

Water Enforcement: Missouri Department of Natural Resources Abatement Order on Consent to Jefferson County, Missouri Composting Facility



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

10/28/2019

The Missouri Department of Natural Resources (“MDNR”) issued an Abatement Order on Consent (“Order”) to Bonacker Farms, Inc., (“BFI”) and Environmental Recycling Facility LLC (“ERF”). See Order No. 2019-WPCB-1545.

The Order provides that the previously referenced two companies own and operate a composting business (“Facility”) in Jefferson County, Missouri.

The Facility is stated to manufacture compost for sale to the public. Such compost is stated to consist primarily of tree trimmings, leaves, grass, ground decking, and lumber scrap from new construction. Further, domestic septage is stated to have been historically incorporated into the composting process. However, this process is stated to have been discontinued.

The Facility is also stated to accept domestic septage from various haulers for land application.

A Missouri State Operating Permit (Land Application Permit) (“Permit”) was stated to have been issued to the Facility on December 13, 2012 to an individual as the owner. The Permit is stated to authorize the individual to land apply domestic septage onto grassland, crop land, or timberland subject to conditions and requirements contained in the Permit.

MDNR is stated to have issued a composting permit to the same individual. This permit is stated to authorize the individual to operate a no-discharge composting operation subject to certain conditions and requirements.

The Order describes the compost wastewater. It also references the Big River and its tributaries as waters of the state. Further described are certain recordkeeping requirements and operating reports that the permits mandate.

The Order alleges that the companies did not provide the required records and reports when requested by MDNR during site inspections on February 9, March 31, 2017 or a site visit on October 30, 2017. Also alleged is that during site inspections on February 9, March 31 and October 30, 2017 MDNR staff observed septage discharging from tank trucks into a pit filled with raw materials used to make compost and liquids pooling in the field below the pit.

A representative of the Facility is stated to have responded that excess water from the compost mixing pit is drained in the field south of the pit.

Additional observations were stated to have been made by MDNR staff on March 30, 31, 2017 and October 30, 2017 referencing:

- Miscellaneous materials in the compost solids including clumps of drywall, insulation, and other trash
- Stormwater retention basin on the site did not have minimum/maximum operating water levels marked as required by the Composting Permit

An Administrative Order (“AO”) was issued to MDNR for violations of the Missouri Clean Water Law. The AO is stated to have not been appealed by the two companies. It includes certain requirements.

MDNR is stated to have subsequently met with representatives of the companies and an engineer to resolve the outstanding compliance issues. An agreement was reached that an additional AO would be negotiated. Further, on June 17, 2019 MDNR is stated to have received correspondence from the companies addressing activities that will be undertaken to address outstanding compliance issues.

The Order alleges that the companies have violated the Missouri Clean Water Laws and implementing regulations as follows:

- Failure to maintain and submit annual operating reports as required by the Composting Permit
- Failure to submit land application records as required by the Land Disturbance Permit
- Failure to comply with 40 C.F.R. 503 in process for further reducing pathogens
- Failure to obtain a construction permit from MDNR for the installation or modification of an earthen storage structure
- Operated, used, or maintained a water contaminant point source, earthen basin containing domestic wastewater and compost facility, without a permit
- Failure to provide a base for the composting area which complies with certain permeability limitations as required by the Composting Permit
- Placed or caused or permitted to be placed a water contaminant in a location where it is reasonably certain to cause pollution of Big Rive, waters of the state
- Failure to clearly mark the minimum and maximum operating water levels for the stormwater storage basin as required by the Composting Permit

The Order assesses a civil penalty of \$14,400. It also requires that the companies undertake certain actions and cease certain actions as described.

Certain activities are required to occur pursuant to a schedule.

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