

BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES

In the Matter of:

**Majestic Lakes Homeowners
Association, Inc.**

**Proceeding under the
Missouri Clean Water Law**

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Order No. 2017-WPCB-1454

ABATEMENT ORDER ON CONSENT

**TO: Ms. Stacie Donahue, President
Majestic Lakes Homeowners Association, Inc.
223 Salt Lick Road No. 401
St. Peters, MO 63376**

NOTICE TO RECIPIENTS OF ABATEMENT ORDERS ON CONSENT

The issuing of this Abatement Order on Consent (AOC) No. 2017-WPCB-1454, by the Missouri Department of Natural Resources (Department), is a formal administrative action by the State of Missouri and is being issued because Majestic Lakes Homeowners Association, Inc.

(Respondent) is in violation of the Missouri Clean Water Law (MCWL). This AOC is issued under the authorities of Sections 644.056 and 644.079, Revised Statutes of Missouri (RSMo).

Failure to comply with this AOC is, by itself, a violation of Section 644.076.1, RSMo.

Additional enforcement action may occur without further notice if there is not compliance with the requirements of this AOC. This AOC does not constitute a waiver or a modification of any requirements for the MCWL, or its implementing regulations, all of which remain in full force and effect. Compliance with the terms of this AOC shall not relieve the Respondent of liability for, or preclude the Department from, initiating an administrative or judicial enforcement action to recover penalties for any future violations of the MCWL, or to seek injunctive relief, pursuant to Chapter 644, RSMo.

FINDINGS OF FACT

1. The Respondent is a nonprofit corporation registered and in good standing with the Missouri Secretary of State.
2. The Majestic Lakes Subdivision consists of 146 lots with single family homes built on approximately 61 lots and is located in the SE ¼, SE ¼, Section 10, Township 48 North, Range 1 East, in Lincoln County, Missouri. The subdivision is served by a wastewater treatment facility (WWTF) consisting of a one tank sequencing batch reactor with flow equalization and ultraviolet disinfection. The WWTF has a design population equivalent of 790, a design flow of 79,000 gallons per day (gpd), and an actual flow of 12,800 gpd. Treated effluent discharges through Outfall No. 001 to Crooked Creek pursuant to the conditions and requirements of Missouri State Operating Permit No. MO-0130125 (Permit).
3. Crooked 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. On December 1, 2013, the Department issued the Permit to the Respondent as the owner and continuing authority of the WWTF.
6. The Permit included a Schedule of Compliance (SOC) requiring the Respondent to submit a plan within 60 days of issuance of the Permit indicating whether the Respondent plans to connect to another wastewater treatment facility or if the Respondent plans to repair or replace the entire WWTF. The Permit SOC also required the Respondent to either connect to another wastewater treatment facility and close the existing WWTF on or before November 30, 2014, or submit a construction permit to repair or replace the WWTF on or before May 31, 2014.

7. On December 17, 2013, staff conducted a compliance inspection of the WWTF. During the inspection, staff observed wastewater leaking around the base of a concrete box at the headworks and from the cracks in the concrete walls of the aeration tank, both of which are bypasses of the treatment process. Staff also observed that a metal plate had been installed between the outside wall and the aeration tank wall for temporary reinforcement. Staff also observed that the recirculation pump was non-operational; the transducer for measuring flow was non-operational and in need of repair; the emergency generator at the WWTF had been removed; and the generator at the lift station had not been repaired since it was flooded in 2008.

8. On January 31, 2014, the Respondent submitted correspondence informing the Department that it elected to repair and/or replace the existing WWTF. To date, the Department has not received a construction permit application as required by the Permit.

9. On February 21, 2014, the Department issued a Letter of Warning (LOW) to the Respondent for violations observed during the December 17, 2013, inspection and associated file review. The LOW required the Respondent to provide to the Department an upgrade schedule within 30 days of receipt of the letter and to work with their operator to come up with a schedule of repairs to address maintenance issues at the WWTF.

10. On June 30, 2016, the Respondent entered into an agreement to transfer the WWTF serving the Majestic Lakes Subdivision to Central States Water Resources, Inc. upon approval from the Public Service Commission.

STATEMENT OF VIOLATIONS

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

11. Failed to prevent a bypass of partially treated wastewater through cracks in the concrete wall of the aeration tank, as required by the standard conditions of the Permit, in violation of Section 644.076.1, RSMo; and

12. Failed to submit a construction permit application after determining to pursue Option No. 2 in the SOC, repair or replace the WWTF Part "D", SOC, of the Permit, in violation of Section 644.076.1, RSMo, and 10 CSR 20-6.010(7)(A).

AGREEMENT

13. The Department and the Respondent desire to amicably resolve all claims that may be brought against the Respondent for the violations alleged above in Statement of Violations.

14. The provisions of this AOC shall apply to and be binding upon the parties executing this AOC, their successors, assigns, agents, subsidiaries, affiliates, and lessees, including the officers, agents, servants, corporations, and any persons acting under, through, or for the parties. Any changes in ownership or corporate status, including but not limited to any transfer of assets or real or personal property, shall not affect the responsibilities of the Respondent under this AOC.

15. Sections 644.076.1 and 644.079, RSMo, authorize the imposition of penalties for violations of the MCWL and establish monetary penalties of up to \$10,000 per day per violation. The Respondent, in compromise and satisfaction of the Department's claims relating to the above referenced violation, agrees without admitting liability or fault, to pay an administrative penalty in the amount of \$4,000. The Department and the Respondent further agree that \$2,000 of the penalty shall be paid upfront and the remaining \$2,000 shall be suspended as described in Paragraph 16 below. The payment of the penalty in the amount of \$2,000 shall be in the form of

a check made payable to the "Lincoln County Treasurer, as Custodian of the Lincoln County School Fund" and is due and payable upon execution of this AOC by the Respondent. The check and the signed copy of this AOC shall be delivered to:

Accounting Program
Department of Natural Resources
P.O. Box 477
Jefferson City, MO 65102-0477

16. The suspended penalty described in Paragraph 15 in the amount of \$2,000 shall be suspended for a period of two years from the execution of this AOC upon the condition that the Respondent does not violate the MCWL. Upon determination that the Respondent has violated the MCWL, the Department shall send a written demand for the suspended penalty to the Respondent. The Respondent shall have 15 days from receipt of the written demand to submit the suspended penalty to the address listed in Paragraph 15.

17. In the period of time from the effective date of this AOC until Central States Water Resources, Inc. obtains a Permit from the Department for the WWTF, the Respondent is ordered and agrees to operate the existing WWTF at all times in compliance with the conditions and requirements of the Permit. 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. Within 120 days of the effective date of this AOC the Respondent is ordered and agrees to submit an Engineering Report evaluating the WWTF and recommending improvements necessary to structurally stabilize the WWTF and prevent bypasses. Within 30 days of receipt of the Department's comments on the Preliminary Engineering Report, the Respondent is ordered and agrees to respond in writing to the Department addressing all Department comments on the Engineering Report to the Department's satisfaction.

19. Within 365 days of the date the Department approves the Engineering Report the Respondent is ordered and agrees to complete all improvements recommended in the Engineering Report. The Respondent is ordered and agrees to obtain all permits and approvals necessary to complete the improvements.

20. If the WWTF and Permit are transferred to a new owner within 90 days of the effective date of this AOC, the Respondent is not required to submit the Engineering Report to the Department required by this AOC.

SUBMISSIONS

21. All other documentation submitted to the Department for compliance with this AOC shall be submitted within the timeframes specified to:

Ms. Erin Meyer Heidolph
Department of Natural Resources
Water Protection Program
Compliance and Enforcement Section
P.O. Box 176
Jefferson City, MO 65102-0176

OTHER PROVISIONS

22. Immediately upon becoming aware that a deadline or milestone as set forth in this AOC will not be completed by the required deadline, the Respondent shall notify the Department by telephone or electronic mail: i) identifying the deadline that will not be completed; ii) identifying the reason for failing to meet the deadline; and iii) proposing an extension to the deadline. Within five days of notifying the Department, the Respondent shall submit to the Department for review and approval a written request containing the same information. The Department may grant an extension if it deems appropriate. Failure to submit a written notice to the Department may constitute a waiver of the Respondent's right to request an extension and may be grounds for the Department to deny the extension.

23. Compliance with this AOC resolves only the specific violations described herein, and this AOC 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 AOC resolve any future violations of this order or any law or regulation. Consistent with 10 CSR 20-3.010(5), this AOC shall not be construed as satisfying any claim by the state or federal government for natural resource damages.

24. Nothing in this AOC forgives the Respondent from future non-compliance with the laws of the State of Missouri, nor requires the Department or State of Missouri to forego pursuing by any legal means any non-compliance with the laws of the State of Missouri. The terms stated herein constitute the entire and exclusive agreement of the parties. There are no other obligations of the parties, be they express or implied, oral or written, except those within are expressly set forth herein. The terms of this AOC supersede all previous memoranda or understanding, notes, conversations, and agreements, express or implied. This AOC may not be modified orally.

25. By signing this AOC, all signatories assert that they have read and understood the terms of this AOC, and that they have the authority to sign this AOC on behalf of their respective party.

26. The effective date of the AOC shall be the date the Department signs the AOC. The Department shall send a fully executed copy of this AOC to the Respondent for its records.

27. The Respondent shall comply with the MCWL, Chapter 644, RSMo and its implementing regulations at all times in the future.

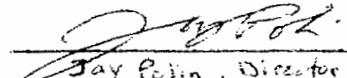
NOTICE OF APPEAL RIGHTS

28. By signing this AOC, the Respondent consents to its terms and waives any right to appeal, seek judicial review, or otherwise challenge the terms and conditions of this AOC pursuant to Sections 621.250, 640.010, 640.013, 644.056.3, 644.079.2, Chapter 536 RSMo, 644.145, RSMo, 10 CSR 20-1.020, 10 CSR 20-3.010, 10 CSR 20-6.020(5), the Missouri Constitution, or any other source of law.

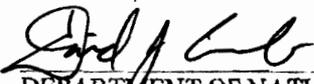
SIGNATURE AUTHORITY

Agreed to and are Ordered this 19 day of June, 2017


Stacie Donahue, President
Majestic Lakes Homeowners Association, Inc.


Jay Polin, Director / Board member
Majestic Lakes Homeowners Assn

Agreed to and so Ordered this 5 day of July, 2017
~~19~~ ~~June~~


DEPARTMENT OF NATURAL RESOURCES
David J. Lamb, Acting Director
Water Protection Program

- c: Ms. Diane Huffman, U.S. Environmental Protection Agency
- Ms. Dorothy Franklin, Director, St. Louis Regional Office
- Ms. Meg Peters, Majestic Lakes HOA, c/o Innovative Property Management
- Missouri Clean Water Commission
- General Counsel's Office
- Accounting Program