

**BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES**

**In the Matter of:** )  
 )  
**Maxey & Pinet Mobile Home Park** )  
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 )  
**Proceeding under the** )  
**Missouri Clean Water Law** )

**Order No. 2015-WPCB-1260**

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

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RETURN RECEIPT REQUESTED

TO: Mr. David and Ms. Sharraine Fromme  
1275 South Summit Drive  
Holts Summit, MO 65043

You are hereby notified that on this date the Department of Natural Resources has issued this Notice and Order to Abate Violations and Pay Administrative Penalties (Order) to Mr. David and Ms. Sharraine Fromme (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 non-compliance, 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 Respondents own and operate the Maxey and Pinet Mobile Home Park (MHP) located at 11250 County Road 391, Holts Summit, Missouri. Wastewater generated by ten mobile homes and one single family home is treated by a three-cell lagoon located in the SW ¼, NE ¼, NW ¼, Section 27, Township 45 North, Range 11 West, in Callaway County. Effluent from the lagoon serving the MHP discharges from Outfall No. 001 to a tributary of Turkey Creek, pursuant to the terms and conditions of Missouri State Operating Permit (MSOP) No. MO-0119270.

2. MSOP No. MO-0119270 was issued to the Respondents by the department on January 18, 2008, and included final effluent limitations for Fecal Coliform that became effective on January 16, 2013. Section “E”, Schedule of Compliance (SOC), of the MSOP required the Respondents to submit a report to the department by January 18, 2009, regarding the Wastewater Treatment Facility’s (WWTF) compliance with bacterial standards which shall contain: 1) an evaluation or data set that demonstrates effluent limits can be met without disinfection equipment, or an alternative water quality based effluent limit or a demonstration that such limits are not required and will not violate the Water Quality Standards for *Escherichia coli* and 2) within 180 days from the issuance of the department’s notice to disinfect, but no later than June 18, 2010, submit a construction permit activity schedule toward meeting the disinfection requirement.

3. On July 16, 2012, the department received an MSOP renewal application from Ms. Fromme. MSOP No. MO-0119270 was reissued by the department on January 1, 2014, and expires by its own terms on December 31, 2016. The MSOP includes final effluent limitations

for Ammonia as Nitrogen that become effective on January 1, 2017. Section “D”, SOC, of the MSOP requires the Respondents to submit to the department: 1) a report of the progress made in attaining compliance with the final effluent limits by July 1, 2014 and 2) an interim progress report detailing the progress made in attaining compliance with the final effluent limits every 12 months from the effective date.

4. MSOP No. MO-0119270 requires the Respondents to sample the effluent discharged from Outfall No. 001 and chemically analyze the effluent sample for the water contaminants listed in Part “A” every quarter. MSOP No. MO-0119270 further requires the effluent to comply with the effluent limitations contained in Part “A” and requires the results of the analysis to be submitted to the department on quarterly Discharge Monitoring Reports (DMRs) by the 28<sup>th</sup> day of the month following the reporting period. MSOP No. MO-0119270 requires the effluent flow to be measured each month and the results of the measurement to be submitted to the department on monthly DMRs by the 28<sup>th</sup> day of the month following the reporting period.

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

6. Domestic wastewater is a water contaminant source as the term is defined by Section 644.016 (24), RSMo.

7. Quarterly DMRs submitted to the department document that the Respondents failed to report the concentration of *E. coli* in the effluent during the second quarter of 2014 and flow measurements for January, February, April, and May 2014; and January and February 2015.

8. On March 7, 2013, department staff conducted a compliance inspection of the lagoon serving the MHP. During this inspection, staff found that the WWTF did not have warning signs on all sides of the perimeter fence, Outfall No. 001 was not marked, and there was no lockable gate. The lagoon was not discharging at the time of inspection. A review of the department's file showed that the Respondents failed to submit an interim report or construction permit application and activity schedule toward meeting disinfection requirements, and failed to submit a DMR on time for the first quarter of 2012.

9. On April 23, 2013, the department sent an inspection report and issued Notice of Violation No. NER2013031315175502 to Ms. Fromme. In the inspection report, the department identified violations found during the inspection and file review and required Ms. Fromme to take actions to correct the violations.

10. On May 12, 2013, the department received a letter from Ms. Fromme explaining that warning signs had been installed, the gate had been fixed, the outfall location had been marked, and the missing DMR was located and submitted to the department.

11. On November 17, 2014, the department sent correspondence to the Respondents by certified mail offering an opportunity to meet in person to negotiate the terms of an agreement to achieve compliance. This letter was received on November 18, 2014, by Ms. Fromme; however, the department has not received a response to this offer.

12. As of the date of this Order, the Respondents have failed to complete upgrades to the WWTF to comply with final limits for Fecal Coliform and have failed to submit progress reports for attaining compliance with final limits for Ammonia as Nitrogen. The Respondents

have also failed to submit flow measurements for January, February, April, and May 2014; and January and February 2015.

13. The administrative penalty described below was assessed according to 10 CSR 20-3.010. The violations referenced herein had at least a minor potential for harm based on the potential risk to human health, safety, and the environment, and 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 to \$2,500.00. Since the department documented two violations of the MCWL, an administrative penalty in the amount of \$4,025.00 is justified. The department has determined that \$2,000.00 of the civil penalty shall be suspended upon the condition that the Respondents do not violate the terms of this Order. The administrative penalty was assessed with violations referenced herein that were documented within the past two years.

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

#### **STATEMENT OF VIOLATIONS**

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

15. Failed to submit interim progress reports as required in the SOC of MSOP No. MO-0119270, in violation of Sections 644.076.1, RSMo, and 10 CSR 20-6.010(7)(A).

16. Failed to submit complete DMRs as required in Part "A" of MSOP No. MO-0119270, in violation of 644.076.1, RSMo, and 10 CSR 20-7.015(9)(D)1.

#### **CORRECTIVE ACTIONS**

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

17. In the period of time from the date of receipt of this Order until the new or upgraded WWTF is completed, or the wastewater is connected to an area-wide sewer authority system, the Respondents are ordered to operate the existing WWTF at all times in compliance with the conditions and requirements of MSOP No. MO-0119270. All units or components of the existing WWTF shall be maintained in an operable condition, even if this requires the purchase and installation of new parts or equipment, or repair of the WWTF.

18. The Respondents are ordered to collect representative samples of the effluent discharged from Outfall No. 001 anytime there is a discharge during the monitoring period as required by MSOP No. MO-0119270. The Respondents are ordered to comply with the analytical and sampling methods referenced in 10 CSR 20-7.015(9)(D) and submit the results to the department on DMRs by the 28<sup>th</sup> day of the month following the reporting period.

19. Within 60 days of receipt of this Order, the Respondents are 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 and developed in accordance with Missouri Clean Water Regulation 10 CSR 20-8.020. The engineering report shall include a comprehensive evaluation of the current condition of the lagoon, wastewater treatment options, and recommendations that will enable the effluent to comply with the permitted effluent limitations for *E. coli* and final effluent limitations that will become effective January 1, 2017. If applicable, the Respondents are ordered to submit a complete antidegradation submittal pursuant to the Missouri Antidegradation Rule and Implementation Procedure. Although it is not required at this time, the engineering report may also include alternatives that will result in compliance with final effluent limitations for Ammonia as Nitrogen based on the U.S. Environmental

Protection Agency's 2013 Final Aquatic Life Ambient Water Quality Criteria for Ammonia – Freshwater.

20. Within 15 days of receipt of department comments on the engineering report or antidegradation submittal, the Respondents are ordered to respond in writing to the department, addressing all department comments on the engineering report or antidegradation submittal to the satisfaction of the department.

21. If the department approved 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 in the department approved 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 60 days of the date the department approved the engineering report.

22. If the department approved alternative is connection to an area-wide wastewater collection and treatment system, the Respondents are ordered to complete construction of the sewer. The sewer extension shall be designed and sealed by a professional engineer licensed to practice in the state of Missouri and designed in accordance with 10 CSR 20-8. If the sewer extension and collection system will be greater than or equal to 1000 feet in length or will include more than two lift stations, the Respondents are ordered to submit to the department a complete application for a construction permit within 30 days of approval of the engineering report, including the plans and specifications sealed by a professional engineer and the applicable

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 area-wide sewer authority accepting the connection, and if applicable, a construction permit from the department. If a construction permit from the department 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, 30 days prior to beginning construction of the sewer extension.

23. Within 15 days receipt of department comments on the construction permit application, the Respondents are ordered to respond in writing to the department, addressing all department comments on the construction permit application to the satisfaction of the department.

24. Within 120 days from the date the department issues a construction permit for upgrades to the WWTF or sewer extension to connect an area-wide sewer authority, the Respondents are ordered to complete all construction in accordance with department approved plans and specifications in the construction permit and eliminate the discharge by connection or achieve compliance with all applicable permitted effluent limitations.

25. If a construction permit is not required for connection to an area-wide wastewater collection and treatment system the Respondents are ordered to complete construction in accordance with the engineering plans and specifications and eliminate the discharge within 120 days from the date the department approves the engineering report required in Paragraph 18 above.

26. If the use of the existing WWTF is to be discontinued, the Respondents are ordered to submit a closure plan, developed in accordance with Standard Conditions Part III, Section I, of MSOP No. MO-0119270, to the department for review and approval on or before September 30, 2015. If the existing WWTF will be incorporated in the new department approved WWTF, a closure plan will not be required.

27. 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 satisfaction of the department.

28. Within 15 days of completing construction, the Respondents are ordered to submit to the department: (1) a Statement of Work Completed Form, signed, sealed and dated by a professional engineer licensed to practice in the state of Missouri certifying that the project was completed in accordance with department approved plans and specifications; and (2) a complete application for the modified MSOP No. MO-0119270 to reflect the upgrades, and with the applicable fee.

29. If applicable, within 120 days if 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 lagoon pursuant to the closure plan as approved by the department; 2) stabilize the disturbed area with perennial vegetation with 70 percent fully established plant density over 100 percent of the disturbed area; and 3) submit to the department an application to terminate MSOP No. MO-0119270 once the vegetation has been established as stated above.

30. The Respondents are 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 Respondents to pay administrative penalties for the above-referenced violations as follows:

31. 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 \$4,025.00, \$2,000.00 of which shall be suspended upon the condition that the Respondents do not violate the terms of this Order. The \$2,025.00 payment shall be made by check and made payable to: *Callaway County Collector as Custodian of the Callaway County School Fund.*

32. 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 Callaway County Collector.

### **SUBMISSIONS**

33. 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**

34. 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 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.

35. 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. Nothing herein this Order compromises or affects the department's right to seek additional relief or asserting additional claims for civil penalties for past or future violations of the MCWL. 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.

36. This Order shall apply to and be binding upon the Respondents 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 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 Respondent of its obligation to comply with this Order.

37. 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 10 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**

38. 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 19<sup>th</sup> day of June, 2015 by:

DEPARTMENT OF NATURAL RESOURCES



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John Madras, Director  
Water Protection Program

c: Ms. Diane Huffman, Environmental Protection Agency  
Ms. Irene Crawford, Northeast Regional Office  
Mr. Jack McManus, Missouri Attorney General's Office  
Missouri Clean Water Commission  
Accounting Program