), in violation of Sections 644.076.1, RSMo, and 10 CSR 20-6.010(7)(A).

### **AGREEMENT**

12. The department and the city desire to amicably resolve all claims that may be brought against the city for violations alleged above in Statement of Violations.

13. 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.

14. Within 60 days of the effective date of this Order, the city agrees and is ordered to submit a Work Plan for the purpose of acquiring a dissolved total recoverable conversion factor or data for a site specific criteria using a U.S. Environmental Protection Agency approved methodology for Copper associated with the National Pollutant Discharge Elimination System Copper effluent limits. The Work Plan will include a schedule to complete the Work Plan and submit a report with the results to the department.

15. Within 15 days of receipt of department comments on the Work Plan, the city agrees and is ordered to respond in writing to the department addressing all department comments on the Work Plan.

16. Upon approval of the Work Plan, the city agrees and is ordered to fully implement the Work Plan as approved by the department.

17. Within 30 days of completing the Work Plan, the city agrees and is ordered to submit the results to the department.

#### **SUBMISSIONS**

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

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

#### **OTHER PROVISIONS**

19. 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.

20. Should the city fail to meet the terms of this AOC, including the deadlines stated above, 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	\$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 a check made payable to "Audrain 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 65102-0477

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

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

23. 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.

24. 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.

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

**COST ANALYSIS FOR COMPLIANCE**

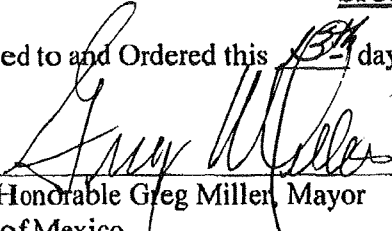
Pursuant to Section 644.145(2)(c), the city hereby waives the requirement for the department to develop a Cost Analysis for Compliance with respect to the requirements required by AOC No. 2016-WPCB-1369.

**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 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 this 13<sup>th</sup> day of April, 2016

  
The Honorable Greg Miller, Mayor  
City of Mexico

Agreed to and Ordered this 19<sup>th</sup> day of April, 2016



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

Copies of the foregoing served by certified mail to:

The Honorable Greg Miller, Mayor CERTIFIED MAIL # 7012 2920 0002 0662 8629  
City of Mexico  
300 North Coal Street  
Mexico, MO 65265

c: Ms. Diane Huffman, Environmental Protection Agency  
Mr. Chris Wieberg, Chief, Operating Permits Section  
Ms. Irene Crawford, Director, Northeast Regional Office  
Missouri Clean Water Commission