

IN THE CIRCUIT COURT OF PULASKI COUNTY, MISSOURI

STATE OF MISSOURI ex rel.,)
CHRIS KOSTER, Attorney General)
of Missouri, and the MISSOURI)
DEPARTMENT OF NATURAL)
RESOURCES,)

Plaintiff,)

v.)

HENRY EDMON,)

Defendant.)

FILED
RACHELLE K. BEASLEY

APR 16 2012

**CIRCUIT CLERK & EX. OFFICIO
RECORDER OF DEEDS
PULASKI COUNTY, MISSOURI**

Case No. 12PU-0100653

CONSENT JUDGMENT

Plaintiff, State of Missouri, at the relation of Chris Koster, Attorney General, and the Missouri Department of Natural Resources and Defendant Henry Edmon, hereby 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 (Chapter 644, RSMo) and its implementing regulations. 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 Consent Judgment without trial.

This Consent Judgment is made, agreed upon, and submitted to the Court for the purpose of settlement only and upon the condition that the Court approves it in its entirety. In the event the Court does not approve of this Consent Judgment in its entirety and as agreed by the parties, it shall be null and void and have no effect in this or any other proceeding. The parties understand and agree that each and every term of this Consent Judgment shall be enforceable by further order of this Court, and, to that end, the Court retains jurisdiction of the matter in order to enforce each and every term of this Consent Judgment. The Court finds that the terms of this Consent Judgment protect the public's interest.

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 as follows:

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 Chapter 644, RSMo, 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 Henry Edmon.
- c. "Department" means the Missouri Department of Natural Resources.
- d. "Facility" means the wastewater treatment lagoon located at 15794 Hardin Lane in St. Robert, Pulaski County, Missouri.
- e. "Lagoon" means the wastewater treatment lagoon located at 15794 Hardin Lane in St. Robert, Pulaski County, Missouri.
- f. "Plaintiff" means the State of Missouri on the relationship of Attorney General Chris Koster, the Department, and the Missouri Clean Water Commission.

III. Jurisdiction

3. This Court has jurisdiction over the subject matter herein and of the parties consenting hereto pursuant to § 644.076.1, RSMo (2000).

IV. Parties Bound

4. The provisions of this Consent 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.

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 regulations, or under federal laws or regulations, except as expressly stated in the preceding paragraph of this Consent Judgment.

Without limiting the foregoing, the parties expressly agree as follows:

a. Nothing in this Consent Judgment shall prevent Plaintiff 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 Plaintiff 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 Plaintiff from seeking equitable or legal relief for future violations of the Missouri Clean Water Law or regulations promulgated under its authority.

d. The Plaintiff 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's Facility, acts or omissions, whether related to the violations addressed in this Consent Judgment or otherwise.

VI. Injunctive Relief

7. Defendant agrees and is ordered to comply with the Missouri Clean Water Law and all implementing regulations for any and all future activities in the state of Missouri.

8. Defendant shall not to connect any additional buildings to the Lagoon at any time in the future.

9. Immediately upon the entry of this Consent Judgment, Defendant shall cease all discharges from the Lagoon and operate the Lagoon as a 3,000 gallon or less, no-discharge lagoon at all times in the future. Defendant shall dispose of all wastewater in the Lagoon in one of the following ways:

a. Pump and haul all wastewater from the Lagoon to a

permitted wastewater treatment facility that has the capacity and is willing to accept the wastewater; or

b. Land apply the wastewater from the Lagoon pursuant to 10 CSR 20-8.020(15), which includes, but is not limited to, application in keeping with the following conditions:

i. at a rate and volume that is adequate for the soil type and field conditions to prevent pooling of wastewater in the field or runoff into waters of the state;

ii. when the ground is not frozen or saturated from wet-weather events;

iii. the land application area shall be sufficiently covered with vegetation;

iv. at least the minimum setback distances as required by 10 CR 20-8.020(15)(B)(2)-(4), with enclosures as required by 10 CSR 20-8.020(15)(B)(5).

10. Within 60 days of the entry of this Consent Judgment, Defendants shall submit to the Department, for review and approval, a copy of an engineering report evaluating the Lagoon that is prepared by a professional engineer licensed to practice in the state of Missouri.

11. Within 180 days of the entry of this Consent Judgment, Defendant shall complete upgrades to the Lagoon according to a Department-

approved engineering report. Defendant shall further submit to the Department for review and approval, a Statement of Work Completed that is signed and sealed by a professional engineer licensed to practice in the state of Missouri confirming that the updates were completed in accordance with the Department approved engineering report. If applicable, Defendant also agrees to submit to the Department for review and approval, the results of a leak test on the lagoon once the lagoon surface has been sealed.

VII. Information Collection and Retention

12. Plaintiff, 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 Plaintiff in accordance with the terms of this Consent Judgment;
- c. obtain samples and, upon request, splits of any samples taken by Defendant or Defendant's representatives, contractors, or consultants;
- d. obtain documentary evidence, including photographs and similar data; and

e. assess Defendant's compliance with this Consent Judgment.

13. Upon request, Defendant shall provide Plaintiff, through its authorized representatives, splits of any samples taken by Defendant.

14. Until two years after the termination of this Consent Judgment, Defendant 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 Defendant's 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, Defendant shall provide copies of any documents, records, or other information required to be maintained under this Paragraph.

15. This Consent Judgment in no way limits or affects any right of entry and inspection, or any right to obtain information, held by Plaintiff pursuant to applicable federal or state laws, regulations, or permits, nor does it limit or affect any duty or obligation of Defendant to maintain documents,

records, or other information imposed by applicable federal or state laws, regulations, or permits.

VIII. Civil Penalty

16. Defendant consents to the entry of judgment in favor of the Plaintiff for a civil penalty of Two Thousand Dollars (\$2,000.00). Defendant hereby authorizes entry of this judgment against them and in favor of the Plaintiff for this sum. Payment of the Two Thousand Dollars (\$2,000.00) shall be made in four (4) separate payments. Immediately upon the entry of this Consent Judgment, Defendant shall make the first payment of Five Hundred Dollars (\$500.00). The next 3 payments shall be Five Hundred Dollars (\$500.00). All but the first payment shall be made by the first day of each succeeding month. All of the payments shall be made by submitting a check made payable to the "*State of Missouri (Pulaski County)*" to Collections Specialist, Missouri Attorney General's Office, P.O. Box 899, Jefferson City, MO 65102-0899. If Defendant fails to make any payment within five calendar days of the due date, it shall become immediately liable for payment of the entire unpaid amount, including the suspended penalty described in paragraph 17.

IX. Stipulated Penalties

17. In the event that Defendant fails 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. \$100.00 per day for each day of each violation up to thirty days.
- b. \$200.00 per day for each day of each violation, from thirty-one days to sixty days.
- c. \$300.00 per day for each day of each violation, beyond sixty days.

18. Stipulated penalties shall be due and payable within ten days of demand being made by the Attorney General's Office. Defendant shall pay stipulated penalties by check made payable to the "*State of Missouri (Pulaski 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.

19. 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.

XI. Notices and Submittals

20. Whenever under the terms of this Consent Judgment that notice is required to be given or a report or other document is required to be forwarded by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice in writing of another individual designated to receive such communications. Notice to the individuals listed below or such other individuals designated pursuant to the foregoing, in writing and hand-delivered or sent by registered or certified mail, postage prepaid, shall constitute complete satisfaction of any notice requirement of the Consent Judgment.

To the Missouri Department of Natural Resources:

Bobbie Pennington
Water Protection Program
Missouri Department of Natural Resources
PO Box 176, Jefferson City, MO 65102-0176
Phone (573) 522-1120
Fax (573) 522-9920

To the Attorney General's Office:

Laura Bailey Brown
Assistant Attorney General
Agriculture and Environment Division
State of Missouri Office of Attorney General
PO Box 899
Jefferson City, Missouri 65102
Voice: 573-751-8795
Fax: 573-751-8796

XIV. Modification

21. 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.

XV. Costs

22. 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.

HENRY EDMON

By: Henry Edmon

Date: _____

CHRIS KOSTER, ATTORNEY GENERAL

By: Laura Bailey Brown
LAURA BAILEY BROWN
Assistant Attorney General

Date: 02/10/2012

MISSOURI DEPARTMENT OF NATURAL RESOURCES

By: Alan J. Reinkemeyer
ALAN J. REINKEMEYER, Acting Director
Division of Environmental Quality

Date: March 28, 2012

SO ORDERED.


Circuit Judge

Date: 4/16/12