

BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES

In the Matter of:)
)
)
 Hazelwood Court Mobile)
 Home Park) **Order No. 2016-WPCB-1432**
)
 Proceeding under the)
 Missouri Clean Water Law)

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

CERTIFIED MAIL # 7013 3020 0001 2161 6812
RETURN RECEIPT REQUESTED

TO: Mr. Larry Church, President
La-Cal Investments, Inc.
P.O. Box 735
Hillsborough, MO 63050

NOTICE IS HEREBY GIVEN that on this date the Department of Natural Resources has issued this Notice and Order to Abate Violations and Pay Administrative Penalties (Order) to La-Cal Investments, Inc. under the Missouri Clean Water Law (MCWL), Chapter 644 of the Revised Statutes of Missouri (RSMo), specifically Sections 644.056 and 644.079, RSMo. La-Cal Investments, Inc. will be referred to as the Respondent for purposes of this Order.

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% 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. La-Cal Investments, Inc. is an active corporation registered with the Missouri Secretary of State that owns and operates Hazelwood Court Mobile Home Park (MHP) located at 9200 Hazelwood Drive, Pevely, Missouri in Land Grant No. 924 in Jefferson County. The MHP consists of approximately 28 single-family residential mobile homes and 14 vacant lots.

Wastewater generated by MHP is treated by a wastewater treatment facility (WWTF) consisting of an extended aeration plant, aerated sludge holding tank, and sludge disposal by a contract hauler. The design population equivalent is 132, design flow 9,900 gallons per day (gpd), and actual flow of 3,400 gpd. Effluent from the WWTF discharges to the unclassified Wet Weather Branch of Sandy Creek, pursuant to the conditions and requirements of Missouri State Operating Permit (MSOP) No. MO-0104485.

2. The MSOP No. MO-0104485 issued on January 21, 2011, requires the Respondent 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. The MSOP also requires the effluent to comply with the 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 28th day of the month following the reporting period.

3. Wet Weather Branch of Sandy Creek and its tributaries are waters of the state as the term is defined by Section 644.016 (27), RSMo.

4. Domestic wastewater is a water contaminant as the term is defined in Section 644.016(24), RSMo.

5. E. coli, pH and Total Residual Chlorine (TRC) are water contaminant(s) as the term is defined in Section 644.016(24), RSMo.

6. A quarterly DMR submitted to the department document that the effluent discharged from the WWTF failed to comply with the applicable permitted effluent limitations for E. coli during the fourth quarter of 2014.

7. A quarterly DMR submitted to the department document that the effluent discharged from the WWTF failed to comply with the applicable permitted effluent limitations for pH during the fourth quarter of 2015.

8. Quarterly DMRs submitted to the department document that the Respondent failed to report effluent concentrations for E. coli during the second quarter 2015; TRC concentrations during the third quarter 2014, second and third quarter 2015 and second quarter 2016; and flow for the month of June 2015.

9. On January 20, 2016, MSOP No. MO-0104485 expired by its own terms. To date, the department has not received an application to renew the MSOP No. MO-0104485 from the Respondent.

10. 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 two violations 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 \$6,000 is justified.

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

STATEMENT OF VIOLATIONS

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

12. Failed to comply with the effluent limits contained in Part A of MSOP No. MO-0104485, in violation of MCWL Sections 644.051.1(3) and 644.076.1, RSMo.

13. Failed to submit complete DMRs as required in Part A of MSOP No. MO-0104485, in violation of Section 644.076.1, RSMo, and 10 CSR 20-7.015(9)(D)1.

14. Since January 20, 2016, operated, used or maintained a water contaminant source, a WWTF, which discharges to the Wet Weather Branch of Sandy Creek, waters of the state, 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:

15. Immediately upon the issuance of this Order, the Respondent is ordered to prevent a discharge of wastewater by pumping and hauling the wastewater from the WWTF to a permitted WWTF with the capacity to treat the wastewater. Respondent is ordered to continue pumping and hauling wastewater as necessary, to prevent any discharge of effluent until such a time that the wastewater flow from the WWTF is conveyed to a centralized wastewater treatment and collection system or an MSOP is reissued to the Respondent. Respondent is ordered to 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 tenth 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 the name of the permitted WWTF accepting the wastewater.

16. Within 30 days of the effective date of this Order, the Respondent is ordered to submit to the department a complete application including the applicable fee to renew MSOP No. MO-0104485.

17. Within 60 days of the effective date of this Order, 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 WWTF and its ability to comply with the applicable effluent limitations contained in MSOP No. MO-0104485. The engineering report shall identify alternatives to upgrade, replace, or eliminate the WWTF that will result in compliance with all effluent limitations contained in MSOP No. MO-0104485. The engineering report shall be developed in accordance with Missouri Clean Water Regulation 10 CSR 20-8.

18. Within 15 days of receipt of department comments on the preliminary engineering report, the Respondent is ordered to respond in writing to the department addressing all department comments on the engineering report to the department's satisfaction.

19. If the department approved alternative is to upgrade or replace the WWTF, the Respondent is 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 Respondent is 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.

20. If the department approved alternative is connection to an area-wide wastewater treatment and collection system, the Respondent is ordered to complete construction of a sewer extension by April 1, 2017. The sewer extension shall be designed and sealed by a professional engineer registered in the State of Missouri in accordance with 10 CSR 20 Chapter 8 and shall be constructed in accordance with the registered professional engineer's design and plans. If the sewer extension and collection system will be greater than or equal to 1000 feet in length and will include more than two lift stations, the Respondent is ordered to submit to the department a complete application for a construction permit 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 Respondent is 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 Respondent is 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.

21. If the existing WWTF is to be abandoned, the Respondent is ordered to submit a closure plan to the department for approval on or before April 1, 2017. If the existing WWTF will be incorporated in the new department approved wastewater treatment system, a closure plan will not be required.

22. Within 15 days of receipt of department comments on the closure plan, the Respondent is ordered to submit a response in writing to the department addressing all

department comments on the construction permit application, plans and specifications to the department's satisfaction.

23. Within 180 days of the date the department issues a construction permit, or if applicable, approves the plans and specifications for sewer extension to connect to an area-wide sewer authority system, the Respondent is ordered to complete construction pursuant to the plans and specifications and achieve compliance with all applicable permitted effluent limitations or divert the flow from the MHP to the area-wide sewer system.

24. Within 15 days of completing construction, the Respondent is ordered 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 MSOP, including applicable fee.

25. If applicable, within 120 days of diverting the wastewater flow from the WWTF to a department approved WWTF or an area-wide sewer system, but not before receiving written approval from the department for the WWTF closure plan, the Respondent is ordered to:

- i) complete closure of the WWTF pursuant to the closure plan as approved by the department;
- (ii) stabilize the disturbed area with perennial vegetation with 70 percent fully established plant density over 100 percent of the disturbed area; and (iii) submit to the department an application to terminate MSOP No. MO-0104485.

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:

26. Within 60 days from the date of issuance of this Order, the Respondent is ordered to pay an administrative penalty in the amount of \$6,000.

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

28. 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 Jefferson County Collector.

SUBMISSIONS

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

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

OTHER PROVISIONS

30. 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.

31. 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.

32. This Order shall apply to and be binding upon the Respondent 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 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.

33. 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

34. Anyone adversely affected by this decision may be entitled to pursue an appeal before the Administrative Hearing Commission (AHC) pursuant to Sections 644.056, 644.079,

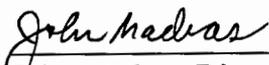
640.013, and 621.250, RSMo, and 10 CSR 20-1.020. Appeal may be taken by the filing of a petition or notice of appeal with the AHC within 30 days after the date this decision was mailed or the date it was delivered, whichever date was earlier. If any such petition is sent by registered mail or certified 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
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. Dorothy Franklin, Director, St. Louis Regional Office
Ms. Diane Huffman, Environmental Protection Agency
Mr. Tim Duggan, Missouri Attorney General's Office
Missouri Clean Water Commission
Accounting Program