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Department of Natural Resources  
Water Protection Program  
P.O. Box 176  
Jefferson City, MO 65102-0176  
ATTN: NPDES Operating Permits/Permit Comments

Via email to: [abigail.day@dnr.mo.gov](mailto:abigail.day@dnr.mo.gov)

**Re: Draft Missouri State Operating Permit No. MO-0117935  
Eagle Knoll WWTP WWTF**

Dear Ms. Day:

Thank you for the opportunity to provide comments regarding draft Missouri State Operating Permit No. MO-0117935 at the Eagle Knoll WWTP WWTF (the "Permit") issued by the Missouri Department of Natural Resources (the "DNR") prior to its submittal to public comment as required by Sec. 640.016.2, RSMo. Please accept this comment submitted on behalf of the Boone County Regional Sewer District (the "District").

The draft Permit indicates that DNR has not conducted a Cost Analysis for Compliance.<sup>1</sup> In this regard, the draft Permit states that the Cost Analysis for Compliance is not required because the Permit "contains no new conditions or requirement that convey a new cost to the facility."<sup>2</sup> This conclusion is incorrect.

The Permit currently provides an effluent limitation of 1.4 for the monthly average of Ammonia as N from April 1 – September 30, while the draft Permit lowers that to 1.0 for July 1 – September 30.<sup>3</sup> Indeed, DNR acknowledges multiple times in the draft Permit that new requirements

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<sup>1</sup> See draft Permit Part IV – Cost Analysis for Compliance, Fact Sheet Page #11.

<sup>2</sup> *Id.*

<sup>3</sup> Compare Table A-2 "Final Effluent Limitations and Monitoring Requirements," Permit page 3 to Table A-1 "Final Effluent Limitations and Monitoring Requirements," draft Permit page 2.

are present. For example, the draft Permit refers to the “newly established limitations”<sup>4</sup> and explains that the new requirements are due to DNR’s determination that the approach established by Section 5.4.2 of the EPA’s Technical support Document for Water Quality-based Toxic Controls for derivation of ammonia limits is “more appropriate” than the 2007 Ammonia Guidance method formerly followed by DNR.<sup>5</sup>

When DNR issues a permit that “incorporate(s) a new requirement for discharges from publicly owned . . . sewer treatment works,” DNR is required make a finding of affordability based on the criteria provided by statute.<sup>6</sup> While the law provides exceptions to this obligation, there is no exception for new requirements established based on a DNR determination that “more appropriate” standards exist for calculation of certain limitations than those previously used.

The draft Permit requires compliance with new effluent limitations for Ammonia as N, which may require the design, construction and operation of different treatment technology. As such, and contrary to DNR’s assertion in the draft Permit, a Cost Analysis for Compliance must be performed. Failure by DNR to make an affordability finding as required by law will result in a permit that is null, void, and unenforceable.<sup>7</sup>

Because the draft Permit contains a new or modified effluent limitation, it must also include a schedule of compliance pursuant to Section 644.051.7, RSMo. The draft Permit provided does not contain a reasonable schedule of compliance to allow the District to evaluate necessary changes or improvements, if any, to achieve compliance with the new Ammonia as N limitation.<sup>8</sup>

Please provide a revised draft Permit to the District that includes a completed Cost Analysis for Compliance and schedule of compliance at your earliest convenience. We appreciate your consideration of the foregoing comments. If you have any questions or would like to discuss this matter, please do not hesitate to contact me at [cpieper@bbdlc.com](mailto:cpieper@bbdlc.com) or 573-355-5045.

Very truly yours,



Christopher R. Pieper  
General Counsel  
Boone County Regional Sewer District

cc: Tom Ratermann, Boone County Regional Sewer District

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<sup>4</sup> Draft Permit, Part III, “Anti-Backsliding” section, Fact Sheet page 6.  
<sup>5</sup> *Id.*; see also draft Permit, Part II, “Total Ammonia Nitrogen” section, Fact Sheet page 3.  
<sup>6</sup> Sec. 644.145.1 and .4, RSMo. As a common sewer district established and operating under Chapter 204, RSMo., the District is a publicly owned sewer system.  
<sup>7</sup> Sec. 644.145.77. RSMo.  
<sup>8</sup> Draft Permit, Part III, “Schedule of Compliance (SOC)” section, Fact Sheet page 10 (“This permit does not contain an SOC”).