

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

July 13, 2011

**Vaughn Topsoil Farm
Phelps County, Unpermitted**

Background: Mr. Jason and Mrs. Terri Vaughn own and operate a topsoil farm (Site) in St. James, Missouri. The Site consists of approximately one (1) to two (2) acres of disturbed land, and is located in the watershed of Dry Fork, immediately west of Woodson K. Woods Memorial Conservation Area.

Since July 2, 2010, Department staff have performed two (2) environmental investigations at the Site in response to environmental concerns reporting that Mr. and Mrs. Vaughn were operating a land disturbance site without a Missouri State Operating Permit (MSOP). During the investigations, staff determined that approximately one (1) to two (2) acres of land had been disturbed at the Site without a permit.

Issue: On June 28, 2010, Department staff met with Mr. and Mrs. Vaughn to discuss land disturbance permit requirements. During the July 2, 2010, investigation Department staff explained to Mr. and Mrs. Vaughn that they would need to obtain a land disturbance permit to bring the site into compliance with the Missouri Clean Water Law (Law). Since September 22, 2010, the Department has issued one (1) Letter of Warning (LOW) and two (2) Notice of Violations (NOVs) to Mr. and Mrs. Vaughn for operating a land disturbance site without a MSOP. The LOW and NOVs requested that Mr. and Mrs. Vaughn submit to the Department a completed land disturbance permit application, the permit application fee and a Stormwater Pollution Prevention Plan for the Site.

Since April 18, 2011, the Department's Compliance and Enforcement Section has sent one (1) certified letter and one (1) letter via regular mail to Mr. and Mrs. Vaughn in an attempt to resolve past violations of the Law and its implementing regulations through an out-of-court agreement. To date, the Department has not received a response from Mr. and Mrs. Vaughn.

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."

Attachments: Case Summary Information

MISSOURI DEPARTMENT OF NATURAL RESOURCES

Case Summary Information

Case Name: Jason and Terri Vaughn Topsoil Farm

Facility name(s) – List all current names of responsible parties (owner/operator) for actions at this site):

Mr. Jason and Mrs. Terri Vaughn, property owners

Facility address, including county, and contact information:

Mr. Jason and Mrs. Terri Vaughn

19750 County Road 3620

St. James, MO 65559

(573) 465-1548

Program(s): Water Protection Program

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

Corinne Rosania, WPP enforcement case manager, (573) 751-6725

Tim Bull, SERO inspector, (573) 368-7322

Description of Facility and Situation:

Mr. Jason and Mrs. Terri Vaughn own and operate a topsoil farm (Site) in St. James, Missouri. The Site consists of approximately one (1) to two (2) acres of disturbed land, and is located in the watershed of Dry Fork, immediately west of Woodson K. Woods Memorial Conservation Area.

On July 2 and October 28, 2010, Department staff performed environmental investigations at the Site in response to environmental concerns reporting that Mr. and Mrs. Vaughn were operating a land disturbance site without a Missouri State Operating Permit (MSOP). During the investigations, staff determined that approximately one (1) to two (2) acres of land had been disturbed; therefore, staff explained to Mr. and Mrs. Vaughn that they would need to obtain a land disturbance permit to bring the site into compliance with the Missouri Clean Water Law (Law).

Since September 22, 2010, the Department has issued one (1) Letter of Warning (LOW) and two (2) Notice of Violations (NOVs) to Mr. and Mrs. Vaughn for operating a land disturbance site without a MSOP. The LOW and NOVs requested that Mr. and Mrs. Vaughn submit to the Department a completed land disturbance permit application, the permit application fee and a Stormwater Pollution Prevention Plan for the Site. Both NOVs were returned to the Department and marked “unclaimed.”

On April 18, 2011, the Department’s Compliance and Enforcement Section sent a certified letter to Mr. and Mrs. Vaughn in an attempt to resolve past violations of the Law and its implementing regulations through an out-of-court agreement, but this letter was refused and returned to the

Department. On April 26, 2011, the Department sent a copy of this letter to Mr. and Mrs. Vaughn via regular mail. To date, the Department has not received a response from Mr. and Mrs. Vaughn.

Responsible Party(s) (specify owner, operator, other [etc.]) and contact information if different from above:

Same as above

Law(s), Regulation(s) and Permit Conditions Violated: For each violation note starting some time before { } date and ending sometime before { }, or note "continuing."

Since July 2, 2010, operated, used, disturbed land, or maintained an existing stormwater point source – land disturbance site – which intermittently discharges to Dry Fork, waters of the state, without a MSOP, in violation of Sections 644.051.2, 644.076.1, RSMo, and 10 CSR 20-6.200(1)(A).

Relief Requested:

Civil action for compliance and penalties (if injunction requested, please provide proposed compliance schedule)

Within 30 days, submit to the Department a completed Form O, Application for Land Disturbance Permit (<5 Acres), permit application fee, and a Stormwater Pollution Prevention Plan for the site.

Permit(s) Involved, including type and permit number:

None

Other Program Involvement (if applicable): n/a

Other Agency Involvement (if applicable):n/a

Most Recent Significant Action by Department or Responsible Party: n/a

Penalty Estimate: \$2,000

Other Significant Aspects of the Case: n/a

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:**

Corinne Rosania, WPP enforcement case manager, corinne.rosania@dnr.mo.gov, (573) 751-6725

Tim Bull, SERO inspector, tim.bull@dnr.mo.gov, (573) 368-7322

- **Facility Owner(s) – for all defendants, include name, title, physical and mailing addresses and telephone numbers:**

Mr. Jason and Mrs. Terri Vaughn
19750 County Road 3620
St. James, MO 65559
(573) 465-1548

- **Facility Operator(s):** n/a
- **Others (e.g., employees, neighbors, first responders or staff of other state, local or federal agencies):** n/a

Attachments:

- NOVs and LOWs
- Documentation of any site visits, including Environmental Assistance Visits
- Reports of inspections within last five years
- Penalty and penalty calculation
- All correspondence between Department and defendant
- All emails and phone logs
- Photographs (electronic or color)
- Documentation of any Settlement Negotiations or In-Person Meetings
- Map of the Site

