

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

**MJO Builders-Matt O'Neill  
Doyle Road Apartments  
MO-0135631, Miller County**

**Background:** On October 23, 2009 the Department issued Missouri State Operating Permit number MO-0135631 (permit) to MJO Builders-Matt O'Neill for a wastewater treatment facility (facility) to serve the Doyle Road Apartments. The Doyle Road Apartments are owned by Doyle Road Apartments, LLC. The Permit included a schedule of compliance requiring the MJO Builders to submit a preliminary engineering report to the Department by October 23, 2010. To date the Department has not received the preliminary engineering report required by the permit. Since March of 2010, MJO Builders-Matt O'Neill and Doyle Road Apartments, LLC has failed to submit complete and timely Discharge Monitoring Reports (DMRs) as required in Part "A" of permit number MO-0135631 which requires monthly sampling of effluent to be submitted on a monthly basis. During inspections of the facility on March 10, 2011 and August 24, 2011, Department staff observed sludge in the receiving stream below the outfall. Chemical analysis of effluent samples collected during the inspections documented that the effluent exceeded permitted limitations. Due to the findings of these inspections the Department issued two (2) Notices of Violation (NOV) to the owner and MJO Builders on April 21, 2011 and September 16, 2011.

**Issue:** Since October 28, 2011, the Department has sent MJO Builders and Doyle Road Apartments, LLC two (2) letters offering to resolve past violations through an out-of-court Abatement Order on Consent (AOC). Department staff spoke to Ms. Jeanette O'Neill with Doyle Road Apartments LLC, on multiple occasions and explained the process to resolve this matter through a negotiated AOC, to date the Department has not received an appropriate response to the Department's offer from MJO Builders or Doyle Road Apartments, LLC.

**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 to obtain compliance with the Missouri Clean Water Law, civil penalties for past violations, and any other relief deemed appropriate by the Attorney General's Office."

**Attachment:** Case Summary Sheet



## MISSOURI DEPARTMENT OF NATURAL RESOURCES

### Case Summary Information

**Case Name:** MJO Builders Sewer System

**Facility name(s) –** MJO Builders Sewer System

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

Doyle Road Apartments  
119 Doyle Road  
Eldon, MO 65026-4564

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

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

1. Bobbie Pennington, Environmental Specialist, Water Protection Program, [bobbie.pennington@dnr.mo.gov](mailto:bobbie.pennington@dnr.mo.gov) (573)522-1120
2. Kevin Hess, Environmental Manager, Southwest Regional Office, [kevin.hess@dnr.mo.gov](mailto:kevin.hess@dnr.mo.gov), (417)891-4312
3. Cindy Davies, Director, Southwest Regional Office, [cindy.davies@dnr.mo.gov](mailto:cindy.davies@dnr.mo.gov), (417)891-4382

**Description of Facility and Situation:**

- Jeanette O'Neill (Owner) is the owner of a sewer system (Facility) that serves the Doyle Road Apartments. The facility is located on property owned by Doyle Road Apartments, LLC, which is a registered company with the Secretary of State. Jeanette L. O'Neill is the registered agent for both the Doyle Road Apartments, LLC and MJO Builders LLC. The facility is composed of a septic tank, Delta BIOPOD treatment unit, chlorination, and dechlorination. The BIOPOD treatment unit consists of a submerged fixed-film reactor. The facility has a designed average daily flow of 2,720 gallons per day (gpd), and a designed sludge production of 0.24 dry tons per year. The facility is located in the NE ¼, SE ¼, Section 26, Township 42N, and Range 15W of Miller County.
- Missouri State Operating Permit (permit) number MO-0135631 was issued to MJO Builders-Matt O'Neill on October 23, 2009, and will expire by its own terms on October 22, 2014. Due to the use of the Delta BIOPOD treatment unit the permit required an engineering evaluation in order to assess the effectiveness of the technology. As part of this engineering evaluation, Discharge Monitoring Reports (DMRs) were to be submitted on a monthly basis. There has been only one (1) DMR submitted to the Department since the permit was issued and the required engineering evaluation has not been submitted.

During inspections of the facility, Department staff found that the facility was discharging sludge into the receiving stream and exceeding permitted effluent limitations.

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

Jeanette O'Neill  
Chief Executive Manager  
Doyle Road Apartments, LLC  
P.O. Box 1693  
Lake Ozark, MO 65049  
[jeanetteloneill@gmail.com](mailto:jeanetteloneill@gmail.com)  
Phone: 573-692-1055  
Fax: 573-693-9124

Matt O'Neill  
MJO Builders Sewer System  
Contact information unknown

**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. On March 10, 2011, and August 24, 2011, caused pollution of a tributary to Blythes Creek, waters of the state, or placed or caused or permitted to be placed water contaminants in a location(s) 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.
2. From February of 2010 to December of 2011, Failed to submit DMRs as required in part "A" of Missouri State Operating Permit number MO-0135631 in violation of Section 644.076.1, RSMo, and 10 CSR 20-7.015(9)(A)1.
3. On March 10, 2011, and August 24, 2011, Failed to operate and maintain facilities to comply with the Missouri Clean Water Law and applicable permit conditions in violation of Sections 644.051.1(3) and 644.076.1, RSMo.
4. On March 10, 2011, and August 24, 2011, failed to comply with the effluent limits contained in Part "A" of Missouri State Operating Permit number MO-0135631 in violation of Sections 644.051.1(3) and 644.076.1, RSMo.
5. On October 23, 2010, failed to submit an engineering evaluation of non-standard components as required in Part "B", Standard Conditions, and Part "D", Schedule of Compliance, of Missouri State Operating Permit number MO-0135631 in violation of Section 644.076.1, RSMo.

6. In January 2010, failed to submit an annual sludge report for calendar year 2010, as required in Part "B", Standard Conditions of Missouri State Operating Permit number MO-0135631 in violation of Section 644.076.1, RSMo.

**Relief Requested:**

- Civil action for compliance and penalties (if injunction requested, please provide proposed compliance schedule)**
- Temporary Restraining Order**
- Coordination with federal government on criminal action**
- Other, specify:**

**Proposed Compliance Schedule:**

- A. The Owner shall have wastewater from the Facility pumped and hauled to a permitted wastewater treatment facility with the capacity to accept the loads until Department approved corrective actions are implemented. Receipts from the permitted wastewater treatment facility accepting the wastewater loads from the Facility shall be submitted to the Water Protection Program, Compliance and Enforcement Section by the 10<sup>th</sup> day of each month. The receipts must include the date and gallons received by the permitted wastewater treatment facility.
- B. Immediately upon signing the agreement, the Owner shall submit a check to the Department for payment of past annual fees and late penalties in the amount of \$234.00 as of February 10, 2012, for permit number MO-0135631. Late penalties shall continue to accrue at a monthly rate of 2% the annual fee until the balance is paid in full.
- C. Immediately upon signing the agreement, the Owner shall submit an application with applicable fees transferring permit number MO-0135631 to the Doyle Road Apartments, LLC.
- D. Within fifteen (15) calendar days of receipt of comments from the Department on the application for transfer, the Owner shall respond and adequately address, to the Department's satisfaction, all Department comments on the application for transfer.
- E. Assess the effectiveness of the technology of the Delta BIOPOD treatment unit.
  1. Under the supervision of a professional engineer, collect and test samples of wastewater treated at the facility as outlined by permit number MO-0135631.
  2. Within one hundred eighty (180) calendar days of execution of the agreement, submit a preliminary engineering report (PER) prepared by a professional engineer to the Department evaluating the Delta BIOPOD treatment unit.
  3. Within fifteen (15) calendar days of receipt of comments from the Department on the PER, the Owner shall respond and adequately address, to the Department's satisfaction, all Department comments on the PER.
  4. Within thirty (30) calendar days of the Departments approval to the PER, submit a final engineering report prepared by the professional engineer to the Department evaluating the Delta BIOPOD treatment unit.

5. Within fifteen (15) calendar days of receipt of comments from the Department on the final engineering report, the Owner shall respond and adequately address, to the Department's satisfaction, all Department comments on the final engineering report.
6. If the BIOPOD treatment unit fails to meet performance standards, an engineering report and plans and specifications with an application for a construction permit must be submitted within thirty (30) calendar days of submitting the final engineering report evaluating the BIOPOD treatment unit.
7. Within fifteen (15) calendar days of receipt of comments from the Department on the application for a construction permit, the Owner shall respond and adequately address, to the Department's satisfaction, all Department comments on the application for a construction permit.
8. Within sixty (60) calendar days of receiving the construction permit, the owner shall complete construction of a replacement facility and submit the Statement of Work Completed to the Department.
9. Within thirty (30) calendar days of completing construction, comply with permitted effluent limitations.

**Permit(s) Involved, including type and permit number:**

Missouri State Operating Permit number MO-0135631 was issued to MJO Builders-Matt O'Neill on October 23, 2009, and will expire by its own terms on October 22, 2014.

**Other Program Involvement (if applicable):**

**Other Agency Involvement (if applicable):**

**Most Recent Significant Action by Department or Responsible Party:**

Since April 29, 2009, the Department has sent MJO Sewer system and Jeanette O'Neill two (2) letters offering to resolve past violations of the Law and its implementing regulations through an out-of-court Abatement Order on Consent. The last offer was mailed on December 23, 2011. Ms. O'Neill contacted Department staff in response to the Department's offers to resolve the matter. Ms. O'Neill informed Department staff that her husband Mr. Matt O'Neill was the owner of MJO Builders and that the company went bankrupt in 2010 and Mr. O'Neill moved to New York. Ms. O'Neill has stated that she is willing to pump and haul wastewater until the facility can be evaluated and return to compliance with the Law; however, she is unwilling to pay any penalties.

**Penalty Estimate:**

\$ 14,792 civil penalty

**Other Significant Aspects of the Case:**

**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:**

1. Bobbie Pennington, Environmental Specialist, Water Protection Program, [bobbie.pennington@dnr.mo.gov](mailto:bobbie.pennington@dnr.mo.gov) (573)522-1120
2. Kevin Hess, Environmental Manager, Southwest Regional Office, [kevin.hess@dnr.mo.gov](mailto:kevin.hess@dnr.mo.gov), (417)891-4312
3. Cindy Davies, Director, Southwest Regional Office, [cindy.davies@dnr.mo.gov](mailto:cindy.davies@dnr.mo.gov), (417)891-4382

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

Jeanette O'Neill  
Chief Executive Manager  
Doyle Road Apartments, LLC  
P.O. Box 1693  
Lake Ozark, MO 65049  
[jeanetteloneill@gmail.com](mailto:jeanetteloneill@gmail.com)  
Phone: 573-692-1055  
Fax: 573-693-9124

Matt O'Neill  
MJO Builders Sewer System  
Contact information unknown

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

**Attachments:**

- ✓ -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
- ✓ -Photographs (electronic or color)
- ✓ -Map of the Site

