

IN THE CIRCUIT COURT OF MONITEAU COUNTY, MISSOURI

**FILED**

MAR 18 2014

CIRCUIT CLERK & EX-OFFICIO RECORDER  
MONITEAU COUNTY, MO

STATE OF MISSOURI ex rel. )  
Chris Koster, the Attorney )  
General of Missouri, and the )  
Missouri Department of )  
Natural Resources, )

Plaintiff, )

v. )

Case No. 12MT-CC00015

CRAIG H. POST, )  
C.H.P. ENVIRONMENTAL, INC., )  
RICK LOGANBILL, JOAN LOGANBILL )  
and LOGANBILL ENTERPRISES, INC., )

Defendants. )

**CONSENT JUDGMENT**

Plaintiff, by and through its relators Attorney General Chris Koster and the Missouri Department of Natural Resources, and Defendants, Craig Post, C.H.P. Environmental, Inc., Rick Loganbill, Joan Loganbill, and Loganbill Enterprises, Inc., ("Defendants") 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 Defendants violated the Missouri Clean Water Law and Solid Waste Management 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 ORDERED, ADJUDGED, AND DECREED 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 Clean Water Law, Chapter 640 RSMo, the Missouri Solid Waste Management Law § 260.100 RSMo *et seq.*, 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. “Defendants” means Craig Post, C.H.P. Environmental, Inc., Rick Loganbill, Joan Loganbill, and Loganbill Enterprises, Inc.

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

d. “Facility” means the composting facility located at 37710 Highway E, Latham, Moniteau County, Missouri.

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 § 644.076.1, RSMo,<sup>1</sup> and 260.240.1, RSMo. Venue is proper in this court pursuant to § 644.076.1, RSMo,<sup>2</sup> and 260.240.1, RSMo, because the Facility giving rise to this action is located in Moniteau County.

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

#### **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. Defendants shall provide a copy of this order to all persons or entities retained to perform work required by this order.

#### **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, Defendants are relieved of liability for this Facility.

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, the Missouri Solid Waste Management 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, Solid Waste Management Law or regulations promulgated under their 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, Defendants' facility, acts or omissions, whether related to the violations addressed in this Consent Judgment or otherwise.

e. Nothing in this Consent Judgment shall be construed or otherwise considered an admission of wrongdoing by any Defendant herein.

## **VI. Injunctive Relief**

7. Defendants are ordered to comply with all State of Missouri environmental statutes and all implementing regulations for any and all future activities in the State of Missouri.

8. Immediately upon entry of this Consent Judgment, Defendants shall:

A. Cease accepting all incoming wastes and/or materials from any and all sources; and

B. Cease discharging process wastewater and/or storm water to waters of the state by collecting the process wastewater and/or storm water runoff from the compost piles and pumping and hauling the wastewater from the existing lagoon to a permitted facility with the capacity to accept the loads; alternatively, amalgamating the process wastewater into the compost mixtures or by land applying the wastewater through specific agronomic rates.

9. Within fifteen (15) days of the entry of this Consent Judgment by the Court, Defendants shall submit a closure plan for the lagoon, developed in accordance with the Standard Conditions, Part III, Sections A and E, for Department approval. The closure plan shall further include steps Defendants shall take to screen all materials composted at the site prior to land application in order to remove all regulated solid waste (i.e., plastics,

glass, ceramics, metals, etc.) from the compost material. The plan shall further include steps to land apply the screened compost material in accordance with the Missouri Clean Water Law. The plan shall further include that the compacted clay pad where composting took place must be scarified or disced to break up the pad to pre-compost condition to ensure that runoff across the area where the compost operation pad was located does not cause flow of such velocity to cause erosion of the property downgradient of the compost site.

10. Within one hundred twenty (120) days of the Department's approval of the closure plan, Defendants shall complete proper closure of the lagoon in accordance with the Department-approved closure plan.

11. Within six (6) calendar months of the execution of this Consent Judgment, Defendants shall establish vegetation with the facility to return the site to pre-composting condition. Vegetation cover shall be at least 70% plant density over 100% of the site.

12. Within fifteen (15) days of establishing vegetation and stabilizing the site, the Defendants shall submit a *Form H – Request for Termination of a General Permit* to terminate MSOP no. MO-G920001.

## **VII. Information Collection and Retention**

13. The State, through its authorized representatives, shall have the right of entry into any facility covered by this Consent Judgment, at all reasonable times, upon presentation of credentials, to:

a. monitor the progress of activities required under this Consent Judgment;

b. verify any data or information submitted to the State in accordance with the terms of this Consent Judgment;

c. obtain samples and, upon request, splits of any samples taken by Defendants or their representatives, contractors, or consultants;

d. obtain documentary evidence, including photographs and similar data; and

e. assess Defendants' compliance with this Consent Judgment.

14. Upon request, Defendants shall provide the State, through its authorized representatives, splits of any samples taken by Defendants.

15. Until five years after the completion of this Consent Judgment, Defendants shall retain, and shall instruct its contractors and agents to preserve, all non-identical copies of all documents, records, or other information (including documents, records, or other information in electronic form) in its or its contractors' or agents' possession or control, or that come into its or its contractors' or agents' possession or control, and that relate in any manner to Defendants' performance of its obligations under this Consent Judgment. This information-retention requirement shall apply

regardless of any contrary corporate or institutional policies or procedures. At any time during this information-retention period, upon request by the State, Defendants shall provide copies of any documents, records, or other information required to be maintained under this Paragraph.

16. At the conclusion of the information-retention period provided in the preceding paragraph, Defendants shall notify the State at least ninety (90) days prior to the destruction of any documents, records, or other information subject to the requirements of the preceding Paragraph and, upon request by the State, Defendants shall deliver any such documents, records, or other information to the State.

17. This Consent Judgment in no way limits or affects any right of entry and inspection, or any right to obtain information, held by the State pursuant to applicable federal or state laws, regulations, or permits, nor does it limit or affect any duty or obligation of Defendants to maintain documents, records, or other information imposed by applicable federal or state laws, regulations, or permits.

### **VIII. Civil Penalty**

18. Defendants consent to the entry of judgment in favor of the State of Missouri for a civil penalty of \$37,000.00. Defendants hereby authorize entry of this judgment against them and in favor of the State of Missouri for this sum.

19. The parties further agree that \$25,000.00 of this civil penalty shall be suspended as described in paragraph 22.

20. Defendants agree to pay the \$12,000.00 up-front civil penalty by check made payable to the “*State of Missouri (Moniteau County)*” consistent with the payment schedule set forth in paragraph 21, by mailing same to: Collections Specialist, Missouri Attorney General’s Office, P.O. Box 899, Jefferson City, MO 65102-0899.

21. Defendants agree to pay the \$12,000.00 up-front civil penalty in twelve (12) separate payments. The first payment of \$1,000.00 shall be made within thirty (30) days from the entry of this Consent Judgment. The next eleven (11) payments shall be \$1,000 each. All but the first payment shall be made by the 1<sup>st</sup> day of each succeeding month. All of the payments shall be made by submitting a check made payable to the “*State of Missouri (Moniteau County)*” to Collections Specialist, Missouri Attorney General’s Office, P.O. Box 899, Jefferson City, MO 65102-0899. If Defendants fail to make any payment within ten calendar days of the due date, they shall become immediately liable for payment of the entire unpaid amount, including the suspended penalty described in paragraph 22.

22. Suspended Civil Penalty. \$25,000.00 of the total penalty of \$37,000.00 shall be suspended upon the condition that Defendants comply with the terms and conditions, including the schedule of compliance, of this

Consent Judgment, as well as the Missouri Clean Water Law and Solid Waste Management Law and its implementing regulations as they relate to this Facility for a period of three years from the entry of this Consent Judgment. Once a violation of this Consent Judgment, the Missouri Clean Water Law and or Solid Waste Management Law is documented by the Missouri Department of Natural Resources as it relates to this Facility, the Missouri Attorney General's Office shall send a written demand for the suspended penalty to Defendants. Defendants shall have fifteen (15) days from its receipt of the written demand to submit the suspended penalty in the manner described in paragraph 20. The suspended penalty provided in this Consent Judgment shall be in addition to any other rights, remedies, or sanction available to State for Defendants' violation of this Consent Judgment or applicable law.

#### **IX. Stipulated Penalties**

23. In the event that Defendants fail to comply with the requirements set forth in this Consent Judgment, Defendants 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.

24. Stipulated penalties shall be due and payable within ten days of demand being made by the Attorney General's Office. Defendants shall pay stipulated penalties by check made payable to the "*State of Missouri (Moniteau County)*" and mailed, along with a copy of the State's stipulated penalty demand letter, 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.

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 and stipulated penalties may be collected in addition to statutory penalties imposed for those violations.

#### **X. Cost Recovery**

25. Defendants consent to the entry of judgment of \$3,000.00 in favor of the Plaintiff for cost recovery. Defendants hereby authorize entry of this judgment against them and in favor of the Plaintiff for this sum. Defendants agree to pay the cost recovery by check made payable to the

“State of Missouri” and upon signing of this Consent Judgment by Defendant, Defendant will mail the check and a copy of the Consent Judgment to Collections Specialist, Missouri Attorney General’s Office, P.O. Box 899, Jefferson City, MO 65102-0899. The Attorney General’s office may hold or deposit the check consistent with its internal policies until such time as the consent judgment is entered by the Court. After entry by the Court, the Attorney General’s Office will assure that the payment is credited to the proper account. In the event this Consent Judgment is not approved by the Court, said payment shall be immediatly refunded to Defendants.

#### **X. Modification**

26. 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.

#### **XI. Costs**

27. Defendants shall pay all court costs in this action. The parties hereby consent to this Consent Judgment through their duly authorized representatives as indicated below.

Council judgment entered.

Approved and signed this 14 day of March,  
2014.

Dwight Gooden

By: Craig H. Pest  
C.H.P. Environmental, Inc.

Title: President

Date: 2-12-14

By: Craig H. Pest  
Craig H. Pest

Date: 2-12-14

By: Rick Loganbill  
Rick Loganbill

Date: 2/14/14

By: Joan M Loganbill  
Joan Loganbill

Date: 2/14/14

By: Joan M Loganbill  
Loganbill Enterprises, Inc.

Date: 2/14/14

MISSOURI ATTORNEY GENERAL'S OFFICE

By: Timothy A. Blackwell  
Timothy A. Blackwell  
Assistant Attorney General

Date: 2/24/14

MISSOURI DEPARTMENT OF NATURAL RESOURCES

By: Atman Juler  
for Leanne Tippett Mosby, Director  
Division of Environmental Quality

Date: 3/3/2014

SO ORDERED.

Deborah Barrell  
Circuit Judge

Date: Mar 14, 2014