

IN THE CIRCUIT COURT OF LAWRENCE COUNTY, MISSOURI

STATE OF MISSOURI ex rel.)
 Attorney General Chris Koster and)
 Missouri Department of)
 Natural Resources,)
)
 Plaintiff,)
)
 v.)
)
 CRAIG H. POST, ALAN CHAPPELL,)
 BLACK OAK ORGANICS, LLC, and)
 C.H.P. ENVIRONMENTAL, INC.,)
)
 Defendants.)

FILED
 STEVEN W. KAHRE
APR 25 2014
 CIRCUIT CLERK
 LAWRENCE COUNTY, MO

Case No. 10LW-CC00068

CONSENT JUDGMENT

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

The Court has read Plaintiff's Amended Petition for Injunctive Relief and Civil Penalties, in which Plaintiff alleges that Defendant Alan Chappell violated the Missouri Clean Water Law and Solid Waste Management Law. The Court is advised that Plaintiff and Defendant Alan Chappell 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 Amended Petition as to Defendant Alan Chappell and that the parties want to terminate this controversy and consent to the entry of this judgment without trial. Defendant Alan Chappell denies the allegations of the State's Amended Petition against him but agrees to the entry of this Consent Judgment to avoid the cost, expense and inconvenience of continued litigation. 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 Chapters 644 and 260 RSMo and the regulations adopted thereunder. In addition, the following terms are specifically defined:

a. "Consent Judgment" means this Consent Judgment.

b. "Defendant," for the purposes of this Consent Judgment only, means Alan Chappell.

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

d. "Facility" means the former Black Oak Organics composting facility, located in the NE¼ of the SE¼ of Section 19 and the W½ of the SW¼ of Section 20, T27N, R26W, in Lawrence 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 and 260.240.1 RSMo.¹ Venue is proper in this Court because Defendant Alan Chappell's alleged conduct giving rise to this action took place in Lawrence County.

IV. Parties Bound

4. The provisions of this Judgment shall be binding upon Alan Chappell and his agents, servants, employees, heirs, successors, assigns, and to all persons, firms, corporations and other entities who are, or who will be,

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

acting in concert or privity with, or on behalf of Mr. Chappell or his agents, servants, employees, heirs, successors, and assigns, other than the undersigned counsel for Defendant Alan Chappell.

V. Satisfaction and Reservation of Rights

5. Upon the completion of all terms of this Consent Judgment, including the payment of civil penalties and the payment of any stipulated penalties due under the terms of this Consent Judgment, Defendant Alan Chappell is relieved of and fully released from liability for the violations alleged in the State's Amended Petition, including but not limited to the State's claims for injunctive relief or damages for the performance or cost of remediation of the Facility.

6. This Consent Judgment shall not be construed to limit the rights of the State to obtain penalties or injunctive relief against persons or entities other than Defendant Alan Chappell under the Missouri Clean Water Law, Solid Waste Management Law, or its 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 against Defendant Alan Chappell 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 by Defendant Alan Chappell 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 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, the Facility and caused by the acts or omissions of Defendant Alan Chappell either before or after the date of this Consent Judgment, whether related to the violations addressed in this Consent Judgment or otherwise.

VI. Injunctive Relief

7. Defendant Alan Chappell is 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, including but not limited to activities at the Facility.

VII. Information Collection and Retention

8. Defendant Alan Chappell represents to the Court and to Plaintiff, and Plaintiff acknowledges, that Defendant Alan Chappell has no right of entry onto or control over the Facility. Notwithstanding, the State, through its authorized representatives, shall have the right of entry into the Facility covered by this Consent Judgment as provided by law, 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.

9. Upon request, Alan Chappell shall provide the State, through its authorized representatives, splits of any samples taken by Mr. Chappell.

10. Until five years after the termination of this Consent Judgment, Defendant Alan Chappell shall retain, and shall instruct his 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 his 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 Alan Chappell shall provide copies of any documents, records, or other information required to be maintained under this Paragraph.

11. At the conclusion of the information-retention period provided in the preceding Paragraph, Defendant Alan Chappell 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, Defendant shall deliver any such documents, records, or other information to the State.

12. 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.

VIII. Civil Penalty

13. Defendant Alan Chappell consents to the entry of judgment in favor of the State of Missouri for a civil penalty of \$13,700.00. Mr. Chappell hereby authorizes entry of this judgment against him and in favor of the State of Missouri for this sum.

14. Defendant Alan Chappell agrees to pay the \$13,700.00 civil penalty by checks made payable to the "*State of Missouri (Lawrence County)*", in separate installments as set forth below, by mailing the same to: Collections Specialist, Missouri Attorney General's Office, P.O. Box 899, Jefferson City, MO 65102-0899.

15. Defendant agrees to pay the \$13,700.00 up-front civil penalty in five (5) separate payments pursuant to the following schedule:

- A. Within thirty (30) days from the entry of this Consent Judgment, Defendant shall make the first payment of \$3,700 in the manner described in paragraph 14.
- B. The next four (4) payments shall be paid by check in four (4) installments of \$2,500. The first \$2,500 shall be paid within ninety (90) days from the entry of this Consent Judgment. Payment of the three remaining \$2,500 installments shall not exceed one calendar year from the date of the first \$2,500 payment.

- C. All of the payments shall be made by submitting a check made payable to the "*State of Missouri (Lawrence County)*" to Collections Specialist, Missouri Attorney General's Office, P.O. Box 899, Jefferson City, MO 65102-0899.

IX. Stipulated Penalties

16. In the event that Defendant Alan Chappell 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. \$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. \$250.00 per day for each day of each violation, beyond sixty days.

17. 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 (Lawrence 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.

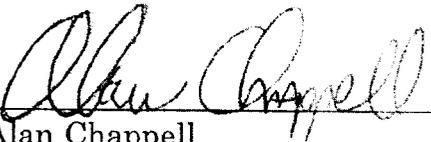
X. Response Cost Recovery

18. Reimbursement of State's Costs and Expenses Incurred Through October 24, 2013. Within thirty (30) days of entry of this Consent Judgment, Defendant shall reimburse the Department for a portion of its investigative and response costs and expenses incurred up through October 24, 2013 as a result of the events described in the Petition, in the amount of \$6,300.00. Payment shall be made by check made payable to the "*State of Missouri*" and delivered to Collections Specialist, Missouri Attorney General's Office, P.O. Box 899, Jefferson City, MO 65102-0899.

XI. Modification

18. 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.

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

By: 
Alan Chappell

Title: N/A

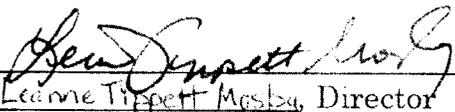
Date: 3/25/14

MISSOURI ATTORNEY GENERAL'S OFFICE

By: 
Tim Blackwell
Assistant Attorney General

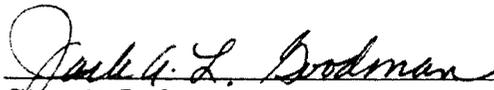
Date: March 31, 2014

MISSOURI DEPARTMENT OF NATURAL RESOURCES

By: 
Leanne Tippett Masby, Director
Division of Environmental Quality

Date: 4/21/14

SO ORDERED.


Circuit Judge

Date: 4/25/14