

BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES

In the Matter of:)
)
JACKSON MUNICIPAL UTILITIES) **No. APCP-2022-046**
)
)
Proceeding Under the)
Missouri Air Conservation Law)

ADMINISTRATIVE ORDER ON CONSENT

NOTICE TO THE RESPONDENT

The issuance of this Administrative Order on Consent No. APCP-2022-046 by the Missouri Department of Natural Resources (Department) is a formal administrative action by the State of Missouri and is being issued because Jackson Municipal Utilities (Respondent) is in violation of Missouri Air Conservation Law, Chapter 643, of the Revised Statutes of Missouri (RSMo), and its implementing regulations. This Order is issued under Sections 643.060(4), 643.080, and 643.085, RSMo. Failure to comply with this Order is, by itself, a violation of the Missouri Air Conservation Law under Section 643.151.3, RSMo.

FINDINGS OF FACT

1. Jackson Municipal Utilities is an electric generating plant owned and operated by the City of Jackson, Missouri. The facility includes several fuel oil storage tanks, diesel engines, one natural gas fired engine and space heaters. The facility is a synthetic minor source of NOx emissions and an area source of HAP emissions.

2. The facility is owned by the City of Jackson, Cape Girardeau County, Missouri.
3. A Referral Notice of Violation was issued on August 9, 2022, to document the late submittal of Respondent's permit application renewal. Respondent turned in their permit application to the Department on June 6, 2022, less than six months prior to the permit expiration on June 13, 2022.
4. Respondent's Intermediate Operating Permit requires a renewal permit application to be submitted at least six (6) months prior to the date of expiration. 10 CSR 10-6.065 states: "An installation's right to operate shall terminate upon the expiration of the permit, unless a complete permit renewal application is submitted at least six (6) months before the date of expiration...." Respondent operated with an expired permit from June 13, 2022, through January 4, 2023.
5. On August 9, 2022, the Department issued Referral Notice of Violation (RNOV) No. AP22018 to the Respondent to document the violation identified.
6. The Air Pollution Control Program issued the new Intermediate Operating Permit No. OP012023-001 on January 4, 2023.

STATEMENT OF VIOLATIONS

The Department finds that the following violations of the Missouri Air Conservation Law, Chapter 643, RSMo, and its implementing regulations have occurred, thereby subjecting the Respondent to penalties as described in Sections 643.151 and 643.085, RSMo:

7. On June 6, 2022, as identified in Paragraphs 3 & 4 above, the Respondent submitted an intermediate permit renewal application, less than six months prior to the

June 13, 2022, expiration, in violation of 10 CSR 10-6.065 "Operating Permits."

Respondent operated with an expired Operating Permit from June 13, 2022, through January 4, 2023.

AGREEMENT

8. The Department and the Respondent desire amicably to resolve all claims that the Department might bring against the Respondent for the violation of the Missouri Air Conservation Law and regulations described above and within RNOV No. AP22018. The Department and the Respondent 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 Missouri Air Conservation Law and regulations or any other source of law, and that this Order does not resolve any claims based on any failure by the Respondent to meet the requirements of this Order, or claims for past, present, or future violations of any statutes or regulations other than those specifically referenced herein.

9. The provisions of this Order apply to and bind the parties executing this Order, their agents, subsidiaries, successors, assigns, affiliates, and lessees, including the officers, agents, servants, corporations and any persons acting under, through, or for the parties agreeing hereto. Any changes in ownership or corporate status, including but not limited to any transfer of assets or real or personal property, do not affect the responsibilities of the Respondent under this Order. If the Respondent sells or otherwise transfers its business or the real estate that is the situs of the violation referenced in this Order, then the Respondent shall cause as a condition of such sale or transfer, that the buyer will assume the obligations of the Respondent under this Order in writing. In such

event, the Respondent shall provide thirty (30) days prior written notice of such assumption to the Department.

10. The Respondent agrees to comply with the Missouri Air Conservation Law and regulations and, in particular, to refrain from further violations of 10 CSR 10-6.065, for all future operations.

PENALTY

11. To resolve the violation listed in Paragraph 7 above, the Respondent agrees to a penalty in the amount of \$3,750, of which shall be paid by **certified check** made payable to the "Cape Girardeau County Treasurer, as trustee for the Cape Girardeau County School Fund." The penalty is reduced to \$3,000 (80% of the assessed penalty) based on payment received within 30 days of the date the Order is sent to the Respondent and the expectation of the Respondent's full participation in the conference, conciliation, and persuasion process. The penalty shall be paid by **certified check**. The Respondent shall mail such payment along with the signed Order to:

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

OTHER PROVISIONS

12. This Order resolves the claims of the Department for the specific violations and concerns stated herein through the effective date of this Order.

13. The Department reserves all legal and equitable remedies available to enforce the provisions of this Order, except as stated in the previous paragraph. This Order shall not be construed to limit the rights of the Department to obtain penalties or injunctive relief under the Clean Air Act, the Missouri Air Conservation Law or the

implementing regulations, or under other federal or state laws, regulations, or permit conditions, except as expressly specified in the previous paragraph. The Department further reserves all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare of the environment arising at, or posed by the Respondent, whether related to the violations addressed in this Order or otherwise.

14. By signing this Order, all signatories assert that they have read and understand the terms of this Order, that they had the opportunity to consult with counsel, and that they have the authority to sign this Order on behalf of their respective parties.

15. This Order shall be construed and enforced according to the laws of the State of Missouri, and the terms stated herein shall constitute the entire and exclusive agreement of the parties hereto with respect to the matters addressed herein. This Order may not be modified orally.

16. If any provision of this Order is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

17. 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. JACKSON MUNICIPAL UTILITIES is 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.

18. Nothing in this Order excuses the Respondent for any future non-compliance 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.

19. This Order will become final, effective, and fully enforceable upon the date the Department signs it. The Department shall send a fully executed copy of this Order to the Respondent for their records.

CORRESPONDENCE AND DOCUMENTATION

Correspondence or documentation with regard to this Order shall be directed to the following persons, subject to change upon written notification from either party:

For the Department:

Heather Lehman
Compliance and Enforcement Section
Air Pollution Control Program
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102-0176

For the Respondent:

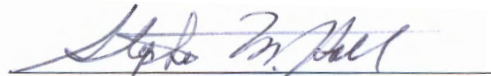
Chuck Reed
Electric Operations Manager
Jackson Municipal Utilities
101 Court Street
Jackson, MO 63755

RIGHT OF APPEAL

By signing this Order, the Respondent waives any right to appeal, seek judicial review, or otherwise challenge this Order pursuant to Sections 643.130, 643.085, or 621.250, RSMo, Chapters 536, 643, or 640, RSMo, 10 CSR 10-1.030, or any other source of law.

AGREED TO AND ORDERED:

**MISSOURI DEPARTMENT OF
NATURAL RESOURCES**



Stephen M. Hall, Director
Air Pollution Control Program

Date: 7-17-2023

**JACKSON MUNICIPAL
UTILITIES**



Chuck Reed Mayor Dwan L. Hains
Jackson Municipal Utilities

Date: 07/06/2023