

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Small Company Rate Increase)
Request of Middlefork Water Company) Case No. WR-2006-0212
Tariff Work ID No. YW-2006-0383

STAFF'S RESPONSE TO THE DEPARTMENT OF NATURAL RESOURCES'
STATEMENT OF COMPLIANCE FOR MIDDLEFORK WATER COMPANY

COMES NOW the Staff of the Missouri Public Service Commission ("Staff"), by and through counsel, and for its Response to the Department of Natural Resources' Statement of Compliance for Middlefork Water Company ("Response") states the following to the Missouri Public Service Commission ("Commission").

1. On November 23, 2005 (unless noted otherwise, all dates herein refer to the year 2005), the Commission issued its **Order Directing Filing and Adding a Party**, wherein it added the Missouri Department of Natural Resources ("DNR") as a party to this case, directed the DNR to file a pleading regarding the compliance status of Middlefork Water Company ("Middlefork") with regard to the DNR's requirements no later than December 2, and directed the Staff to file its recommendation no later than December 5 at 12:00 p.m.

2. On December 5, the Staff timely filed its recommendation, with the recommendation consisting of a pleading to which an official case file memorandum and various workpapers were attached. Because the DNR's compliance status report had not yet been filed, the Staff included the following paragraph regarding Middlefork's DNR compliance status in its official case file memorandum (at the top of page 4):

Lastly, based upon discussions with personnel from the Missouri Department of Natural Resources (DNR) and a review of information routinely provided to the Staff by the DNR, the Staff understands that the Company received no "notices of violations" from the DNR during the test year used for the Request and has also not received any such notices since the end of the test year to date.

3. The practice of the Staff providing information regarding utilities' compliance status with regard to applicable DNR regulations in its recommendations regarding small company rate cases, and service area certificate cases, has evolved over the past couple of years based upon discussions of this subject by the Commission during its consideration of such cases, and other general discussions of this subject with the Staff. This practice has evolved from the point where the Staff did not routinely provide any information regarding this subject to the point where the current practice is that the Staff provides information regarding whether the DNR has issued notices of violations (NOVs) to the subject utility during the time frame used in this case. And until recently, when the Commission began making the DNR a party to these types of cases and directing the DNR to file compliance status reports, the practice of the Staff providing compliance status information was the only source of such information for the Commission.

4. On December 5, the DNR filed its Statement of Compliance for Middlefork Water Company, in which it reported the existence of a November 18, 2004 Bilateral Compliance Agreement ("BCA") between the DNR and Middlefork that resulted from certain "unlawful" chemical levels in Middlefork's water supply, non-reporting of certain chemical levels and other DNR recommendations.

5. The Staff notes that although the information the DNR provided in its December 5 filing may appear to conflict with the information that the Staff provided in its case file memorandum, that is not the case due to the nature of the information provided. This is because the BCA reported by the DNR did not result from the DNR's issuance of a NOV to Middlefork. Rather, the subject BCA represents an agreed-upon approach between the DNR and Middlefork to address certain operational and compliance matters.

6. Although a NOV is often issued as a precursor to a BCA, it is not unusual for the DNR and a regulated utility to execute a BCA without the DNR first issuing a NOV. Additionally, it is not unusual for the DNR to identify and address "violations" of its regulations in its compliance inspection reports without initially issuing a NOV to a utility or executing a BCA with a utility, and without the subsequent issuance of a NOV or execution of a BCA so long as the utility adequately addresses the DNR's concerns in its response to the compliance inspection report.

7. It is Staff's objective in its filings to see that the Commission has received all relevant information needed to arrive at decisions in cases before it, as well as information that may be pertinent to larger policy issues it may be considering. In that regard, the Staff will continue to provide the Commission with information on NOV's that the DNR has issued and will continue to be in contact with the DNR about those situations where operational concerns need to be addressed. However, in order to determine the type of DNR compliance status information the Commission would like to receive on a going-forward basis, either from the Staff and/or from the DNR, the Staff believes this matter should be discussed with the Commission, and the Staff is prepared to do so in the context of this case or in any other forum the Commission may choose.

8. Lastly, regarding the status of Middlefork's efforts to comply with the provisions of the BCA, included in Appendix A attached hereto is a copy of the DNR's most recent "routine surveillance report" regarding that matter. In addition to including information regarding Middlefork's compliance efforts, the report includes the following ending comments to Middlefork: "System personnel and administration are complimented for their diligent efforts to meet the terms of the BCA and improve the water system."

WHEREFORE, the Staff respectfully submits this Response for the Commission's information and consideration.

Respectfully Submitted,

DANA K. JOYCE
General Counsel

/s/ Keith R. Krueger

Keith R. Krueger
Deputy General Counsel
Missouri Bar No. 23857

Attorney for the Staff of the
Missouri Public Service Commission

P.O. Box 360
Jefferson City, MO 65102
573-751-4140 (telephone)
573-751-9285 (facsimile)
keith.krueger@psc.mo.gov (e-mail)

CERTIFICATE OF SERVICE


I hereby certify that copies of this Response have been sent by overnight mail, hand-delivered, transmitted by facsimile or transmitted by e-mail to all counsel and/or parties of record this 12th day of December 2005.

/s/ Keith R. Krueger

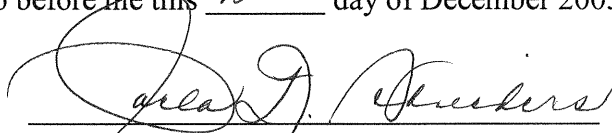
AFFIDAVIT OF DALE W. JOHANSEN

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Dale W. Johansen, of lawful age, on his oath states: (1) that he is a member of the Staff of the Missouri Public Service Commission and holds the position of Manager – Water & Sewer Department in the Commission's Utility Operations Division; (2) that he participated in the preparation of the foregoing Response to the Department of Natural Resources' Statement of Compliance for Middlefork Water Company ("Response"); (3) that he has knowledge of the matters set forth in the Response; and (4) that the matters set forth in the Response are true and correct to the best of his knowledge and belief.

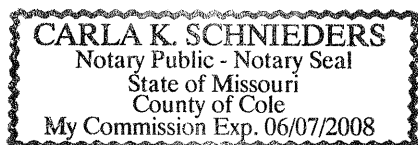

Dale W. Johansen – Manager
Water & Sewer Department
Utility Operations Division

Subscribed and sworn to before me this 12th day of December 2005.


Notary Public

My Commission Expires:

June 7, 2008



APPENDIX A

DEPARTMENT OF NATURAL RESOURCES' BCA ROUTINE SURVEILLANCE REPORT

CASE NO. WR-2006-0212



Matt Blunt, Governor • Michael D. Wells, Acting Director

DEPARTMENT OF NATURAL RESOURCES

www.dnr.mo.gov

RECEIVED
FEB 18 PM 3:43
WATER PROTECTION PROGRAM

February 4, 2005

CERTIFIED MAIL #7004 0550 0000 7103 8815
RETURN RECEIPT REQUESTEDMr. Brock Pfost, P.E.; Owner
Middle Fork Water Company
P.O. Box 468
Maryville, MO 64468

Dear Mr. Pfost:

Enclosed, please find the routine surveillance report of the Middle Fork Water Company water system. Mark Klaus visited the Middle Fork Water Company water treatment plant on January 20, 2005. During this visit the status of the Bilateral Compliance Agreement, signed on November 18, 2004, was reviewed.

If you have any questions or comments, please feel free to contact Mark Klaus of this office at (816) 622-7000 or 500 Northeast Colbern Road, Lee's Summit, Missouri 64086-4710.

Thank you for your cooperation.

Sincerely,

KANSAS CITY REGIONAL OFFICE

A handwritten signature in cursive script, reading "James H. Helgason".

James H. Helgason
Environmental Manager

JHH/mkf

Enclosure

c: Mr. John MacEachan, Enforcement Unit Chief, Water Protection Program, Public Drinking
Water Branch
Mr. Sean Orendorff, Chief Operator
Water Protection Program/Public Drinking Water Branch

Middle Fork Water Company
Gentry County
ID #1070639

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Integrity and excellence in all we do

BILATERAL COMPLIANCE AGREEMENT
ROUTINE SURVEILLANCE REPORT
MIDDLE FORK WATER COMPANY
GENTRY COUNTY
February 4, 2005

On January 20, 2005, Mark Klaus of the Missouri Department of Natural Resources visited the Middle Fork Water Company public water system, (hereinafter referred to as PWS). During this visit, progress of specific provisions in the Bilateral Compliance Agreement (BCA), signed on November 18, 2004, were reviewed. This letter is an attempt to record the company's efforts to comply with the terms of the BCA.

The BCA specific provision number is listed with the status on the dates of this visit.

- A. The PWS shall, within thirty (30) days of the signing of this agreement, commence performing all required operational monitoring, and record maintenance. These records shall include the date and time of such tests and the signature of the employee performing these tests.

Operational analysis has improved and meets regulatory requirements. During this visit we discussed the location that the filter effluent samples must be taken. It should be noted that operators are performing additional operational monitoring to assure efficiency of the treatment processes and that several other operational monitoring strategies were discussed during this visit.

- B. The PWS shall, within sixty (60) days of the signing of this agreement, provide a written plan of action addressing water treatment improvements to meet Disinfection By-Product Maximum Contaminant Levels (MCLs) and Stage 1 Enhanced Surface Water Treatment requirements. The plan will include any changes to the plant treatment processes; chemical feed application points, and dates the changes will be performed.

A copy of the action plan was e-mailed to Mark Klaus on January 18, 2005. The plan gives a brief outline of changes made at the treatment plant and that the PWS is continuing to work with their chemical supplier to reduce disinfection by-products.

- C. The PWS shall, within sixty (60) days of the signing of this agreement, develop a coliform sampling plan. The plan will contain routine sampling locations representative of the distribution system. All locations must have repeat sampling capabilities within five (5) service connections both upstream and downstream of the routine location. Coliform sampling will not be preformed at the water treatment plant to meet monthly coliform sampling compliance.

The department is working with the PWS to improve bacteriological sampling requirements. The Middle Fork Water Company treatment plant has a unique distribution system. A separate department correspondence letter will be sent regarding this issue.

- D. The PWS shall, within thirty (30) days of the signing of this agreement, calibrate all plant analytical meters. This includes the chlorine and turbidity continuous monitoring equipment and the laboratory pH and turbidity meters. Records of calibration must be maintained on file for each analytical instrument. The records will include the piece of equipment calibrated, the date and time of the calibration and the signature of the person performing the calibration. The pH meter will be calibrated daily with the laboratory turbidity and online meters calibrated as specified by manufacturer's recommendations.

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The analytical equipment was calibrated during the installation of the filter effluent turbidity meters. System personnel developed a filing system for each analytical instrument. The pH meter is calibrated daily with documentation provided on the daily log sheet.

- E. The PWS shall, within ninety (90) days of the signing of this agreement, obtain an automated jar tester capable of duplicating the mixing, coagulation and flocculation processes at the treatment plant.

System personnel reported that they are working to meet the ninety-day requirement for obtaining jar-testing equipment.

- F. The PWS shall, within ninety (90) days of the signing of this agreement, provide the following provisions to assure operator safety while working with chlorine at the plant.

1. An exterior opening panic bar door for the chlorine room.
2. Scales for chlorine cylinders.
3. A safety shower and eyewash.
4. An "A" chlorine cylinder repair kit.
5. Modification to the fresh air inlet serving the chlorine room.
6. Inspection and certification of the SCBA unit, initially and on an annual basis.
7. Training for plant personnel on the SCBA unit to assure proficiency with the unit.

System personnel are working to meet the requirements for operator safety in a timely manner.

- G. The PWS shall, within ninety (90) days of the signing of this agreement, provide the following provisions for the source water reservoir and presedimentation basin.

1. Installation of a stadial marker and development of water storage curves.
2. Development of an active watershed management program. Please contact Ms. Tracey Winter of the Kansas City Regional Office for assistance.
3. Develop a written algae control program. Information shall include: date and time of treatment, pounds of chemical used, chemical dosage rate, source water alkalinity, weather conditions, structure treated and employee(s) performing the task.
4. Development of a detailed recreational use plan.
5. Removal of tree and brush growth on the dam, around the sedimentation basin, and the emergency spillway.
6. Removal of the logs and tree limbs from the dam's shoreline and the overflow structure.
7. Installation of gravel on roads serving the presedimentation basin and across the top of the dam to the intake structure.

System personnel have developed a written algae control program and will document their algae control efforts.

The efforts of system personnel to meet several items in this section are affected by the weather conditions.

Development of an active watershed management program and a detailed recreational use plan are not weather related and should proceed accordingly.

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- H. The PWS shall within one hundred twenty (120) days of the signing of this agreement, provide standby power capabilities for the treatment plant and intake structure to assure water may be processed in the event of an extended power outage.

During this visit several options to meet this requirement were discussed with water system personnel. The PWS should determine the most prudent financial option to provide a necessary means to process water in the event of an extended power outage.

- I. The PWS shall, within ninety (90) days of the signing of this agreement, replace the meters at the water plant. This includes the plant discharge, source water, and backwash meters. These meters should have calibration checked on a routine schedule as recommended by the meter manufacturer.

System personnel plan to forward information concerning meter calibration and replacement activities to the Kansas City Regional Office.

- J. The PWS shall, within ninety (90) days of the signing of this agreement, install the piping modification necessary to allow plant water usage from either the Grant City or the Stanberry high service discharge line.

System personnel are working to meet the requirement to modify water piping to allow plant usage from either high service discharge line.

- K. The PWS shall, within ninety (90) days of the signing of this agreement, install security fencing at the water treatment plant.

System administration is working to meet the security-fencing requirement.

- L. The PWS shall, within ninety (90) days of the signing of this agreement, secure the clearwell hatches and cover with a locking device(s) to prevent accessibility by unauthorized individuals.

The clearwell hatches have locks installed to prevent access by unauthorized individuals.

- M. The PWS shall clean the treatment basins out on a semi-annual basis. This requirement will be performed each spring and fall of the year.

System personnel stated the basins were cleaned this fall and they intend to perform this duty on a semi-annual basis.

- N. The PWS shall within one hundred twenty (120) days, develop a preventive maintenance program for treatment plant equipment, pumps, and motors.

System representatives stated they intend to develop a preventive maintenance program as required.

- O. The PWS shall, within one hundred twenty (120) days, implement written administrative planning, administrative policies, and operational guidelines and procedures for the water treatment plant.

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Administrative planning is preparing for and scheduling the anticipated upgrades or replacement of large expenditure items. This includes the budgeting process.

The administrative policies consist of system officials and plant operators adopting optimization goals for the operation of the water treatment plant. The goals must be clear and specific. System staff must set water quality and optimization goals for each segment of the plant.

Operational guidelines and procedures are commonly known as Standard Operating Procedures. The PWS shall develop a Standard Operating Procedures (SOP) manual in the one hundred twenty-(120) day time frame.

During this visit we discussed operational strategies for the water system to meet the disinfection by-product regulations. A Standard Operating Procedures manual was mutually agreed as a positive course of action to help new employees and standardize existing procedures.

Comments

System personnel and administration are complimented for their diligent efforts to meet the terms of the BCA and improve the water system.

It is our hope the Middle Fork Water Company proceeds with a proactive approach regarding the water system.

If you have any questions or comments, please feel free to contact Mark Klaus of this office at (816) 622-7000 or 500 Northeast Colbern Road, Lee's Summit, Missouri 64086-4710. Thank you for your cooperation.

Reported by:

Approved by:



Mark Klaus
Water Specialist
Public Drinking Water Program
Kansas City Regional Office

RRG/mkf



Rochelle Gibson
Unit Chief
Public Drinking Water Program
Kansas City Regional Office