IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
STATE OF MISSOURI

STATE OF MISSOURI, ex rel., JEREMIAH W. (JAY) NIXON, ATTORNEY GENERAL, the MISSOURI DEPARTMENT OF NATURAL RESOURCES, and the MISSOURI AIR CONSERVATION COMMISSION,	)	
Plaintiff,	)	
v.	)	Case No._____
LITTLE BLUE VALLEY SEWER DISTRICT,	)	
Defendant.	)	

CONSENT JUDGMENT AND ORDER OF INJUNCTION

WHEREAS, Plaintiff, State of Missouri, on behalf of the Missouri Air Conservation Commission, the Missouri Clean Water Commission, and the Missouri Department of Natural Resources ("the Department"), filed a petition herein alleging that Defendant, the Little Blue Valley Sewer District ("LBVSD") has violated the Missouri Air Conservation Law, Chapter 643, RSMo, and 1O CSR 10-2.070 ("Restriction of Emission of Odors"), a regulation duly promulgated thereunder, by allowing the emission of excessive odors from its Atherton wastewater treatment facility ("Atherton plant"); and alleging that the Atherton plant's emission of excessive odors constitutes a public nuisance; and further alleging that the Atherton plant violated and continues to violate the Missouri Clean Water Law, §§ 644.006 - 644.141, RSMo, by allowing the discharge of inadequately treated wastewater from its Atherton plant to the Missouri River; and

WHEREAS, the Atherton plant treats an average of approximately forty-three ("43") million gallons of wastewater per day ("mgd") and discharges said treated wastewater to the

Missouri River, waters of the State of Missouri. During high flows, a portion of the total wastewater flow is routed to a peak flow clarifier for primary treatment. The effluent from the clarifier is then combined with effluent from the biological treatment facilities prior to discharge to the Missouri River. The wastewater remaining in the peak flow clarifier after the high flow event is processed through the biological portion of the plant. As part of its treatment process, the plant produces sewage sludge. The Atherton plant incinerates its sewage sludge and utilizes Low Pressure Oxidation ("LPO") to assist in dewatering the sewage sludge prior to incineration. The peak flow clarifier and LPO unit are the primary sources of the emission of excessive odors from the Atherton plant.

WHEREAS, the plaintiff and defendant have consented, without trial or adjudication of any issue of fact or law herein, to the entry of this Consent Order;

NOW THEREFORE, it is ORDERED, ADJUDGED and DECREED as follows:

1. The Court has read plaintiff's Petition and has been fully advised of its premises. The Court is satisfied that the provisions of this Consent Judgment amicably resolves the issues cognizable under Chapter 643 and §§ 644.006 to 644.141, RSMo, and the Court finds that this Consent Judgment does protect the public interest.

2. For purposes of this Consent Judgment, this Court has jurisdiction over the subject matter of this action and over the parties consenting hereto pursuant to Chapter 643 and 644, RSMo.

3. The Provisions of this Consent Judgment shall apply to and be binding upon the parties executing this Consent Judgment, their officers, agents, successors and assigns.

4. This Consent Judgment fully resolves the State's and the Department's claims against LBVSD, its officials, employees and agents, including claims for civil penalties and

injunctive relief for violations of the Missouri Air Conservation Law and the Missouri Clean Water Law at LBVSD's Atherton plant as contained in plaintiff's Petition. This Consent Judgment establishes a construction schedule for capital improvements at the Atherton plant designed to, among other things, address the sources of odorous emissions from the Atherton plant, and to treat such odors so as not to violate 10 CSR 10-2.070 ("Restriction of Emissions of Odors"), while also improving the quality of wastewater discharges from the Atherton plant. This Consent Judgment also establishes stipulated penalties due if LBVSD fails to adhere to said schedule. This Consent Judgment further requires the, *inter alia*, planning and implementation of odor control devices for the Atherton plant's sewage sludge conditioning and dewatering processes and also establishes penalties due if LBVSD fails to adhere to the implementation of these odor control devices. The LBVSD agrees and is ordered to incinerate all of its sludge produced at the Atherton Plant; or if the incinerator is not in operation, then LBVSD shall haul and dispose of its sludge at a permitted landfill, which is an alternative and more costly method of sludge disposal. LBVSD agrees and is ordered that it will only utilize its LPO system when either the incinerator is operating or when the LPO system is connected to an operating thermal oxidizer.

DEFINITIONS

5. "**Completion or Completed**" means work certified as complete for the use for which it is intended by a professional engineer, registered in the State of Missouri.

CONSTRUCTION SCHEDULE FOR CAPITAL IMPROVEMENTS

6. LBVSD shall complete a program of improvements to the Atherton plant to assure the Atherton plant will comply with 10 CSR 10-2.070 ("Restriction of Emissions of Odors") and to assure that the Atherton plant shall meet all applicable final effluent limitations

for its wastewater discharges pursuant to LBVSD's present and future Missouri State Operating Permit. The improvements include, but are not limited to, the addition of four primary clarifiers, five final clarifiers, and converting two existing aeration/clarifier basins to aeration basins. Also included in the improvements are the modification or addition of pumps and pump stations, screening devices, sludge degritters, belt filter presses, and sludge handling equipment. A recuperative thermal oxidizer, two biofilters, and the ventilation system are processes in the improvements that will be specifically added to address odorous air from the wastewater treatment processes. The construction of improvements at the Atherton plant shall be built pursuant to the construction plans that have been submitted to and approved by the Department and shall be completed no later than May 2, 2006.

7. For each day beyond May 2, 2006, in which defendant LBVSD fails to have completed construction of the improvements to the Atherton plant, as described in ¶ 6 above, defendant LBVSD shall pay according to the following schedule:

A. One Thousand Dollars ($1000.00) per day for the first thirty (30) days;

B. Two Thousand Dollars ($2000.00) per day after thirty (30) days.

THERMAL OXIDIZER FOR THE DEWATERING PROCESS

8. In addition to the design and construction activities ordered above, LBVSD shall also implement a program to construct a thermal oxidizer on the sludge conditioning and dewatering portion of the process at the Atherton plant so as to assure that this portion of the Atherton plant does not violate 10 CSR 10-2.070 *Restriction of Emission of Odors*. The sludge conditioning and dewatering system includes, but is not limited to, the LPO Decant Tank, belt filter presses, belt press conveyor system and the dewatered sludge hopper. The construction of the Thermal Oxidizer and the connection to the decant tank shall be constructed pursuant to the

engineering report that has been submitted to the Department no later than March 31, 2004. The other three sources, the belt filter presses, belt press conveyor system and the dewatered sludge hopper will be connected to the Thermal Oxidizer no later than May 2, 2006. All emissions from the LPO decant unit, belt filter presses, the belt press conveyor system and the sludge hopper shall be vented to the thermal oxidizer or the incinerator.

If a violation of 10 CSR 10-2.070 ("Restriction of Emission of Odors") occurs after the March 31, 2004, implementation of the thermal oxidizer connection to the LPO decant system, LBVSD shall within 5 days of the violation implement a leak check program to evaluate the origin of fugitive odorous emissions and within 15 days of the violation commence remedial measures to address the escape of the odors.

9. For each day beyond March 31, 2004, in which defendant LBVSD fails to complete construction of the Thermal Oxidizer and the connection of the decant tank, as described in ¶ 8 above, defendant LBVSD shall pay according to the following schedule:

A. Three Hundred Dollars ($300.00) per day for the first thirty (30) days;

B. Seven Hundred Fifty Dollars ($750.00) per day after thirty (30) days.

For each day beyond May 2, 2006, in which defendant LBVSD fails to have connected the belt filter presses, belt press conveyor system and the dewatered sludge hopper to the Thermal Oxidizer, defendant LBVSD shall pay according to the schedule outlined in ¶ 7 above.

PENALTIES

10. As and for civil penalties for the violations referred to in plaintiff's Petition, LBVSD shall deliver to the Attorney General of the State of Missouri a certified check made payable to the "Treasurer of Jackson County as Custodian of the Jackson County School Fund" in the amount of Fifty-five Thousand Dollars ($55,000.00). Such check shall be delivered to

Harry D. Bozoian, Assistant Attorney General, P.O. Box 899, Jefferson City, MO 65102, within thirty (30) days of the entry of this Judgment.

11. Until termination of this Judgment under ¶19, and in addition to the civil penalty referenced above, LBVSD shall pay a stipulated penalty of One Thousand Seven Hundred Fifty Dollars ($1,750.00), exclusive of events arising from the exceptions set forth in Table C below, for each and every failure to comply with 10 CSR 10-2.070, *Restriction of Emission of Odors,* as determined through an inspection procedure performed by the Department's Air Pollution Control Program ("APCP") and/or Kansas City Regional Office as set forth in ¶18 below:

TABLE C

No.	OCCASIONS FOR WHICH NO PENALTY SHALL BE LEVIED
1	During reconstruction of aeration basin 3 (from August 17, 2004, to April 7, 2005) or aeration basin 4 (from June 7, 2005, to January 27, 2006), when either of these basins are inoperable, odors emanating from any of the aeration basins or the peak flow clarifier because of an overload of the system will be exempted from assessment of stipulated penalties. The system shall be determined to be overloaded when either basin 3 or 4 is out of operation for construction and there is over 37.5 mgd of flow into the system. LBVSD shall eliminate said odorous emissions within 21 calendar days using all appropriate means.
2	During dewatering of any aeration basin pursuant to scheduled construction, odors emanating from said basin will be exempted from assessment of a stipulated penalty. If the dewatering of the basin takes more than 20 days and odor violations persist, stipulated penalties shall apply.

12. During the period of time identified in exceptions 1 and 2 of Table C above, LBVSD shall use all reasonable means available to reduce or eliminate odors emanating from the aeration basins and peak flow clarifier and their contents. LBVSD shall not be exempt from penalties described in Table C for odors emanating from the system as a result of LBVSD's failure to adequately maintain or operate the system and all of its components.

GENERAL TERMS

13. In the period of time from the effective date of this Consent Judgment until termination of this Consent Judgment pursuant to ¶19 herein, the LBVSD Atherton plant shall be operated at all times so as to comply with 10 CSR 10-2.070 ("Restriction of Emissions of Odors") and the Missouri Clean Water Law, §§ 644.006-644.141, RSMo, and the regulations duly promulgated thereunder. All units or components of the Atherton plant shall be maintained in an operable condition, even if this requires the purchase and installation of new parts or equipment and the repair of the facility. As stated above, compliance with 10 CSR 10-2.070 ("Restriction of Emissions of Odors") shall be determined by the Department's APCP and/or Kansas City Regional Office.

14. This Consent Judgment is not and shall not be interpreted to be a permit, or a modification of an existing Air Pollution Control Permit, Missouri State Operating Permit ("MSOP") or National Pollution Discharge Elimination System ("NPDES") permit, nor shall it in any way relieve LBVSD of its obligation to obtain Air Pollution Control Program permits, MSOP permits or NPDES permits, comply with the requirements of its current Air Pollution Control, MSOP and NPDES permits or with any other federal or state law or regulations or local ordinance. Any new permits, or modifications of existing permits, must be complied with in accordance with applicable federal and state laws and regulations.

15. If any force majeure event (Act of God, war, strike, riot, or other catastrophe) occurs which causes or may cause a violation of any provisions of this Judgment by defendant, defendant shall notify the Court, the Missouri Attorney General and the Department, in writing within ten (10) days of the date of which defendant first knew or should have known by exercise of due diligence of such event and its effect on defendant's compliance. The notice shall describe in detail the anticipated length of time the violation may persist, the precise cause or causes of the violation, the measures taken or to be taken by defendant to prevent or minimize the violation and the timetable by which those measures to avoid or minimize any such violation. In the event the Department and LBVSD do not agree that a particular event constitutes an excuse for delay under this Consent Judgment, the parties may submit the matter to this Court for resolution.

16. The Plaintiff does not, by its consent to the entry of this Order, warrant or aver in any manner that LBVSD's complete compliance with this Judgment, will result in compliance with the provisions of the Law, or in compliance with an Air Pollution Control permit, or MSOP or NPDES permit issued to LBVSD. LBVSD shall remain solely responsible for compliance with the Missouri Air Conservation Law and the terms of this Order, and its Air Pollution Control Program permits, MSOP permits or NPDES permits.

17. Performance of the terms of this Consent Judgment by LBVSD is not conditioned upon receipt of any federal or state grant or loan funds, nor is it conditional on LBVSD's receipt of monetary loans from Missouri's State Revolving Fund. In addition, performance is not excused by the unavailability of any federal or state grant or loan funds, nor is performance excused by the unavailability of a monetary loan from Missouri's State Revolving Fund.

However, this consent judgment in no way restricts the LBVSD's ability to receive federal or state funds which may be available.

18. Until termination of the provisions of this Consent Judgment, the Department and its agents and attorneys for the State of Missouri shall have authority to enter any facility covered by this Order, at any reasonable time, upon proper presentation of credentials to the highest ranking employee present on the premises for the purpose of:

A. monitoring the progress of activity required by this Judgment;

B. verifying any data or information submitted to the Department in accordance with the terms of this Judgment, and

C. obtaining samples, and, upon request, splits of any samples taken by the Defendant or its consultants.

This provision in no way limits, expands or otherwise affects any right of entry held by the Plaintiff pursuant to applicable federal or state laws, regulations or permits.

19. This Consent Judgment shall terminate when the parties mutually agree that the activities set forth in ¶ 6 and 8 are complete and all outstanding civil penalties are paid in accordance with the terms herein.

20. The Court and the parties recognize that minor modifications to the construction program required by this Consent Judgment may be necessary as unknown events may dictate. Where the parties have agreed that any such minor modification is appropriate, it may be effected without further Order of the Court by filing a joint stipulation of modification to the detailed plans incorporated herein by reference. The Court reserves the right to approve any major modification, including any modification that may affect any performance date established herein.

WE HEREBY CONSENT to the entry of this Judgment:

STATE OF MISSOURI

_____ By: _____
Date Missouri Department of Natural Resources

JEREMIAH W. ("JAY") NIXON
Attorney General of Missouri

_____ By: _____
Date HARRY D. BOZOIAN
Assistant Attorney General

LITTLE BLUE VALLEY SEWER DISTRICT

_____ By: _____
Date

IT IS SO ORDERED.

_____
CIRCUIT JUDGE

Dated: _____