

IN THE CIRCUIT COURT OF TANEY, MISSOURI

STATE OF MISSOURI ex rel.)
Attorney General Chris Koster,)
and the Missouri Department of)
Natural Resources,)
)
Plaintiff,)
)
v.)
)
STEPHEN REDFORD and EMORY)
CREEK RANCH, LLC,)
)
Defendants.)

FILED

NOV 7 2013

BRENDA NEAL
CIRCUIT CLERK
TANEY COUNTY

Case No. 13AF-CC00339

**ENTRY OF DEFAULT JUDGMENT AND ASSESSMENT OF
CIVIL PENALTIES AGAINST DEFENDANT
EMORY CREEK RANCH, LLC**

This Court, upon review and after the hearing on Plaintiffs' Motion for Default Judgment against Defendant Emory Creek Ranch, LLC, finds that:

1. The State's Petition in the above-styled action was filed with this Court on May 7, 2013.
2. Defendant Emory Creek Ranch, LLC was subsequently served with a summons and copy of the Petition on May 20, 2013.
3. Emory Creek Ranch, LLC failed to file a timely Answer to any of the allegations pled in the Petition.
4. Supreme Court Rule 55.25(a) governs the timing of pleadings and provides in relevant part that:

A defendant shall file an answer within thirty days after the service of the summons and petition, except where service by mail is had, in which event a defendant shall file an answer within thirty days after the acknowledgment of receipt of summons and petition or return registered or certified mail receipt is filed in the case or within forty-five days after the first publication of notice if neither personal service nor service by mail is had.

5. Supreme Court Rule 55.09 explains the effect of the party's failure to file an answer:

Specific averments in a pleading to which a responsive pleading is required, other than those as to the amount of damage, are admitted when not denied in the responsive pleadings. Specific averments in a pleading to which no responsive pleading is required shall be taken as denied.

6. In light of Emory Creek Ranch, LLC's failure to file a timely Answer with this Court, it is subject to the entry of an Order of Default Judgment pursuant to Supreme Court Rule 74.05. Supreme Court Rule 74.05 provides in pertinent part:

When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules, upon proof of damages or entitlement to other relief, a judgment may be entered against the defaulting party. The entry of an interlocutory order of default is not a condition precedent to the entry of a default judgment.

7. By virtue of Emory Creek Ranch, LLC's failure to file a timely Answer or responsive pleading within thirty (30) days after service of the

summons, it is deemed in default and the facts alleged in Plaintiff's Petition are deemed admitted.

8. This Court has authority to issue an injunction and assess civil penalties against Emory Creek Ranch, LLC, pursuant to Supreme Court Rule 74.05(c), which states: "A default judgment may include an award of damages, other relief, or both."

9. Section 644.076.1 RSMo¹ authorizes this court to assess civil penalties of up to \$10,000 per day for each day of each violation of the Missouri Clean Water Law and implementing regulations.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

10. The Court finds that the terms of this Judgment protect the public's interest.

11. The Court determines, pursuant to Rule 74.01(b), that there is no just reason to delay judgment as to Defendant Emory Creek Ranch, LLC, pending resolution of the Plaintiff's case against Defendant Stephen Redford.

12. For purposes of this judgment, this Court has jurisdiction over the subject matter of this action and over the Plaintiff and Defendant Emory

¹ All statutory references shall be to the Missouri Revised Statute 2000 unless specifically stated otherwise.

Creek Ranch, LLC. This Judgment covers matters alleged in Plaintiff, State of Missouri's Petition.

13. The provisions of this Judgment shall be binding upon Emory Creek Ranch, LLC as well as its agents, servants, employees, heirs, successors, assigns, and to all persons, firms, corporations and other entities who are, or will be acting in concert or privity with, on behalf of Emory Creek Ranch, LLC or their agents, servants, employees, heirs, successors, and assigns.

14. Emory Creek Ranch, LLC is permanently ordered and enjoined to obey, abide by and comply with this Judgment, and the Missouri Clean Water Law, Chapter 644 RSMo, and the rules and regulations promulgated thereunder, as described in Plaintiff's *Petition for Injunctive Relief and Civil Penalties*.

15. Emory Creek Ranch, LLC is hereby ordered to immediately forward its unpaid annual operating fees and interest in the amount of \$6,840 in the form of a certified check, made payable to "*State of Missouri (Department of Natural Resources)*," to Collections Specialist, P.O. Box 899, Jefferson City, MO 65102-0899.

16. Emory Creek Ranch, LLC is hereby ordered to immediately forward civil penalties in the amount of \$20,000 in the form of a certified

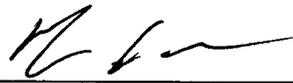
check, made payable to “*State of Missouri (Taney)*,” to Collections Specialist,
P.O. Box 899, Jefferson City, MO 65102-0899.

17. This Judgment does not discharge any other potentially responsible parties.

18. All costs associated with this action shall be paid by Defendant Emory Creek Ranch, LLC.

19. Award Plaintiff its costs expended herein and for such other relief the Court deems just and proper under the circumstances.

SO ORDERED.



Hon. Mark Estle Orr, Circuit Judge

Dated this 7 day of November, 2013.