

MISSOURI
DEPARTMENT OF
NATURAL RESOURCES

Michael L. Parson
Governor

Dru Buntin
Director

CERTIFIED MAIL: 9414 8118 9956 2678 5771 97

December 21, 2023

Gary Liles
Eagle Bay Property Owners Association, Inc.
28451 Northwood Drive
Lincoln, MO 65338

REFERRAL NOTICE OF VIOLATION
WATER PROTECTION PROGRAM RNOV#KCWP23017

Dear Gary Liles:

On December 16, 2022, team members from the Missouri Department of Natural Resources conducted a compliance investigation of Eagle Bay, located at 28451 Northwood Drive, Lincoln, in Benton County.

The enclosed report documents the serious and significant violations that were identified. A Referral Notice of Violation is being issued for the violations.

This case is being referred to the department's Water Protection Program Compliance and Enforcement Section for further action. If you have questions regarding the status of the enforcement case, or would like to meet with department staff to discuss compliance requirements, please contact 573-751-1300 or P.O. Box 176, Jefferson City, Missouri 65102.

Sincerely,

KANSAS CITY REGIONAL OFFICE

Karen J. Rouse
Regional Director

KJR/gbr

c: WPP Compliance & Enforcement Section, via exchange drive
eaglebaypoaboard@yahoo.com

Enclosure:

M:\no-permit-eagle-bay-property-owners-association-inc-20231221-rnov-benton-cw



Compliance Summary

Facility Name: Eagle Bay Property Owners Association, Inc.

Permit Number: No Permit

Compliance Investigation Date: December 16, 2022

This summary is intended to direct your attention to violations noted during the compliance investigation of Eagle Bay.

Violations noted during the compliance investigation:

1. Failed to obtain approval from the department for the method of sewage treatment and disposal to be used in the development prior to the sale or lease of any lot or the commencement of construction on any lot by the developer or any person.
2. Failure to use centralized sewage collection and treatment for lots less than 40,000 square feet (0.92 acres).
3. Placed a water contaminant, domestic wastewater, in a location where it is reasonably certain to cause pollution to waters of the state, unnamed tributary with a permanent identifier of 88418199 and Flat Rock Creek within the Eagle Bay development.

Actions necessary to return to compliance:

1. The Eagle Bay development has been referred to the department's Water Pollution Compliance and Environment Section for further action. If you would like to discuss the enforcement case or you'd like to schedule a meeting with the assigned case manager, please contact the department's Water Protection Program, Compliance and Enforcement Section at 573-751-1911 or cwenf@dnr.mo.gov.
2. The Eagle Bay development has been referred to the department's Water Pollution Compliance and Environment Section for further action. If you would like to discuss the enforcement case or you'd like to schedule a meeting with the assigned case manager, please contact the department's Water Protection Program, Compliance and Enforcement Section at 573-751-1911 or cwenf@dnr.mo.gov.
3. The Eagle Bay development has been referred to the department's Water Pollution Compliance and Environment Section for further action. If you would like to discuss the enforcement case or you'd like to schedule a meeting with the assigned case manager, please contact the department's Water Protection Program, Compliance and Enforcement Section at 573-751-1911 or cwenf@dnr.mo.gov.

Refer to the **Referral Notice of Violation (RNOV)** section on pages 4-5 of the enclosed report for detailed information about these violations and how to correct them so your facility may be returned to compliance.

We appreciate your prompt attention to these issues. If you have any questions, or if you would like to meet to discuss these violations further, please contact the Department's Water Protection Program, Compliance and Enforcement Section at 573-751-1911 or cwenf@dnr.mo.gov.

**Missouri Department of Natural Resources
Kansas City Regional Office
Report of Investigation
Eagle Bay Property Owners Association, Inc.
Multiple Lots in Eagle Bay
Unpermitted
December 21, 2023**

Introduction

On December 16, 2022, the department conducted a compliance investigation at the recreational development known as Eagle Bay, located at 28451 Northwood Drive, Lincoln, in Benton County. Participants included:

MoDNR:
Grant Bicker, Environmental Specialist

Chuck Harwood, Soil Scientist

Between October 12 and October 19, 2022, the department received five environmental concerns alleging improper sewage handling/dumping and one concern alleging violations of the Residential Housing Development (RHD) rule 10 CSR 20-6.030. I, Grant Bicker, conducted an environmental concern investigation in response to the concerns received by the department; however, based on information discovered during the concern investigation, the investigation was converted into a compliance investigation. I conducted this investigation to determine the Eagle Bay development's compliance with the Missouri Clean Water Commission Regulations, and the Missouri Clean Water Law (MCWL), pursuant to Section 644.026.1, RSMo. This report presents the findings and observations made during the investigation.

Entity Description and History

Eagle Bay is a recreational housing development that consists of approximately 1,468 parcels and encompasses approximately 521 acres. There are approximately 50 full time residents who reside in the development year-round as a permanent residence, along with an unknown number of seasonal, part time residents that reside in the development at various times throughout the year. According to information compiled from the Benton County Parcel Viewer, the development consists of lots owned by individuals and at least 15 individuals or entities identified at this time by the department to be acting as developers.

The development is subject to the RHD rule, 10 CSR 20-6.030. The original developer, or any subsequent developers, in the development was required to receive approval from the department for the method of wastewater handling in the development prior to commencing construction or the sale or lease of any lots within the development. The department has not approved any method of wastewater handling or disposal in the development.

An unknown number of lots utilize underground wastewater holding tanks, or similar wastewater vessels, which are intermittently pumped by a contract hauler, or pumped by individuals within Eagle Bay, and transported to either to the dump station east of the Eagle Bay Swimming Pool or the shower house dump station. These dump stations have not been approved by the department for use in the development and are currently under the jurisdiction of the Benton County Health department.

Eagle Bay Property Owners Association, Inc. owns 42 parcels in the development. See Table 1 in this inspection report for parcel details. Based on information provided to Department staff as part of this investigation, the parcels are intended to be sold by Eagle Bay Property Owners Association, Inc. to a private party/parties for profit.

**Report of Investigation
Eagle Bay Property Owners Association, Inc.
December 21, 2023
Page 2**

Discussion of Investigation and Observations

On October 24, 2022, I conducted a site visit at the development to investigate the environmental concerns received by the Department. I met Megan Jones and William Jones at the entrance to the development. We drove to the north portion of Eagle Bay, where the dump station is located. This dump station was not available for use, since it was inoperable. I did not see any indication of sewage on the ground by this dump station. I saw the dump station that is located by the bath house. They explained that it is the only dump station that is currently active. I did not see any indication of sewage on the ground by this dump station.

I explained that since the lots inside Eagle Bay are under private ownership, that I would not have access to them, unless permission from the landowner is received. Since no specific lots were mentioned in the concern forms, I did not look at any of the lots in the development from the public right-of-way for evidence of improper wastewater handling or sewage discharging onto the ground. I told Megan Jones and William Jones that I can access the streams where the roads cross them throughout Eagle Bay. I went to the stream crossing that is located southwest of the intersection of Sunbrook Drive and Sunnyvale Drive. Megan Jones said this is Flat Rock Creek. The stream was dry at this location. I did not see signs of sewage in the creek at this crossing. I went to where the creek crosses over English Oak Drive. The stream was dry at this location. I did not see signs of sewage in the creek at this crossing.

I drove to the intersection of Springlake Drive and Darron Drive to observe a crossing at the creek that goes to the residential lake. I observed a black culvert that goes underneath Darron Drive. I did not see signs of sewage in the creek at this crossing. In addition, the creek was dry at this location. I observed the overflow area that is located on the northwest corner of the residential lake. I observed that the residential lake is not discharging at the overflow area and there was no sewage in the ditch that receives flow from the lake. I observed no water quality violations in the streams during the investigation.

On December 16, 2022, Chuck Harwood and I participated in a meeting at the development with the Eagle Bay Property Owners Association (POA) to discuss the RHD rule and wastewater handling in the development. The department has determined that the Eagle Bay development is subject to the RHD rule based on the information provided by the Eagle Bay POA, Benton County records, and Department records. The development is being referred to the department's Compliance and Enforcement Section for further action based on the past and current violations to the RHD rule occurring within the development.

Based on public records from the Benton County Parcel Viewer, the department has determined that Eagle Bay Property Owners Association, Inc. is acting as a developer within the development. Please refer to Table 1 below to see the parcels within the development that are owned by Eagle Bay Property Owners Association, Inc..

Table 1:

Eagle Bay Property Owners Association, Inc.	
Parcels Located within the Eagle Bay Development	
099031002004154000	099031003003015000
099031003001063000	099031002006201000
099031002003017000	099031002004038000
099031002003019000	099031001009039000
099031001003056000	099031002001003000
099031003003014000	099031002003049000
099031002004101000	099031002003031000
099031002002045000	099031002001029000
099031001003057000	099031002001028000
099031002001001000	099031001009040000
099031002003030000	099031002003015000
099031002004022000	099031002003013000
099031002001032000	099031002006060000
099031002001030000	099031001003052000
099031001003059000	099031001003055000
099031001003060000	099031001003058000
099031002003016000	099031003003017000
099031002001013000	099031003003016000
099031002006224000	099031003001064000
099031002004102000	099031002002064000
099031002004055000	099031002003018000

Sampling and Monitoring

Sampling and monitoring was not conducted as part of this investigation.

Compliance Determination and Required Actions

The Eagle Bay development was found to be out of compliance with the MCWL, and its implementing regulations, and the RHD rule, based upon observations made during the concern investigation and subsequent follow up investigative research.

Referral Notice of Violation No. KCWP232017 is being issued for the following violations:

1. Failure to obtain approval from the department for the method of sewage treatment and disposal to be used in the development prior to the sale or lease of any lot or the commencement of construction on any lot by the developer or any person, in violation of the RHD rule 10 CSR 6.030(1)(D) and 10 CSR 6.030(7)(B) [§ 644.076.1, RSMo].

It has been brought to the department's attention that lots are offered for sale or lease as part of a common promotional plan within the Eagle Bay development without written approval from the department for the method of wastewater treatment and handling as described within the current RHD rule, 10 CSR 20-6.030. Nor has it been demonstrated that those lots are exempt from the current RHD rule.

As described in 10 CSR 20-6.030, this rule applies to any developer offering seven or more lots less than five acres in all new development's or within a development that was required to receive written approval for the method of wastewater treatment but did not. Therefore, unless it can be demonstrated that all of the lots that are part of the common promotional plan received written approval from the department for the method of wastewater treatment or received exemption from the department for the current rule, all lots less than five acres are subject to the current RHD rule and required to receive written approval from the department for the method of wastewater treatment prior to the sale, lease or the commencement of construction on any lot by the developer or any owner.

REQUIRED ACTION: The Eagle Bay development has been referred to the department's Water Pollution Compliance and Environment Section for further action. If you would like to discuss the enforcement case or you'd like to schedule a meeting with the assigned case manager, please contact the Department's Water Protection Program, Compliance and Enforcement Section at 573-751-1911 or cwenf@dnr.mo.gov.

2. Failure to use centralized sewage collection and treatment for lots less than 40,000 square feet (0.92 acres), in violation of 10 CSR 6.030(1)(D)1 [§644.076.1, RSMo].

As described in 10 CSR 20-6.030(1)(B) 1, 2, and 3, unless specifically provided otherwise, this rule shall apply to any developer who owns or controls land and re-subdivides land into more lots; adds additional lots to which when added to an existing group of lots which are contiguous, or which are known, designated or advertised as a common unit or by a common name, as part of a common promotional plan, will in total constitute a residential housing development; any expansion of three or more lots in any subdivision or development will be subject to this rule.

It should also be noted as stated in 10 CSR 20-6.030(1)(D)1, unless exempt "...residential housing developments with lots of less than forty thousand (40,000) square feet, (0.92 acres) only centralized sewage collection and treatment are acceptable for the development."

REQUIRED ACTION: The Eagle Bay development has been referred to the department's Water Pollution Compliance and Environment Section for further action. If you would like to discuss the enforcement case or you'd like to schedule a meeting with the assigned case manager, please contact the department's Water Protection Program, Compliance and Enforcement Section at 573-751-1911 or cwenf@dnr.mo.gov.

- Placed a water contaminant, domestic wastewater, in a location where it is reasonably certain to cause pollution to waters of the state, unnamed tributary with a permanent identifier of 88418199 and Flat Rock Creek within the Eagle Bay development, in violation of § 644.051.1, RSMo [§ 644.076.1, RSMo].

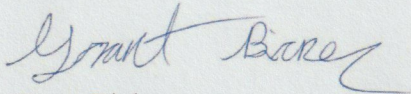
REQUIRED ACTION: The Eagle Bay development has been referred to the department's Water Pollution Compliance and Environment Section for further action. If you would like to discuss the enforcement case or you'd like to schedule a meeting with the assigned case manager, please contact the department's Water Protection Program, Compliance and Enforcement Section at 573-751-1911 or cwenf@dnr.mo.gov.

Conclusions

Based on the information available and the observations made at the time of the investigation, the Eagle Bay development was found to be out of compliance with the MCWL. The Eagle Bay development has been referred to the department's Water Protection Program, Compliance and Enforcement Section for further action. The developer(s) identified in this report shall work with the assigned Enforcement case manager on the required actions necessary to comply with the RHD 10 CSR 20-6.030 and resolve the Enforcement matter.

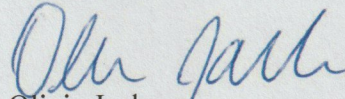
Signatures

SUBMITTED BY:



Grant Bicker
Environmental Specialist
Water Pollution Control Unit

REVIEWED BY:



Olivia Jackson
Environmental Unit Chief
Water Pollution Control Unit

Attachments

- Attachment # 1 – Photos (1-3)
- Attachment # 2 – Aerial Map

Attachment #1 – Photos
Eagle Bay Property Owners Association, Inc.
December 21, 2023
Page 1 of 1



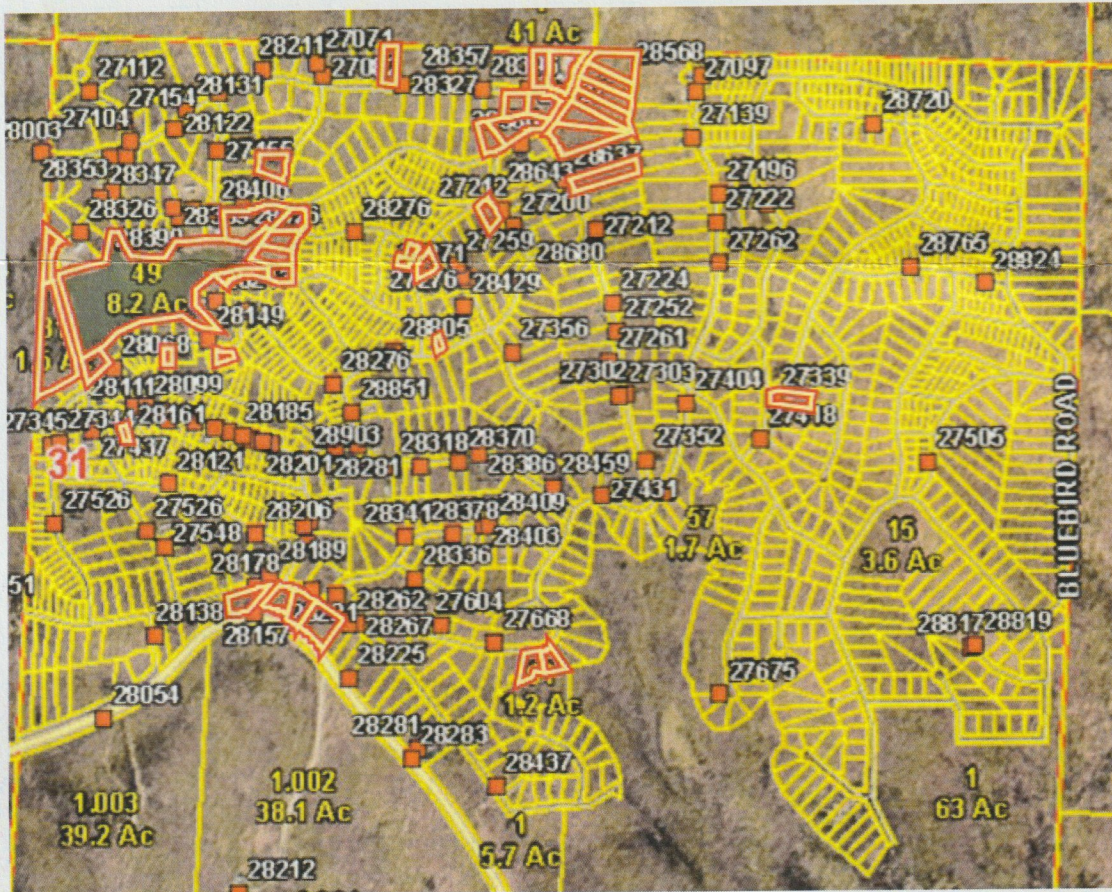
Photo #: 1
Taken By: Grant Bicker
Facility: Eagle Bay
Location: 28451 Northwood Drive, Lincoln, MO
Description: The dump station located east of the swimming pool.
Date Taken: December 16, 2022
Program: Water Pollution Control Unit



Photo #: 2
Taken By: Grant Bicker
Facility: Eagle Bay
Location: 28451 Northwood Drive, Lincoln, MO
Description: The dump station located east of the swimming pool.
Date Taken: December 16, 2022
Program: Water Pollution Control Unit



Photo #: 3
Taken By: Grant Bicker
Facility: Eagle Bay
Location: 28451 Northwood Drive, Lincoln, MO
Description: The dump station near the shower house.
Date Taken: December 16, 2022
Program: Water Pollution Control Unit



Indicating lots owned by Eagle Bay Property Owners Association, Inc.

*This map was obtained from the Benton County Parcel Viewer

**This map shows the ownership at the time of writing this letter and reflects the most up to date information available at the time.