

BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES

In the Matter of:)
)
Mr. Jack Walters)
d/b/a Peaceful Acres Investments, LLC) **Order No. 2013-WPCB-1223**
5919 Antire Road)
High Ridge, MO 63049)
)
Proceeding under the)
Missouri Clean Water Law)

NOTICE AND ORDER TO ABATE VIOLATIONS

SERVE BY CERTIFIED MAIL: 7009 0080 0000 1909 5406
RETURN RECEIPT REQUESTED

TO: Mr. Jack Walters
Peaceful Acres Investments, LLC
5919 Antire Road
High Ridge, MO 63049

You are hereby notified that on this date the Missouri Department of Natural Resources has issued this Notice and Order to Abate Violations to Mr. Jack Walters, d/b/a Peaceful Acres Investments, LLC, under the Missouri Clean Water Law, Chapter 644 of the Revised Statutes of Missouri (RSMo), specifically Sections 644.056 and 644.079 RSMo.

Failure to comply with this Order is, by itself, a violation of the Missouri Clean Water Law under Section 644.076 RSMo. Continued noncompliance may result in the Department pursuing legal action for injunctive relief, additional penalties of up to ten thousand dollars (\$10,000.00) per day for each day or part thereof of noncompliance, a surcharge of 15% of the penalty described herein, 10% interest on any amounts owed, attorney fees and costs, and/or any

other remedy authorized by law, including but not limited to sections 644.056, 644.076, 644.079, and/or 644.096 RSMo.

FINDINGS OF FACT

1. Peaceful Acres Investments, LLC, owns and operates Peaceful Acres Mobile Home Park located in High Ridge, Missouri. Peaceful Acres Mobile Home Park, formerly known as Sunny Acres Mobile Home Park, consists of approximately twenty-five (25) mobile home lots served by a wastewater treatment facility consisting of an extended aeration system with a sock filter and chlorination unit. The facility has a design population equivalent of 75, a design flow of 7,500 gallons per day and an actual flow of approximately 2,800 gallons per day. The facility is located in the Northwest $\frac{1}{4}$, Northeast $\frac{1}{4}$, Southwest $\frac{1}{4}$, Section 14, Township 43 North, Range 4 East, in Jefferson County, Missouri. Effluent from the facility discharges to Little Antire Creek pursuant to the terms and conditions of Missouri State Operating Permit (MSOP) number MO-0044881.

2. Section 644.051.1(1) makes it unlawful for any person to cause pollution of any waters of the state or to place or cause or permit to be placed any water contaminant in a location where it is reasonably certain to cause pollution of any waters of the state.

3. Sections 644.051.1(3), RSMo, make it unlawful to discharge any water contaminants into any waters of the state which exceed effluent regulations or permit provisions as established by the Missouri Clean Water Commission or required by any federal water pollution control act.

4. Section 644.051.2 makes it unlawful for any person to build, erect, alter, replace, operate, use or maintain any water contaminant or point source in this state that is subject to

standards, rules or regulations promulgated pursuant to the provisions of sections 644.006 to 644.141 unless such person holds a permit from the commission.

5. Section 644.076.1, RSMo, make it unlawful for any person to cause or permit any discharge of water contaminants from any water contaminant or point source located in Missouri in violation of sections 644.006 to 644.141, or any standard, rule or regulation promulgated by the Missouri Clean Water Commission.

6. Little Antire Creek, Antire Creek, and tributaries thereof are waters of the state as the term is defined by Section 644.016 (27), RSMo.

7. Domestic wastewater and Total Residual Chlorine are water contaminants as the term is defined in Section 644.016(24), RSMo.

8. Peaceful Acres Investments, LLC, is a limited liability company registered and active with the Missouri Secretary of State. Mr. Walters is the LLC organizer.

9. On June 21, 2012, the Department conducted a compliance inspection at the facility. During the inspection, Department staff learned that Mr. Walters, d/b/a Peaceful Acres Investments, LLC, purchased the mobile home park in April 2012, and staff observed that the facility was not connected to the NPSD.

10. On July 24, 2012, the Department received a completed Application for Transfer of Operating Permit signed by Mr. Walters requesting to transfer MSOP number MO-0044881 to Peaceful Acres Investments, LLC. On October 29, 2012, the Department transferred MSOP number MO-0044881 to Peaceful Acres Investments, LLC.

11. Section C, Special Conditions, Paragraph 3 of MSOP number MO-0044881 requires the permittee to cease discharge by connection to an area-wide wastewater treatment system within ninety (90) days of notice of availability.

12. On July 12, 2012, and February 19, 2013, the Department sent Mr. Walters correspondence notifying Peaceful Acres that the Northeast Public Sewer District's (NPSD's) sanitary sewer was available for connection, and that MSOP number MO-0044881 required the owner to cease discharge by connection to the NPSD's sanitary sewer and close the facility according to a Department-approved closure plan.

13. On August 23, 2012, the NPSD sent the Department a letter, and copied Peaceful Acres, notifying the Department, and Peaceful Acres, that a sewer connection was available for the Peaceful Acres Mobile Home Park.

14. On December 5, 2012, Department staff conducted an inspection at the facility, and observed that the mobile home park was not connected to the NPSD's sanitary sewer and Peaceful Acres had installed a dechlorination system at the facility without Department-approval or a Department-issued construction permit.

15. On December 6, 2012, the Department received correspondence from Mr. Walters stating that he intended to connect Peaceful Acres to the NPSD and close the existing facility.

16. As of the date of this Order, the Department has not received an engineering report or construction permit application for connection of the facility to the NPSD's sanitary sewer or a closure plan for the facility.

17. Discharge Monitoring Reports submitted to the Department document that effluent discharged from the facility has significantly exceeded the permitted effluent limitation for Total Residual Chlorine every quarter since MSOP number MO-0044881 was transferred to Peaceful Acres (i.e., 4th quarter 2012 and 1st and 2nd quarter 2013).

18. This Order is necessary to compel compliance and/or to prevent or eliminate threats to human health or the environment.

STATEMENT OF VIOLATIONS

Peaceful Acres has violated the Missouri Clean Water Law and its implementing regulations as follows:

19. Failed to cease discharge from the facility by connection to an area-wide wastewater treatment system within ninety (90) days of notice of its availability as required by Section C, Special Conditions, Paragraph 3 of MSOP number MO-0044881, in violation of Section 644.076.1, RSMo, and 10 CSR 20-6.010(8)(A)(10).

20. Caused pollution of Little Antire Creek, 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.

21. Since 4th quarter 2012, failed to comply with the effluent limits contained in Part "A" of MSOP number MO-0044881, in violation of Sections 644.051.1(3) and 644.076.1, RSMo.

22. Peaceful Acres caused or permitted construction, installation or modification of any sewer system or of any water contaminant source, point source or wastewater treatment facility without first receiving a construction permit, in violation of Sections 644.051.2 and 644.076.1, RSMo, and 10 CSR 20-6.010(1)(A) and (4)(A).

CORRECTIVE ACTIONS

Pursuant to section 644.056 RSMo, the Department hereby orders Peaceful Acres to complete each of the following corrective actions:

23. Within thirty (30) days of the effective date of this Order, Peaceful Acres shall submit to the Department for review and approval, a closure plan for the facility. The closure plan shall comply with Standard Conditions for National Pollutant Discharge Elimination System

("NPDES") Permits, Part III, Section I, Closure Requirements. If the Department comments on the closure plan, Peaceful Acres shall respond to and adequately address, to the Department's satisfaction, all of the Department's comments within fifteen (15) days receipt of the Department's comments.

24. Within ninety (90) days of the effective date of this Order, Peaceful Acres shall cease discharge from the facility by directing wastewater produced at Peaceful Acres Mobile Home Park to the NPSD's wastewater treatment facility. Peaceful Acres shall obtain all required state, county, and local approvals and permits necessary to redirect the flow of wastewater produced at the Peaceful Acres Mobile Home Park to the NPSD's wastewater treatment facility.

25. Within one hundred twenty (120) days of ceasing discharge from the facility, Peaceful Acres shall complete closure of the existing facility in accordance with the Department-approved closure plan, and submit to the Department a written report documenting that the facility has been closed in accordance with the Department-approved closure plan and a completed Form J, *Request for Termination of a State Operating Permit*, requesting termination of MSOP number MO-0044881.

SUBMISSIONS

26. All other documentation submitted to the Department for compliance with this Order shall be submitted within the timeframes specified to:

Ms. Corinne Rosania
Missouri Department of Natural Resources
Water Protection Program
P.O. Box 176
Jefferson City, Missouri 65102-0176

OTHER PROVISIONS

27. Any request for an extension of time or to otherwise modify this Order may be considered on a case-by-case basis, if Peaceful Acres makes a written request to the Department within 10 business days of this Order, and otherwise provides appropriate justification and/or documentation to the Department in a timely manner. Any modification of this Order shall be in writing.

28. Compliance with this Order resolves only the specific violations described herein, and this Order shall not be construed as a waiver or modification or any other requirements of the Missouri Clean Water Law and regulations, or any other source of law. Nor does this Order resolve any future violations of this Order or any law or regulation. Consistent with 10 CSR 20-3.010(5), this Order shall not be construed as satisfying any claim by the state or federal government for natural resource damages.

29. This Order shall apply to and be binding upon Peaceful Acres and any of its agents, subsidiaries, successors, assigns, affiliates, or lessees, including the officers, agents, servants, corporations and any persons acting under, through, or for Peaceful Acres. Any changes in ownership or corporate status, including but not limited to any transfer of assets or real or personal property, shall not relieve Peaceful Acres of its obligation to comply with this Order.

30. For any plan or submittal from Peaceful Acres that is required by this Order and subject to Department approval under this Order, the Department may approve, disapprove, require revisions, or otherwise modify any such plan or submittal. Any such Department decision shall be conveyed in writing to Peaceful Acres. Disapproval may result in further orders or pursuit of other forms of relief by the Department. If the Department requires revisions,

Peaceful Acres shall submit a revised version of the plan or submittal within 10 business days after receiving notice of the Department's required revisions, or within such other timeframe as the Department may specify. If the Department approves or modifies in writing such plan or submittal, it shall become enforceable under this Order, and Peaceful Acres shall commence work and implement such approved or modified plan in accordance with the schedule and provisions contained therein.

NOTICE OF APPEAL RIGHTS

31. If you are adversely affected by this decision, you may be entitled to pursue an appeal before the administrative hearing commission ("AHC") pursuant to 10 CSR 20-1.020 and Sections 644.056, 644.079, 640.013, and 621.250, RSMo. To appeal, you must file a petition or notice of appeal with the AHC within 30 days after the date this decision was mailed or the date it was delivered, whichever date was earlier. If any such petition is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the AHC. Any appeal should be directed to:

Administrative Hearing Commission
Truman State Office Building, Room 640
301 W. High Street
P.O. Box 1557
Jefferson City, Missouri 65102
phone: 573-751-2422
fax: 573-751-5018
website: www.oa.mo.gov/ahc

SIGNATURE AUTHORITY

SO ORDERED this 19th day of August, 2013 by:

DEPARTMENT OF NATURAL RESOURCES



John Madras, Director
Water Protection Program

- c: Ms. Dorothy Franklin, St. Louis Regional Office
Mr. Chris Wieberg, Water Protection Program
Mr. Jack McManus, Missouri Attorney General's Office
Missouri Clean Water Commission