



## FINDINGS OF FACT

1. The Respondent owns property formerly known as Cedar Haven Resort. The property includes ten cabins, a mobile home and a wastewater treatment facility (WWTF) consisting of a septic tank and a recirculating sand filter with chlorination and dechlorination equipment. The WWTF is located in the NE ¼, SE ¼, Section 35, Township 22 North, Range 24 West in Stone County. Effluent from the WWTF discharges to Table Rock Lake, a Class L2 Lake.

2. Table Rock Lake is waters of the state as defined by Section 644.016(27) RSMo.

3. The department issued Missouri State Operating Permit (MSOP) No. MO-0052043 to Mr. Robert H. Wyche and Ms. Rebecca Casas Wyche for the WWTF on May 16, 2008, and it expired by its own terms, on May 15, 2013.

4. MSOP No. MO-0052043 issued on May 16, 2008, includes interim and final effluent limitations for Ammonia as Nitrogen, and a Schedule of Compliance (SOC) for the Respondent to complete improvements to the WWTF that would enable the effluent to comply with the final limitations for Ammonia as Nitrogen by June 1, 2011.

5. According to the Warranty Deed provided by the Stone County Recorder of Deeds, on or about October 9, 2012, the ownership of the property was transferred to Ms. Harriet Harley Taber from Mr. Robert H. Wyche and Ms. Rebecca Casas Wyche.

6. On March 14, 2013, department staff conducted a technical assistance visit at the WWTF and met with the Respondent. During this meeting department staff advised the Respondent on how to comply with the regulations specific to the resort's WWTF and provided

the Respondent with an application to transfer the MSOP, contact information for a department permit writer, and a list of laboratories in the area for testing.

7. On September 9, 2013, the department issued a Letter of Warning (LOW) to the Respondent for failure to pay 2012 and 2013 annual MSOP fees.

8. On October 9, 2013, department staff conducted a compliance inspection of the WWTF. Staff observed the sand filter had vegetation growing on it and the chlorinator and dechlorinator did not contain tablets in the contact tubes. Staff noted that the department has not received Discharge Monitoring Reports (DMRs) since the second quarter of 2011, annual sludge reports for 2011 and 2012, or an application to renew the MSOP at least 180 days before its expiration.

9. On November 4, 2013, the department issued the Respondent a Notice of Violation (NOV) for violations documented during the October 9, 2013, inspection. The letter accompanying the NOV contained an offer to meet with the Respondent at the department's Southwest Regional Office (SWRO) to discuss the violations and the steps that must be taken to correct the violations. The department did not receive a response to the NOV or the offer to meet.

10. On April 21, 2014, the department sent the Respondent a letter requesting a complete application to transfer the MSOP to the Respondent or a written closure plan. To date, the department has not received a response.

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

## STATEMENT OF VIOLATIONS

The Respondent has violated the MCWL and its implementing regulations as follows:

12. Since October 9, 2012, operated, used, or maintained a water contaminant source – a wastewater treatment system without an MSOP, in violation of Sections 644.051.2 and 644.076.1, RSMo and 10 CSR 20-6.010(1)(A) and (5)(A).

## CORRECTIVE ACTIONS

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

13. Within five days receipt of this Order the Respondents shall cease all discharges and pump and haul all wastewater to a permitted WWTF with the capacity to treat the wastewater. The Respondent shall maintain pumping and hauling receipts and submit copies of the receipts to the department each month. The records shall be submitted to the department by the 10<sup>th</sup> day of the following month and include the date the wastewater was pumped; number of gallons pumped; and the name of the wastewater hauler and name of the permitted WWTF accepting the wastewater. .

14. Within 30 days of receipt of this Order, the Respondent is ordered to submit written correspondence to the department indicating which of the following options the Respondent has chosen to achieve compliance with the MCWL:

- a. If the Respondent chooses OPTION A:
  - i. Within 30 days of receipt of this order, the Respondent shall submit to the department, for review and approval, a Facility Closure Request Form

(Attachment I) which includes a closure plan for the WWTF developed in accordance with the department guidelines, described in the Standard Conditions for National Pollutant Discharge Elimination Systems Permits, Part III, Section I of MSOP No. MO-0052043 (Attachment II).

- ii. Within 15 days of receipt of department comments on the closure plan, the Respondent shall respond in writing to the department addressing all department comments on the closure plan, to the department's satisfaction.
- iii. Within 90 days of the department's approval of the closure plan, the Respondent shall complete closure of the WWTF according to the department approved closure plan.
- iv. Within 30 days of completing closure, the Respondent shall submit to the department documentation, including photographs, of the WWTF closure and a complete and approvable Request for Termination for MSOP No. MO-0052043.

b. If the Respondent chooses OPTION B:

- i. Within 60 days of the effective date of this order, the Respondent is ordered to submit to the department a complete application for an MSOP with the applicable fee. Also the Respondent is ordered to 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 current condition of the WWTF. The engineering report shall recommend

alternatives to upgrade, replace, or eliminate the WWTF that will result in compliance with all applicable effluent limitations contained in the MSOP.

- ii. Within 15 days of receipt of department comments on the engineering report, the Respondent shall respond in writing to the department addressing all department comments on the engineering report to the department's satisfaction.
- iii. If the department approved alternative is to upgrade or replace the WWTF, the Respondent is ordered and agrees 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 in the department approved engineering report. The plans and specifications shall be developed in accordance with 10 CSR 20-8. The Respondent is ordered and agrees 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.
- iv. Within 120 days of the date the department issues a construction permit the Respondent is ordered and agrees to complete construction pursuant to the department approved plans and specifications and achieves compliance with all applicable permitted effluent limitations.
- v. Within 15 days of completing construction, the Respondent is ordered and agrees to submit to the department a Statement of Work Completed Form,

signed, sealed, and dated by a professional engineer registered in the state of Missouri certifying that the project was completed in accordance with department approved plans and specifications and if applicable, a complete application for the modified operating permit, including applicable fee.

- vi. If applicable, within 120 days of diverting the wastewater flow from the resort to a department approved WWTF, but not before receiving written approval from the department for the WWTF closure plan, the Respondent is ordered and agrees to complete closure of the WWTF pursuant OPTION A sections i-iii listed above.

15. The Respondent is ordered to comply with the MCWL, Chapter 644, RSMo, and its implementing regulations at all times in the future.

#### **SUBMISSIONS**

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

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

#### **OTHER PROVISIONS**

17. 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 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.

18. 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.

19. 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.

20. 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**

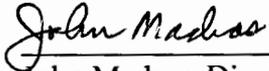
21. If you are adversely affected by this decision, you may be entitled to pursue an appeal before the Administrative Hearing Commission (AHC) pursuant to 10 CSR 20-1.020 and Sections 644.056, 644.079, 640.013, and 621.250, RSMo. To appeal, you must file a petition or notice of appeal with the AHC within 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](http://www.oa.mo.gov/ahc)

**SIGNATURE AUTHORITY**

SO ORDERED this 22<sup>nd</sup> day of September, 2015 by:

DEPARTMENT OF NATURAL RESOURCES



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John Madras, Director  
Water Pollution Program

c: Ms. Cindy Davies, Director, Southwest Regional Office  
Mr. Jack McManus, Missouri Attorney General's Office  
Missouri Clean Water Commission  
Accounting Program