

Journal of Environmental and Sustainability Law

Missouri Environmental Law and Policy Review
Volume 2
Issue 3 1993-1994

Article 7

1994

Missouri Attorney General Enforcement Actions

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Recommended Citation

Missouri Attorney General Enforcement Actions, 2 Mo. Envtl. L. & Pol'y Rev. 182 (1994)
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MISSOURI ATTORNEY GENERAL ENFORCEMENT ACTIONS

MISSOURI RIVER

Corps of Engineers May Revise Missouri River Master Plan

The Missouri River Division of the U.S. Army Corps of Engineers (Corps) has proposed changes to its Missouri River Master Manual that would have long-term impacts on recreation, navigation and drinking water uses of not only the Missouri River, but also the Mississippi and other inland waterways.

The proposed plan, termed the Preferred Alternative, would hold back more water in upstream reservoirs in Montana and the Dakotas, to the detriment of downstream states such as Missouri, Kansas, Iowa and Nebraska. The Corps would schedule regular releases of water each spring and shorten the barge season by one month in November. The decision to implement this new plan must weigh the interests of walleye fishermen and recreational boaters of upstream states against the downstream interests of agriculture, flood control and drinking water.

Attorney General Jay Nixon stated that the "new Corps plan is a drastic departure from the way the Missouri River is currently operated. In proposing this plan, the Corps has ignored the issue of interior drainage, which occurs when floodwaters seep through the levees even if the levee is not topped. The spring rise provided by this plan will saturate fields, keeping some farmers from planting and wiping out the crops of those who already have planted."

Nixon warned of the loss of flood control that Missouri could expect with more water held back in upstream reservoirs. The new plan would remove the safeguard protection against flooding by reducing the reserve capacity of upstream reservoirs. In addition, with a lower Missouri River to feed the Mississippi, barge navigation between St. Louis, Missouri, and Cairo, Illinois, would be slowed down or stopped far more frequently. Shutting down the Mississippi could cut off barge access all the way to St. Paul, Minne-

sota.

Missouri and the other downstream states face an uphill battle because the person controlling the Corps' purse strings is Senator Max Baucus of Montana.

The Corps originally provided a 90-day public comment period ending December 1, 1994. Nixon called on the Corps to extend the public comment period to March 2, 1995, a period of 180 days, and succeeded in obtaining the extension. This revised comment period will allow a more reasonable comment period in making a decision that may have long-term economic effects on Missouri. Approximately 250 farmers from Missouri traveled to Omaha, Nebraska, on September 19, 1994, to attend the first public hearing on the Master Manual.

AIR

St. Louis-Area Man Pleads Guilty In Landmark Air Pollution Case

A Chesterfield man has pleaded guilty in the first criminal prosecution in the country involving the intentional release of freon. George Hofele, 52, entered a plea of guilty to one felony count of violating the federal Clean Air Act in an appearance before U.S. District Judge Jean C. Hamilton.

Hofele was charged with knowingly releasing freon when he serviced automobile air conditioners at his tire and auto business. He allegedly serviced as many as 60 air conditioners between January 1992 and July 1993 without purchasing proper equipment or becoming certified in the use of proper equipment. Federal law that took effect January 1, 1992, mandates mechanics be certified and use freon recovery equipment.

The chlorofluorocarbons (CFCs) contained in freon help to deplete the protective ozone layer in the upper atmosphere and lead to increased ultraviolet radiation. Scientific studies suggest increased exposure to UV radiation potentially could increase environmen-

tal damage, skin cancer and cataract cases as well as suppression of the human immune response system.

According to the Environmental Protection Agency, 30 percent of all CFCs released into the atmosphere come from mobile air conditioners. The majority of CFC releases occur during air conditioning service and repair.

Attorney General Jay Nixon said if Hofele had purchased the proper freon recovery equipment he would have recouped his initial investment of \$2,000 to \$3,000 within 12 to 14 months. Mechanics using the proper equipment can capture freon in the machine, filter it and resell it to the next customer.

U.S. Attorney Edward L. Dowd Jr. and Jay Nixon encourage anyone in Missouri who is aware of other mechanics not using the proper equipment or servicing motor vehicle air conditioners without certification to contact the Attorney General's Consumer Protection Hotline at 1-800-392-8222.

The Clean Air Act imposes a maximum imprisonment of five years, a \$250,000 fine or both for crimes involving the intentional release of freon.

HAZARDOUS WASTE

Court Approves \$300,000 Plan For Bankrupt Company To Fund A Closed Steel Plant Cleanup

A federal bankruptcy court in St. Louis approved a settlement providing \$300,000 in claims to pay for the environmental cleanup and monitoring of a contaminated steel plant site in Louisiana, Missouri. The settlement will be paid by Valley Steel Products Co., of St. Louis, which owned and operated the plant until 1991.

Valley Steel will pay the Department of Natural Resources (DNR) \$280,000 to use in the environmental cleanup and monitoring of the site. The company will pay an additional \$20,000 into the Leaking Underground Storage Tank Fund, which the DNR uses for cleanups of pollution from underground storage tanks.

This settlement is part of an ongoing effort by Attorney General Jay Nixon to prevent bankrupt companies from avoiding

their environmental obligations in Missouri. Since the beginning of 1993, action taken by the Attorney General's Office to protect Missouri's environment in bankruptcy cases nationwide has resulted in recoveries and savings worth about \$2.9 million.

HAZARDOUS WASTE

International Paper Co. Settles Hazardous Waste Pond Closure Violations For \$273,500.

International Paper Company will pay a \$273,500 penalty to resolve claims it failed to meet a timetable to close several hazardous waste ponds at its Joplin wood treatment facility. The site is located at 20th and Rangeline in Joplin, Missouri.

Waste sludge from the wood treatment process was placed in nine ponds at the facility. This sludge was contaminated with creosote and pentachlorophenol used in the treatment process and was classified as a hazardous waste. The ponds also contained soil contaminated with the sludge.

In 1986, the Department of Natural Resources (DNR) approved a plan to close the ponds and treat soil contaminated with the hazardous waste. The Attorney General's Office alleged the company failed to comply with the original plan's timetable and also failed to submit a modified closure plan in a timely fashion.

Under the agreement with the Attorney General's Office, International Paper will close the ponds and treat the contaminated soil under a modified plan approved by the DNR. The DNR will monitor the cleanup to make certain all contaminated soil is properly treated and disposed of.

The \$273,500 settlement will be paid to the Jasper County School Fund, as required by the Missouri Constitution.

Asarco Agrees To Further Protect Wastewater Near Glover, Missouri

The state of Missouri has reached an agreement with Asarco Inc., which will require greater protection of Ozark waterways near the company's lead smelting plant in Glover, Missouri.

The agreement approved by Circuit Judge J. Max Price in Iron County directs Asarco to construct a system to segregate stormwater from lead process wastewater, to allow the lead process wastewater to be handled and treated appropriately. The stormwater and wastewater currently are mixed in a pond at the site. This mixture is reused in processing or treated through the site's wastewater treatment unit and discharged to nearby streams. The consent decree also orders the company to clean sediment and solids from the pond.

All work plans to segregate the process wastewater and clean up the pond must be approved by the Missouri Department of Natural Resources. The setting up of the new system is expected to take approximately one year. In addition, Asarco will be assessing and cleaning up lead contamination on the Glover property and surrounding areas which have been impacted by the smelter. The entire process is expected to take five years.

SOLID WASTE

Carroll County Landfill Operator Fails To Provide Sufficient Financial Assurance Instrument

The Attorney General's Office (AGO) filed suit against a Carroll County landfill operator that has failed to provide sufficient financial guarantees required by state law. The AGO is seeking an injunction and civil penalty against Midwest Method Land Management Inc., which operates a 38-acre sanitary landfill near Carrollton.

Midwest Method has allegedly not provided the state with an adequate Financial Assurance Instrument, or FAI. The FAI

ensures there will be financial means available to properly close and maintain the landfill for 30 years after closure should the landfill company fail to do so. State law requires landfills that accepted waste after the beginning of 1987 to provide an adequate FAI.

Midwest Method received a permit to operate the landfill in 1990. The Department of Natural Resources issued two notices of violation to the company in 1993 and suspended the landfill's operating permit in August, 1994, because the company has not provided the sufficient financial guarantees required by state law.

In the suit filed in Carroll County, Attorney General Jay Nixon asks the court to order Midwest Method to provide an adequate FAI or, if the company fails to do so, permanently enjoin the company from accepting waste at its Carroll County landfill. The petition also asks the court to assess a civil penalty under Missouri's solid waste laws of up to \$1,000 per day per violation against Midwest Method.

SOLID WASTE

Polk County Judge Finds Waste Tire Site Owner In Contempt

Polk County Circuit Judge Theodore B. Scott has ordered the owner of a waste tire site near Bolivar to pay a fine of \$1,000 per day for each day he fails to comply with a court order to clean up the property. Judge Scott's contempt order also states that Rudy Trevino, trustee for the dissolved corporation DWM of Mid-America, will be fined \$760,000 if he does not purge the contempt order by taking corrective action by specific deadlines.

The initial court order against DWM was obtained in January, 1994, in an effort to clean up the site. The site contains an estimated 500,000 to two million tires in an old quarry area.

Violations at the DWM site include storing tires without a permit and failing to provide adequate fire breaks and water runoff pro-

WATER

tection. Some of the tires were disposed of in standing water.

The court order in January, 1994, required Trevino to apply for the appropriate storage permits and begin cutting and baling the waste tires to provide fire breaks and remove tires from the standing water. These actions had not been taken as of early October, 1994.

Judge Scott's contempt order directed Trevino to have suitable cutting and baling machinery on the site by October 27, 1994, and to meet the other terms and provisions of the January, 1994, consent order. A January 3, 1995, hearing is scheduled at the Polk County Courthouse to determine Trevino's compliance with this latest order.

WATER AND HAZARDOUS WASTE

Lewis County Man Pleads Guilty To Dumping Hazardous Waste

A Lewis County man who pleaded guilty November 7, 1994, to criminal counts of water pollution and hazardous waste disposal must pay a \$1,000 fine and clean up two contaminated sites in northeast Missouri.

In October, 1994, criminal charges were filed in Lewis County Circuit Court against Ronald Hultz of Maywood. Hultz was seen

dumping a barrel of an unknown liquid onto the bank of the Middle Fabius River on October 17, 1993. The eyewitness contacted the Lewis County Conservation agent, who took a sample of the substance for testing. The Missouri Department of Natural Resources (DNR) determined the sample was a solvent characterized by Missouri law as a hazardous waste.

As a result of pleading guilty to the two misdemeanor counts, Hultz received a 60-day suspended sentence with two years probation. In addition, Hultz received a \$2,500 fine, with \$1,500 suspended and \$1,000 to go to the Lewis County School Fund. Hultz must also clean up the dump site within 30 days and clean up another contaminated site in northeast Missouri chosen by the DNR.

WATER AND HAZARDOUS WASTE

Petroleum Company Sued For Ignoring DNR Orders

Attorney General Jay Nixon has sued Hocker Oil Company for failing to comply with orders from the Missouri Department of Natural Resources (DNR) to clean up contaminated soil and water, which also may be contaminating an Arkansas state park located on the Missouri border.

Nixon charged Hocker Oil, which owns and operates nearly 20 gasoline stations in southern Missouri, of violating state environmental laws by failing to close old underground storage tanks properly, allowing the tanks to discharge contaminants, refusing to assess the full extent of the contamination, and failing to remove polluted soil and groundwater.

Nixon said the violations allegedly occurred at the company's gasoline station, which straddles the Missouri-Arkansas border on Highway 63 in Thayer, Missouri. Mammoth Springs State Park, which lies directly south of the station in Arkansas, has had contamination problems, and environmental authorities suspect the Hocker Oil station may be the cause. Thus, Hocker Oil is alleged to have created a public nuisance in preventing the public from safely enjoying the state park.

In a petition for preliminary and permanent injunction, Nixon asked the Oregon County Circuit Court to order Hocker Oil to: (1) investigate and report the magnitude of pollution at its Thayer service station, (2) submit for DNR's approval and implement a plan to clean up the contamination by permanently closing its underground storage tanks and properly removing and disposing of contaminated soil and ground water, and (3) pay civil penalties up to \$10,000 per violation of Missouri's Clean Water and Underground Storage Tank laws as well as all legal and investigative costs.



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Law and Policy Review

The Missouri Bar
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Jefferson City, MO 65102

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