

IN THE CIRCUIT COURT OF CAMDEN COUNTY, MISSOURI

STATE OF MISSOURI ex rel.)
Attorney General Chris Koster and)
Missouri Department of)
Natural Resources,)
)
Plaintiff,)
)
v.)
)
KENNETH HUTCHENS,)
)
Defendant.)

RECEIVED

AUG 19 2014

WATER PROTECTION PROGRAM

Case No. 12CM-CG



CONSENT JUDGMENT

Plaintiff, by and through its relators Attorney General Chris Koster and the Missouri Department of Natural Resources, and Defendant Kenneth Hutchens, by and through counsel, consent to the entry of this Consent Judgment.

The Court has read Plaintiff's Petition for Injunctive Relief and Civil Penalties, in which Plaintiff alleges that Defendant violated the Missouri Clean Water Law and Safe Drinking Water Law. The Court is advised that the parties have consented to the terms in this Consent Judgment for settlement purposes only, and that their consent is conditioned upon the Court approving the Consent Judgment in its entirety. The Court is satisfied that the provisions of this Consent Judgment are intended to resolve the issues raised by the Petition and that the parties want to

terminate this controversy and consent to the entry of this judgment without trial. The Court retains jurisdiction over the matter in order to enforce each and every term of this Consent Judgment.

The parties hereto, having consented to the entry of this Consent Judgment, now therefore, before the taking of any testimony and upon the pleadings, it is hereby agreed that:

I. Objectives of the Parties

1. The objectives of the parties to this Consent Judgment are to protect human health and the environment and to resolve allegations contained in Plaintiff's Petition.

II. Definitions

2. Terms used herein shall have the same meaning as provided in the Missouri Safe Drinking Water Law §§ 640.100-640.140 and the regulations adopted thereunder, as well as in the Missouri Clean Water Law §§ 644.006-644.150 and the regulations adopted thereunder. In addition, the following terms are specifically defined:

a. "Consent Judgment" means this Consent Judgment and all attachments, which are included by reference and fully enforceable as a term of the judgment.

b. "Defendant" means Kenneth Hutchens.

c. “Department” means the Missouri Department of Natural Resources.

d. “Facility” means Camping Paradise.

e. “Plaintiff” and “State” means the State of Missouri on the relationship of Attorney General Chris Koster and the Department.

III. Jurisdiction and Venue

3. This Court has jurisdiction over the subject matter and the parties in this case pursuant to § 644.076 RSMo¹ and § 640.130 RSMo. Venue is proper in this court pursuant to §§ § 644.076 RSMo and § 640.130 RSMo because the Defendant's conduct giving rise to this action took place in Camden County.

IV. Parties Bound

4. The provisions of this Judgment shall be binding upon the parties to this action as well as their agents, servants, employees, heirs, successors, assigns, and to all persons, firms, corporations and other entities who are, or who will be, acting in concert or privity with, or on behalf of the parties to this action or their agents, servants, employees, heirs, successors, and assigns. Defendant shall provide a copy of this order to all persons or entities retained to perform work required by this order.

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

V. Satisfaction and Reservation of Rights

5. Upon the completion of all terms of this Consent Judgment, including the payment of civil penalties, completion of all schedules of compliance and the payment of any stipulated penalties due under the terms of this Consent Judgment, Defendant is relieved of liability for the violations alleged in the petition.

6. This Consent Judgment shall not be construed to limit the rights of the State to obtain penalties or injunctive relief under the Missouri Clean Water Law or Safe Drinking Water Law or their implementing regulations, or under other federal or state laws, or regulations, except as expressly stated in the preceding paragraph of this Consent Judgment.

Without limiting the foregoing, the parties expressly agree that:

a. Nothing in this Consent Judgment shall prevent the State from applying to this Court for further orders or relief if violations of this Consent Judgment occur.

b. Nothing in this Consent Judgment shall preclude the State from seeking equitable or legal relief for violations of the Missouri laws or regulations that were not alleged in the petition.

c. Nothing in this Consent Judgment shall preclude the State from seeking equitable or legal relief for future violations of the Missouri Clean Water Law

Safe Drinking Water Law or regulations promulgated under its authority.

d. The State of Missouri further reserves all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare or the environment arising at, or posed by, Defendant' facility, acts or omissions, whether related to the violations addressed in this Consent Judgment or otherwise.

VI. Injunctive Relief

7. Defendant is ordered to comply with the Missouri Safe Drinking Water Law, §§ 640.100-640.140 and the regulations adopted thereunder for any and all future activities in the State of Missouri.

8. Defendant is ordered to comply with the Missouri Clean Water Law §§ 644.006-644.150 and the regulations adopted thereunder for any and all future activities in the State of Missouri.

VII. Civil Penalty

9. Defendant consents to the entry of judgment in favor of the State of Missouri for a civil penalty of \$17,850.00. Defendant hereby authorizes entry of this judgment against them and in favor of the State of Missouri for this sum.

10. The parties further agree that \$17,850.00 of this civil penalty shall be suspended as described in paragraph 11.

11. Suspended Civil Penalty. \$17,850.00 of the total penalty of \$17,850.00 shall be suspended upon the condition that Defendant complies with the Missouri Clean Water Law and Missouri Safe Drinking Water Law and its implementing regulations for a period of 5 years from the entry of this Consent Judgment. Once a violation of the Missouri Clean Water Law or Safe Drinking Water Law is documented by the Missouri Department of Natural Resources, Defendant shall submit the suspended penalty by submitting a check made payable to the "*State of Missouri (Camden County)*" to Collections Specialist, Missouri Attorney General's Office, P.O. Box 899, Jefferson City, MO 65102-0899. The suspended penalty provided in this Consent Judgment shall be in addition to any other rights, remedies, or sanction available to State for Defendant's violation of this Consent Judgment or applicable law.

VIII. Stipulated Penalties

12. In the event that Defendant fail to comply with the requirements set forth in this Consent Judgment, Defendant shall be liable for stipulated penalties in accordance with the following schedule:

A. \$50.00 per day for each day of each violation up to thirty days.

B. \$100.00 per day for each day of each violation, from thirty-one days to sixty days.

C. \$200.00 per day for each day of each violation, beyond sixty days.

13. Defendant shall pay stipulated penalties by check made payable to the "*State of Missouri (Camden County)*" and mailed to: Collections Specialist, Missouri Attorney General's Office, P.O. Box 899, Jefferson City, MO 65102-0899. That check will be deposited and processed in accordance with the consent judgment and Missouri law.

14. The inclusion of stipulated penalty provisions in this Consent Judgment, and the payment of stipulated penalties, does not limit the State's ability to pursue other penalties for the same acts; where a violation of this Consent Judgment also constitutes a violation of a statute, stipulated penalties may be collected in addition to statutory penalties imposed for those violations.

IX. Modification

15. Except as otherwise specified herein, this Consent Judgment may be modified or amended only upon written agreement by and among the parties, their successors and assigns and with the approval of the Court. All modifications shall be in writing and filed with the Court.

X. Costs

16. Defendant shall pay all court costs in this action.

The parties hereby consent to this Consent Judgment through their
duly authorized representatives as indicated below.

By: Kenneth Hutchens
Kenneth Hutchens

Title: _____

Date: 8-11-14

MISSOURI ATTORNEY GENERAL'S OFFICE

By: Kristin R. Stokely
Kristin R. Stokely
Assistant Attorney General

Date: 8/15/14

MISSOURI DEPARTMENT OF NATURAL RESOURCES

By: Steven Fuler
Deputy, Director
Division of Environmental Quality

Date: 8/28/14

SO ORDERED.

R.M.V.
Circuit Judge

Date: 9-10-14