

BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES

In the Matter of:

**Turner Scrap Metal &
Mobile Home Salvage**

**Proceeding under the
Missouri Clean Water Law**

Order No. 2016-WPCB-1430

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

SERVE BY UNITED POSTAL SERVICE NEXT DAY AIR

CERTIFIED MAIL # 7013 3020 0001 2161 6409
RETURN RECEIPT REQUESTED

TO: Jamie Turner, Owner
Turner Scrap Metal & Mobile Home Salvage
405 East Gentry
Bevier, MO 63532

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 Mr. Jamie Turner (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 \$10,000.00 per day for each day or part thereof of not being in 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. The Respondent owns and operates a solid waste recovery facility with a primary Standard Industrial Classification code of 5093. The Respondent recycles metal and materials from mobile homes. The facility is known as Turner Scrap Metal & Mobile Home Salvage and is located at 405 East Gentry, Bevier, Missouri. The salvage yard is located in the NW¼, SE¼, NE¼, Section 15, Township 57 North, Range 15 West, in Macon County. Stormwater from the salvage yard operation discharges to a tributary to Middle Fork Chariton River.

2. On February 2, 2010, the department received an application to renew Missouri State Operating Permit (MSOP) No. MO- R80H108 signed by the respondent, and on February 11, 2010, the department issued MSOP No. MO-R80H108 to the respondent. The MSOP expired by its own terms on July 23, 2014, and as of the date of this Order the Respondent has not submitted an application to renew MSOP MO-R80H108.

3. On September 16, 2015, department staff conducted an inspection and observed the site from the public right-of-way of East Gentry. The inspector was unable to contact the Respondent prior to the inspection. During the inspection, staff observed several piles of assorted materials on the property, along with several trailers and platforms with siding and other materials. Department staff further documented piles of wood debris from the road which appeared to be from demolished mobile homes. The inspector also observed approximately five vehicles; a travel trailer; and a mobile home on the property.

4. On October 14, 2015, the department issued Notice of Violation (NOV) No. 2015100110283768 to the Respondent for operating a water contaminant source without an MSOP. The inspection report associated with the NOV required the Respondent to complete and submit the enclosed Form-E- Application for General Permit and a map of the site showing the

property boundaries in relation to the adjacent roadways and outfalls to the department by November 4, 2015.

5. On January 14, 2016, the department sent correspondence to the Respondent stating that the department had not received any of the application to renew the MSOP as requested in the October 14, 2015, inspection report. In this correspondence the department requested the Respondent to submit a completed renewal application for MSOP No. MO-R80H108 by January 28, 2016.

6. On February 17, 2016, department staff conducted an inspection of the salvage yard from the public right-a-way of East Gentry. The inspector was unable to contact the Respondent prior to the inspection. During the inspection, staff documented recent activity from the removal of a section of the salvage yard's barb wired fence and several small trees. Staff observed piles of assorted materials on the property, along with several trailer and platforms with siding and other materials. In addition, staff observed piles of wood debris from the road which appeared to be from demolished mobile homes. The inspector further observed approximately five vehicles; a travel trailer; and a standing mobile home on the property.

7. On March 1, 2016, the department issued NOV No. NE160008 to the Respondent for operating a water contaminant source without an MSOP, as noted during the inspection on February 17, 2016. The inspection report associated with the NOV directed the Respondent to complete and submit the enclosed Form-E- Application for General Permit and a map of the site showing the property boundaries in relation to the adjacent roadways and outfalls to the department by March 22, 2016. .

8. The administrative penalty described below is assessed according to 10 CSR 20-3.010. The violation referenced herein had at least a moderate potential for harm based on the

potential risk to human health, safety, and the environment, and was at least a moderate deviation from the MCWL and its implementing regulations. Using the gravity-based matrix, the base penalty falls within a range of \$1,501.00 to \$2,500.00. In addition, the Respondent gained an economic benefit of \$120.00 for not paying permit fees. Since the department documented a violation of the MCWL and the Respondent failed to correct the non-compliance after being informed of the requirements by the department on at least three separate occasions, an administrative penalty in the amount of \$2,120.00 is justified.

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

STATEMENT OF VIOLATIONS

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

10. Since July 23, 2014, operated, used, or maintained a water contaminant source – a metal collection and mobile home salvage operation – which intermittently discharges to a tributary to Middle Fork Chariton River, waters of the state, without an MSOP, in violation of Sections 644.051.2, 644.076.1, RSMo, and 10 CSR 20-6.200(1)(A).

CORRECTIVE ACTIONS

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

11. Within 30 days of this Order, the Respondent is ordered to submit to the department a Form-E- Application for General Permit and a map of the site showing the property boundaries in relation to the adjacent roadways and outfalls to renew MSOP No. R80H108 and the applicable permit fees.

12. Within 90 days from the date of issuance of this Order, the Respondent is ordered to develop and submit to the department, a Stormwater Pollution Prevention Plan of for the site, which incorporates site-specific practices to best minimize the discharge of pollutants as required by the MSOP.

13. The Respondent agrees and is ordered to comply with the MCWL and its implementing regulations for all future activities in the state of Missouri.

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:

14. The Respondent shall pay to the department an administrative penalty in the amount of \$2,120.00. Within 60 days from the date of issuance of this Order, the Respondent shall submit the check in the amount of \$2,120.00 as described below.

15. Such payment shall be made by certified check or cashiers made payable to: Macon County Collector as Treasurer of the Macon County School Fund.

16. Such payment must be delivered to the department of Natural Resources, Accounting Program, P.O. Box 477, Jefferson City, Missouri 65102, for forwarding to the Stone County Treasurer.

SUBMISSIONS

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

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

OTHER PROVISIONS

18. 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 10 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.

19. 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.

20. This Order shall apply to and be binding upon the Respondent and any the respondent's 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, including but not limited to, any transfer of assets or real or personal property, shall not relieve the respondent's obligation to comply with this Order.

21. 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

22. Anyone adversely affected by this decision may be entitled to pursue an appeal before the Administrative Hearing Commission (AHC) pursuant to 10 CSR 20-1.020 and Sections 644.056, 644.079, 640.013, and 621.250, RSMo. 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 ~~19th~~ day of July, 2016 by:

DEPARTMENT OF NATURAL RESOURCES

John Madras

John Madras, Director
Water Protection Program

c: Ms. Irene Crawford, Director, Northeast Regional Office
Ms. Diane Huffman, Environmental Protection Agency
Mr. Tim Duggan, Missouri Attorney General's Office
Missouri Clean Water Commission
Accounting Program