

BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES

In the Matter of:)
)
 Thompson Hollow Farms, LLC)
 d/b/a River Valley Campground) **Order No. PDWB-2023-213**
)
 Proceeding under Sections 640.100 to)
 640.140, RSMo)

ADMINISTRATIVE ORDER ON CONSENT

NOTICE TO RECIPIENTS OF ADMINISTRATIVE ORDERS

The issuance of Administrative Order on Consent No. PDWB-2023-213 (Order) by the Missouri Department of Natural Resources (Department) is a formal administrative action by the State of Missouri and is being issued because the Department alleges that Thompson Hollow Farms, LLC, d/b/a River Valley Campground (Respondent) is in violation of the Missouri Safe Drinking Water Law, Sections 640.100 to 640.140, Revised Statutes of Missouri (RSMo), and its implementing regulations, 10 CSR 60 (MSDWL&R). This Order is issued pursuant to 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 and 640.131, RSMo.

FINDINGS OF FACT

1. Thompson Hollow Farms, LLC, is registered and active with the Missouri Secretary of State. Donnie Ezell is the registered agent of Thompson Hollow Farms, LLC. The Respondent owns a transient noncommunity public water system (System) as defined by 10 CSR 60-2.015(2)(T)4 and 10 CSR 60-2.015(2)(P)8 and is the supplier of water, as defined by 10 CSR 60-2.015(2)(S)12, in that the Respondent exercises the day-to-day control over and management of the System. This System, known as River Valley Campground, MO4243306, is located at 1392 State Highway 34, near Glenallen, Wayne County, Missouri, and operates from April to October each year. This System serves water to 75 service connections through a distribution system to an estimated 225 people. The System consists of one groundwater well, one pressure tank, and a distribution system.

2. Well No. 1 (WL20156) is a domestic well originally constructed for a facility built in 1960 as a residential home. The Department was unable to locate any records of the drilling dates, well logs, or details of construction. The facility changed use to a campground in 1990.

3. Pressure is provided by a 40 gallon bladder tank.

4. On August 25, 2020, the Department conducted a compliance assistance visit in response to a concern investigation and determined that River Valley Campground was a public water supply. On August 26, 2020, the Department notified the Respondent of this determination and provided instructions on sampling requirements and a permit to dispense application.

5. On August 31, 2020, the Department mailed the Respondent an activation letter that assigned a public water supply identification number and included a guidance packet to explain the monitoring program.

6. On September 23, 2020, the Respondent submitted the permit to dispense application.

7. On May 26, 2021, the Department mailed the Respondent a report of inspection following a routine inspection conducted on May 13, 2021. The report identified two significant deficiencies. The Respondent was not maintaining required system records, and the Respondent was using an unapproved well and had no permit to dispense. The report also noted an unsatisfactory finding because the Respondent did not have a coliform site sampling plan available for review. Samples collected at the inspection were total coliform positive but no repeat samples were submitted.

8. On September 23, 2021, the Department classified the Respondent's well as a noncompliant well. 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.

9. On December 29, 2021, the Department mailed the Respondent a Notice of Violation (NOV) for failing to consult with the Department regarding appropriate corrective actions and failing to correct the significant deficiencies identified in the May 13, 2021, inspection.

10. On March 28, 2022, the Department mailed the Respondent an NOV for failing to notify customers of the failure to correct a significant deficiency that was identified during the May 2021 inspection.

11. On August 22, 2022, the Department mailed the Respondent an NOV for failing to notify customers of a failure to collect a triggered source water and repeat samples following a total coliform positive routine sample in the March 2021 monitoring period.

12. On November 7, 2022, the Department mailed the Respondent an Intention to Pursue Enforcement Action letter.

13. On May 24, 2023, the Department conducted an Investigation of Unsafe Samples following a total coliform positive routine sample in the May 2023 monitoring period. Three of the four repeat samples were also total coliform positive, triggering a Level 1 Assessment. The Department provided instructions for proper sample collection and how to shock the well. The Respondent attributed the unsafe samples to a failure to shock the well after it was cleaned.

14. The Respondent does not have a permit to dispense (PTD) water to the public. A PTD application will only be considered after the Respondent completes the requirements listed below in the Agreement for Corrective Actions Section.

15. 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

16. The Department finds that the following violations of the MSDWL&R have occurred, thereby subjecting the Respondent to penalties as set forth in Sections 640.130 and 640.131, RSMo.

17. The Respondent failed to notify the affected public of violations, in violation of 10 CSR 60-8.010(1)(C).

18. The Respondent uses a well, used for noncommunity purposes after July 27, 1987, and prior to June 15, 2007, that does not meet noncommunity water system construction standards in accordance with *Standards for Non-Community Public Water Supplies, 1982* and 10 CSR 60-3.010(2)(B).

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

AGREEMENT FOR CORRECTIVE ACTIONS

20. The Department and the Respondent desire to amicably resolve all claims that might be brought against the Respondent for the violations alleged above. The parties voluntarily enter this Order, and understand and agree that neither the payment of any sum of money nor the execution of this Order by the parties will constitute or be construed as an admission of any wrongdoing or liability whatsoever by any party.

21. Pursuant to Section 640.130.3 RSMo, the Department hereby orders the Respondent, and the Respondent agrees, to complete each of the following corrective actions for its noncompliant well(s):

A. **Corrective Action 1** – The Respondent agrees to perform all routine sample analysis required for noncommunity 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 Respondent from using Well No. 1, 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 21.A.ii are satisfied. In the event of any contamination, MCL violations, or satisfaction of any of the conditions in Paragraph 21.A.ii, the Respondent 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 Respondent 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 noncommunity water system well in accordance with *Design Standards for Non-community Public Water Supplies, 1982*, and plugging any remaining noncompliant wells in accordance with state standards in 10 CSR 23-3.110.

- ii. The Respondent agrees to conduct further corrective action as required by this Order for any well that satisfies any of the following conditions:
 1. 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;
 2. A combination of two or more Assessment Level triggers within a rolling 12 month period;

3. Three or more microbiological monitoring violations within a rolling 12 month period;
 4. One or more confirmed nitrate/nitrite result (average of initial and confirmation samples) exceeding the nitrate/nitrite MCLs;
- iii. If the well triggers the additional corrective action requirements set forth in Paragraph 21.A.i, the Respondent 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:
1. The Respondent either provides public notice of contaminants detected in the water to all 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 provides bottled water to all of its 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.
 2. When microbiological samples exceed the Assessment Level triggers only, the Respondent provides temporary disinfection using a chlorine delivery system, including 30 minutes of contact time, acceptable to and approved by the Department prior to installation. If the Respondent chooses to use a well that meets this condition and thereby uses this option, the Respondent 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 Respondent agrees to monitor the residual daily using analytical equipment acceptable to the Department and the Respondent shall record the results of this residual disinfection monitoring daily.

iv. Should it be necessary to construct a new well, the Respondent further agrees that:

1. Within 60 days of notification of the requirement to construct a new well or determination by the Respondent that the construction of a new well is necessary, the Respondent 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 *Standards for Non-Community Public Water Supplies 1982*;

2. Prior to submittal of plans and specifications, the Respondent 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 Respondent agrees that no construction or drilling shall take place until the Department has issued a construction authorization; and;
3. Upon completion of the construction, the Respondent's engineer shall certify in writing that construction has been completed in conformance with the requirements of the construction authorization.

C. **Corrective Action 2** –Within 30 days of the effective date of this Order, the Respondent shall submit to the Department a coliform sample site plan in accordance with the requirements of 10 CSR 60-4.022(3)(A).

D. **Corrective Action 3** –Within 30 days of completion of Corrective Actions 1 and 2, the Respondent shall complete and submit the Permit to Dispense application to the Department attached hereto as Exhibit A.

PENALTY

22. The violations referenced herein by the Respondent pose a moderate 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.

23. The Respondent agrees and is ordered to pay an administrative penalty in the amount of \$500 in the form of a certified or cashier's check made payable to Wayne County Treasurer, as custodian of the Wayne County School Fund to settle the violations referenced herein. The Respondent shall pay this penalty immediately upon execution of this Order to the Department of Natural Resources, Accounting Program, P.O. Box 477, Jefferson City, MO 65102-0477, for forwarding to the Wayne County Treasurer.

24. Should the Respondent fail to meet the deadlines outlined in this Order, the Respondent agrees and is ordered to pay stipulated penalties in the amount \$100 per day of noncompliance. Stipulated penalties shall begin to accrue the day after performance is due or on the day a violation occurs, whichever is applicable, and shall continue to accrue until performance is satisfactorily completed or until the violation ceases. Stipulated penalties shall accrue simultaneously for separate violations of this Order.

25. Stipulated penalties shall be paid in the form of a certified or cashier's check made payable to Wayne County Treasurer, as custodian of the Wayne County School Fund. Any such stipulated penalty shall be paid within ten business days of demand by the Department and shall be delivered to: Accounting Program, Department of Natural Resources, P.O. Box 477, Jefferson City, MO 65102-0477, for forwarding to the Wayne County Treasurer.

26. The stipulated penalties provided for in this Order do not limit the Department's rights or any other available remedies, where a violation of this Order also constitutes a violation of a statute or regulation; however, where a violation of this Order for which stipulated penalties are provided is also a violation of a statute or regulation, the Respondent may be allowed a

credit, dollar for dollar, for any stipulated penalties paid, against any statutory penalties imposed for such violation.

OTHER PROVISIONS

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

28. The Respondent agrees to not add more connections to Well No. 1 (WL 20156). Any modification of the well 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.

29. By signing this Order, the Respondent acknowledges that its well is currently noncompliant with the MSDWL&R. While this Order is in effect, the Respondent agrees to disclose the condition of the well to any prospective purchasers of any properties containing the well, by providing a copy of this Order along with written notice of the presence of the noncompliant well.

30. 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 notes, conversations, and agreements, whether express or implied. Any modifications of this Order shall be in writing. No changes, alterations, modifications, or qualifications to the terms herein shall be made or be binding unless in writing and signed by the Department. The Respondent may submit a written request to the Department for an extension of time or other modification to this Order. The request must include appropriate justification and documentation.

31. 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 MSDWL&R 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 referenced herein. Consistent with 10 CSR 60-6.070(6), this Order shall not be construed as satisfying any claim by the state or federal government for natural resource damages.

32. This Order shall apply to and be binding upon the Respondent and any of the Respondent's agents, subsidiaries, successors, assigns, contractors, affiliates, and lessees, including the officers, agents, servants, corporations, and any persons acting under, through, or for the parties. 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 Respondent of their obligation to comply with this Order.

33. The requirement of the Respondent to comply with the terms of this Order is not conditioned on the receipt of any federal, state, or local funds. Failure to comply is not excused by lack of federal or state grant funds, or by the processing of any application for the same unless such application is subject to review by the Department and the Department is the cause of said delay. Application for construction grant state revolving loan funds, or any other grants or loans, or delay caused by inadequate facility planning or plans and specifications on the part of the Respondent shall not be cause for extension of this Order.

34. 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 approves or modifies in writing such plan or submittal, it shall become enforceable pursuant to this Order, and the Respondent shall commence work and implement such approved or modified plan in accordance with the schedule and provisions contained therein.

35. Consistent with Section 640.115.1, RSMo, and 10 CSR 60-3.020(4)(A), the Respondent shall notify the Department in writing by certified mail at least 90 calendar days prior to transfer of ownership or operation of the system, or transfer of ownership of the real property upon which the system is situated.

36. The parties understand this Order will be a public record pursuant to Chapter 610, RSMo.

37. The Respondent agrees to comply with the MSDWL&R at all times in the future. Nothing in this Order forgives the Respondent 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.

38. This Order shall be governed by and construed in accordance with the laws of the State of Missouri.

39. 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.

40. 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 Respondent 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.

CORRESPONDENCE AND DOCUMENTATION

41. All correspondence, submissions, and documentation with regard to this Order, except as otherwise specified, shall be directed to the following person, subject to change upon written notification from either party:

For the Department:

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

For the Respondent:

Don Ezell
1392 State Highway 34
Glenallen, MO 63751

WAIVER OF RIGHT OF APPEAL

By signing this Order, the Respondent waives any right to appeal this Order pursuant to Sections 621.250, 640.010, 640.130, 640.131, or Chapter 536, RSMo; the Missouri Constitution; or any other source of law. This Order will become final and fully enforceable upon the date of the Department's signature.

SIGNATURE AUTHORITY

Agreed to this 27th day of November, 2023



Don Ezell, Registered Agent
Thompson Hollow Farms, LLC d/b/a River Valley Campground
PWS ID Number MO4243306

Agreed to and Ordered on this 11th day of December, 2023



DEPARTMENT OF NATURAL RESOURCES
John Hoke, Director
Water Protection Program