

IN THE CIRCUIT COURT OF TANEY COUNTY, MISSOURI

STATE OF MISSOURI ex rel.)
 Chris Koster, the)
 Attorney General of Missouri, and the)
 Missouri Department of)
 Natural Resources,)
)
 Plaintiffs,)
)
 v.)
)
 DON SQUIRES d/b/a HILLBILLY)
 COUNTRY MOTEL)
)
 and)
)
 REFLECTIONS, LLC,)
)
 Defendant.)

FILED
 APR 11 2013
 BRENDA NEAL
 CIRCUIT CLERK
 TANEY COUNTY,

Case No. 09AF-CC00241

CONSENT JUDGMENT

Plaintiff, State of Missouri, at the relation of Chris Koster, Attorney General, and the Missouri Department of Natural Resources and Defendant Reflections LLC, by and through counsel, hereby consent to the entry of this Consent Judgment. This Consent Judgment in no way affects the liability of Defendant Don Squires or the State's ability to pursue claims against him.

The Court has read Plaintiff's Petition for Injunctive Relief and Civil Penalties, in which Plaintiff alleges that Defendant Reflections LLC 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 judgment without trial.

Each and every term of this 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.

Plaintiff and Defendant Reflections LLC 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, § 644.006 through § 644.145 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 Reflections LLC, a Missouri limited liability corporation with active status.

c. "Department" means the Missouri Department of Natural Resources.

d. "Facility" means the wastewater treatment facility which formerly served the Hillbilly Country Motel located in Branson, Taney County, Missouri.

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

III. Jurisdiction

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

IV. Parties Bound

4. The provisions of this Order 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 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 that:

a. Nothing in this Consent Judgment shall prevent 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 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 State 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 (Chapter 644 RSMo) and all implementing regulations for any and all future activities in the state of Missouri.

8. Upon execution of this Consent Judgment, Defendant shall implement the following schedule to terminate Missouri State Operating Permit ("MSOP") number MO-0099414 for the Facility which formerly served the Hillbilly Country Motel:

- A. Within thirty (30) days of entry of this Consent Judgment by the Court, Defendant shall submit to the Department a completed Form J-Request for Termination of a Missouri State Operating Permit, signed by Defendant;
- B. Along with the Form-J Request, Defendant shall also submit to the Department the remaining Three Hundred Eighty Eight

Dollars and No Cents (\$388.00) in delinquent permit fees and interest for the years 2010 through 2012 as required by

§§ 644.052 and 644.055 RSMo and 10 CSR 20-6.011(1)(A). In the event that additional penalties accrue prior to the execution of this Consent Judgment, Defendant agrees to submit the total amount of the delinquent permit fees that are due upon entry of this Consent Judgment.

10. 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 Defendant to maintain documents, records, or other information imposed by applicable federal or state laws, regulations, or permits.

VII. Civil Penalty

11. Defendant consents to the entry of judgment in favor of the Plaintiff for a civil penalty of \$12,000.00. Defendant hereby authorizes entry of this judgment against them and in favor of the Plaintiff for this sum. The parties further agree that \$7,000.00 of this civil penalty shall be suspended as described in paragraphs 13 and 14.

12. Defendant has agreed to pay the up-front civil penalty of \$5,000.00 by check made payable to the "*State of Missouri (Taney County)*."

Within thirty (30) days of entry of this Consent Judgment by the Court, Defendant shall 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.

13. Suspended Civil Penalty. \$7,000.00 of the total penalty of \$12,000.00 shall be suspended upon the condition that Defendant complies with the Missouri Clean Water Law and its implementing regulations for a period of two (2) years from the entry of this Consent Judgment. Once a violation of the Missouri Clean Water Law is documented by the Missouri Department of Natural Resources, the Missouri Attorney General's Office shall send a written demand for the suspended penalty to Defendant. Defendant shall have fifteen (15) days from its receipt of the written demand to submit the suspended penalty in the manner described in paragraph 14. 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.

14. In the event Defendant violates the terms of this Consent

Judgment and demand is made by the Attorney General's Office as described in paragraph 13, Defendant shall pay the suspended penalty by check made payable to the "*State of Missouri (Taney County)*" and mailed, along with a copy of the State's suspended 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.

VIII. Stipulated Penalties

15. 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. \$250.00 per day for each day of each violation, from thirty-one days to sixty days.
- c. \$500.00 per day for each day of each violation, beyond sixty days.

14. 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 (Taney 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.

15. 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. Notices and Submittals

16. 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:

Joan Doerhoff
Water Protection Program
P.O. Box 176

Jefferson City, MO 65102
(573) 522-3779
(573) 522-9920 (FAX)

To the Attorney General's Office:

Robert H. Menees
Assistant Attorney General
State of Missouri Office of Attorney General
P.O. Box 899
Jefferson City, Missouri 65102
Voice: 573-751-8795
Fax: 573-751-8796

X. Modification

17. 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

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

XII. Termination

19. This Consent Judgment shall terminate upon two (2) years compliance with the Missouri Clean Water Law and its implementing regulations or upon Defendant's sale of the property, formerly known as the Hillbilly Country Motel and located at 141 Montgomery Drive, Branson, Missouri, whichever occurs first.

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

REFLECTIONS LLC

By: Shane Martin - Steep
Name

Title: owner

Date: 3-18-13

ATTORNEY GENERAL'S OFFICE

By: Mary Whelan for Robert Menees

ROBERT H. MENEES
Assistant Attorney General

Date: 3-20-13

MISSOURI DEPARTMENT OF NATURAL RESOURCES

By: Steven Fuller
for
Leanne Tippett Mosby, Director
Division of Environmental Quality

Date: 3/27/13

SO ORDERED.

[Signature]
Circuit Judge

Date: 4-11-13