

**BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES**

**In the Matter of:** )  
)  
**Bob Agler** )  
**Agler RV Park** )  
**8971 Highway AA** )  
**Higbee, MO 65257** )  
)  
**Serve:** )  
**Bob Agler** )  
)

**Order No. 2015-WPCB-1340**

RECEIVED

MAY 19 2015

---

**ABATEMENT ORDER ON CONSENT**

---

**NOTICE TO RECIPIENTS OF ABATEMENT ORDERS ON CONSENT**

The issuing of this Abatement Order on Consent (AOC) No. 2015-WPCB-1340, by the Department of Natural Resources, is a formal administrative action by the state of Missouri and is being issued because Bob Agler (respondent) violated the Missouri Clean Water Law (MCWL). This AOC is issued under the authorities of Sections 640.130, 640.131, 644.056 and 644.079, RSMo. Failure to comply with this AOC is, by itself, a violation of the MCWL Section 644.076.1, RSMo. Litigation may occur without further administrative notice if there is not compliance with the requirements of this AOC. This AOC does not constitute a waiver or a modification of any requirements for the MCWL, or its implementing regulations, all of which remain in full force and effect. Compliance with the terms of this AOC shall not relieve the respondents of liability for, or preclude the department from, initiating an administrative or judicial enforcement action to recover civil penalties for any future violations of the MCWL, or to seek injunctive relief, pursuant to Chapter 644, RSMo.

## FINDINGS OF FACT

1. The respondent owns and operates a Recreational Vehicle (RV) park located at 8971 Highway AA, in the NE ¼ of the SW1/4 of Section 13, Township 52 North, Range 14 West, in Randolph County, Missouri. The RV Park consists of nine RV camper sewer connections and one restroom connection all served by a single, unpermitted lagoon which discharges to a tributary to Class P stream, Perche Creek.
2. Perche Creek and its tributaries are waters of the state as the term is defined by Section 644.016(27), RSMo.
3. On September 26, 2013, department staff met respondent at the RV park to determine the method of wastewater treatment. At the time of investigation, staff observed ten sewer connections to a single cell lagoon, nine for RV campers and one for the park restroom. At the time of investigation, three campers were connected to the lagoon, one was observed to be vacant, and the restroom was available for use. During the investigation, department staff noted that the lagoon did not have a discharge pipe. Staff informed respondent of the requirements of the Residential Housing Development Rule and options were discussed for properly disposing of wastewater from the RV park including possibly pumping and hauling the wastewater and/or land applying the wastewater from the lagoon. Staff reviewed files and found that respondent had failed to apply for and receive approval for the method of wastewater treatment prior to the sale, lease or commencement of construction of any lots, in violation of 10 CSR 20-6.030(1)(D)1 and 644.076.1. RSMo.

4. On October 23, 2013, the department issued a Letter of Warning (LOW) to respondent based on the violations documented by department staff during the September 26, 2013, investigation. The LOW required respondent to coordinate the required actions with the Water Protection Program by November 12, 2013, and offered respondent an opportunity to meet with staff to discuss actions required to bring the RV park into compliance with the MCWL.
5. On November 7, 2013, department staff attempted to contact respondent by electronic correspondence to discuss the requirements. In a February 6, 2014, electronic correspondence, department staff tried to confirm if respondent had contacted an engineering company. In response, later that same day, respondent wrote that he was considering eliminating three connections. No follow up response was received from respondent.
6. On April 1, 2014, the department issued Notice of Violation No. NER2014032613384908 to respondent for failure to obtain approval from the department for the method of sewage treatment prior to sale or lease of any lot or the commencement of construction.
7. On March 4, 2015, the department received an electronic correspondence from respondent stating that the on or about July 21, 2014, sewer locations one, two, four and nice were dug up and capped off, rendering them unusable, leaving only six sewer hook ups in the park which consisted of 5 camper and one restroom facility.

8. Section 644.076.1, RSMo makes it unlawful to violate the MCWL and regulations promulgated pursuant thereto and establishes penalties up to \$10,000.00 per day per violation.

### **STATEMENT OF VIOLATIONS**

The respondents have violated the MCWL and its implementing regulations as follows:

9. Failed to obtain approval from the department for the method of sewage treatment and disposal in the Agler RV park subdivision prior to the sale or lease of any lot, or the commencement of construction on any lot by the developer or any person in violation of Section 644.076.1, RSMo and 10 CSR 20-6.030(1)(D).

### **AGREEMENT**

10. The department and the respondents desire to amicably resolve all claims that may be brought against the respondents for violations alleged above in Statement of Violations.
11. The provisions of this AOC shall apply to and be binding upon the parties executing this AOC, their successors, assigns, agents, subsidiaries, affiliates, and lessees, including the officers, agents, servants, corporations, and any persons acting under; through; or for the parties. Any changes in ownership or corporate status, including but not limited to any transfer of assets or real or personal property, shall not affect the responsibilities as the Respondents under this AOC.
12. The respondents in compromise and satisfaction of the department's claims relating to the above referenced violations agree without admitting liability or fault, to pay a penalty in the amount of \$6,000.00. The parties further agree that \$6000.00 will be suspended for a

period of two years from the effective date of this AOC on the conditions the respondents comply with the conditions and requirements of this AOC.

13. Respondent agrees that he will not expand the number of connections in the park to more than six without first obtaining written approval from the department. Respondent acknowledges that expanding the park to more than six units without first obtaining department approval for the method of sewage disposal is a violation of the MCWL and its implementing regulations and subject to civil penalties of up to \$10,000.00 per day per violation.
14. Respondent agrees to operate the wastewater treatment lagoon serving the RV park as a no-discharge lagoon with either periodic land application of the wastewater or periodic pumping and hauling of the wastewater to a permitted facility in order to maintain the lagoon pursuant to 10 CSR 20-6.015.
15. Respondent acknowledges that if he chooses to pump and haul the wastewater as the method of wastewater removal, respondent agrees to submit a complete application for a Missouri State Operating Permit to the department.
16. By signing this AOC, all signatories assert that they have read and understood the terms of this AOC, and that they have the authority to sign this AOC on behalf of their respective party.
17. The effective date of the AOC shall be the date the department signs the AOC. The department shall send a fully executed copy of this AOC to respondent for their records.
18. The respondent shall comply with the MCWL, Chapter 644, RSMo and its implementing regulations at all times in the future.

### **SUBMISSIONS**

19. All other documentation submitted to the department for compliance with this order shall be submitted within the timeframes specified to:

Ms. Erin Meyer  
Department of Natural Resources  
Water Protection Program  
Compliance and Enforcement Section  
P.O. Box 176  
Jefferson City, Missouri 65102-0176

### **OTHER PROVISIONS**

20. Immediately upon becoming aware that a deadline or milestone as set forth in this AOC will not be completed by the required deadline, the respondents shall notify the department by telephone or electronic mail i) identifying the deadline that will not be completed; ii) identifying the reason for failing to meet the deadline; and iii) proposing an extension to the deadline. Within five days of notifying the department, the respondents shall submit to the department for review and approval a written request containing the same information. The department may grant an extension if it deems appropriate. Failure to submit a written notice to the department may constitute a waiver of the respondents' right to request an extension and may be grounds for the department to deny the extension.
21. Compliance with this AOC resolves only the specific violations described herein, and this AOC shall not be construed as a waiver or modification or any other requirements of the MCWL 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.

22. Nothing in this AOC forgives the respondents from future non-compliance with the laws of the state of Missouri, nor requires the department or state of Missouri to forego pursuing by any legal means any non-compliance with the laws of the state of Missouri. The terms stated herein constitute the entire and exclusive agreement of the parties. There are no other obligations of the parties, be they express or implied, oral or written, except those within are expressly set forth herein. The terms of this AOC supersede all previous memoranda or understanding, notes, conversations, and agreements, express or implied. This AOC may not be modified orally.
23. By signing this AOC, all signatories assert that they have read and understood the terms of this AOC, and that they have the authority to sign this AOC on behalf of their respective party.
24. The effective date of the AOC shall be the date the department signs the AOC. The department shall send a fully executed copy of this AOC to the respondents for their records.

#### **NOTICE OF APPEAL RIGHTS**

25. By signing this AOC, the respondents consents to its terms and waive any right to appeal, seek judicial review, or otherwise challenge the terms and conditions of this AOC pursuant to Sections 621.250, 640.010, 640.013, 644.056.3, 644.079.2, Chapter 536

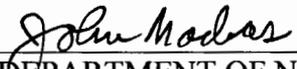
RSMo, 644.145, RSMo, 10 CSR 20-1.020, 10 CSR 20-3.010, 10 CSR 20-6.020(5), the Missouri Constitution, or any other source of law.

**SIGNATURE AUTHORITY**

Agreed to and Ordered this 12 day of May, 2015

  
\_\_\_\_\_  
Bob Agler

Agreed to and Ordered this 21st day of May, 2015

  
\_\_\_\_\_  
DEPARTMENT OF NATURAL RESOURCES  
John Madras, Director  
Water Protection Program

Copies of the foregoing served by certified mail to:

Mr. Bob Agler            CERTIFIED MAIL #  
8971 Highway AA  
Higbee, MO 65257

c:     Ms. Irene Crawford, Director, Northeast Regional Office  
       Ms. Diane Huffman, Environmental Protection Agency  
       Missouri Clean Water Commission  
       Accounting Program