



**Walter Wright, Jr.**  
wwright@mwlaw.com  
(501) 688.8839

# Train Derailment/Water Enforcement: Missouri Department of Natural Resources/Union Pacific Railroad Company Abatement Order On Consent

04/10/2017

The Missouri Department of Natural Resources (“DNR”) issued an Abatement Order on Consent (“Order”) to Union Pacific Railroad Company (“UP”).

DNR Environmental Emergency Response (“EER”) received a report of a train derailment on June 9, 2015.

The train was carrying grain in Eureka, Missouri. The derailment caused an unknown amount of soy bean meal to spill near an unnamed tributary of the Meramec River.

The EER incident report stated that the 27 railcars carrying soy bean meal “jumped the track” due to unknown reasons.

A UP representative is stated to have contacted the DNR spill line to report that grain had entered the previously referenced tributary. The company representative reported that the grain would be addressed on June 11, 2015. Water samples would be collected at the request of DNR’s staff. Soy bean meal was excavated from the creek and railroad right of way and a silt fence, straw waddle, and hay bales were utilized to inhibit runoff to the creek of topsoil and residual meal.

DNR staff were stated to have discovered on June 11, 2015:

- Two to three dead chubs in the previously referenced tributary
- A cloudy appearance in the receiving stream along with foam

The Missouri Department of Conservation (“MDC”) subsequently determined that the decaying soy bean meal caused Dissolved Oxygen levels to drop to 0.7 milligram/Liter resulting in a fish kill in the tributary downstream of the incident.

The Order states that based on MDC’s report it was concluded that the grain which entered the tributary resulted in a fish kill of 238 fish worth \$51.52.

DNR subsequently determined that the tributary was clear and blanketed with a “cream-colored moss.”

The Order identifies certain damages and costs occurred in response to the fish kill:

- Cost and damages in the amount of \$1,621.63 (DNR)
- Cost and expenses in the amount of \$525.00 (MDC)

Union Pacific allegedly violated the Missouri Clean Water Law and its implementing regulations by:

- Discharging water contaminants into waters of the state which reduced the quality of such waters below the Water Quality Standards established by the Missouri Clean Water Commission in violation of Sections 644.051.1(2) and 644.076.1, RSMo, and 10 CSR 20-7.031 or applicable subsection of 10 CSR 20-7.031.
- Causing pollution of an unnamed tributary of the Meramec River, waters of the state, or placed or caused or permitted to be placed water contaminants (soy bean meal) in a location where it is reasonably certain to cause pollution of waters of the state, in violation of Sections 644.051.1(1) and 644.076.1, RSMo

The Order assesses a penalty of \$2,500. Further, Union Pacific agrees to pay certain investigative costs and damages in the amount of \$2,146.63.

Union Pacific neither admits nor denies liability or fault.

[A copy of the Order can be downloaded here.](#)