

Exhibit No.: \_\_\_\_\_

Issue(s): DNR Violations/  
Financial Ability and Management Issues

Witness // Type of Exhibit: Bolin/  
Supplemental Direct

Sponsoring Party: Public Counsel

Case No.: WC-2002-155

(Consolidated with SC-2002-160)

## **SUPPLEMENTAL DIRECT TESTIMONY**

**OF**

**FILED<sup>3</sup>**

FEB 13 2002

**KIMBERLY K. BOLIN**

Missouri Public  
Service Commission

Submitted on Behalf of the Office of the Public Counsel

**OFFICE OF THE PUBLIC COUNSEL**

**v.**

**WARREN COUNTY WATER AND SEWER COMPANY  
AND GARY L. SMITH**

**Case No. WC-2002-155  
(Consolidated with SC-2002-160)**

February 13, 2002

Office of the Public Counsel, )  
Complainant, )  
 )  
v. )  
 )  
Warren County Water and Sewer )  
Company and Gary L. Smith, )  
Respondents. )

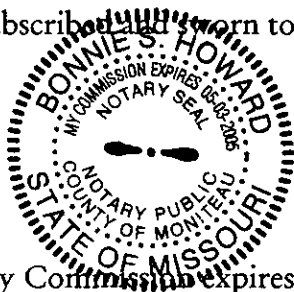
Case No. WC-2002-155  
(Consolidated with SC-2002-160)


STATE OF MISSOURI )  
 ) ss  
COUNTY OF COLE )

1. My name is Kimberly K. Bolin. I am a Public Utility Accountant for the Office of the Public Counsel.
2. Attached, hereto and made a part hereof for all purposes, is my supplemental direct testimony consisting of pages 1 through 12 and Schedules KKB-8 through KKB-12.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.

*Kimberly K. Bolin*  
Kimberly K. Bolin

Subscribed and sworn to me this 13th day of February, 2002.



  
Bonnie S. Howard, Notary Public

My Commission expires May 3, 2005.

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**SUPPLEMENTAL DIRECT TESTIMONY  
OF  
KIMBERLY K. BOLIN**

**OFFICE OF THE PUBLIC COUNSEL  
V.  
WARREN COUNTY WATER AND SEWER  
GARY L. SMITH**

**CASE NO. WC-2002-155  
(CONSOLIDATED WITH CASE NO. SC-2002-160)**

1 **Q. PLEASE STATE YOUR NAME AND ADDRESS.**

2 A. Kimberly K. Bolin, P.O. Box 7800, Jefferson City, Missouri 65102.

3 **Q. ARE YOU THE SAME KIMBERLY K. BOLIN WHO FILED DIRECT TESTIMONY**  
4 **IN THIS CASE?**

5 A. Yes.

6 **Q. WHAT IS THE PURPOSE OF YOUR SUPPLEMENTAL DIRECT TESTIMONY?**

7 A. To provide additional information that the Office of Public Counsel (OPC or Public Counsel) has  
8 obtained since my pre-filed direct testimony was filed on September 26, 2002. Except as otherwise  
9 noted, this testimony is in addition to, not a substitution for, the original direct testimony I filed in  
10 this case in September 2001.

11 **Q. HAVE YOU CONDUCTED FURTHER INVESTIGATION RELATED TO THE**  
12 **ALLEGATIONS IN THE COMPLAINT IN THIS CASE SINCE THE FILING OF**  
13 **YOUR DIRECT TESTIMONY?**

14 A. Yes. Along with other members of the Office of the Public Counsel, I made two trips to the Warren  
15 County Water and Sewer Company (Company) service territory, one in October of 2001, and one in  
16 January of 2002. While there, we discovered additional unsafe conditions, especially in the Shady

Oaks subdivision portion of the company's service territory. I have also spoken to additional customers about the problems they were experiencing with the water and sewer service provided by the Company. Barbara Meisenheimer of the Public Counsel's office took photographs on both occasions. Those photographs and a discussion of our observations are attached to her supplemental direct testimony.

## DNR VIOLATIONS

Q. SINCE YOUR PRE-FILED DIRECT TESTIMONY, DO YOU KNOW WHETHER THE DEPARTMENT OF NATURAL RESOURCES (DNR) HAS ISSUED ANY ADDITIONAL NOTICES OF VIOLATION TO WARREN COUNTY WATER AND SEWER?

A. Yes, DNR has issued Warren County Water and Sewer two notices of violation since September 26, 2002. The first notice of violation, which is attached to my testimony as Schedule KKB-8 was issued November 15, 2001 by the Department of Natural Resources. DNR issued this violation after the results of a “grab sample” taken at the Company’s sewer treatment plant # 1 located in Incline Village revealed that the Company exceeded effluent limits for Biochemical Oxygen Demand. The second notice of violation was issued on January 15, 2002 by DNR. DNR issued this violation to Warren County Water and Sewer for allowing the bypassing of wastewater from a treatment facility, failure to report the bypass to the Department, discharging water contaminants into water of the state that reduce the quality of those waters below the Water Quality Standards and failure to maintain and operate a wastewater facility. (See attached Schedule KKB-9) This violation appears to be the more serious threat to health and safety of the two.

1 **Q. PLEASE EXPLAIN THE CIRCUMSTANCES UNDER WHICH THE DNR ISSUED**  
2 **THE SECOND NOTICE OF VIOLATION?**

3 A. Observers reported that untreated wastewater was flowing from a manhole in the Shady Oaks  
4 subdivision. Upon further investigation, Paul Mueller of DNR found that the pumps were off at the  
5 lift station in this subdivision and electrical components were missing at the lift station, causing the  
6 lift station to be full of wastewater. Mr. Mueller's investigation included at least two visits over the  
7 course of a week. At both of those inspections, the lift station was not operating and wastewater was  
8 freely flowing out of the manhole several yards from the lift station.

9 **Q. DID THE DEPARTMENT OF NATURAL RESOURCES PROVIDE PUBLIC**  
10 **COUNSEL WITH PICTURES WHICH DEPICT THIS SECOND VIOLATION?**

11 A. Yes. Attached to my testimony, as Schedule KKB-10 is an affidavit from Paul Mueller from the  
12 Department of Natural Resources and the pictures with descriptions. Mr. Mueller took these pictures  
13 on January 15, 2002 and January 23, 2002. These pictures show the severity of the DNR violation.

14 **Q. DO YOU HAVE INDEPENDENT KNOWLEDGE THAT THIS VIOLATION**  
15 **EXISTED?**

16 A. Yes. When Barbara Meisenheimer and I visited to location of the list station in January of 2002, we  
17 found the lift station completely full of wastewater and solid waste. Photographs of the condition we  
18 found at the lift station are attached to her testimony. At that time, we did not specifically look for  
19 the manhole, as we were responding to a report from a customer to investigate a specific problem.

**FINANCIAL ABILITY AND MANAGEMENT ISSUES**

**Q. DOES THE OFFICE OF THE PUBLIC COUNSEL HAVE CONCERNS ABOUT THE  
FINANCIAL ABILITY OF THE CURRENT MANAGEMENT OF WARREN COUNTY  
WATER AND SEWER COMPANY TO OPERATE THE SYSTEM?**

**A.** Yes. Public Counsel's concerns related primarily to the ability and willingness of the current management to operate the system, not on whether the current revenues from the system are adequate to maintain the system. A recent audit by the Commission staff revealed that the current revenues are more than sufficient to cover current operations. In addition, Mr. Smith has been repeatedly advised that, once he makes needed improvements to the system, such as installing additional storage capacity, that those additions to his plant in service would be recognized in rates. However, Mr. Smith has refused to abide by the rules every other public utility is required to follow, and make necessary improvements prior to requesting a rate increase to recognize that additional plant has been placed into service and is used and useful.

**Q. WHAT IS THE CURRENT ANNUAL REVENUE AMOUNTS THE COMPANY  
RECEIVING?**

**A.** The Company's current annual water revenue is \$91,677 and the current annual sewer revenue is \$64, 439. These revenue numbers were obtained from a recent staff audit. I did not include late charges, reconnect charges or primacy fees in these numbers.

1 **Q. IS GARY SMITH TIMELY PAYING WARREN COUNTY WATER AND SEWER'S**  
2 **ELECTRICITY BILLS?**

3 A. No. Cuivre River Electric Cooperative has notified Public Counsel that Mr. Smith is in arrears in the  
4 amount of \$6,496. Attached to my testimony as Schedule KKB-11, is a letter from Kevin Hurd, the  
5 Manager of Branch Offices for Cuivre River Electric Cooperative detailing the delinquency of  
6 Warren County Water and Sewer in paying its electric bills and the co-mingling of funds, which I  
7 will discuss later in my testimony. Also attached in Schedule KKB-11 are copies of four checks for  
8 NSF totaling \$3,229.92 all written on a Warren-Lincoln Investments, Inc. bank account.

9 **Q. IN RATE BASE/RATE OF RETURN REGULATION, IS ELECTRIC EXPENSE**  
10 **AN ITEM THAT IS INCLUDED IN THE COST OF SERVICE FOR A**  
11 **UTILITY?**

12 A. Yes, because water and sewer utilities must operate electric equipment in order to provide service,  
13 the cost of service includes payments to the company's electric provider. The only item related to the  
14 electric expense that is not included in the cost of service determination is late payment fees charged  
15 to the utility for not timely paying the expense. Late payment fees are not included because it would  
16 not be a prudent management decision to fail to timely pay the company's electric bill.

17 **Q. IS MAINTENANCE OF THE WATER AND SEWER PLANT AN EXPENSE THE IS**  
18 **ALSO INCLUDED IN THE COST OF SERVICE FOR A UTILITY?**

19 A. Yes, in determining the cost of service for a utility, maintenance costs such as plant maintenance,  
20 treatment plant repairs and contractual maintenance services are included. The recent audit of this  
21 Company by the Commission staff included generous amounts for plant maintenance expenses.



1   **Q.   DOES PUBLIC COUNSEL HAVE ADDITIONAL CONCERNS ABOUT THE WAY IN**  
2   **WHICH THE COMPANY IS CURRENTLY BEING MANAGED?**

3   A.   Yes. There are several concerns. One concern that Public Counsel has about the company is the fact  
4       that Mr. Smith attempted to transfer the assets of the Company to another corporation he created,  
5       Warren-Lincoln Investments, Inc. Public Counsel discovered this attempted transfer when we  
6       received the Respondent's answer to our complaint. That answer denied that Gary L. Smith owned  
7       Warren County Water and Sewer Company.

8   **Q.   WHY DID THIS DENIAL AND ATTEMPTED TRANSFER CONCERN PUBLIC**  
9   **COUNSEL?**

10   A.   As a Missouri regulated utility company, Warren County Water and Sewer may not sell, transfer or  
11       encumber any part of its franchise, works or system without Commission approval, according to  
12       Section 393.190 RSMo. I am not a lawyer, but it is my understanding that this means that Gary  
13       Smith could not lawfully transfer the Company without Commission approval. In addition, when  
14       Public Counsel sought further information, on this issue, the company admitted, "the stock of Warren  
15       County Water and Sewer Company is currently held by Warren Lincoln Investments, Inc. The stock  
16       will be transferred back to Mr. Smith due to concerns about the validity of the original transfer." (See  
17       Schedule KKB-12, unsigned data request response, 1002.) The circumstances of this transfer are  
18       further complicated because information obtained from the Commission Staff suggests that the  
19       transfer which Mr. Smith attempted was a transfer of company assets by way of warranty deed. I do  
20       not know all of the requirements of a warranty deed transfer, but I believe that this suggests a transfer  
21       of assets, rather than a stock transfer.

1 Q. DO YOU KNOW WHETHER THE COMPANY HAS BEEN TRANSFERRED BACK TO  
2 MR. SMITH AS OF TODAY?

3 A. No. However, Warren Lincoln Investments, Inc. is a business which is also owned by Gary Smith.  
4 Therefore, even if the transfer has not yet been completed, Mr. Smith continues to own the company,  
5 but with an additional corporate layer of ownership. The attempted unlawful transfer raises issues  
6 for Public Counsel about the reason for the attempted transfer.

7 Q. DO YOU HAVE OTHER CONCERNS REGARDING THE CONNECTION BETWEEN  
8 VARIOUS COMPANIES OWNED BY MR. SMITH AND HOW THOSE  
9 CONNECTIONS IMPACT THE QUALITY OF SERVICE EXPERIENCED BY  
10 WARREN COUNTY WATER AND SEWER CUSTOMERS?

11 A. Yes. During a recent Staff audit, the Staff discovered that the utility company's records were  
12 commingled with the records of Gary Smith and Associates, an affiliated construction company. The  
13 Staff experienced considerable difficulty in trying to determine what expenditures and revenues  
14 should properly be assigned to which company. The lack of detailed records of dealing between Mr.  
15 Smith's various business enterprises is another example of poor management. In addition, the types  
16 of affiliated transactions which the Staff discovered in their audit indicate are potentially detrimental  
17 to the company's customers.

1   **Q.   PLEASE EXPLAIN YOUR UNDERSTANDING OF AFFILIATED TRANSACTIONS**  
2       **AND HOW SUCH TRANSACTIONS CAN HAVE A DETRIMENTAL EFFECT ON A**  
3       **COMPANY'S CUSTOMERS.**

4   A.   An affiliated transaction is any transaction between two companies or operating divisions that have a  
5       corporate relationship. This relationship could be a parent-subsidary relationship, both firm's stock  
6       being held by the same parent, or other various corporate relationships. The potential detrimental  
7       financial consequences for customers of a regulated utility stem from the distinct possibility that the  
8       utility will use its monopoly position to extract higher rates from the captive customers or use its  
9       monopoly advantage to stifle potential competitors in the unregulated industry. The utility may also  
10      incur higher costs by purchasing goods or services from the affiliated, non-regulated entity at a price  
11      higher than the non-regulated entity's competitor. This could result in higher rates for the regulated  
12      utility's customers. Any cross-subsidization that occurs between the regulated and non-regulated  
13      companies could create an unfair advantage to the non-regulated affiliate. The Commission must  
14      ensure that any transfer pricing or cost allocations that occur will adequately cover utility costs and  
15      prevent cross-subsidization. The Commission must also prevent anti-competitive consequences by  
16      ensuring that confidential, market sensitive information is not transferred between the affiliate and  
17      the utility.

18   **Q.   WHAT DO YOU MEAN BY THE TERM " CROSS-SUBSIDIZATION" ?**

19   A.   The term describes the transfer of goods and services, financial or non-financial, from the regulated  
20      company to the non-regulated company at a price or cost below the actual cost to the regulated  
21      company. When such an event occurs the regulated company does not receive compensation for the  
22      goods or services equal to the actual cost of the goods and services. Such an even penalizes

1 customers because the uncompensated costs are likely to be passed on to the utility's captive  
2 customers as an element of the regulated company's cost of service when, in fact, customers have  
3 already compensated the utility for the costs of providing service to them.

4 **Q. IF THE RATES CHARGED THE CUSTOMER ARE EQUAL TO THE COST THE**  
5 **UTILITY INCURS, PLEASE EXPLAIN HOW THE CUSTOMERS COULD BE**  
6 **CHARGED RATES WHICH ARE HIGHER THAN JUST AND REASONABLE**  
7 **RATES?**

8 A. Purchases of goods and services by an affiliate company result in a revenue or asset being recorded  
9 on the utility company's financial records. The revenue or asset will offset the utility's cost of  
10 producing goods or services. However, if the price paid by the affiliate is below the production cost  
11 of the good or service, the utility company must recover the difference elsewhere. The customer  
12 most likely to make up the difference will be the regulated company's captive utility customers.

13 Stated another way, there is the potential for a non-regulated affiliate to gain a competitive advantage  
14 due to transfer pricing below fair market value. There is also the potential for excessive use of utility  
15 services or property in a way that may diminish the quality of service or increase the cost of service  
16 provided by the utility to its customers.

17 **Q. PLEASE EXPLAIN HOW A UTILITY COULD USE ITS MONOPOLY POSITION**  
18 **TO STIFLE COMPETITION IN THE COMPETITIVE MARKET IN WHICH THE**  
19 **NON-REGULATED AFFILIATE OPERATES?**

20 A. There are many ways, both direct and indirect, that a utility could adversely affect competition. For  
21 example:

1           1.       A utility could give preferential treatment to an affiliate company that supplies goods or  
2           services by not requiring a competitive bidding process via direct means of the use of common  
3           employees.

4           2.       A utility could supply the affiliate with market data not normally available to the affiliates  
5           competitors, i.e., customer billing information, either directly or through the use of common  
6           employees or other access to joint corporate records.

7           3.       A utility and an affiliate could jointly advertise thereby allowing the affiliate to utilize the  
8           market position that the monopoly utility enjoys as the sole source provider of a customer funded  
9           basic and necessary service.

10          4.       A utility could offer single billing for both its services and those of the affiliate.

11          5.       A utility could jointly market its services and those of the affiliate via its service personnel.  
12          To the extent that the utility and the affiliate share personnel, or affiliate personnel do work that the  
13          public associates with the utility, this creates conditions under which it is more likely that the utility  
14          customers may believe they should use the services of the affiliate.

15          6.       A utility could allow the affiliate to represent itself under the same brand name or logo of the  
16          utility in conducting the affiliate's business.

1   **Q.    IN THE CASE OF WARREN COUNTY WATER AND SEWER, DO YOU HAVE**  
2       **INFORMATION REGARDING AFFILIATE TRANSACTIONS WHICH CONCERN**  
3       **PUBLIC COUNSEL?**

4    A.   Yes. The co-mingling of records between the construction company and the utility, and the  
5       attempted transfer to Warren Lincoln Investments, Inc., both raise issues related to affiliate  
6       transactions. In addition, past customer complaints have raised issues regarding work performed by  
7       Gary Smith and Associates on behalf of the utility, or as a condition of a customer receiving utility  
8       service. Public Counsel is continuing to investigate this issue.

9   **Q.    DO YOU HAVE INFORMATION REGARDING THE COMPANY'S MANAGEMENT**  
10       **PRACTICES CONNECTED TO COMPLYING WITH THE PAYMENT OF TAXES**  
11       **AND ASSESSMENTS?**

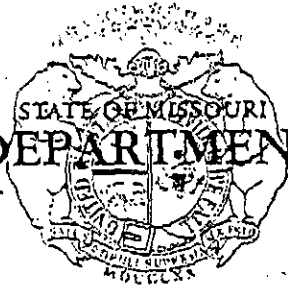
12   A.   Yes. Warren County Water and Sewer Company has been administratively dissolved by the  
13       Secretary of State's office for failure to pay required assessments. Public Counsel has information  
14       which suggests that the Company has failed to take the necessary steps to regain good standing as a  
15       Missouri corporation. In addition, the Company has been delinquent in paying property tax  
16       assessments for various parcels of land and other property used by the utility company. Public  
17       Counsel has not been able to verify whether the Company has paid past due assessments. In addition,  
18       the Company was delinquent on its Commission assessment payments for 2001. As of December  
19       17, 2001, the Company was not current in its assessments, and in fact, the Company' had a recent  
20       payment returned due to non-sufficient funds. However, Public Counsel notes that the Company has  
21       since made good on the check and has paid its 2001 assessments.

1   **Q.   DO YOU ANTICIPATE THAT YOU WILL OBTAIN FURTHER INFORMATION**  
2       **REGARDING THE FINANCIAL AND OTHER OPERATIONS OF THE COMPANY?**

3   A.   Yes. Public Counsel has served a number of data requests on the Respondents which remain  
4       outstanding. These deal with both financial and operational issues. In addition, Public Counsel  
5       continues to receive information from the Company's customers which may require additional  
6       follow-up.

7   **Q.   DOES THIS CONCLUDE YOUR SUPPLEMENTAL DIRECT TESTIMONY?**

8   A.   Yes.



Bob Holden, Governor • Stephen M. Mahood, Director

## DEPARTMENT OF NATURAL RESOURCES

DIVISION OF ENVIRONMENTAL QUALITY

St. Louis Regional Office  
9200 Watson Road, Suite 201  
(314) 301-7600  
FAX (314) 301-7607

November 15, 2001

CERTIFIED MAIL #7001 0360 0002 1791 9291  
RETURN RECEIPT REQUESTED

Mr. Gary Smith  
Warren County Water & Sewer  
1248 Mimosa Court  
Foristell, MO 63348

RECEIVED  
NOV 19 2001  
WFOP

Dear Mr. Smith:

On October 15, 2001, Mr. Paul E. Mueller, of this office, collected grab samples of the effluent from the extended aeration treatment plants of Warren County Water and Sewer serving Incline Village. The effluent samples have been analyzed and copies of the analytical reports dated October 25, 2001 are enclosed.

The results in the enclosed report show that the effluent of Plant #1 (MO0098817) was not in compliance with the applicable limitations specified in Clean Water Commission Regulation 10 CSR 20-7.015(8)(B)1. at the time of sampling. Specifically, the Biochemical Oxygen Demand (BOD) was 39 mg/L, exceeding the monthly average limit of 30 mg/L by 30 percent.

Discharging pollutants in amounts or concentrations exceeding those specified in the regulations is a violation of the Missouri Clean Water Law (Chap. 644, RSMO 1986 Sec. 644.051.1(3) & 644.076.1). Please take appropriate corrective action to insure protection of the waters of the state.

Notice of Violation (NOV) #0976 SL is hereby issued for the violation noted above.

This citation of violation is based only upon the single grab sample collected at the time of the investigation. Please note the terms of your State Operating Permit require the collection of composite samples for compliance monitoring purposes. Composite samples are required for this purpose because of variations in effluent quality which can occur within a 24-hour period. The grab sample results shown on the enclosed report reflect only the effluent condition at the time of the investigation and may not be fully indicative of the average effluent quality for the day. However, the value reported for BOD are far beyond what could reasonably be expected to be a normal variation within a 24-hour period.



November 15, 2001

Page 2

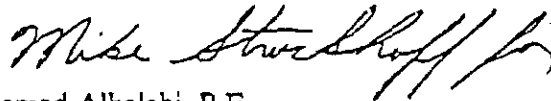
With respect to the Non-Filterable Residue (NFR) Plant #1 was in compliance and Plant #2 (MO0100358) was in compliance with both BOD and NFR. It should also be noted that Plant #1 and Plant #2 discharge to Incline Lake and Clean Water Commission Regulation 10 CSR 20-7.015(3) requires that wastewater treatment facilities that discharge to lakes meet a BOD limit of 20 mg/L and a NFR limit of 20 mg/L. Furthermore, since Incline Lake has a swimming beach and water skiing occurs, Clean Water Commission Regulation 10 CSR 20-7.015(8)(B)4. require a fecal coliform bacteria limit on a full body contact waters. Please be aware that future permits may reflect these limits.

Please respond, in writing, by December 15, 2001, to Mr. Mueller. The response must outline actions taken to correct the violations.

Should you wish to meet with or to discuss this Notice of Violation, please contact Mr. Mueller at the Lincoln County Satellite Office at (636) 528-4779.

Sincerely,

ST. LOUIS REGIONAL OFFICE



Mohamad Alhalabi, P.E.  
Regional Director

*MA/jh*  
MA/PEM/jh

Enclosures: Sample Report & NOV

c: WPCP-Enforcement  
Steve Loethen, Public Service Commission  
Warren County Office of Environmental Sanitation  
Warren County Planning and Zoning  
Mr. Paul Jeannot

Schedule KKB-8.2



MISSOURI DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF ENVIRONMENTAL QUALITY  
NOTICE OF VIOLATION

P.O. BOX 175  
JEFFERSON CITY, MO 65102

VIOLATION NUMBER

0976 SL

|  |  |   |       |
|--|--|---|-------|
| DATE AND TIME ISSUED<br>November 15, 2001  |  | <input type="checkbox"/> A.M.<br><input type="checkbox"/> P.M.              |       |
| SOURCE (NAME, ADDRESS, PERMIT NUMBER, LOCATION)<br>Warren County Water & Sewer   |  |   |       |
| 1248 Mimosa Court  |  |   |       |
| Foristell, MO 63348  |  |   |       |
| #MO-0098817  |  |   |       |
| MAILING ADDRESS<br>Same As Above   |  | CITY  | STATE |
| NAME OF OWNER OR MANAGER<br>Mr. Gary Smith   |  | TITLE OF OWNER OR MANAGER<br>Owner  |       |
| LAW, REGULATION OR PERMIT VIOLATED<br>Missouri Clean Water Law (Chapter 644, RSMo 1986 Sec. 644.051.1(3) & 644.076.1)<br>Missouri Clean Water Commission Regulation 10 CSR 20-7.015(8)(B)1 |  |   |       |
| NATURE OF VIOLATION<br>Failed to meet effluent limits for Biochemical Oxygen Demand  |  |   |       |
| DATE(S)  |  |   |       |
| TIME(S)  |  |   |       |
| SIGNATURE (PERSON RECEIVING NOTICE)<br>By Certified Mail   |  | SIGNATURE (PERSON ISSUING NOTICE)<br><i>Paul E. Mueller</i> Paul E. Mueller |       |
| TITLE OR POSITION  |  | TITLE OR POSITION/DNR REGION<br>Environmental Specialist/SLRO-CR50          |       |

MO 780-1457 (12-93)

DISTRIBUTION: WHITE/SOURCE CANARY/CENTRAL OFFICE PINK/REGIONAL OFFICE

Schedule KKB-8.3

TOTAL P.15



Bob Holden, Governor - Stephen M. Mahood, Director

## DEPARTMENT OF NATURAL RESOURCES

DIVISION OF ENVIRONMENTAL QUALITY

St. Louis Regional Office  
9200 Watson Road, Suite 201  
(314) 301-7600  
FAX (314) 301-7607

January 15, 2002

CERTIFIED MAIL #7001 0360 0002 1791 9680  
RETURN RECEIPT REQUESTED

Mr. Gary Smith  
Warren County Water & Sewer  
1248 Mimosa Court  
Foristell, MO 63348

RECEIVED

JAN 17 2002

WFO

Dear Mr. Smith:

On January 14, 2002, Mr. Paul Mueller, of this office, was at Shady Oaks Mobile Home Park in response to a complaint of raw sewage discharging from a Warren County Water & Sewer manhole.

At the time of the surveillance, violations of the Missouri Clean Water Laws and Regulations were observed. A grab sample was collected of an illegal wastewater discharge; the sample was submitted for analysis and you will be notified of the results.

Untreated wastewater was observed flowing from the Shady Oaks lift station flowing out of the first manhole west of the lift station and also flowing up from the ground 10 feet east of the first manhole indicating a broken wastewater line. A bypass of a wastewater treatment facility or any part of the facility is a violation of Missouri Clean Water Law (Chapter 644 RSMo 1986) Section 644.051.1(2) and 644.076.1, and Missouri Clean Water Commission Regulation 10 CSR 20-7.015(9)(E)1.

Observation of the lift station found the pumps off and electrical components missing indicating that the lift station has not been in operation for sometime. In addition, a resident of Shady Oaks indicated that the manhole has been running over since before Christmas and that personnel of Warren County Water and Sewer had been at the site, but did not repair the lift station. The Department of Natural Resources has no record of being notified of this bypass. Missouri Clean Water Commission Regulation 10 CSR 20-7.015(9)(E)2. requires that all bypasses must be reported within 24 hours by phone to the Department, with a written follow up within five days. Failure to maintain and operate a wastewater facility is a violation of Missouri Clean Water Law (Chapter 644 RSMo 1986), Section 644.051.1(3) and 644.076.1.

Sewage sludge and solids were observed on the ground and in a wet weather branch of Big Creek. Discharging water contaminants into waters of the state that reduce the quality of those waters below the Water Quality Standards established by the Missouri Clean Water Commission Regulation 10 CSR 20-7.031(3)(A),(B)&(C) is a violation of Missouri Clean Water Law (Chapter 644 RSMo 1986) Section 644.051.1(2) and Section 644.076.1.

Notice of Violation (NOV) #1764 SL is hereby issued for the violations noted above. If you have not already done so, immediately repair the lift station. Repair the broken wastewater line east of the first manhole. Apply lime to sewage on the surface of the ground to reduce the pathogens.

Be advised that enforcement action has been requested from the Water Pollution Control Program's Enforcement Section, which may include assessment of a penalty to compel compliance.

Sincerely,

ST. LOUIS REGIONAL OFFICE

ORIGINAL SIGNED BY  
MOHAMAD ALHALABI, P.E.  
Mohamad Alhalabi, P.E.  
Regional Director

*MA/PEM*  
MA/PEM/jh

Enclosure

c: WPCP-Enforcement  
Warren County Office of Environmental Sanitation  
Lincoln County Office of Environmental Sanitation  
Steve Loethen, Public Service Commission



MISSOURI DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF ENVIRONMENTAL QUALITY  
NOTICE OF VIOLATION

P.O. BOX 178  
JEFFERSON CITY, MO 65102

VIOLATION NUMBER

1764

☐ A.M.  
☐ P.M.

DATE AND TIME ISSUED

January 15, 2002

SOURCE (NAME, ADDRESS, PERMIT NUMBER, LOCATION)

Warren County Water & Sewer/Shady Oaks Lift Station

SW 1/4, Sec 36, T48N, R1W

MAILING ADDRESS

1248 Mimosa Court

CITY

Foristell

STATE

MO

ZIP CODE

63348

NAME OF OWNER OR MANAGER

Mr. Gary Smith

TITLE OF OWNER OR MANAGER

Owner/President

LAW, REGULATION OR PERMIT VIOLATED

Missouri Clean Water Commission Regulation 10 CSR 20-7.015(9)(E)1&2.

Missouri Clean Water Commission Regulation 10 CSR 20-7.031(3)(A), (B) & (C).

NATURE OF VIOLATION

DATE(S):

TIME(S):

Allowing the bypassing of wastewater from a treatment facility.

Failed to report the bypass to the Department.

Discharging water contaminants into waters of the state that reduce the quality of those waters below the Water Quality Standards.

Failure to maintain and operate a wastewater facility.

SIGNATURE (PERSON RECEIVING NOTICE)

By Certified Mail

SIGNATURE (PERSON ISSUING NOTICE)

Paul E. Mueller

TITLE OR POSITION

TITLE OR POSITION/DNR REGION

Environmental Specialist/SLRO-CRSO