



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204
(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

January 5, 2022

Brian C. Rockensuess
Commissioner

Via Certified Mail No.:
7017 0190 0000 9497 1034

Via Certified Mail No.:
7017 0190 0000 9497 1041

Adam Schwerin, Registered Agent
Westhaven MHP LLC
29200 C.R. W 20
Elkhart, IN 46517

Michele Westmoreland, Manager
Westhaven MHP LLC
P.O. Box 4720
Troy, MI 48099

Dear Mr. Schwerin and Ms. Westmoreland:

Re: Notice of Violation and
Proposed Agreed Order
Indiana Department of
Environmental Management
v.
Westhaven MHP LLC
PWSID No. IN5243028
Case No. 2021-28390-D
Warsaw, Kosciusko County

This is to advise that the Indiana Department of Environmental Management (IDEM) has conducted an investigation of Westhaven MHP LLC (Respondent). As a result of that investigation, IDEM has made a preliminary determination that violations exist. Pursuant to Indiana Code 13-30-3-3, enclosed please find a Notice of Violation and a proposed Agreed Order, setting forth IDEM's specific findings of violation and the actions necessary to resolve them.

It is imperative you ensure that water provided to patrons is safe and continuous. If you sign and return this proposed Agreed Order no later than 10 days from receipt, IDEM is willing to forgo a civil penalty. If Respondent does not sign and return the Agreed Order within 10 days, the offer of a no-penalty Agreed Order will be withdrawn, and IDEM will issue a revised Agreed Order with a penalty of \$7,205.

To resolve this matter as provided for in the enclosed Agreed Order, sign, and return the entire document to me at the following address:

Office of Water Quality – IGCN 1255
Indiana Department Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204-2251



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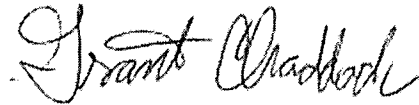
The enclosed proposed Agreed Order is subject to the final approval of IDEM. No Agreed Order is binding on IDEM until the Agreed Order has been approved and adopted by the appropriate IDEM official. IDEM retains the right to withdraw from the proposed Agreed Order if IDEM becomes aware of facts or considerations that indicate that the Agreed Order is unfair, inappropriate, or inconsistent with state law or the Safe Drinking Water Act.

IDEM is not required to extend the offer of entry into an Agreed Order for more than 60 days. You may enter into an Agreed Order without admitting that the violations occurred. If an Agreed Order is not entered into, IDEM may proceed to issue a unilateral Notice and Order of the Commissioner requiring compliance with the environmental laws, rules, and/or permits, including payment of a civil penalty.

Please be advised the local health department has been notified of these violations.

Please contact me at 317-234-4354 or gchaddoc@idem.in.gov within 15 days. At that time we can discuss any questions or set up a settlement conference.

Sincerely,



Grant Chaddock, Case Manager
Water Enforcement Section
Office of Water Quality

Enclosures

cc: Kosciusko County Health Department
Indiana State Department of Health, Mobile Home Community Inspection and
Licensing Program
<http://www.in.gov/idem>

Michele Westmoreland - Manager



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NOTICE OF VIOLATION

Via Certified Mail No.:
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Adam Schwerin, Registered Agent
Westhaven MHP LLC
29200 C.R. W 20
Elkhart, IN 46517

Michele Westmoreland, Manager
Westhaven MHP LLC
P.O. Box 4720
Troy, MI 48099

Case No. 2021-28390-D

Pursuant to Indiana Code (IC) 13-30-3-3, the Indiana Department of Environmental Management (IDEM) issues this Notice of Violation. Based on an investigation, IDEM has reason to believe that Westhaven MHP LLC (Respondent), has violated environmental rules. The violations are based on the following:

1. Respondent owns and/or operates a community public water system (PWS) with PWSID No. IN5243028, serving 417 persons. The PWS is located at 3762 West Old Road 30, in Warsaw, Kosciusko County, Indiana (the Site).
2. A Community Water System (CWS) as defined by 327 Indiana Administrative Code (IAC) 8-2-1(12) is a PWS that serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents.
3. 327 Indiana Administrative Code (IAC) 8-2-2 states that each PWS shall comply with all provisions of this rule and 327 IAC 8-2.1.
4. Pursuant to Indiana Code (IC) 13-18-16-6(a) and (b), all PWS shall be continuously operated and maintained so that water is safe in quality, clean and adequate in quantity, and chemically satisfactory for ordinary domestic consumption. The person responsible for the operation of a public water system shall take all measures that are necessary to protect the quality and quantity of the raw water supply from actual or threatened contamination.

An IDEM investigation revealed that on August 5, 11, and 12, 2021, October 25, 2021, November 15-16, 2021, and December 4-7 and 14-15, 2021, Respondent failed to provide continuous supply and failed to maintain the water distribution system in a way to prevent leaks and breaks, all in violation of IC 13-18-16-6.



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5. 327 IAC 8-2-8.2 states IDEM shall evaluate each PWS during a sanitary survey to determine if deficiencies exist.
6. 327 IAC 8-2-8.2(f) states significant deficiencies are conditions found during a sanitary survey that have a potential to cause an immediate risk to human health; or any deficiency that was found during a previous sanitary survey but has not been corrected; or the PWS is not in compliance with a correction schedule approved by the commissioner.

Pursuant to 327 IAC 8-2-8.2(h), a PWS using ground water shall respond in writing to any deficiency found during a sanitary survey that is reported to the PWS using ground water by the commissioner. Response requirements are as follows:

1. The response must:
 - A. be made within thirty (30) days of receipt of the report; and
 - B. indicate:
 - i. how the PWS will address deficiencies found during the sanitary survey; and
 - ii. on what schedule the PWS will address deficiencies found during the sanitary survey.

During the Sanitary Survey Inspection on September 9, 2021, IDEM staff documented the following outstanding significant deficiencies:

- A. Notifications were not made to customers for service interruptions; and
- B. The system did not have sufficient personnel.

To date, IDEM has not received an adequate response to the Sanitary Survey Inspection Summary Letter dated September 10, 2021, to correct all outstanding significant deficiencies, in violation of 327 IAC 8-2-8.2(h).

7. Pursuant to 327 IAC 8-2.1-7(a) and (b), the owner or operator of a CWS must give public notice for a violation or situation determined by the commissioner to require a public notice.

IDEM records indicate that Respondent failed to notify persons served by the PWS of the pressure and water loss and did not provide customers direction during the water and pressure loss events on August 5, 11, and 12, 2021, October 25, 2021, November 15-16, 2021, and December 4-7 and 14-15, 2021, in violation of 327 IAC 8-2.1-7(a) and (b).

In accordance with IC 13-30-3-3, the Commissioner herein provides notice that violations may exist and offers an opportunity to enter into an Agreed Order providing for the actions required to correct the violations and, as necessary and appropriate, for

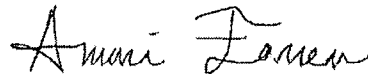
the payment of a civil penalty. The Commissioner is not required to extend this offer for more than 60 days.

As provided in IC 13-30-3-3, an alleged violator may enter into an Agreed Order without admitting that the violations occurred. IDEM encourages settlement by Agreed Order, thereby resulting in quicker correction of the environmental violations and avoidance of extensive litigation. Timely settlement by Agreed Order may result in a reduced civil penalty. Also, settlement discussions will allow the opportunity to present any mitigating factors that may be relevant to the violations.

If an Agreed Order is not entered into within 60 days of receipt of this Notice of Violation, the Commissioner may issue a Notice and Order under IC 13-30-3-4 containing the actions that must be taken to correct the violations and requiring the payment of an appropriate civil penalty. Pursuant to IC 13-30-4-1, the Commissioner may assess penalties of up to \$25,000 per day for each violation.

Please contact Grant Chaddock, Case Manager, at 317-234-4354 or gchaddoc@idem.in.gov, within 15 days after receipt of this Notice to discuss resolution of this matter.

For the Commissioner:



Date: **January 5, 2022**

Amari Farren, Chief
Enforcement Section
Office of Water Quality

cc: Kosciusko County Health Department
<http://www.in.gov/idem>

Michele Westmoreland - Manager