

IN THE CIRCUIT COURT OF LINCOLN COUNTY, MISSOURI

STATE OF MISSOURI ex rel.)
Attorney General Chris Koster,)
and the Missouri Department of)
Natural Resources,)
)
Plaintiff,)
)
v.)
)
BRIAN and MICHELLE RICHTER,)
)
Defendants.)

Case No. 13L6-CC00016

CONSENT JUDGMENT

Plaintiff, State of Missouri, at the relation of Attorney General Chris Koster and the Missouri Department of Natural Resources, and Defendants Brian Richter and Michelle Richter, by and through counsel, 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 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 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 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. “Defendants” means Brian Richter and Michelle Richter.

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

d. “Plaintiff” 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 herein and of the parties consenting hereto pursuant to § 644.076 RSMo (2000).¹ The Defendants’ actions giving rise to this action took place in Lincoln County, therefore venue is proper 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

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

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 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. 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, Defendants' acts, or omissions, whether related to the violations addressed in this Consent Judgment or otherwise.

VI. Injunctive Relief

7. Defendants agree and are ordered to comply with the Missouri Clean Water Law and all implementing regulations for any and all future activities in the state of Missouri.

VII. Civil Penalty

8. Defendants consent to the entry of judgment in favor of the Plaintiff for a civil penalty of \$1500. Defendants hereby authorize entry of this judgment against them and in favor of the Plaintiff for this sum.

9. Suspended Civil Penalty. The Parties further agree that \$700 of the total penalty of \$1500 shall be suspended upon the condition that Defendants comply 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 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 10 below. The suspended penalty provided in this Consent Judgment shall be in addition to any other rights, remedies, or sanctions available to State for Defendants' violation of this Consent Judgment or applicable law.

10. Payment Plan. Defendants agree to pay the \$800 unsuspended civil penalty in 5 equal \$160 payments by check made payable to the "*State of Missouri (Lincoln County)*." Within thirty (30) days of entry of this Consent Judgment, Defendants shall make the first payment of \$160. Defendants shall make all remaining \$160 payments by the 1st day of each succeeding month. Defendants shall make all payments by submitting a check made payable to the "*State of Missouri (Lincoln 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, the Defendants shall become immediately liable for payment of the entire unpaid amount, including the suspended penalty described in paragraph 9.

VIII. Stipulated Penalties

11. 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. \$25 per day for each day of each violation up to thirty days.
- B. \$50 per day for each day of each violation, from thirty-one days to sixty days.
- C. \$100 per day for each day of each violation, beyond sixty days.

12. Stipulated penalties shall be due and payable within ten (10) 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 (Lincoln 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 this Consent Judgment and Missouri law.

13. 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

14. 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

15. Defendants shall pay all court costs in this action.

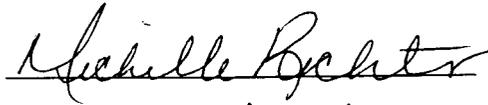
The parties hereby consent to this Consent Judgment through their
duly authorized representatives as indicated below.

BRIAN RICHTER



Date: 12-26-12

MICHELLE RICHTER



Date: 12/26/12

MISSOURI ATTORNEY GENERAL'S OFFICE

By: 

JEREMY D. KNEE
Assistant Attorney General

Date: 1-4-13

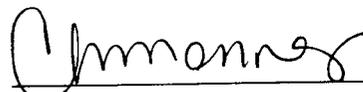
MISSOURI DEPARTMENT OF NATURAL RESOURCES

By: 

LEANNE TIPPETT MOSBY, Director
Division of Environmental Quality

Date: 1/16/2013

SO ORDERED.



Circuit Judge

Date: 3-13-2013