

BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES

In the Matter of:)
)
 Autumn's Haven)
 Mobile Home Park)
 Wastewater Treatment Facility)
)
)
)
 Proceeding under the)
 Missouri Clean Water Law)

Order No. 2015-WPCB-1354

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

SERVE BY UNITED POSTAL SERVICE NEXT DAY AIR

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RETURN RECEIPT REQUESTED

TO: Mr. Yar Mohabbat and Ms. Kamela Mohabbat
c/o Autumn's Haven, L.L.C.
2574 England Town Road
St. Louis, MO 63129

You are hereby notified that on this date the Department of Natural Resources has issued this Notice and Order to Abate Violations to Mr. Yar Mohabbat and Ms. Kamela Mohabbat (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 noncompliance, 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. Mr. Yar and Ms. Kamela Mohabbat own and operate Autumn's Haven Mobile Home Park (MHP). The MHP consists of 50 pads, and wastewater generated by approximately 48 single-family residential mobile homes in the subdivision is treated by a four-cell, flow-through, facultative lagoon wastewater treatment facility (WWTF) located in the NE ¼, SW ¼, NE ¼, Section 8, Township 39 North, Range 5 East in Jefferson County, Missouri and constructed in 1966. The WWTF has a design population equivalent of 65, a design flow of 6,500 gallons per day (gpd) and an actual flow of 8,700 gpd. Treated effluent from the WWTF discharges to a tributary to Haverstick Creek pursuant to the conditions and requirements of Missouri State Operating Permit (MSOP) No. MO-0089842.

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

3. Haverstick Creek is a losing stream as the term is defined by 10-CSR 20-2.010 (36).

4. The department issued MSOP No. MO-0089842 to the respondents on May 13, 2011, and it is set to expire on May 12, 2016. MSOP No. MO-0089842 requires discharges from the WWTF to comply with the limitations contained in Part A of the permit. Pursuant to Part I, Section A.1, Standard Conditions of No. MO-0089842, if there is a discharge at any time during the reporting period, the respondents are required to obtain a representative sample and chemically analyze the effluent for water contaminants listed in Part A of the MSOP and submit

the results to the department on a quarterly Discharge Monitoring Report (DMR) on or before the 28th day of the month following the reporting period.

5. The MSOP contained interim effluent limitations for 5-day Biochemical Oxygen Demand (BOD₅) of 65 mg/L weekly average and 40 mg/L monthly average, Total Suspended Solids (TSS) of 120 mg/L weekly average and 80 mg/L monthly average and a requirement to monitor Ammonia as Nitrogen that were effective until December 31, 2013.

6. MSOP No. MO-0089842 also contains a Schedule of Compliance (SOC) to complete upgrades necessary to achieve compliance with final effluent limitations for BOD₅, TSS, Total Residual Chlorine (TRC), E. coli and Ammonia as Nitrogen that became effective on January 1, 2014. The SOC required the respondents to submit an engineering report to the department that identified upgrades to the WWTF that are necessary to comply with the final effluent limitations by October 31, 2011, submit a construction permit application for the upgrades by April 30, 2012, and complete the upgrades by December 31, 2013. The final effluent limitations were as follows:

Parameter	Units	Daily Max	Weekly Average	Monthly Average
BOD ₅	mg/L		15	10
TSS	mg/L		20	15
TRC	µg/L	16.5		8.2
E. Coli	cfu/100 mL	126		126
Ammonia as Nitrogen (April 1-September 30)	mg/L	3.7		1.4
Ammonia as Nitrogen (October 1-March 31)	mg/L	7.5		2.8

7. Quarterly DMRs submitted to the department document that the effluent discharged from the WWTF failed to comply with applicable permitted effluent limitations for Ammonia as Nitrogen during the third and fourth quarters of 2014.

8. Quarterly DMRs submitted to the department document that the effluent discharged from the WWTF failed to comply with applicable permitted effluent limitations for BOD₅ during the second, third and fourth quarters of 2014.

9. Quarterly DMRs submitted to the department document that the effluent discharged from the WWTF failed to comply with applicable permitted effluent limitations for TSS during the second and third quarters of 2014.

10. Quarterly DMRs submitted to the department document that the respondents failed to report Ammonia as Nitrogen, BOD₅, and TSS concentrations and pH values during the first quarter of 2014.

11. Quarterly DMRs submitted to the department document that the respondents failed to report E. coli and TRC concentrations during the first, second and third quarters of 2014.

12. On March 6, 2014, department staff conducted a routine inspection of the WWTF. During the inspection, staff observed the following conditions: 1) a significant amount of algae in the receiving stream; 2) the effluent had a green tint; 3) the outfall was not clearly marked; 4) a pipe that spanned from the first cell to the fourth cell bypassing the second and third cells; 5) transfer piping between the cells that was skimming from the top of the water surface and allowing floatable solids and scum to move from cell to cell; 6) a significant amount of floating solids and scum at influent locations of the cells; 7) stormwater draining into the first cell of the lagoon and evidence of sediment entering the lagoon cell; 8) animal and erosion damage to the berms; 9) tall vegetation on the berms that may impede wind action; 10) less than two feet of freeboard in some areas of the lagoons; 11) a poorly maintained access road and perimeter fence;

and 12) warning signs were not posted on all sides of the perimeter fence. Staff also observed that no disinfection equipment was installed at the WWTF.

13. On May 7, 2014, the department issued Notice of Violation (NOV) No. 3156SL to the respondents for violations observed during the March 6, 2014, inspection. The inspection report that accompanied the NOV required the respondents to take corrective actions to resolve the violations within 15 days of receipt of the NOV. The letter that accompanied the NOV offered the respondents an opportunity to meet with department staff. The department did not receive a response to the NOV.

14. As of the date of this order, the respondents have failed to complete upgrades to the WWTF to comply with final effluent limitations as required by Part D, SOC of MSOP No. MO-00089842.

15. The amount of 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 moderate potential for harm based on the potential risk to human health, safety and the environment. The violations were also at least a moderate deviation from the standard required by the MCWL and its implementing regulations. Using the gravity-based matrix, and finding both the deviation from the standard and the potential for harm the base penalty falls within a range of \$4,501.00 to \$5,500.00. 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 three separate occasions, an administrative penalty in the amount of \$20,000.00, with \$10,000.00 suspended upon the condition that the respondents do not violate the terms of this order, is justified.

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

STATEMENT OF VIOLATIONS

Respondents have violated the MCWL and its implementing regulations as follows:

17. On March 6, 2014, caused pollution to a tributary to Haverstick Creek, waters of the state, or placed or caused or permitted to be placed water contaminants in a location where they are reasonably certain to cause pollution of waters of the state, in violation of Sections 644.051.1(1) and 644.076.1, RSMo.

18. On March 6, 2014, discharged water contaminants into a tributary to Haverstick Creek, 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 subsection of 10 CSR 20-7.031.

19. On March 31, 2014, failed to submit complete DMRs as required in Part "A" of MSOP No. MO-0089842, in violation of Section 644.076.1, RSMo, and 10 CSR 20-7.015(9)(A)1.

20. Since January 1, 2014, failed to upgrade a WWTF as required in Part "B", Standard Conditions, and Part "D", SOC, of MSOP No. MO-0089842, in violation of Section 644.076.1, RSMo, and 10 CSR 20-6.010(7)(A).

21. On March 6, 2014, failed to operate and maintain a WWTF to comply with the MCWL and applicable MSOP conditions, in violation of Sections 644.051.1(3) and 644.076.1, RSMo.

22. On March 6, 2014, failed to maintain adequate perimeter fencing around a WWTF, in violation of Sections 644.051.1(3) and 644.076.1, RSMo, and 10 CSR 20-8.020(11)(C)11.A.

23. On March 6, 2014, failed to maintain minimum of two feet of freeboard in a WWTF lagoon in violation of Sections 644.051.1(3) and 644.076.1, RSMo, and 10 CSR 20-8.020(13)(A)3.B.

24. On March 6, 2014, failed to remove deep-rooted vegetation growing on lagoon berms, in violation of 10 CSR 8.020(13)(A)3.G.

CORRECTIVE ACTIONS

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

25. The respondents are ordered to cease all discharges from the WWTF and pump and haul wastewater from the WWTF to a permitted WWTF with the capacity to treat the wastewater. The respondents are ordered to continue pumping and hauling wastewater, as necessary, to prevent any overflows or discharges of sewage to waters of the state until the respondents eliminate the discharge by connecting to an area-wide wastewater collection and treatment system or complete upgrades that will enable the effluent to comply with final effluent limitations contained in MSOP No. MO-0089842. Additionally, the respondents are ordered to maintain pumping and hauling receipts and make these receipts available to the department by the tenth day of the month following the month that the receipts are written. The receipts shall include the date that the wastewater was pumped; number of gallons pumped; the name of the wastewater hauler and the permitted WWTF accepting the wastewater. If the respondents did not pump and haul wastewater from the WWTF during the previous month, the respondents are

ordered to submit a written statement to the department by the tenth day of the subsequent month: 1) indicating that no pumping and hauling occurred during that period; 2) providing an explanation of why these activities were not conducted; and 3) if applicable, reporting any discharge from the WWTF that occurred during that period.

26. Within 60 days of receipt of this order, the respondents shall submit to the department for review and approval an engineering report, prepared by a professional engineer licensed to practice in the state of Missouri, evaluating the WWTF and its ability to comply with the applicable effluent limitations, including but not limited to, Ammonia as Nitrogen, TSS, E. coli and BOD₅, and all conditions and requirements of MSOP No. MO-0089842. Although not required at this time, the report may also include alternatives that will result in compliance with the final effluent limitations for Ammonia as Nitrogen based on the U.S. Environmental Protection Agency's April 2013 Aquatic Life Ambient Water Quality Criteria for Ammonia-Freshwater. The engineering report shall identify alternatives to upgrade, replace or eliminate the discharge that will result in compliance with the final effluent limitations contained in MSOP No. MO-0089842. The engineering report shall also include a detailed evaluation of the existing wastewater collection and treatment system, identify all deficiencies, if any, with the wastewater collection system and treatment system, and recommend corrective actions to address the deficiencies. The engineering report shall include a schedule with specific deadlines to implement the corrective actions for the collection system approved by the department. The engineering report shall be developed in accordance with Missouri Clean Water Regulation 10 CSR 20-8.

27. Within 15 days of receipt of department comments on the engineering report, the respondents are ordered to respond to the department in writing addressing all department comments on the engineering report to the department's satisfaction.

28. If the recommended alternative is to upgrade or replace the WWTF, the respondents are ordered to submit to the department for review and approval a complete application for a construction permit, plans and specifications sealed by a professional engineer licensed to practice in the state of Missouri and the applicable permit fee for the improvements recommended by the engineering report. The plans and specifications shall be developed in accordance with 10 CSR 20-8. The respondents are ordered to submit the application for a construction permit and applicable supporting documents to the department within 45 days of the date the department approves the engineering report. Pursuant to 10 CSR 20-6.010(3), the construction permit application shall identify the higher preference continuing authority for the WWTF, or include a letter from the higher continuing authority waiving its preferential authority.

29. If the recommended alternative is connection to an area-wide wastewater treatment and collection system, the respondents are ordered to complete construction of a sewer extension and divert the flow from Autumn's Haven MHP to their area-wide wastewater collection and treatment section within 180 days of the date the department approves the engineering report. The sewer extension shall be designed and sealed by a professional engineer registered in the state of Missouri in accordance with 10 CSR 20-8 and shall be constructed in accordance with the registered professional engineer's designs and plans. If the sewer extension and collection system will be greater than or equal to 1,000 feet in length and will include more than two lift stations, the respondents are ordered to submit to the department for review and

approval a complete application for a construction permit, plans and specifications sealed by a professional engineer registered in the state of Missouri and the applicable permit fee for the sewer extension. Prior to beginning construction of the sewer extension, the respondents are ordered to obtain all necessary easements, approval from the municipality accepting the connection, and if applicable, a construction permit from the department. If a construction permit is not required for the sewer extension, the respondents are ordered to submit to the department a copy of the plans and specifications sealed by a professional engineer licensed to practice in the state of Missouri within 30 days prior to beginning construction of the sewer connection.

30. If the existing WWTF is to be abandoned, the Respondents are ordered to submit to the department for review and approval a closure plan developed in accordance with Standard Conditions, Part III, Section H within one hundred eighty (180) days of the date the department approves the engineering report. If the existing WWTF will be incorporated into the new department-approved WWTF, a closure plan will not be required.

31. Within 15 days of receipt of department comments on the closure plan, the respondents are ordered to respond in writing to the department addressing all department comments on the closure plan to the department's satisfaction.

32. Within 180 days of the date the department issues a construction permit for WWTF upgrades, the respondents are ordered to complete construction pursuant to the plans and specifications and achieve compliance with all applicable permitted effluent limitations.

33. Within 15 days of completion of construction activities, the respondents are ordered to submit to the department a completed Statement of Work Completed form

MO 780-2155 (12-11) including all required supplemental information, appropriate forms and fees and, if applicable, a complete application for the reissued MSOP, including applicable fee.

34. If applicable, within 120 days of diverting the wastewater flow from the WWTF to a department-approved WWTF or an area-wide wastewater treatment and collection system, but not before receiving written approval from the department for the WWTF closure plan, the respondents are ordered to: 1) complete closure of the WWTF pursuant to the closure plan as approved by the department; 2) stabilize the disturbed area with perennial vegetation with 70 percent fully established plant diversity over the entirety of the disturbed area; and 3) submit to the department a letter certifying that the WWTF was closed pursuant to the closure plan approved by the department. In the event the wastewater flow from Autumn's Haven MHP is connected to an area-wide wastewater collection and treatment system, the respondents are ordered to submit to the department an application to terminate MSOP No. MO-0089842 at the time the WWTF has been closed in accordance with the department-approved closure plan and the site is stabilized, as referenced in Part 2 from above.

35. Immediately upon becoming aware that a deadline or milestone as set forth in this order will not be completed on time, the respondents are ordered to notify the department by telephone or electronic mail, identifying: 1) the deadline that will not be completed; 2) the reason for failing to meet the deadline; and 3) a proposed extension to the deadline. Within five days of notifying the department, the respondents are ordered to submit to the department for review and approval a written request containing the same provisions of Parts 1, 2 and 3 from above. 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 respondents an extension.

PENALTY

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

36. Within 30 days from the date of issuance of this order, the respondents shall pay to the department an administrative penalty in the amount of \$20,000.00, \$10,000.00 of which shall be suspended upon the condition that the respondents do not violate the terms of this order. A \$10,000.00 payment shall be made by check made payable to: *Jefferson County Collector as Custodian of the Jefferson County School Fund*.

37. Such payment must be delivered to the Department of Natural Resources, Accounting Program, P.O. Box 477, Jefferson City, Missouri 65102-0477.

SUBMISSIONS

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

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

OTHER PROVISIONS

39. 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 makes a written request to the department within ten 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.

40. 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.

41. 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 its obligation to comply with this order.

42. 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 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 respondents shall commence work and implement such approved or modified plan in accordance with the schedule and provisions contained therein.

NOTICE OF APPEAL RIGHTS

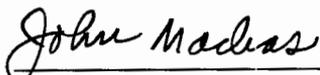
43. If you are adversely affected by this decision, you may be entitled to pursue an appeal before the Administrative Hearing Commission (AHC) pursuant to 10 CSR 20-1.020 and Sections 644.056, 644.079, 640.013, and 621.250, RSMo. To appeal, you must file a petition or notice of appeal with the AHC within 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 West 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 17th day of June, 2015 by:

DEPARTMENT OF NATURAL RESOURCES



John Madras, Director
Water Protection Program

c: Ms. Diane Huffman, Environmental Protection Agency
Ms. Dorothy Franklin, Director, Saint Louis Regional Office
Mr. Jack McManus, Missouri Attorney General's Office
Missouri Clean Water Commission
Accounting Program