

IN THE CIRCUIT COURT OF SALINE COUNTY, MISSOURI

STATE OF MISSOURI ex rel.)
 Attorney General Chris Koster and)
 Missouri Department of)
 Natural Resources,)
)
 Plaintiff,)
)
 v.)
)
 KENNETH WILLIAMS, II)
 BETTY WILLIAMS,)
)
 Defendants.)

Case No. 14SA-CV00042

CONSENT JUDGMENT

Plaintiff, by and through its relators Attorney General Chris Koster and the Missouri Department of Natural Resources, and Defendants Kenneth Williams, II and Betty Williams 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. 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 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 Kenneth Williams, II and Betty Williams.

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

d. “Facility” means the wastewater treatment lagoon serving Betty's Truck Stop.

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 pursuant to Article V, § 14 of the Missouri Constitution and § 478.070 RSMo.¹

4. Venue is proper in this court pursuant to § 644.076.1 RSMo because Defendants’ conduct giving rise to this action took place in Saline County.

IV. Parties Bound

5. 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.

¹ All statutory references shall be to the 2013 Cumulative Supplement to the Missouri Revised Statutes 2000 unless specifically stated otherwise.

V. Satisfaction and Reservation of Rights

6. 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.

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

8. 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.

VI. Injunctive Relief

9. Defendants are ordered to comply with all State of Missouri environmental statutes, including the Clean Water Law and all implementing regulations, for any and all future activities in the State of Missouri.

10. Defendants agree to complete the following requirements of the Preliminary Injunction dated January 16, 2014:

a. Within 240 days of issuance of the construction permit, complete all construction in accordance with the Department-approved plans and specifications in the construction permit, and submit to the Department 1) a Statement of Work Completed form, signed, sealed and dated by a professional engineer registered in the State of Missouri certifying that the project was completed in accordance with the Department-approved plans and specifications, and 2) a complete application including the applicable fee for modification of the Permit.

b. Within 60 days of completion of construction activities, the effluent shall comply with all final effluent limitations, as required in Part "A" of the new Permit, including E. coli, Ammonia as nitrogen and Oil and Grease

VII. Civil Penalty

11. Defendants consent to the entry of judgment in favor of the State of Missouri for a civil penalty of \$10,000. Defendants hereby authorize entry of this judgment against them and in favor of the State of Missouri for this sum.

12. Suspended Civil Penalty. \$ 5,000 of the total penalty of \$10,000 shall be suspended upon the condition that Defendant complies with the Missouri Clean Water Law and its implementing regulations for a period of 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 13. 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.

13. Payment Plan. Defendant agrees to pay the \$ 5,000.00 up-front portion of the civil penalty in 10 separate payments in equal amounts. Within thirty (30) days of entry of this Consent Judgment, Defendant shall make the first payment of \$500.00. Defendant shall make all remaining \$500.00 payments by the 1st day of each succeeding month. Defendant shall make all payments by submitting a check made payable to the "*State of Missouri (Saline 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 Defendant shall become immediately liable for payment of the entire unpaid amount, including the suspended penalty described in paragraph 12.

VIII. Stipulated Penalties

14. 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:

<u>Amount of Penalty</u>	<u>Number of Days</u>
\$100.00 per day	1-30 days
\$200.00 per day	31-60 days
\$300.00 per day	61 days and beyond

15. 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 (Saline 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.

16. 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

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.

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

KENNETH WILLIAMS, II

BETTY WILLIAMS

Kenneth Williams

Betty Williams / Larry R Clark

Date: 5-8-15

Date: 5-8-15

MISSOURI ATTORNEY GENERAL'S OFFICE

By: *J Westen*

Jacob T. Westen
Assistant Attorney General

Date: 5/11/15

MISSOURI DEPARTMENT OF NATURAL RESOURCES

By: *Steven Fuller*

for Leanne Tippet Mosby, Director
Division of Environmental Quality

Date: 5/20/15

SO ORDERED.

[Signature]

Dennis A. Rolfe, Circuit Judge

Date: 5/28/15