

**BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES**

**In the Matter of:**

**Larry Long**

**Proceeding under the  
Missouri Clean Water Law**

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**Order No. 2015-WPCB-1356**

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

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CERTIFIED MAIL # 7012 2920 0002 0660 7044  
RETURN RECEIPT REQUESTED

TO: Mr. Larry Long  
9497 East US Highway 60  
Monett, MO 65708

You are hereby notified that on this date the Missouri Department of Natural Resources has issued this Notice and Order to Abate Violations and Pay Administrative Penalties (order) to Mr. Larry Long (respondent) 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 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. The respondent owns and operates a broiler chicken Confined Animal Feeding Operation (CAFO) located at 943 Highway 60 in Monett, Missouri. The legal description for the operation is the Southeast  $\frac{1}{4}$ , Northeast  $\frac{1}{4}$ , Section 3, Township 25 North, Range 27 West, in Barry County. The operation uses a dry litter manure system and consists of six production buildings, a stacking shed, and a mortality composter. Litter is stored in the production buildings until flock cycles and weather conditions allow for removal of the material by contract hauler. The receiving stream for the operation is an unnamed tributary to Clear Creek.

2. On June 9, 2006, the department issued Missouri State Operating Permit (MSOP) No. MO-G010504 to the respondent and, at that time, the operation consisted of approximately 132,000 broiler chickens, or 1,056 animal units (AU), which classified the operation as a Class IC operation. The MSOP expired by its own terms on February 23, 2011.

3. Pursuant to MSOP No. MO-G010504, Reporting Requirements, the respondent is required to submit an annual report to the department by the 28<sup>th</sup> day of January for the previous calendar year. The first report is due on the next annual report date after MSOP issuance including partial report periods. The report shall include a copy of the monitoring results and other records required by this MSOP. The respondent shall report “no-discharge” if a discharge did not occur during any of the monitoring periods.

4. On March 16, 2007, the department sent the respondent correspondence informing him that the department had not received an annual report for 2006, as required by MSOP No. MO-G010504. On June 11, 2009, the department sent the respondent correspondence stating that the department had not received an annual report for 2008, as required by MSOP No.

MO-G010504. On May 7, 2012, the department sent the respondent correspondence stating that the department had not received an annual report for 2011. To date, the department has not received annual reports associated with MSOP No. MO-G010504 from the respondent for the years 2006 through 2011.

5. On September 10, 2013, the department received an application for a CAFO operating permit from the respondent. On October 25, 2013, the department issued MSOP No. MO-GS10453 to the respondent. The MSOP expires by its own terms on January 27, 2018.

6. MSOP No. MO-GS10453, Special Requirements and Standard Conditions No. 9 states, “an annual report shall be submitted by the 15<sup>th</sup> day of February for the previous calendar year. The first report is due on the next annual report date after permit issuance including partial report periods.”

7. To date, the department has not received annual reports associated with MSOP No. MO-GS10453 from the respondent for the years 2013 and 2014.

8. 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 minor potential for harm based on the potential risk to human health, safety, and the environment. The violations were at least a moderate deviation from the MCWL and its implementing regulations. Using the gravity-based matrix, the base penalty falls within a range of \$1,501.00-\$2,500.00. 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 on at least four separate occasions, an administrative penalty in the amount of \$2,000.00 is justified.

The administrative penalty was assessed with violations referenced herein that were documented within the past two years.

9. This order is necessary to compel compliance.

#### **STATEMENT OF VIOLATIONS**

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

10. Failed to submit timely Annual Reports as required by Reporting Requirements of MSOP No. MO-G010504, in violation of Section 644.076.1, RSMo, and 10 CSR 20-6.300(3)(F).

11. Failed to submit timely Annual Reports, as required by Special Requirements and Standard Conditions No. 9 of MSOP No. MO-GS10453, in violation of Section 644.076.1, RSMo, and 10 CSR 20-6.300(3)(F).

#### **CORRECTIVE ACTIONS**

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

12. The respondent is ordered to comply with all conditions and requirements contained in MSOP No. MO-GS10453 including but not limited to the Special Requirements and Standard Conditions for Inspections, Record Keeping for Production Area, Record Keeping for Land Application Area, and Reporting Requirements.

13. Within 30 days of the effective date of this order, the respondent is ordered to submit complete and accurate annual reports to the department for the years 2013 and 2014. If the reports are unavailable, the respondent shall provide a written response explaining why the records are unavailable and an explanation for what actions the respondent plans to take to avoid a reoccurrence of the violation in the future.

14. The respondent is ordered to submit complete and accurate annual reports to the department by the 15<sup>th</sup> day of February for the previous calendar year and shall submit complete and timely application for renewal of MSOP No. MO-GS10453 on or before July 27, 2017. The respondent is ordered to comply with the MCWL, Chapter 644, RSMo, and its implementing regulations at all times in the future.

### **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:

15. Within 60 days from the date of issuance of this order, the respondent shall pay to the department an administrative penalty in the amount of \$2,000.00.

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

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

### **SUBMISSIONS**

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

Ms. Lauren Lewis  
Department of Natural Resources  
Water Protection Program  
Compliance and Enforcement Section  
P.O. Box 176  
Jefferson City, Missouri 65102-0176

## **OTHER PROVISIONS**

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

20. 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.

21. This order shall apply to and be binding upon respondent and any of his agents, subsidiaries, successors, assigns, affiliates, or lessees, including the officers, agents, servants, corporations and any persons acting under, through, or for 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 respondent of his obligation to comply with this order.

22. For any 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 submittal. Any such department decision shall be conveyed in writing to respondents.

**NOTICE OF APPEAL RIGHTS**

23. Anyone adversely affected by this decision 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. Appeal may be taken by the filing of 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](http://www.oa.mo.gov/ahc)

**SIGNATURE AUTHORITY**

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

DEPARTMENT OF NATURAL RESOURCES



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John Madras, Director  
Water Protection Program

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