

BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES

In the Matter of:)
)
Cedar Haven Family Resort, LLC)
)
)
)
Proceeding under the)
Missouri Clean Water Law)

Order No. 2016-WPCB-1435

NOTICE AND ORDER TO PAY ADMINISTRATIVE PENALTIES

SERVE BY CERTIFIED MAIL # 7013 3020 0001 2161 6990
RETURN RECEIPT REQUESTED

TO: Harriet Harley Taber, Owner
Cedar Haven Family Resort, LLC
90 Johnson Way Lane
Kimberling City, MO 65804

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 to Harriet Harley Taber (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 per day for each day or part thereof of non-compliance, a surcharge of 15 percent of the penalty described herein, 10 percent 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 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. On September 22, 2015, the department issued Notice and Order to Abate Violations No. 2015-WPCB-1359 to the Respondent for violations of the MCWL under 644.056 and 644.079, RSMo. Notice and Order to Abate Violations No. 2015-WPCB-1359 required the Respondent to: 1) cease all discharges and pump and haul all wastewater to a permitted WWTF with the capacity to treat the wastewater, 2) submit correspondence to the department documenting the Respondent's intention to either close the WWTF and terminate Missouri State Operating Permit (MSOP) No. MO-0052043 or complete upgrades, replacement, or elimination of the WWTF that will result in compliance with all applicable effluent limitations contained in the MSOP, and 3) i) complete closure of the WWTF and terminate the MSOP; or ii) complete upgrades, replacement, or elimination of the WWTF that will result in compliance with all applicable effluent limitations contained in the MSOP.

3. On October 19, 2015, the Respondent signed for and received Notice and Order to Abate Violations No. 2015-WPCB-1359 from the United Parcel Service. Notice and Order to Abate Violations No. 2015-WPCB-1359 contains the Notice of Appeal Rights provision entitling the Respondent the ability to pursue an appeal of the order before the Administrative Hearing

Commission (AHC). The Respondent had thirty 30 days from the receipt of the order to appeal. The Respondent did not file an appeal of the Notice and Order to Abate Violations No. 2015-WPCB-1359.

4. On November 18, 2015, the Notice and Order to Abate Violations No. 2015-WPCB-1359 became final and fully enforceable.

5. To date, the Respondent has failed to comply with the Corrective Actions contained in the Notice and Order to Abate Violations No. 2015-WPCB-1359.

6. 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 minor 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, the base penalty falls within a range of \$1,501 to \$2,500. 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, an administrative penalty in the amount of \$2,000 is justified.

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

STATEMENT OF VIOLATIONS

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

8. Since October 22, 2015, the Respondent failed to comply with Notice and Order to Abate Violations No. 2015-WPCB-1359, in violation of Section 644.076, RSMo.

CORRECTIVE ACTIONS

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

9. Within 30 days of the receipt of this Order, the Respondent will comply with the Corrective Actions contained in Notice and Order to Abate Violations No. 2015-WPCB-1359.

10. 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:

11. 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 \$5,000.

12. Such payment shall be made by check made payable to: Stone County Collector as Custodian of the Stone County School Fund.

13. Such payment must be delivered to the Department of Natural Resources, C/O Accounting Program, P.O. Box 176, Jefferson City, MO 65102, for forwarding to the Stone County Collector.

SUBMISSIONS

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

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

OTHER PROVISIONS

15. 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.

16. 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.

17. 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.

18. 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 time frame 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

19. If you are adversely affected by this decision, you may be entitled to pursue an appeal before the AHC pursuant to Sections 644.056, 644.079, 640.013, and 621.250, RSMo, and 10 CSR 20-1.020. 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
P.O. Box 1557
Jefferson City, Missouri 65102-1557
Phone: 573-751-2422
Fax: 573-751-5018
Website: www.oa.mo.gov/ahc

SIGNATURE AUTHORITY

SO ORDERED this 30th day of September 2016 by:

DEPARTMENT OF NATURAL RESOURCES



John Madras, Director
Water Protection Program

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

