

**BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES**

**In the Matter of:** )  
 )  
 **Frank Staton** )  
 **316 North Sherman Street** ) **Order No. 2014-WPCB-1324**  
 **Brookfield, MO 64628** )  
 )  
 **Proceeding under the** )  
 **Missouri Clean Water Law** )

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

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SERVE BY CERTIFIED MAIL # 7013 2250 0002 2840 1290  
RETURN RECEIPT REQUESTED

TO: Frank Staton, Owner  
316 North Sherman Street  
Brookfield, MO 64628

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. Frank Staton (respondent) under the Missouri Clean Water Law (MCWL), Chapter 644 of the Revised Statutes of Missouri, 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. Frank Staton owns property located at 316 North Sherman Street in Brookfield, Missouri. Mr. Staton conducts automotive and appliance metal recycling at the property. The operation is located at NE ¼, SE ¼, NE ¼, Section 6, Township 57 North, Range 19 West, in Linn County, Missouri. Stormwater from the operation discharges in the watershed of Yellow Creek.

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

3. On November 26, 2013, Department staff conducted an inspection at the operation in response to two environmental concerns reporting improper storage and handling of scrap metal and associated contaminants. During the inspection, Mr. Staton informed Department staff that he conducted automotive and appliance metal recycling at the operation. Mr. Staton reported that he processed approximately eight to ten cars per day during 2012. Department staff observed large, uncovered areas with processed and unprocessed metals and other materials, three partially-filled metal drums exposed to stormwater and several locations with oil staining on the ground.

4. On December 20, 2013, the Department issued Mr. Staton a Letter of Warning (LOW) for operating a water contaminant source without a Missouri State Operating Permit (MSOP) and placed, caused or permitted to be placed water contaminants in a location where they are reasonably certain to cause pollution to waters of the state. The LOW required Mr. Staton to apply for a MSOP by January 10, 2014, and offered Mr. Staton an opportunity to meet with Department staff to discuss corrective actions necessary to resolve the violations documented in the LOW.

5. On February 14, 2014, the Department sent correspondence to Mr. Staton stating that a response to the December 20, 2013, LOW was overdue and requested that Mr. Staton to submit an application for an MSOP by March 7, 2014.

6. On April 3, 2014, Department staff traveled to the operation to conduct a follow-up inspection. Mr. Staton denied Department staff access to conduct the inspection. During the visit, staff observed Mr. Staton accepting loads of scrap metal, and from the public right-of-way, staff observed a flatbed truck with car body and scrap metal at the operation.

7. On April 23, 2014, the Department issued Mr. Staton Notice of Violation (NOV) No. NER2014040711274122 for operating a water contaminant source without an MSOP. The transmittal letter notified Mr. Staton that the matter was being referred for enforcement action, and offered Mr. Staton an opportunity to meet with Department staff to discuss corrective actions necessary to resolve the violations documented in the NOV.

8. As of the date of this order, the Department has not received a response to any of the above correspondence, and has not received an application for an MSOP for the operation.

9. Section 644.051.2 makes it unlawful for any person to 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 an MSOP from the Missouri Clean Water Commission.

10. The administrative penalty included herein was assessed for the violations based on the extent of deviation from the standard required by the MCWL and its implementing regulations and the potential for harm based on the potential risk to human health, safety and the environment. Since the Department documented one violation of the MCWL, and the respondent failed to correct the non-compliance after being informed of the requirements by the

Department and received an economic benefit by not complying with the MCWL, an administrative penalty in the amount of \$2,300.00 is justified.

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

### **STATEMENT OF VIOLATIONS**

The respondent violated the MCWL and its implementing regulations as follows:

12. Since November 26, 2013, operated, used, or maintained a water contaminant source – a metal collection and recycling operation – which intermittently discharges to a tributary to Yellow Creek, waters of the state, without an MSOP in violation of Sections 644.051.2, 644.076.1, RSMo, and 10 CSR 20-6.200(1)(A).

### **CORRECTIVE ACTIONS**

Pursuant to section 644.056 RSMo, the Department hereby orders the respondent to complete the following corrective actions:

13. Immediately following of receipt of this order, implement Best Management Practices (BMPs) to manage activities at the operation to prevent discharges of stormwater that cause a violation of water quality standards established in 10 CSR 20-7.031.

14. Within 30 days of receipt of this order, submit to the Department a complete Form E, Application for General Permit, with the appropriate application fee, a map of the operation showing the property boundaries in relation to the adjacent roadways and outfalls, and a Stormwater Pollution Prevention Plan (SWPPP) for the operation prepared in accordance with the concepts and methods described in “Developing Your Stormwater Pollution Prevention Plan, A Guide for Industrial Operators.” Document No. EPA 833-B-09-002 published by the United

States Environmental Protection Agency in February 2009 and located at

[http://www.epa.gov/npdes/pubs/industrial\\_swppp\\_guide.pdf](http://www.epa.gov/npdes/pubs/industrial_swppp_guide.pdf).

15. If the Department comments on the SWPPP, within 15 days of receipt of the Department's comments, respond in writing to the Department, addressing all Department comments on the SWPPP to the satisfaction of the Department.

16. Immediately following Department-issuance of an MSOP for the operation and continuing throughout the life of the MSOP, comply with all MSOP conditions and requirements, including effluent limitations, monitoring requirements and SWPPP requirements.

#### **PENALTY**

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

17. Within 30 days from the date of issuance of this order, the respondent shall pay to the Department an administrative penalty in the amount of \$2,300.00.

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

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

#### **SUBMISSIONS**

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

Mr. Paul Dickerson  
Department of Natural Resources  
Water Protection Program  
Compliance and Enforcement Section  
P.O. Box 176  
Jefferson City, Missouri 65102-0176

and:

Ms. Irene Crawford  
Northeast Regional Office  
1709 Prospect Drive  
Macon, Missouri 63552-2602

### **OTHER PROVISIONS**

21. Any request for an extension of time or to otherwise modify this order may be considered on a case-by-case basis, if the respondent 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.

22. 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.

23. This order shall apply to and be binding upon the respondent 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 the respondent. 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 respondent of its obligation to comply with this order.

24. For any plan or submittal from the respondent 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 respondent. Disapproval may result in further orders or pursuit of other forms of relief by the Department. If the Department requires revisions, the respondent shall submit a revised version of the plan or submittal within ten 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 respondent shall commence work and implement such approved or modified plan in accordance with the schedule and provisions contained therein.

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

25. 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.ao.mo.gov/ahc](http://www.ao.mo.gov/ahc)

**SIGNATURE AUTHORITY**

SO ORDERED this 23<sup>rd</sup> day of <sup>January, 2015</sup> ~~December 2014~~ by:

DEPARTMENT OF NATURAL RESOURCES



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John Madras, Director  
Water Protection Program

c: Irene Crawford, Director, Northeast Regional Office  
Jack McManus, Missouri Attorney General's Office