

Missouri Clean Water Commission Meeting  
Department of Natural Resources  
Lewis and Clark State Office Building  
LaCharrette/Nightingale Creek Conference Rooms  
1101 Riverside Drive  
Jefferson City, Missouri

January 12, 2011

**Deer Meadows Subdivision  
Polk County, NP-0002503**

**Background:** Mr. Smith owns a 22-acre tract to the North of Deer Meadows subdivision (Deer Meadows). Deer Meadows is owned by Mr. Smith's daughter and son-in-law, Lesa and John Murphy. On November 9, 2006, Mr. Smith requested a Geohydrologic Evaluation from the Department's Division of Geology and Land Survey (DGLS). Department staff completed the evaluation and determined that a 4.8 acre minimum lot size would be required to ensure adequate protection of underlying drinking water aquifers. In June, 2007, the Department learned that the 22-acre parcel of land adjoining the Deer Meadows had been subdivided into lots of 2.3 acres or less and sold four (4) lots without Department approval for the method of treatment disposal. The Department issued a Letter of Warning (LOW) to Mr. Smith for the sale of lots in the development without Department approval. A file review revealed that Mr. Smith has obtained Department approval for methods of wastewater disposal for 139 lots in three separate developments since 2000. On January 14, 2009, the Department received a letter from Mr. Smith, in which he stated that he purchased the 22-acre tract at well over the market value, and to recoup his investment, the parcel was divided and sold as lots of 2.3 acres or less.

**Issue:** On September 21, 2009, the Department sent a letter to Mr. Smith offering to resolve this issue through an out of court Settlement Agreement. Despite several attempts by the Department, staff were unable to reach a mutual agreement with Mr. Smith.

**Recommended Action:** The Water Protection Program recommends that the Commission refer this matter to the Attorney General's Office for appropriate legal action in order to compel compliance, pursue a civil penalty, and/or seek any other appropriate form of relief.

**Suggested Motion Language:** "I move that the Commission refer this matter to the Attorney General's Office for appropriate legal action in order to compel compliance, pursue a civil penalty, and/or seek any other appropriate form of relief."

**List of Attachment:** Case Summary Information Form



# MISSOURI DEPARTMENT OF NATURAL RESOURCES

## Case Summary Information

**Case Name:** Dewey J. Smith

**Facility name(s):** Dewey J. Smith

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

Property is located at the intersection of S. 103<sup>rd</sup> street and E. 480<sup>th</sup> Street, Bolivar, Missouri. Mr. Dewey Smith's address is:

5140 Sunny Acres Drive  
Bolivar, MO 65613

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

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

WPP Johnny O'Dell – (573) 751-9391  
SWRO Kevin Hess – (417) 891-4312

**Description of Facility and Situation:**

Mr. Dewey bought a 22-acre tract to give easement to the Deer Meadows subdivision. He requested that the Department conduct a geohydrolic evaluation to determine the minimum lot size necessary for residential septic systems. The Department determined that 4.8 acres was required for the septic systems to protect groundwater aquifers. Later, the Lawrence County Department of Health reported that Mr. Smith was selling lots for home construction that were smaller than required.

**Law(s), Regulation(s) and Permit Conditions Violated:** For each violation note starting some time before { } date and ending sometime before { }, or note “continuing.” Prior to January 2007, Mr. Smith failed to obtain approval for the wastewater treatment facility prior to the sale of lots in a subdivision in violations of Section 644.076.1, RSMo and 10 CSR 20-6.030 (10 (D)).

**Relief Requested:**

Civil action for compliance and penalties

**Permit(s) Involved, including type and permit number:** No permit

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

**Penalty Estimate:** \$10,000

**Other Significant Aspects of the Case:** The Department alleges that Mr. Smith knowingly violated the law by reducing the lot size after he was informed of the minimum lot size allowable by a Department evaluation that he requested.

**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:**
  - Johnny O'Dell, Environmental Specialist  
johnny.o'dell@dnr.mo.gov  
(573) 751-9391
  
- **Facility Owner(s) – for all defendants, include name, title, physical and mailing addresses and telephone numbers:**
  - Dewey J. Smith, Owner  
5140 Sunny Acres Drive  
Bolivar, MO 65613  
(417) 777-1706
  
- **Others (e.g., employees, neighbors, first responders or staff of other state, local or federal agencies):**
  - Susan Anderson, Inspector, Polk County Department of Health  
1317 West Broadway Street  
Bolivar, MO 65613  
(417) 326-7250

**Attachments:**

- NOVs and LOWs
- Penalty and penalty calculation
- All correspondence between Department and defendant
- All emails and phone logs
- Copy of deeds for property where violation occurred (may be obtained from county recorder's office)
- Photographs (electronic or color)
- Documentation of any Settlement Negotiations or In-Person Meetings
- Map of the Site