

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

May 2, 2012

**JLC Trailer Court, LLC
MO-0120537, Johnson County**

Background: Mr. and Mrs. Jeffrey and Mary Shuey (the Shueys) own a mobile home park known as JLC Trailer Court, LLC located in Warrensburg, Johnson County. Wastewater from the mobile homes flows to a two-cell lagoon that discharges to an unnamed tributary to East Fork of Postoak Creek pursuant to Missouri State Operating Permit (Permit) number MO-0120537 which expired by its own terms on July 17, 2002. Permit MO-0120537 requires the Shueys to submit quarterly Discharge Monitoring Reports (DMRs). From November 11, 2000, to February 16, 2011, the Missouri Department of Natural Resources (Department) sent nine (9) letters to Mr. Shuey notifying him that DMRs had not been received. Additionally, the Department sent five (5) letters notifying Mr. Shuey that the Permit had expired. According to the Department's MoCWIS database, only three (3) of the required fifty-eight (58) DMRs have been received for JLC Trailer Court since the Permit was issued on July 18, 1997.

On November 2, 2000, January 3, 2002, March 3, July 16 and November 17, 2009, and February 16, 2011, the Department issued Notices of Violation to Mr. Shuey, notifying him that the JLC Trailer Court was not in compliance with the Missouri Clean Water Law (Law).

Issue: Since May 16, 2011, the Department has sent Mr. Shuey two (2) letters offering to resolve past violations of the Law and its implementing regulations through an Abatement Order on Consent. To date, the Department has been unable to reach an agreement with Mr. Shuey.

Recommended Action: Staff recommends that the Commission refer this matter to the Attorney General's Office for appropriate legal action to compel compliance, pursue civil penalties and any other appropriate form of relief.

Suggested Motion Language: "I move that the Missouri Clean Water 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."

Attachments: Case Summary Sheet

MISSOURI DEPARTMENT OF NATURAL RESOURCES

Case Summary Information

Case Name: JLC Trailer Court

Facility name(s) – List all current names of responsible parties (owner/operator) for actions at this site): Jeffrey and Mary Shuey, (husband and wife) owners

Facility address, including county, and contact information:

Jeffrey Shuey
JLC Trailer Court
472 Southeast Highway DD
Warrensburg, MO 64093
Johnson County

Program: Water Protection

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

Mary Ann Sutter, Water Protection Program (WPP), 573 522-4018
Robert Betts, Kansas City Regional Office (KCRO), 816 622-7002

Description of Facility and Situation:

The site includes a mobile home park with approximately 20 available pads. Wastewater generated in the mobile homes flows to a two-cell lagoon (lagoon) with a design population of 100 and a design flow of 10,000 gallons per day. The lagoon's Missouri State Operating Permit (permit) expired on July 17, 2002. Mr. Shuey continues to operate the lagoon without a permit and has not submitted Discharge Monitoring Reports since July 31, 2002. Additionally, Mr. Shuey has not complied with the Schedule of Compliance included in the permit. Since April 1997, the Department has issued five (5) Notices of Violation (NOVs) and sent a Letter of Warning in an attempt to bring the lagoon back into compliance. Mr. Shuey has ignored all requests for a response to the Department's notifications. On May 16 and June 6, 2011, the Department sent letters to Mr. Shuey offering to settle past violations through an out of court agreement. On June 10, 2011, Mr. Shuey called the Department in response to the June 6, 2011, letter, but did not send a written response.

Law(s), Regulation(s) and Permit Conditions Violated:

1. **Since July 18, 2002 and continuing,** Failed to apply for renewal of the permit at least one hundred and eighty (180) days before expiration of permit number MO-0120537 in violation of Sections 644.051.10 and 644.076.1, RSMo, and 10 CSR 20-6.010(5)(C);
2. **Since July 31, 2002 and continuing,** Failed to submit complete/accurate/timely discharge monitoring reports as required in part "A" of permit number MO- 0120537 in violation of Section 644.076.1, RSMo, and 10 CSR 20-7.015(9)(A)1;

3. **Since July 31, 2002 and continuing**, Caused pollution of unnamed tributary to the East Fork of Postoak Creek, or placed or caused or permitted to be placed water contaminants in a location where they are reasonably certain to cause pollution of waters of the state in violation of Sections 644.051.1(1) and 644.076.1, RSMo;
4. **Since July 17, 2002 and continuing**, Operated, used or maintained a water contaminant source -- 2 cell lagoon -- which intermittently discharges to a tributary to East Fork of Postoak Creek, waters of the state, without a permit in violation of Sections 644.051.2 and 644.076.1, RSMo, and 10 CSR 20-6.010(1)(A) and (5)(A); and
5. **Since May 1, 1998 and continuing**, Failed to comply with Schedule of Compliance in the permit that required posting warning signs on each side of the lagoon and submitting an engineer's report with plans, specifications and design criteria of the lagoon.

Relief Requested:

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

Proposed wastewater compliance schedule:

1. Immediately begin pumping and hauling wastewater to prevent any discharge from the lagoon and continue until a wastewater collection and treatment system approved by the Johnson County Health Department or the Missouri Department of Natural Resources has been constructed for the mobile home park;
2. Within sixty (60) days of the effective date of an agreement, submit to the Department for review and comment a complete Antidegradation submittal prepared pursuant to the applicable Antidegradation Rule and Implementation Procedure for the State of Missouri;
3. Within fifteen (15) days from receipt of Department comments on the Antidegradation submittal, respond to and adequately address, to the Department's satisfaction, all of the Department's comments on the Antidegradation submittal;
4. Within ninety (90) days of Department approval of the Defendant's Antidegradation Review, submit to the Department for review and approval an engineering report prepared by a professional engineer licensed to practice in the State of Missouri. The engineering report shall be developed pursuant to the requirements contained in 10 CSR 20-8.020;
5. Within fifteen (15) days of receipt of Department comments on the engineering report, respond to and adequately address, to the Department's satisfaction, all of the Department's comments on the engineering report, plans and specifications;
6. Within ninety (90) days of the date the Department approves the engineering report, plans and specifications, submit to the Department for review and approval, a complete application for construction permit including plans and specifications signed and sealed by a professional engineer licensed to practice in the state of Missouri for the replacement of the lagoon with a wastewater treatment facility

capable of producing an effluent to consistently comply with all applicable final effluent limitations contained in the permit. Additionally, the engineer's submission shall include a plan for closure of the existing lagoon system. The construction permit application must also include a request to public notice the Antidegradation review and the operating permit;

7. Within fifteen (15) days of receipt of Department comments on the construction permit application and lagoon closure plan respond to and adequately address, to the Department's satisfaction, all of the Department's comments on the construction permit application and lagoon closure plan;
8. Within two hundred seventy (270) days of the Department's issuance of the construction permit, complete construction of the approved wastewater treatment facility;
9. Within thirty (30) days of completing construction, submit to the Department a Substantial Completion and Operable Wastewater Construction Form, signed, sealed and dated by a professional engineer registered in the State of Missouri certifying that the project is substantially complete and operable in accordance with Department approved plans and specifications. In addition, a complete application requesting the issuance of the operating permit must be submitted at this time; and
10. Within ninety (90) days of completing construction of the new wastewater treatment facility achieve compliance with the final effluent limitations contained in Part "A" of the permit and complete closure of the Lagoon according to the Department approved closure plan.

Other Program Involvement: none

Other Agency Involvement: none

Most Recent Significant Action by Department or Responsible Party:

March 31, 2011 – NOV # KCR2011030710583948 for failure to renew the permit and failure to submit timely, accurate and complete discharge monitoring reports.

June 10, 2011 – Telephone conversation with Mr. Jeffrey Shuey regarding the compliance issues associated with the lagoon at his mobile home park.

June 13, 2011 - Letter to Mr. Shuey providing him with Discharge Monitoring Report forms for his lagoon that he could complete by filling in the blanks.

October 19, 2011 – NOV #BFUCWN9629 for failure to pay 2011 annual permit fee. This fee was paid on October 31, 2011.

Penalty Estimate: \$20,401.00 for wastewater violations and economic benefit of noncompliance.

Other Significant Aspects of the Case: none

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:**
Mary Ann Sutter, 573 522-4018, maryann.sutter@dnr.mo.gov
Robert Betts, KCRO, 816 622-7002, robert.betts@dnr.mo.gov

- **Facility Owner(s) – for all defendants, include name, title, physical and mailing addresses and telephone numbers:**
Mr. Jeffrey Shuey and Mrs. Mary Shuey, owners
JLC Trailer Court
472 Southeast Highway DD
Johnson County
660-238-8558

Attachments:

- NOV
- 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
- Copy of deeds for property where violation occurred
- Photographs (color)
- Map of the Site