

APR 7 2014

BEFORE THE
DEPARTMENT OF NATURAL RESOURCES
STATE OF MISSOURI

WATER PROTECTION PROGRAM

IN THE MATTER OF:)
)
Moore Bend Water Utility L.L.C.)
Public Water System)
Identification Number MO5036117)

No. PDWB-2014-049

SERVE:)
)
Mr. Hollis H. Brower, Jr.)
P.O. Box 1080)
Nixa, Mo 65714)
)

ADMINISTRATIVE ORDER ON CONSENT

I. NOTICE TO RECIPIENTS OF ADMINISTRATIVE ORDERS

The issuance of this Administrative Order on Consent No. PDWB-2014-049 by the Missouri Department of Natural Resources is a formal administrative action by the Department and is being issued because the Department believes Moore Bend Water Utility L.L.C., which owns and operates Public Water System MO5036117, is in violation of the Missouri Safe Drinking Water Law, Section 640.100, Revised Statutes of Missouri (RSMo), and its implementing regulations (MSDWL&R). This Order is issued pursuant to Chapter 640 RSMo, specifically Sections 640.130.3 and 640.131 RSMo. Failure to comply with this Order is, by itself, a violation of the MSDWL&R that may trigger penalties and other forms of relief pursuant to Sections 640.130 through 640.131 RSMo.

II. FINDINGS OF FACT

A. Moore Bend Water Utility L.L.C. is a Community Public Water System (PWS), as defined by Section 640.102(6) RSMo and 10 CSR 60-2.015 and is classified as a level II distribution system. Moore Bend Water Utility is located in Taney County in Cedar Creek, Missouri. There are approximately one hundred and two (102) service connections, with an estimated population of at least twenty-eight (28) served daily. Moore Bend Water Utility consists of two (2) grandfathered wells, twelve (12) hydro pneumatic bladder tanks, and two (2) separate but interconnected distribution systems. Well #1 (WL12978) was drilled in 1961 to a total depth of four hundred and eighty-five (485) feet and constructed with one hundred and twenty-nine (129) feet of steel casing. The well is equipped with a seventy-five (75) gallon per minute pump set at three hundred and seventy eight (378) feet. Well #2 (WL12979) was drilled in 1969 to a total depth of four hundred and sixty-five (465) feet and constructed with one hundred and sixty-nine (169) feet of steel casing. The well is equipped with a twenty (20) gallon per minute submersible pump set at two hundred and sixty-one (261) feet. Neither well is state-approved but because both wells were in service before the October 1, 1979 grandfather date, the wells can continue to be used as long as water quality and quantity remains adequate. Both wells receive liquid sodium hypochlorite treatment however, neither well is provided the detention storage necessary for chlorine to adequately disinfect the water. Storage and system pressure is provided by six (6) hydro pneumatic bladder tanks at each well. Operating at a typical forty (40) to sixty (60) psi range the tanks provide two hundred and ten (210) gallons effective storage capacity to each well.

The distribution system consists of two (2) distinct systems that are interconnected but valved and operated independently due to significant elevation differences between the wells.

- B. Beginning in December 2012 the Department notified Moore Bend Subdivision that, due to *E. coli* positive samples in February 1999 and March 2002, the system was being placed on assessment monitoring. This required the system to submit a monthly source water sample from each well.
- C. Source water samples submitted from Well #1 were found to be *E. coli* present in January 2013 and March 2013, and Total Coliform present in February 2013, April 2013, and July 2013. Source water samples taken from Well #2 were found to be Total Coliform present in June 2013.
- D. The system was placed on a Boil Water Order effective February 5th, 2013. Moore Bend Subdivision was notified that the Boil Water Order would remain in place until adequate detention to meet 4-log virus removal was installed for all water dispensed to the public. The system still remains under this Boil Water Order.
- E. In May 2013, Mr. Hollis H. Brower Jr. contacted the Department's Southwest Regional Office (SWRO) in regard to the construction of adequate detention to meet 4-log virus removal while his company was negotiating the purchase of the system. Mr. Brower's company took possession of the water system in September 2013, changing the systems name to Moore Bend Water Utility.

III. CITATIONS AND CONCLUSIONS OF LAW

A. The Department finds that the following violations of the MSDWL&R have occurred, thereby subjecting Moore Bend Water Utility L.L.C. to penalties as described in Sections 640.130 and 640.131 RSMo:

1. 10 CSR 60-4.025(5)(B) – The public water system failed to take corrective action in response to a fecal indicator-positive source water sample, including failure to satisfy a State-specified schedule within the time frame outlined therein.
2. 10 CSR 60-3.010(1)(D)2.D.- The public water system failed to provide adequate detention on wells that were constructed prior to October 1, 1979 and do not meet community water system construction criteria and are chlorinated because of bacteriological problems. Specifically, the public water system has not provided adequate detention to meet Contact Time (CT) requirements on all flow coming from Well #1 and Well #2.
3. 10 CSR 60-8.010(2)(B)3.- The public water system failed to notify customers that the Boil Water Order issued by this Department on February 5, 2013 is still in effect.
4. 10 CSR 60-4.080(5)- The public water system failed to sign the Bilateral Compliance Agreement that addressed the above violations.

IV. AGREEMENT

- A. The Department and Moore Bend Water Utility L.L.C. desire to amicably resolve all claims that might be brought against Moore Bend Water Utility L.L.C. for the violations alleged above in Section III, Citations and Conclusions of Law, without Moore Bend Water Utility L.L.C. admitting the validity or accuracy of such claims. The Department and Moore Bend Water Utility L.L.C. agree that this Order resolves only the specific violations described herein, that this Order shall not be construed as a waiver or a modification of any requirements of the MSDWL&R or any other source of law, and that this Order does not resolve any claims based on any failure by Moore Bend Water Utility L.L.C. to meet the requirements of this Order, or claims for past, present, or future violations of any statutes or regulations other than those referenced herein.
- B. The provisions of this Order shall apply to and be binding upon the parties signing this Order, their successors, assigns, agents, contractors, subsidiaries, affiliates, and lessees, including the officers, agents, servants, corporations, and any persons acting under, through, or for the parties.
- C. Moore Bend Water Utility shall submit all samples as required by the MSDWL&R.

- D. Moore Bend Water Utility L.L.C. shall collect one (1) routine microbiological sample each month from that part of the system served by Well #1 and one (1) routine sample each month from that part of the system served by Well #2 for a total of two (2) routine samples per month. Fill out one card for each sample. Record the correct date, 24-hour time (e.g., 2pm is 1400), system name, I.D. number, chlorine residual, and sample bottle number on each card. Mail, hand carry, or use a courier to deliver the samples to the Missouri Department of Health Laboratory (or another laboratory certified by the Department for the bacteriological examination of water) so that they arrive on a business day within 30 hours of collection.
- E. If any bacteriological samples analyzed during the compliance period are found to be invalid, the public water system shall submit replacement samples within twenty-four (24) hours of being notified of the result or as directed by the department.
- F. If any routine samples analyzed during the compliance period are found to be unsafe (total coliform positive), the public water system shall also submit at least four (4) repeat samples, including one (1) source water sample from the well that produced the water that resulted in the unsafe sample, within twenty-four (24) hours of being notified of the unsafe sample, or as directed by the Department. During the next month following an unsafe sample, the public water system shall submit five (5) routine samples from that part of the system served by the well that produced the sample that was found to be total coliform positive.

- G. Moore Bend Water Utility L.L.C. shall measure the free chlorine residual and total chlorine residual while collecting a bacteriological sample in the distribution system in accordance with Missouri Safe Drinking Water Regulation 10 CSR 60-4.055(4)(E). Moore Bend Water Utility L.L.C. shall report the free chlorine residual and total chlorine residuals in the designated section on the sample card for each bacteriological sample taken from the distribution system.
- H. Moore Bend Water Utility L.L.C. shall immediately begin testing and recording the free chlorine residual on a daily basis as required by Missouri Safe Drinking Water Regulation [10 CSR 60-4.080], Contaminant Levels and Monitoring, Operational Monitoring. By the fifteenth (15) day of the following month, the PWS shall submit a copy of these water operational records from each entry point to the distribution system to the Department Contact listed in Section VI of this Order.
- I. Within ten (10) days of the effective date of this Order, the public water system shall post Public Notice informing users of the ongoing Boil Water Order. The public water system shall continue to re-issue notice of the Boil Water Order to the users of the system each month. Moore Bend Water Utility L.L.C. shall be required to certify to this Department that the Public Notice has been re-issued each month, continuing until the Boil Water Order is lifted by the Department.
- J. Within 30 days of the effective date of this Order, Moore Bend Water Utility L.L.C. shall amend the written coliform sampling site plan to include a representative number of sampling sites from throughout both the Well #1 and Well #2 distribution systems. Monthly samples shall be taken from numerous points in this sampling plan and not from the same locations each month.

- K. Within forty five (45) days of the effective date of this Order, Moore Bend Water Utilities L.L.C. shall employ the services of a professional engineer registered with the State of Missouri and submit an engineering report, plans and specifications, and a Construction Permit Application for the construction of water treatment and storage structures to achieve disinfection to meet 4- log virus removal and Contact Time requirements applicable to a community water system as designated in the Community Design Standards for Missouri Community Water Systems, 2013; for both wells.
- L. Within sixty (60) calendar days of Public Drinking Water Branch approval to construct, the public water system shall construct public drinking water system improvements in accordance with the plans and specifications approved by this Department.
- M. Within twenty one (21) calendar days of completion of construction of public water system improvements, the public water system shall submit certification by the professional engineer stating that the project has been completed substantially in accordance with the approved plans and specifications to the Department Contact listed in Section VI of this Order.
- N. Within sixty (60) days of the effective date of this Order, Moore Bend Water Utility L.L.C. shall install a source water tap on well #2 to allow sampling of untreated well water.
- O. Within sixty (60) days of the effective date of this Order the public water system shall submit a completed Permit to Dispense Transfer Application to the Department Contact listed in Section VI of this Order.

- P. Within sixty (60) days of the effective date of this Order the public water system shall develop and submit one copy of an emergency operations plan to the Department Contact listed in Section VI of this Order, and shall keep one copy of this plan in their permanent file.
- Q. Within ninety (90) days of the effective date of this Order, Moore Bend Water Utility L.L.C. shall provide records demonstrating the installation and testing of a backflow prevention device on the service connection that provides water to the K-Dock Marina.
- R. Should Moore Bend Water Utility L.L.C. fail to meet the terms of this Order, the PWS shall be subject to pay stipulated penalties in the following amount:

<u>Days of Violation</u>	<u>Amount of Penalty</u>
1 to 30 days	\$500.00 per day
31 to 90 days	\$1,000.00 per day
91 days and above	\$2,500.00 per day

Stipulated penalties will be paid in the form of a certified or cashiers check made payable to “*Taney County Treasurer, as custodian of the Taney County School Fund.*”

Any such stipulated penalty shall be paid within ten (10) business days of demand by the Department and shall be delivered to:

Accounting Program
 Missouri Department of Natural Resources
 P.O. Box 477
 Jefferson City, MO 65102-0176

- S. The parties understand that the final terms of this Order will be public record under Chapter 610, RSMo.

- T. Nothing in this Order forgives Moore Bend Water Utility L.L.C. for any future noncompliance with the laws of the State of Missouri, and the Department expressly reserves the right to address future noncompliance in any manner authorized by law.
- U. Moore Bend Water Utility L.L.C. agrees to comply with the MSDWL&R at all times in the future.
- V. The terms stated herein constitute the entire and exclusive agreement of the parties with respect to the matters described herein. The terms of this Order supersede all previous memoranda or understanding, notes, conversations, and agreements, whether express or implied. This Order may not be modified orally. No changes, alterations, modifications, or qualifications to the terms herein shall be made or be binding unless in writing and signed by the Department.
- W. This Order shall be governed by and construed in accordance with the laws of the State of Missouri.
- X. All signatories to this Order acknowledge that they have thoroughly read and reviewed the terms and provisions of this Order and are familiar with the same, that the terms and provisions contained herein are clearly understood by them and have been fully consented to by them.
- Y. This Order shall terminate one (1) year from the date of Department signature.

V. RIGHT OF APPEAL

A. By signing this Order, Moore Bend Water Utility L.L.C. waives any right to appeal this Order pursuant to Sections 640.010 or 640.130 through 640.131, RSMo, 10 CSR 60-6.070(5), or any other source of law. This Order will become final and fully enforceable upon the date of Department signature.

VI. CORRESPONDENCE AND DOCUMENTATION

All correspondence and/or documentation regarding to this Order, except as specified in Section IV, shall be directed to the following person, subject to change upon written notification from either party:

For the Department:

Brent Weis
Compliance and Enforcement Section
Public Drinking Water Branch
Water Protection Program
Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102-0176

For Moore Bend Water Utility L.L.C.:

Mr. Hollis H. Brower, Jr.
P.O. Box 1080
Nixa, MO 65714

Agreed to and Ordered this 10th day of April, 2014

John Madras

John Madras, Director
Water Protection Program
Department of Natural Resources

4/10/14

Date

Hollis H. Brower, Jr.

Hollis H. Brower, Jr., Owner
Moore Bend Water Utility L.L.C.
Public Water System ID Number MO5036117

4/11/14

Date