



MISSOURI
DEPARTMENT OF
NATURAL RESOURCES

Michael L. Parson
Governor

Dru Buntin
Director

March 2, 2023

Forbes Lake of the Ozarks Park
Land Owners Association
26506 Gardiner Road
Edwards, MO 65326

RE: Disposal of Wastewater in Residential Housing Developments
Forbes Lake of the Ozarks Park Residential Housing (Subdivision) Development
Benton County, Missouri

Dear Forbes Lake of the Ozarks, Land Owners Association:

This letter is a follow up to our meetings on February 1, 2023, and February 7, 2023, where we discussed jurisdiction of wastewater along with the method of wastewater treatment within the Forbes Lake of the Ozarks Park Residential Housing Development (RHD), specifically the use of individual onsite wastewater treatment (septic) systems (OWTS) on individual lots serving a single family residence. A copy of the PowerPoint presentation given at the February 7, 2023, meeting along with a copy of frequently used terms is enclosed for your convenience.

Jurisdiction of Wastewater

As we discussed, the Missouri Department of Health and Senior Services' Onsite Wastewater Treatment Program (DHSS) or the local onsite wastewater authority have jurisdiction for OWTS that receive less than or equal to 3,000 gallons per day of domestic wastewater only and utilize subsurface soil dispersal (lateral lines). In this specific case the OWTS authority would be the Benton County Health Department. They and the DHSS also have jurisdiction for individual lagoons that receive domestic wastewater only and serve no more than a single family residence. All other lagoons are the Missouri Department of Natural Resources' authority, regardless of flows or type of waste received.

The following is a link to a Department publication explaining jurisdiction of wastewater in more detail: <https://dnr.mo.gov/print/document-search/pub1296>.

History of Forbes Lake of the Ozarks Park

It was reported to the Department that the Forbes Lake of the Ozarks Park RHD, Benton County, was initially developed in 1983, consisting of 3,460 lots covering approximately 12,800 acres with the reported method of wastewater treatment to be individual OWTS on the individual lots serving a single family residence. At that time, there were approximately 1,610 lot owners, many of whom meet the definition of developer as defined in the Disposal of Wastewater in Residential Housing Developments rule located in the Missouri state regulation 10 CSR 20-6.030(1)(A) 3.



The development consists of approximately 145 miles of roads, 3 lakes, 1 pond, and an RV Park which includes a pavilion, bathhouse, tennis court, and 11 camping sites without sewer connections.

It has been reported that while the majority of lots within the Forbes Lake of the Ozarks Park RHD have been sold, only 80 lots (2.3 percent) have been developed with an individual residence, each served by an individual OWTS with an individual well as the reported water supply. Regrettably, it has not been demonstrated to the Department that the Forbes Lake of the Ozarks Park RHD received written approval for the method of wastewater treatment as required under previous rule, nor has it been demonstrated it is exempt under current rule; thereby making it subject to the current rule at 10 CSR 0-6.030. While the original developer is no longer connected to the development, all subsequent developer(s) within the subdivision are subject to the current rule regardless if that developer is the fifth developer to own that property or the first, as long as they meet the definition in the rule.

10 CSR 20-6.030 Disposal of Wastewater in Residential Housing Developments

The Department is currently amending the Residential Housing Development rule to address noncompliance of lots owned by individuals not defined as a developer. However, nothing has been adopted at this time, nor should it be assumed the proposed amendments will be adopted in part or as a whole. There are still a number of steps that need to be completed in the rulemaking process prior to it becoming effective. A copy of the draft rule amendment is enclosed for your convenience.

Below is the tentative timeline for the remaining steps of the rulemaking process for the proposed amendments:

File proposed amendment – June 2023
Public Notice Period – July - August 2023
Public Hearing – August 2023
Governor’s Office Review – September - October 2023
File ORM with JCAR/SOS – October - November 2023
Published MO Register – December 2023
Published in Code – December 2023
Rule Effective – January 2024

Please note what was discussed during the meetings relates to the current residential housing development rule only, any other interpretations would be out of the scope of those meetings and could result in violation of the Missouri Clean Water Law and its regulations.

The Residential Housing Development Rule, 10 CSR 20-6.030, has been in place since 1974, with the current rule being effective on March 30, 1999. Unless specifically stated otherwise, the current rule applies to all developers who propose a new development with seven or more lots, each less than five acres, which will use OWTS with subsurface soil dispersal as the method of wastewater treatment.

Under current rule, when a development is subject to it, the rule shall apply to all lots less than five acres and that they must 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 person.

Summary of the Geohydrologic Evaluation Report, Dated December 30, 2023

As discussed and described in 10 CSR 20-6.030(2), Geohydrologic Evaluations, developers are required by the rule to apply for a geohydrologic evaluation. This report gives a minimum acreage based on the groundwater contamination potential only. To get a better understanding of the geologic limitations within the Forbes Lake of the Ozarks Park RHD, the Department's Missouri Geological Survey's Environmental Assistance Unit performed a geohydrologic evaluation as a service (no fee). A revised copy of the Geohydrologic Evaluation dated February 14, 2023, is enclosed for your convenience.

The report divided the property into 3 geologic zones based on the observed geologic and hydrologic characteristics with a minimum lot size ranging from 3.6 to 5 acres based on groundwater contamination potential only. The report concluded that in the event of a wastewater treatment failure, the local groundwater as well as the surface waters of area streams and the Lake of the Ozarks may be adversely impacted.

Wastewater Alternatives

1. The Department recognizes that individual OWTS were installed on lots where the method of wastewater treatment was not approved under the Residential Housing Development Rule, 10 CSR 20-6.030; therefore, to protect public health the Benton County Health Department or the DHSS will have oversight for those existing individual OWTS within the Forbes Lake of the Ozarks Park RHD. This letter should not be construed as an approval for the method of wastewater treatment on any lot within the Forbes Lake of the Ozarks Park RHD where an OWTS was installed.

The effluent from any individual OWTS constructed within the Forbes Lake of the Ozarks Park RHD shall be handled in such a manner that there is no violation of the Missouri Clean Water Law and its regulations.

2. If a lot is within a geohydrologic zone with an acceptable acreage, a developer or lot owner can proceed with the approval process as contained in 10 CSR 20-6.030. Please have the developers or lot owners contact the Department so we can discuss it in detail to ensure the process proceeds in a timely manner.
3. A developer or lot owner can combine any number of individual lots into one individual lot that is five acres or greater. To ensure this satisfies the exemption as contained in 10 CSR 20-6.030(1)(C) 3, the lot shall need to be recorded as one lot, five acres and greater, and that it shall be used for a single-family residence only as defined in 10 CSR 20-2.010(68)(B).

4. Another alternative is the use of cluster OWTS with subsurface soil dispersal to serve two or more lots each with a single-family residence. For the purpose of our discussion, a cluster OWTS is one that serves two or more residences, but not the entire development. It should also be noted that the use of cluster OWTS will need to satisfy the exemption as contained in 10 CSR 20-6.030(1)(C) 6; including continuing authority prior to the sale, lease, or the commencement of construction of residences.
5. The final alternative is to install a centralized wastewater collection and treatment facility that would sever all of the 3,460 lots within RHD.

Please note that this letter does not excuse any person defined as a developer offering lots for sale or lease within the Forbes Lake of the Ozarks Park RHD from complying with or from liability for violations of the Missouri Clean Water Law and regulations or any other state or local laws.

If you have any questions, please contact me by phone at 573-751-9155, by email at charles.harwood@dnr.mo.gov, or by mail at Department of Natural Resources, Water Protection Program, P.O. Box 176, Jefferson City, MO 65102-0176.

Sincerely,

WATER PROTECTION PROGRAM



Charles Harwood, Soil Scientist
Operating Permits Section

CH/pc

Enclosures

- c: Eric Folks, Missouri Department of Health and Senior Services
TJ Graven, Missouri Department of Natural Resources
Richard Hamby, Benton County Health Department
Rachelle Kuster, Missouri Department of Health and Senior Services
Karla Pierce, Missouri Department of Natural Resources