

BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES

In the Matter of:)
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)
Country Livin' Subdivision)
Wastewater Treatment Facility) **Order No. 2015-WPCB-1351**
)
)
Proceeding under the)
Missouri Clean Water Law)

**NOTICE AND ORDER TO ABATE VIOLATIONS
AND PAY ADMINISTRATIVE PENALTIES**

SERVE BY CERTIFIED MAIL # 7013 2250 0002 2840 1436
RETURN RECEIPT REQUESTED

TO: Mr. Tommy and Mrs. Karen Lee
1818 Country Road 269
Columbia, MO 65202

You are hereby notified that on this date the Department of Natural Resources has issued this Notice and Order to Abate Violations and Pay Administrative Penalties to Mr. Tommy and Mrs. Karen Lee (respondents) under the Missouri Clean Water Law (MCWL), 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 MCWL under Section 644.076 RSMo. Continued non-compliance may result in the department pursuing legal action for injunctive relief, additional penalties of up to \$10,000.00 per day for each day or part thereof of non-compliance, 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. Country Livin' Subdivision consists of four condominiums located in Fulton, Missouri. Wastewater from the subdivision is treated by an extended aeration wastewater treatment facility (WWTF) which is located in the SW ¼, SW ¼, Section 30, Township 47 North, Range 9 West, in Callaway County, Missouri. The WWTF has a design flow of 5,200 gallons per day and an actual flow of 5,050 gallons per day with a design population equivalent of 65. Treated effluent discharges to a tributary of Youngs Creek pursuant to Missouri State Operating Permit (MSOP) No. MO-0102148.

2. Youngs Creek and its tributaries are waters of the state as the term is defined by Section 644.016 (27), RSMo.

3. The department issued MSOP No. MO-0102148 to the respondents on January 1, 2014, and the MSOP expired on March 31, 2015. The department received an MSOP renewal application on March 11, 2015. The MSOP authorizes the discharge of treated effluent at the site in accordance with the effluent limitations and monitoring requirements set forth in the MSOP.

4. On November 20, 2013, department staff conducted a routine compliance inspection of the WWTF. During the inspection, staff observed sludge build-up in the influent basin and sludge in the receiving stream below the WWTF's outfall.

5. On December 19, 2013, the department issued Notice of Violation (NOV) No. NER2013120209183348 to the respondents for violations documented during the November 20, 2013, compliance inspection. The inspection report that accompanied the NOV required the respondents to take corrective action and resolve the violations by January 9, 2014. In the cover letter for the inspection report, the department offered the respondents a chance to meet to

discuss the corrective actions necessary to resolve the violations documented in the NOV. On January 14, 2014, the department received correspondence from Total Environmental Services, Inc., on behalf of the respondents, in response to the NOV. The letter stated that 3600 gallons of water and sludge was pumped from the outfall and that Dissolved Oxygen would be monitored so that solids would not be allowed to pass.

6. On January 28, 2015, department staff conducted a routine compliance inspection of the WWTF. During the inspection, staff observed sludge build-up in the clarifier and algae on the weirs in the clarifier. Staff also observed that the skimmer in the clarifier did not appear to be operating properly because algae were observed on the weirs in the clarifier. Staff further observed sludge in the receiving stream below the outfall and approximately 25 yards downstream of the outfall location.

7. On February 18, 2015, the department issued NOV No. NER2015020411204080 to the respondents for violations documented during the January 28, 2015, compliance inspection. The inspection report that accompanied the NOV required the respondents to take corrective actions and resolve the violations by March 11, 2015. In the cover letter for the inspection report, the department offered the respondents a chance to meet with staff to discuss corrective actions necessary to resolve the violations documented in the NOV. On March 13, 2015, the department received a response from Total Environmental Services, Inc., on behalf of the respondents, in response to the NOV. The letter stated that the respondents submitted a MSOP renewal application to the department and that the skimmer was adjusted on January 30, 2015.

8. As of the date of this order, the respondents have failed to operate and maintain the WWTF to prevent the discharge of sludge to the creek.

9. The administrative penalty included herein was assessed according to the criteria of 10 CSR 20-3.010. From a gravity-based analysis, the violations posed at least a minor potential for harm based on the potential risk to human health, safety, and the environment. The violations were at least a minor deviation from the MCWL and its implementing regulations. Using the gravity-based matrix, the base penalty falls within a range of \$0-\$1,500.00. Since the department documented four violations of the MCWL, and the respondents failed to correct the non-compliance after being informed of the requirements by the department on at least two separate occasions, an administrative penalty in the amount of \$2,250.00 is justified.

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

STATEMENT OF VIOLATIONS

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

11. On December 19, 2013, and February 18, 2015, the respondents caused pollution of the tributary to Youngs Creek, waters of the state, or placed or caused or permitted to be placed water contaminants, domestic sludge, 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.

12. On December 19, 2013, and February 18, 2015, the respondents discharged water contaminants, domestic sludge, into waters of the state, which reduced the quality of such waters below the Water Quality Standards established by the Missouri Clean Water Commission, in

violation of Sections 644.051.1(2) and 644.076.1, RSMo, and 10 CSR 20-7.031 or applicable subsections of 10 CSR 20-7.031.

13. On December 19, 2013, and February 18, 2015, the respondents failed to operate the WWTF so that there was no discharge of sludge to waters of the state, as required by the Standard Conditions of MSOP No. MO-0102148, in violation of Section 644.076.1, RSMo.

14. On February 18, 2015, the respondents failed to operate and maintain the WWTF to comply with the MCWL and applicable MSOP conditions, in violation of Sections 644.051.1(3) and 644.076.1, RSMo.

CORRECTIVE ACTIONS

Pursuant to Section 644.056 RSMo, the department hereby orders the respondents to complete each of the following corrective actions:

15. Within 10 days of the date of this order, the respondents are ordered to conduct the following in-plant operational control monitoring requirements described in 10 CSR 20-9.010(5)(B) and maintain written records of this activity. The respondents are ordered to continue to conduct the in-plant operational monitoring until receiving written approval from the department to cease the operational monitoring.

- a. Each day, Monday through Friday, monitor and record weather conditions, such as ambient temperature and precipitation, flow, and influent pH pursuant to 10 CSR 20-9.010(5)(B)1.
- b. Each day, Monday through Friday, monitor the mixed liquor suspended solids for settleability and dissolved oxygen and record the results pursuant to 10 CSR 20-9.010(5)(B)2.

- c. Once per week, monitor the influent and mixed liquor suspended solids for non-filterable residue pursuant to 10 CSR 20-9.010(5)(B)2.
- d. Samples shall be collected, handled, and analyzed pursuant to department-approved wastewater analysis methods described 10 CSR 20-7.015(9)(D)2.

16. Within 10 days of the date of this order, the respondents are ordered to visually inspect the WWTF and the receiving stream below the outfall for sludge deposits a minimum of three times per week to ensure that the WWTF is operating properly. Respondents are ordered to maintain a written log of the inspections and note if there were any issues with the WWTF, whether sludge was observed in the clarifier or below the outfall, and corrective action taken. If there is sludge below the outfall, the respondents shall report the discharge to the department within 24 hours of discovery of sludge in the receiving stream. Respondents are ordered to report the discharge of the sludge to the department by phone at (660) 385-8000 between 8:00 a.m. and 5:00 p.m. Monday through Friday or at the department's 24-hour spill line at (573) 634-2436 after hours, weekends, and holidays. The respondents are ordered to continue to conduct inspections and maintain the log until receiving written approval from the department to cease the inspections and maintaining the log.

17. The respondents are ordered to submit the written records and analytical results of the in-plant operational monitoring required in Paragraph 15 above and the log of inspections required in Paragraph 16 to the department each month by the 15th day of the following month as described in Paragraph 23 of this order.

18. Within 90 days of the date of this order, the respondents are ordered to submit to the department, for review and approval, an Operations and Maintenance Plan that shall, at a

minimum, address maintenance of the mechanical equipment, monitoring type and frequency, record keeping, and operating procedures including the amount, frequency, and method of sludge disposal. Monitoring shall include, at a minimum, dissolved oxygen, influent pH, influent and effluent Total Suspended Solids, and influent and effluent Biochemical Oxygen Demand.

19. The respondents are ordered to comply with the MCWL, Chapter 644, RSMo and its implementing regulations at all times in the future.

PENALTY

Pursuant to section 644.079 RSMo and 10 CSR 20-3.010, the department hereby orders the respondents to pay administrative penalties for the above-referenced violations as follows:

20. Within 60 days from the date of issuance of this order, the respondents shall pay to the department an administrative penalty in the amount of \$2,250.00.

21. Such payment shall be made by check made payable to: *Callaway County Collector as Custodian of the Callaway County School Fund*.

22. Such payment must be delivered to the Department of Natural Resources, c/o Accounting Program, P.O. Box 477, Jefferson City, MO 65102-0477, for forwarding to the Callaway County Collector.

SUBMISSIONS

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

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

OTHER PROVISIONS

24. Any request for an extension of time or to otherwise modify this order may be considered on a case-by-case basis, if the respondents make a written request to the department within 10 business days of this order, and otherwise provide appropriate justification and/or documentation to the department in a timely manner. Any modification of this order shall be in writing.

25. 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 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.

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

27. For any plan or submittal from the respondents 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 the respondents. Disapproval may result in further orders or

pursuit of other forms of relief by the department. If the department requires revisions, the respondents 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 the respondents shall commence work and implement such approved or modified plan in accordance with the schedule and provisions contained therein.

NOTICE OF APPEAL RIGHTS

28. 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 29th day of May, 2015 by:

DEPARTMENT OF NATURAL RESOURCES

John Madras

John Madras, Director
Water Protection Program

- c: Ms. Irene Crawford, Northeast Regional Office
Mr. Jack McManus, Missouri Attorney General's Office
Ms. Diane Huffman, Environmental Protection Agency
Missouri Clean Water Commission
Accounting Program