

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Petition for an Interim Receiver and for an Order Directing the General Counsel to Petition the Circuit Court for the Appointment of a Receiver for Misty Water Works))	<u>Case No. WO-2024-0036</u>
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STATUS REPORT

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through counsel, and in response to the Commission’s *Order Directing Staff Response About Noncompliant Well Agreement*, states as follows:

1. On August 15, 2023, Staff filed a *Petition for Interim Receiver* pursuant to § 393.145, RSMo, asking the Commission to direct its General Counsel to petition the Circuit Court of Cole County, Missouri to appoint a receiver for Misty Water Works and to appoint an interim receiver for Misty Water Works.

2. The evidentiary hearing in this matter was held on October 25 and 26, 2023.

3. During that hearing, a witness for the Missouri Department of Natural Resources (DNR) stated she had drafted a noncompliant well agreement for Respondent Travis Blevins relating to Misty Water Works.

4. On December 20, 2023, the Commission issued an *Order Directing Staff Response About Noncompliant Well Agreement*, requiring the Staff to inform the Commission of the status of the DNR’s noncompliant well agreement and its availability.

5. On December 28, 2023, the DNR issued a unilateral order to Respondent Blevins, in the form of a *Notice and Order to Abate Violations and Pay Administrative Penalties* (AO) No. PDWB-2023-215, relating to the Misty Mountain Public Water System (PWS), which became effective on December 28, 2023. A copy of said AO is attached

hereto and made a part herein by reference as **Attachment A**.¹ This AO is an appealable order, and no appeal has been filed to date.

6. The DNR anticipates, but has not yet issued two other Administrative Orders on Consent (AOCs) to Respondent Blevins relating to the Charity PWS and Rolling Hills PWS, which will contain similar requirements as the AO issued regarding the Misty Mountain PWS, referenced above.

WHEREFORE, the Staff respectfully offers and requests the Commission accept the foregoing Status Report in this case and grant any further relief as the Commission considers just and reasonable in the circumstances.

Respectfully submitted,

/s/ Carolyn H. Kerr

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Attorney for Staff of the
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 8th day of January, 2024, to all parties and counsel of record.

/s/ Carolyn H. Kerr

¹ The Order can also be accessed at the top of the list at this link: <https://dnr.mo.gov/compliance-assistance-enforcement/actions>.

BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES

In the Matter of:)
)
 Leon Travis Blevins and)
 Patricia Blevins)
) Order No. PDWB-2023-215
)
 Proceeding under Sections 640.100 to)
 640.140, RSMo)

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

NOTICE TO RECIPIENTS OF ADMINISTRATIVE ORDERS

NOTICE IS HEREBY GIVEN that on this date the Missouri Department of Natural Resources (department) has issued this Notice and Order to Abate Violations and Pay Administrative Penalties No. PDWB-2023-215 (Order) to Leon Travis Blevins and Patricia Blevins (the Respondents) under the Missouri Safe Drinking Water Law and Regulations (MSDWL&R), Sections 640.100 to 640.140, Revised Statutes of Missouri (RSMo), specifically Sections 640.130 and 640.131, RSMo. Failure to comply with this Order is, by itself, a violation of Section 640.131, RSMo. Continued non-compliance may result in the department pursuing legal action for injunctive relief, additional administrative or civil penalties, 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 640.130 and 640.131, RSMo.

FINDINGS OF FACT

1. The Respondents Leon Travis Blevins, also known as Travis Blevins, and Patricia Blevins, husband and wife, are individuals who reside in the State of Missouri who do business in their individual capacity as Misty Mountain Water Works, which is a fictitious business name that is not registered with the Missouri Secretary of State. The Respondents own a community public water system (System) as defined by 10 CSR 60-2.015(2)(C)12 and 10 CSR 60-2.015(2)(P)8 and are the supplier of water, as defined by 10 CSR 60-2.015(2)(S)12, in that the Respondents exercise the day-to-day control over and management of the System. This System, known as Misty Mountain Public Water System, MO3036363, is located in St. Robert, Pulaski County, Missouri and is classified as a level 1 distribution system (DS) that operates year-round. This System serves water to approximately 28 service connections through a distribution system to an estimated 75 people. The System consists of four groundwater wells, four pressure tanks, and a distribution system.

2. Well No. 1 (WL 20295) is located on Topo Drive and was constructed in 2007 as a domestic well. The homes served by Well No. 1 are currently connected to MO3024491, Pulaski County Public Water Supply District No. 2 but Well No. 1 has not been plugged. Well No. 3 (WL 20297) and Well No. 4 (WL 20298) are located on Tigger Lane. Well No. 3 was constructed in 2006 as a multifamily well and Well No. 4 was constructed in 2011 as a domestic well. Well No. 5 (WL 20299) is located on Taylor Lane and was constructed in 2006 as a multifamily well; it is not being used and has not been plugged.

3. Pressure is provided by a 119 gallon bladder tank at Wells No. 3 and No. 5, and an 86 gallon bladder tank at No. 4. The 119 gallon bladder tank at Well No. 1 was removed in July 2023.

4. On June 7, 2022, Central Field Operations (CFO) staff collected bacteriological samples from a proposed water system, now known as Misty Mountain Public Water System. On June 8, 2022, CFO staff notified the Respondents one of the samples was *E. coli* positive and the system would be under a boil water advisory. CFO staff visited the System to collect repeat samples and provide door hangers to notify customers of the boil advisory.

5. On July 27, 2022, the department mailed the Respondents a new system information packet noting the System containing its unique identification number and noting the Respondents must begin submitting routine samples for bacteriological analysis.

6. On August 15, 2022, CFO staff collected four special bacteriological samples from Well No. 1; all four samples were *E. coli* positive. On August 16, 2022, the department issued a Boil Water Order for the customers served by Well No. 1.

7. On August 18, 2022, the department conducted an Investigation of Coliform-Positive Samples (ICPS), also known as an Unsafe Sample Investigation, and collected four repeat samples at Topo Drive and five additional samples from Well No. 1. All of the samples were *E. coli* positive.

8. On September 8, 2022, the department conducted an ICPS and collected four repeat samples at Tigger Lane. One of the samples was total coliform positive.

9. On September 21, 2022, CFO staff mailed the Respondents a letter following a Level 2 Assessment conducted on August 11, 2022. The letter directed the Respondents to install an appropriate screen on the air relief vent and sign an enclosed corrective actions document to acknowledge the issues with Well No. 1. The letter also recommended the Respondents properly shock and flush the System. On October 11, 2022, the Respondents returned the corrective action plan and the Respondents provided proof of the screen installation on December 29, 2022.

10. On October 24, 2022, the department conducted an ICPS and collected four repeat samples at Tigger Lane. All four samples were total coliform negative.

11. On November 21, 2022, the department mailed the Respondents a Level 2 Assessment requiring the system to ensure the well head has a sanitary seal, investigate a discovered pipe for compliance with setback distances, inspect the pitless adapter, and add chlorination if the system continues to have *E. coli* positive samples after addressing the sanitary defects. The letter directed the Respondents to correct the sanitary defects by December 21, 2022. To date, the sanitary defects have not been corrected.

12. On January 31, 2023, the department mailed the Respondents a Notice of Violation (NOV) for failing to complete corrective action or comply with a state-approved corrective action plan within the time frame outlined in the approved compliance schedule in response to an *E. coli* positive ground water source sample. The department also mailed the Respondents an NOV for failing to correct a sanitary defect identified during a Level 2 Assessment.

13. On February 7, 2023, the department spoke with Respondent Leon Travis Blevins regarding the status of corrective actions at Well No. 1. The Respondent acknowledged he did not start excavation of the discovered pipe or pitless adapter.

14. On March 29, 2023, CFO staff conducted a compliance assistance visit and collected four special samples to try to lift the boil water order. Three of the four samples were *E. coli* positive.

15. On April 2, 2023, the System reported a low pressure event. On April 3, 2023, CFO staff spoke with Respondent Leon Travis Blevins who reported the casing and pump detached from the pitless adapter and fell into Well No. 1. The Respondent said he would not

provide water to customers in the interim but would connect to Pulaski County Public Water Supply District No. 2 if the well could not be repaired. On April 4, 2023, Respondent Leon Travis Blevins contacted the water supply district, who unlocked the meter and turned on the water at a connection to a line serving the homes on Topo Drive.

16. On April 13, 2023, the department lifted the Boil Water Order for Well No. 1 following two consecutive days of bacteriologically safe samples. Well No. 1 has not been repaired and customers previously using that well are being served by the connection to Pulaski County Public Water Supply District No. 2.

17. On April 18, 2023, the department mailed the Respondents an NOV for failing to notify customers of the failure to correct the sanitary defect identified in a Level 2 Assessment conducted on November 14, 2022.

18. On July 18, 2023, the department mailed the Respondents a report following a routine inspection conducted on June 20, 2023, which identified three significant deficiencies and six unsatisfactory findings requiring a response by August 17, 2023, and correction by November 15, 2023. On December 1, 2023, the department mailed the Respondents an NOV for failing to correct all of the significant deficiencies.

19. On September 12, 2023, the department classified the Respondents' wells as noncompliant wells. The construction of substandard drinking water wells increases the risk of exposure to microbiological and chemical contaminants to those served by wells that meet construction standards. Substandard wells also create an increased risk of contamination of ground water resources, which can adversely affect neighboring private and public wells. Furthermore, wells constructed without proper casing, wells constructed to an inappropriate

depth, and wells lacking adequate backflow protection give an unfair economic advantage compared to the cost of wells meeting public water system construction standards.

20. On December 8, 2023, the Respondents provided documentation of the sale of Well No. 2 (WL 20296), located on Trisha Drive and constructed in 2006 as a multifamily well. The breather vent was not properly screened at the time of the June 20, 2023, inspection and was cited as a significant deficiency. The Respondents did not provide proof the significant deficiency was corrected.

21. The Respondents failed to provide a continuous, safe supply of water for the sampling dates listed in Table 1 below:

Sample Date	Sample Number(s)	Total Coliform Absent or Present	<i>E. coli</i> Absent or Present	Sample Type (& Number taken)
08/15/2022	OE717357- OE717360	Present	Present	Special (4)
08/16/2022	OE718717- OE718718	Present	Present	Routine (2)
08/16/2022	OE718715- OE718716, OE718719- OE718721	Present	Present	Well (5)
08/18/2022	OE719861, OE719864- OE719868	Present	Present	Well (6)
08/18/2022	OE719960, OE719862- OE719863	Present	Present	Repeat (3)
08/23/2022	OE722149- OE722151	Present	Absent	Special (3)
08/24/2022	OE722908, OE722912	Present	Absent	Special (2)
08/24/2022	OE722911	Present	Present	Special
09/06/2022	OE727749	Present	Absent	Routine
09/06/2022	OE727561, OE727560, OE727562	Present	Absent	Special (3)
09/07/2022	OE727972	Present	Absent	Triggered
09/07/2022	OE727973	Present	Absent	Special

09/19/2022	OE734538	Present	Absent	Repeat
10/19/2022	OE749458- OE749459	Present	Absent	Routine (2)
10/27/2022	OE753273, OE753278, OE753359, OE753360	Present	Present	Special (4)
11/07/2022	OE758520	Present	Present	Routine
11/10/2022	OE760046	Present	Present	Triggered
11/10/2022	OE760047	Present	Absent	Repeat
11/10/2022	OE760048, OE760049	Present	Present	Repeat
12/12/2022	OE774248	Present	Absent	Triggered
1/4/2023	OE782660	Present	Absent	Routine
1/10/2023	OE786105	Present	Present	Triggered
3/28/2023	OE823973 OE823974, OE823975	Present	Present	Special (3)
3/29/2023	OE824287, OE824292, OE824293	Present	Present	Special (3)
4/6/2023	OE828542	Present	Absent	Special
8/7/2023	OE890061	Present	Absent	Routine
8/14/2023	OE893336, OE893338	Present	Absent	Repeat (2)

Table 1

22. The Respondents do not have a permit to dispense (PTD) water to the public. A PTD application will only be considered after the Respondents complete the requirements listed below in the Agreement for Corrective Actions section.

23. This Order is necessary to compel compliance with MSDWL&R and to prevent or eliminate threats to human health and the environment.

STATEMENT OF VIOLATIONS

The department finds that the following violations of the MSDWL&R, Chapter 640, RSMo, have occurred, thereby subjecting the Respondents to penalties as set forth in Section 640.130 and 640.131, RSMo:

24. The Respondents failed to meet the maximum contaminant level for *E. coli* bacteria, in violation of 10 CSR 60-4.022(10)(A).

25. The Respondents failed to complete corrective action of a sanitary defect identified during a Level 2 Assessment within the timeline approved by the department, in violation of 10 CSR 60-4.022(9)(C).

26. The Respondents failed to complete corrective action or comply with a state-approved corrective action plan within the timeframe outlined in the approved compliance schedule in response to an *E. coli* positive ground water source sample, in violation of 10 CSR 60-4.025(5)(B).

27. The Respondents failed to notify the affected public within 30 days after learning of a Tier 2 violation, in violation of 10 CSR 60-8.010(3)(B)1.

28. The Respondents use wells, constructed after October 1, 1979, and prior to June 15, 2007, that do not meet community water system construction standards in accordance with *Minimum Design Standards for Community Water Systems – December 10, 2013* and 10 CSR 60-3.010(1).

29. The Respondents dispensed water to the public without first obtaining a written permit to dispense and continue to do so in violation of 10 CSR 60-3.010(2)(A).

CORRECTIVE ACTIONS

30. Pursuant to Sections 640.130.3, RSMo, the department hereby orders the Respondents to complete each of the following corrective actions

A. **Corrective Action 1** – The Respondents are ordered to perform all routine drinking water sample analysis required for community water systems by 10 CSR 60-4 and 10

CSR 60-15, and as required by the department, to ensure the quality of water provided to the customers of the System.

- i. The department reserves the authority to prohibit the Respondents from using Well No. 3, Well No. 4, and Well No. 5 based on the results of the routine sampling, any contamination, surface water influence, maximum contaminant level (MCL) violations, or if any of the conditions in Paragraph 30.A.ii are satisfied. In the event of any contamination, MCL violations, or satisfaction of any of the conditions in Paragraph 30.A.ii, the Respondents shall immediately notify the department to determine appropriate action and shall continue monitoring as directed by the department until a department-approved resolution is in place. Approvable resolutions include the Respondents removing an identified source of contamination, connecting to a department-permitted public water system, installing a department-approved treatment system, or constructing a new department-approved community water system well or wells in accordance with the *Minimum Design Standards for Community Water Systems – December 10, 2013*, and plugging the noncompliant well or wells in accordance with state standards, 10 CSR 23-3.110.
- ii. The Respondents shall conduct further corrective action as required by this Order if any well satisfies any of the following conditions:
 - a. One *Escherichia coli* (*E. coli*) positive source water sample requires five additional source water samples. If one of the five

additional source water samples is *E. coli* positive resulting in a total of two *E. coli* positive source water samples;

- b. A combination of two or more Assessment Level triggers within a rolling 12 month period;
 - c. Three or more microbiological monitoring violations within a rolling 12 month period;
 - d. One or more confirmed nitrate/nitrite result (average of initial and confirmation samples) exceeding the nitrate/nitrite MCLs;
 - e. If the System exceeds the MCL for any volatile organic chemical based upon a four quarter annual average or single sample result that is high enough to exceed the MCL four quarter annual average (four times the MCL);
 - f. If the System exceeds the MCL for any inorganic chemical based upon a four quarter annual average or single sample result that is high enough to exceed the MCL four quarter annual average (four times the MCL);
 - g. Two or more chemical contaminant monitoring violations within a rolling 12 month period; or
 - h. Two or more source water samples with lead at or above 15 micrograms per Liter;
- iii. For any well that triggers the additional corrective action requirements set forth in Paragraph 30.A.ii, the Respondents may continue to use the existing

noncompliant well until a resolution is completed for the well, as long as it complies with the following conditions:

- a. The Respondents either provide public notice of contaminants detected in the water to all of its customers, as required by 10 CSR 60-8, including special instructions and precautions as directed by the department and certifies public notice completion per 10 CSR 60-7.010(9), or provide bottled water to all of their customers on a temporary basis upon prior department approval along with public notification of the availability of bottled water as required by 10 CSR 60-8 or as directed by the department.
- b. When microbiological samples exceed the Assessment Level triggers only, the Respondents provide temporary disinfection using a chlorine delivery system with adequate contact time to achieve 4-log treatment of viruses and pathogens before or at the first customer as acceptable to and approved by the department prior to installation. If the Respondents choose to use a well or wells that meet this condition and thereby uses this option, the Respondents may use only liquid sodium hypochlorite as the disinfecting agent and must maintain a free available chlorine residual of not less than 0.5 milligrams per liter in water entering the distribution system. While in use, the Respondents shall monitor the disinfection residual daily using analytical equipment

acceptable to the Department and record the results of this disinfection residual monitoring daily.

- c. Within 60 days of notification of the requirement to add a detention tank or tanks, the Respondents shall submit a Construction Permit Application, one hard copy and one electronic copy of an engineering report, detailed plans, and technical specifications prepared by a professional engineer licensed in Missouri, to the Department's Water Protection Program Public Drinking Water Branch, Permits and Engineering Section by email at pdwbengineeringwaterpermits@dnr.mo.gov, or by mail at P.O. Box 176, Jefferson City, MO 65102. The engineer shall design the engineering documents for system improvements in accordance with the Department's *Minimum Design Standards for Community Water Systems – December 10, 2013*.

iv. Should it be necessary to construct a new well, the Respondents shall:

- a. Within 60 days of notification of the requirement to construct a new well or determination by the Respondents that the construction of a new well is necessary, the Respondents shall submit a schedule to install the new well along with a Construction Permit Application, one hard copy and one electronic copy of an engineering report, detailed plans, and technical specifications prepared by a professional engineer licensed in Missouri, to the Department's Water Protection Program Public Drinking Water

Branch, Permits and Engineering Section by email at pdwb.engineeringwaterpermits@dnr.mo.gov, or by mail at P.O. Box 176, Jefferson City, MO 65102. The engineer shall design the engineering documents for system improvements in accordance with the Department's *Minimum Design Standards for Community Water Systems – December 10, 2013*;

- b. Prior to submittal of plans and specifications, the Respondents shall arrange with the department for a site inspection to ensure that the proposed location of any new well is in conformance with appropriate construction standards relative to separation distance from any potential contamination source or any other well that may be on the property or on any adjoining property and that the proposed well is the type appropriate for this public water system. The Respondents are ordered not to construct or drill until the department has issued a construction authorization; and
- c. Upon completion of the construction, the Respondents' engineer shall certify in writing that construction has been completed in conformance with the requirements of the construction authorization.

B. **Corrective Action 2** – Within 30 days of the effective date of this Order, the Respondents shall submit to the department, for review and approval, a drinking water schedule of compliance with verifiable timeline to achieve compliance and provide a safe and adequate supply of drinking water to the Respondents' customers by February 29, 2024. The schedule

must contain, at a minimum, specific milestones to document progress, related studies, infrastructure improvements, process changes, planned completion dates, follow-up evaluations, and reporting requirements. The Respondents' plan shall indicate whether they is pursuing the sale of the system to a utility operating company, pursuing a water purchase contract to connect to a nearby public water system, or pursuing some other path to compliance. The Respondents shall immediately implement the schedule of compliance once the department approves it. If the Respondents select to retain responsibility for the System, the Respondents are ordered to complete the following additional corrective actions:

- i. Within 180 days of the effective date of this Order, the Respondents shall properly plug Well No. 1 (WL 20295) in accordance with 10 CSR 23-3.110. The Respondents shall register the plugging of Well No. 1 with the Department's Well Installation Section within 60 days of work completion in accordance with Section 256.614, RSMo.
- ii. For any alterations to the System requiring an engineer, as determined by the schedule, the Respondents shall submit a Construction Permit Application for the new well along with one hard copy and one electronic copy of an Engineering Report, detailed plans and technical specifications prepared by a professional engineer licensed in the State of Missouri, to the Department of Natural Resources, Water Protection Program, Public Drinking Water Branch, Permits and Engineering Section, P.O. Box 176, Jefferson City, MO 65102. The engineering documents for the water system improvements shall be designed in accordance with the department's *Minimum Design Standards for Missouri Community Water Systems – December 10, 2013*. An applicant

proposing a facility within the legal boundaries of an existing higher preference continuing operating authority may utilize a lower preference continuing operating authority by submitting, as part of the application, documentation that water service is not available from each existing higher preference continuing operating authority, or a statement from each existing higher preference continuing operating authority waiving its preferential status, as defined by 10 CSR 60-3.020(6).

- a. Within 30 days of receipt of any request for additional information or changes in the engineering documents from the Water Protection Program's Public Drinking Water Branch, the Respondents shall submit the modifications to the Water Protection Program's Public Drinking Water Branch, Permits and Engineering Section, P.O. Box 176, Jefferson City, MO 65102-0176.

C. **Corrective Action 3** – For all past violations and any future violations, the Respondents shall perform public notice in accordance with the requirements 10 CSR 60-8.010 and certify completion of public notice in accordance with the requirements of 10 CSR 60-7.010(9). The Respondents may obtain public notice forms by contacting the Public Notice Coordinator at Department of Natural Resources, Water Protection Program, Public Drinking Water Branch, P.O. Box 176, Jefferson City, MO 65102, or by email at DWPublicNotice@dnr.mo.gov.

D. **Corrective Action 4** – Within 30 days of the effective date of this Order, the Respondents shall pay the outstanding Primacy Fee as required by 10 CSR 60-16.010, plus

interest as provided in 10 CSR 60-16.010(5)(A). The total amount due as of the date of this Order is \$160.41.

E. **Corrective Action 5** – Within 30 days of the effective date of this Order, the Respondents shall register Misty Mountain Water Works with the Secretary of State as a Missouri business entity or as a fictitious name. Information on how to start or register a business with the Secretary of State is available on its website at https://www.sos.mo.gov/business/outreach/starting_steps.

F. **Corrective Action 6** - Within 180 days of the effective date of this Order, the Respondents shall provide documentation to the department demonstrating a permanent organization exists that serves as the System's continuing operating authority and that the continuing operating authority has the necessary technical, managerial, and financial capability for the proper management, operation, replacement, maintenance, and modernization of the public water system. As part of this documentation, the Respondents shall fill out and submit the Technical, Managerial and Financial Checklist form attached hereto as Exhibit A.

G. **Corrective Action 7** - Within 60 days of completion of Corrective Actions 1 through 6, the Respondents shall complete and submit the Permit to Dispense application attached hereto as Exhibit B.

PENALTY

Pursuant to section 640.131 RSMo and 10 CSR 60-6.070, the department hereby orders the Respondents to pay administrative penalties for the above-referenced violations.

31. The violations referenced herein by the Respondents pose a major potential for harm to human health, human safety, and the environment according to the gravity-based

assessment criteria in 10 CSR 60-6.070(3) and this assessment was used to determine the administrative penalties in this Order.

32. Within 60 days from the date of issuance of this Order, the Respondents shall pay to the Department an administrative penalty in the amount of \$6,000.

33. Such payment shall be made by check made payable to the Pulaski County Treasurer as custodian of the Pulaski County School Fund.

34. Such payment must be delivered to the Department of Natural Resources, Accounting Program, P.O. Box 477, Jefferson City, MO 65102, for forwarding to the Pulaski County Treasurer.

OTHER PROVISIONS

35. This Order shall remain in effect until all corrective actions have been completed and the department issues a Permit to Dispense.

36. The Respondents shall not add more connections to Well No. 3 (WL 20297), Well No. 4 (WL 20298), and Well No. 5 (WL 20299). Any modification of the wells or any other part of the public water system, including repairs or new construction, like adding service connections or interconnections, requires department approval prior to starting the modification.

37. While this Order is in effect, the Respondents shall disclose the condition of the wells to any prospective purchasers of any properties containing the wells, by providing a copy of this Order along with written notice of the presence of the noncompliant wells.

38. Any request for an extension of time or to otherwise modify this Order may be considered by the department on a case-by-case basis, but will only be considered if the Respondents make a written request to the department within ten business days of this Order, and otherwise provide appropriate justification and/or documentation to the department in a timely manner. Any department modification of this Order shall be issued in written form.

39. Compliance with 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. This Order does not resolve any future violations of this Order or any law or regulation. Consistent with 10 CSR 60-6.070(5), this Order shall not be construed as satisfying any claim by the state or federal government for natural resource damages.

40. This Order shall apply to and be binding upon the Respondents, and any of the Respondents' 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 Respondents of their obligation to comply with this Order.

41. 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 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 pursuant to this Order, and the Respondents shall commence work and implement such approved or modified plan in accordance with the schedule and provisions contained therein.

42. Penalty payments under this Order, including any stipulated penalties, are penalties within the meaning of Section 162(f)(1) of the Internal Revenue Code, 26 U.S.C. § 162(f)(1), and 26 C.F.R. § 1.162-21(a)(3)(i). For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2)(iii)(A), certain costs incurred by performance of this Order may qualify as restitution, remediation, or costs required to come into compliance with the law. The Respondents are solely responsible for providing to the department complete, accurate, and necessary information by the close of any applicable tax year to complete a Form 1098-F. Further, the department shall not be responsible for any incomplete or inaccurate information nor the results of any tax audit. No portion of any penalties paid pursuant to this Order may be used to reduce any federal or state tax obligations, except as authorized by the Internal Revenue Service.

SUBMISSIONS

43. All other documentation not otherwise specified in this Order shall be submitted to the department for compliance within the timeframes specified to:

Jackie Johnson
Department of Natural Resources
Water Protection Program
Public Drinking Water Branch
P.O. Box 176
Jefferson City, MO 65102-0176

NOTICE OF APPEAL RIGHTS

44. If you are adversely affected by this decision, you may be entitled to pursue an appeal before the Administrative Hearing Commission (AHC) pursuant to Sections 640.130,

640.131, 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 must be directed to:

Administrative Hearing Commission
United States Post Office Building, Third Floor
131 West High Street
P.O. Box 1557
Jefferson City, MO 65102-1557
Telephone: 573-751-2422
Fax: 573-751-5018
Website: www.oa.mo.gov/ahc

SIGNATURE AUTHORITY

SO ORDERED this 28th day of December, 2023 by:

DEPARTMENT OF NATURAL RESOURCES



John Hoke, Director
Water Protection Program