

Missouri Clean Water Commission  
Department of Natural Resources  
Lewis and Clark State Office Building  
LaCharrette/Nightingale Conference Rooms  
1101 Riverside Drive  
Jefferson City, Missouri 65102

November 2, 2011

**Overlook Subdivision Wastewater Treatment Facility  
Stone County, MO-0116211**

**Issue:** Since June 13, 2011, the Department has sent two (2) letters to Mr. Christiansen and spoken with Mr. Kearney, operator for the facility, on the telephone in an attempt to resolve violations of the Missouri Clean Water Law (Law) and its implementing regulations through a negotiated Abatement Order on Consent. Department staff requested a response from Mr. Christiansen regarding the civil penalty and corrective actions in both letters and during each phone conversation with Mr. Kearney. On August 1, 2011, the Department received a letter from Mr. Kearney regarding corrective actions taken at the facility. The letter stated that Mr. Christiansen had completed or initiated the following corrective actions: 1) prepared a sign for Outfall #001 and a warning sign for the perimeter fence, 2) hired Heithaus Engineering & Associates to submit a Statement of Work Completed (SOWC) for dechlorination equipment and install a flow measuring and recording device, 3) added chlorine and dechlorination tablets to the contact tubes, 4) purchased chemicals to facilitate phosphorous removal, and 5) seeking bids for construction of a perimeter fence for around the facility. The letter did not include a timeframe for completing any of the corrective measures, nor have we received any further updates from Mr. Kearney regarding progress towards compliance. To date, the Department has not received a response from Mr. Christiansen; thus, we have been unable to reach an agreement with him.

**Background:** Mr. Jim Christiansen, dba Day Break Ranches, Inc., is developing Overlook Subdivision (Subdivision), which currently consists of approximately 80 homes and 27 condominium units, and is located in Stone County, Missouri. The Subdivision is served by a recirculating sand filter wastewater treatment facility (facility) with chlorination and sludge disposal by contract hauler. Effluent from the facility discharges to a tributary to Table Rock Lake pursuant to Missouri State Operating Permit number MO-0116211(Permit). Pursuant to the Permit, final effluent limitations for fecal coliform (FC) became effective March 5, 2003, final permit effluent limitations for total phosphorous (TP) became effective December 1, 2007, and final permit effluent limitations for total residual chlorine became effective March 1, 2011. Upgrades to the facility were required for the facility's effluent to comply with each of these final limitations.

Since May 19, 2008, the Department has conducted three (3) inspections of the facility. During these inspections, staff observed that the facility lacked a security fence with proper warning signs, a flow meter, chlorine tablets in the chlorination unit, dechlorination tablets in the dechlorination unit, and alum in the phosphorous removal unit. Additionally, the Department has not received a SOWC for phosphorous removal or dechlorination upgrades or annual sludge reports for 2006 through 2010. Lastly, chemical analysis of effluent samples taken during the

MCWC Referral Memo  
Overlook Subdivision

inspections documented that the facility's effluent was in violation of permit effluent limitations for TP and FC.

**Recommended Action:** The Water Protection Program recommends that the Commission refer this matter to the Attorney General's Office for appropriate legal action in order to compel compliance, pursue a civil penalty, and/or seek any other appropriate form of relief.

**Suggested Motion Language:** "I move that the Commission refer this matter to the Attorney General's Office for appropriate legal action in order to compel compliance, pursue a civil penalty, and/or seek any other appropriate form of relief."

**List of Attachments:**

Case Summary Information

## MISSOURI DEPARTMENT OF NATURAL RESOURCES

### Case Summary Information

**Case Name:** Overlook Subdivision Wastewater Treatment Facility

**Facility name(s) – List all current names of responsible parties (owner/operator) for actions at this site):**

Mr. Carroll James (Jim) Christiansen, dba Day Break Ranches, Inc., owner and president of  
Overlook Property Owner's Association  
Mr. Earl Kearney, contract operator

**Facility address, including county, and contact information:**

Mr. Carroll James (Jim) Christiansen  
Day Break Ranches, Inc.  
11863 Hwy 13  
P.O. Box 159  
Kimberling, City, MO 65686  
(417) 699-0975  
Stone County

**Program(s):** Water Protection Program

**Program Contact(s)/Regional Contact(s), with phone numbers:**

Corinne Rosania, Water Protection Program enforcement case manager, (573) 751-6725  
Jake Waters, Southwest Regional Office inspector, (417) 891-4300

**Description of Facility and Situation:**

Overlook Subdivision (Overlook) consists of 80 homes and 27 condominium units, and is located approximately 1.75 miles west of Kimberling City in Stone County, Missouri. Overlook is served by a recirculating sand filter wastewater treatment facility (facility) with chlorination and sludge disposal by contract hauler. Effluent from the facility discharges through Outfall #001 to an unnamed tributary to Table Rock Lake pursuant to Missouri State Operating Permit (MSOP) number MO-0116211 (Permit). Pursuant to the Permit, final effluent limitations for fecal coliform (FC) became effective March 5, 2003, final permit effluent limitations for total phosphorous (TP) became effective December 1, 2007, and final permit effluent limitation for total residual chlorine (TRC) became effective March 1, 2011. Upgrades to the facility were required for the facility's effluent to comply with each of these final limitations.

From January 11, 2007, until September 10, 2009, the Department sent twelve (12) letters to Day Break Ranches, Inc. (Day Break Ranches) for failure to submit complete and timely monthly Discharge Monitoring Reports (DMRs), and two (2) Letter of Warnings (LOWs) for significantly exceeding the permitted limitation for TP on DMRs.

On June 30, 2009, Mr. Christiansen (owner) and Mr. Kearney (operator) met with Department staff to discuss bringing the facility into compliance, and during the meeting, Mr. Christiansen stated that construction for phosphorous removal was complete. The Department had issued a construction permit to Mr. Christiansen on May 20, 2005, and again on September 5, 2007, but they both were expired when this work was completed.

On September 10, 2009, the Department issued a LOW to Daybreak Ranches for failure to submit to the Department a Statement of Work Completed (SOWC), an application to modify the Permit to reflect phosphorous removal improvements, and an engineering report, plans and specs, and a construction application for dechlorination improvements. The letter also notified Daybreak Ranches that the permit required installation of a flow meter at the facility.

On January 25, 2010, Department staff conducted a compliance inspection at the facility and observed that dechlorination and phosphorus removal equipment did not match the facility description in the Permit (i.e., the Permit had not been modified to reflect their addition to the facility), there were no chemicals on site for phosphorus removal, the facility did not have a flow meter, and the facility lacked a security fence. As part of the inspection, staff conducted a review of the permit file and documented that the facility consistently failed to submit timely DMRs and comply with effluent limitations. A sample of effluent collected during the inspection contained a TP concentration of 4.26 mg/L, which significantly exceeds the permitted limit. The Department issued Notice of Violation (NOV) number 13132SW to Mr. Christiansen for violations observed during the January 25, 2010, inspection.

On May 4, 2011, Department staff conducted a compliance inspection at the facility and observed that Outfall #001 was not properly marked in the field, the facility lacked a security fence with proper warning signs, the facility did not have a flow meter, operation of the facility did not match the Permit, and there were no chlorine tablets in the chlorination unit, no dechlorination tablets in the dechlorination unit, and no alum in the phosphorous removal unit. Additionally, a sample of effluent collected during the inspection contained a FC concentration of 2,300 CFU/100ml and a TP concentration of 3.57 mg/L, both of which significantly exceed the permitted effluent limitations. Nutrient loading in the receiving stream was evidenced by excessive algae growth at the point of discharge. Lastly, a file review revealed that the facility had failed to submit annual sludge reports for 2006 through 2010, and the facility's effluent significantly exceeded the permitted effluent limitation for TP in January and February 2010. On June 9, 2011, the Department issued NOV number 13634SW to Mr. Christiansen for violations observed during the May 4, 2011, inspection. The NOV required a response by June 15, 2011, but the Department did not receive a response by this date.

Since June 13, 2011, the Department has sent two (2) letters to Mr. Christiansen and spoken with Mr. Kearney on the telephone in an attempt to resolve violations of the Missouri Clean Water Law (Law) and its implementing regulations through a negotiated Abatement Order on Consent. Department staff requested a response from Mr. Christiansen regarding the civil penalty and corrective actions in both letters and during each phone conversation with Mr. Kearney. On August 1, 2011, the Department received a letter from Mr. Kearney in response to NOV number 13634SW. The letter stated that Mr. Christiansen had completed or initiated the following corrective actions: 1) prepared a sign for Outfall #001 and a warning sign for the perimeter fence, 2) hired Heithaus Engineering & Associates to submit a SOWC for dechlorination

equipment and install a flow measuring and recording device, 3) added chlorine and dechlorination tablets to the contact tubes, 4) purchased chemicals to facilitate phosphorous removal, and 5) seeking bids for construction of a perimeter fence for around the facility. Additionally, Mr. Kearney stated in the letter that no sludge had been removed from the facility, and that he would complete and submit the missing annual sludge reports for 2006 through 2010. The letter did not include a timeframe for completing any of the corrective measures, nor have we received any further updates from Mr. Kearney regarding progress towards compliance. To date, the Department has not received a response from Mr. Christiansen; thus, we have been unable to reach an agreement with him.

**Responsible Party(s) (specify owner, operator, other [etc.]) and contact information if different from above:**

Same as above

**Law(s), Regulation(s) and Permit Conditions Violated: For each violation note starting some time before { } date and ending sometime before { }, or note "continuing."**

1. Failed to comply with the effluent limits contained in Part "A" of MSOP number MO-0116211, in violation of Sections 644.051.1 (3) and 644.076.1, RSMo.
2. Failed to submit complete and timely DMRs as required in Part "A" of the Permit, in violation of Section 644.076.1, RSMo and 10 CSR 20-7.015(9) (A)1.
3. Failed to submit annual Sludge Reports as required in Part "B", Standard Conditions, of the Permit, in violation of Section 644.076.1, RSMo, and 10 CSR 20-6.010(7)(A).
4. Failed to operate and maintain facilities to comply with the Law and applicable permit condition, in violation of Sections 644.061.1 (3) and 644.076.1, RSMo.
5. Failed to submit a SOWC, Form B Application for Permit Modification, and appropriate fee for phosphorous removal and dechlorination equipment added to the facility, in violation of Section 644.076.1, RSMo and 10 CSR 20-6.010 (7) (A).
6. Caused pollution of a tributary to Table Rock Lake, waters of the state, or placed or caused or permitted to be placed a water contaminant in a location where it is reasonably certain to cause pollution of waters of the state, in violation of Sections 644.051.1(1) and 644.076.1, RSMo.

**Relief Requested:**

**Civil action for compliance and penalties (if injunction requested, please provide proposed compliance schedule)**

1. Immediately implement and maintain phosphorus removal, chlorination, and dechlorination.
2. Install a flow meter at the facility.
3. Construct a fence around the facility with proper warning signs.
4. Submit all missing documents, including Annual Sludge Reports, a SOWC for phosphorous and dechlorination improvements, and an application to modify the Permit to reflect the addition of phosphorous and dechlorination equipment.

**Permit(s) Involved, including type and permit number:**  
Missouri State Operating Permit (MSOP) number MO-0116211

**Other Program Involvement (if applicable):** n/a

**Other Agency Involvement (if applicable):** n/a

**Most Recent Significant Action by Department or Responsible Party:** n/a

**Penalty Estimate:**  
\$12,000

**Other Significant Aspects of the Case:** Since March 2010, DMRs submitted to the Department have reported only one instance of noncompliance with effluent limitations contained in MSOP number MO-0116211. Without the adequate use of chlorination tablets, dechlorination tablets, and alum/phosphorous removal equipment, and due to the discrepancy between the Department's May 4, 2011, sample results and those reported on DMRs, the Department is concerned about the possible falsification of DMRs. Thus, the Department is reviewing the file for potential criminal violations.

**CONTACT INFORMATION:**

- **Department Staff – inspectors, other field staff, case managers and others involved in developing the referral. Name, position, e-mail address and phone number:**

Corinne Rosania, Water Protection Program enforcement case manager, (573) 751-6725, [corinne.rosania@dnr.mo.gov](mailto:corinne.rosania@dnr.mo.gov)

Jake Waters, Southwest Regional Office inspector, (417) 891-4300, [jake.waters@dnr.mo.gov](mailto:jake.waters@dnr.mo.gov)

- **Facility Owner(s) – for all defendants, include name, title, physical and mailing addresses and telephone numbers:**

Mr. Carroll James (Jim) Christiansen  
Day Break Ranches, Inc.  
11863 Hwy 13  
P.O. Box 159  
Kimberling, City, MO 65686  
(417) 699-0975  
[jimchristiansen@earthlink.net](mailto:jimchristiansen@earthlink.net)

- **Facility Operator(s):**

Mr. Earl Kearney  
55 Kearney Lane  
Reeds Spring, MO 65737  
(417) 294-3450

- **Others (e.g., employees, neighbors, first responders or staff of other state, local or federal agencies):**

Mr. Gary Lomax, concerned resident of Overlook Subdivision  
(417) 739-1874  
smoke359@aol.com

BBP Labs, perform DMR effluent analyses  
Mr. Randy Roberts  
(417) 818-0519  
2125 East Walnut Street  
Springfield, MO 65802

**Attachments:**

- Permit and permit application**
- NOVs and LOWs**
- Documentation of any site visits, including Environmental Assistance Visits**
- Reports of inspections within last five years**
- Penalty and penalty calculation**
- All correspondence between Department and defendant**
- All emails and phone logs**
- Secretary of State information documenting correct name of corporation, form of corporation or fictitious name registration, including information regarding registered agent**
- Sample Results**
- Photographs (electronic or color)**
- Evidence of Environmental Impact**
- Documentation of any Settlement Negotiations or In-Person Meetings**
- Witness names and contact information (at least phone number)**
- Map of the Site**

