

IN THE CIRCUIT COURT OF JOHNSON COUNTY, MISSOURI

STATE OF MISSOURI ex rel.)
Attorney General Chris Koster,)
and the Missouri Department of)
Natural Resources,)

Plaintiff,)

v.)

JEFFREY and MARY SHUEY,)
d/b/a JLC Trailer Court,)

Defendants.)

FILED
JOHNSON COUNTY, MO
SEP 23 2015
STEPHANIE ELKINS
CLERK - CIRCUIT COURT

Case No. 13JO-CV00163

ORDER TO ENFORCE CONSENT JUDGMENT

The above matter having come on for hearing on September 23, 2015, on Plaintiff's Verified Motion to Enforce Consent Judgment. Plaintiff, appears by counsel Brook McCarrick. Defendants Jeffrey and Mary Shuey appear pro se. Evidence is heard and adduced.

The Court finds that the parties entered into a consent judgment filed with this Court on October 23, 2013. Under the terms of the consent judgment Defendants were required to immediately cease all discharges of wastewater and pump and haul the wastewater from the lagoon to a permitted facility. Defendants had the option of connecting to an existing permitted treatment facility as delineated in the following paragraph A or replacing the wastewater treatment facility currently serving JLC Trailer Court in accordance with the schedule set forth in paragraph B below.

A. Connecting to Permitted Treatment Facility Offsite.

i. Within ninety (90) days of the Court's entry of this Default Judgment, Defendants shall submit to the Department for review and comment an engineering report, plans, and specifications, and a complete application for sewer extension to connect JLC Trailer Court wastewater by sewer line to a DNR-permitted wastewater treatment facility located offsite.

Defendants shall submit to the Department along with the report a letter from the continuing authority of the approved offsite wastewater treatment facility stating its commitment to accept the wastewater from JLC Trailer Court. The engineer's report shall include a plan for closure of the Facility currently serving JLC Trailer Court that complies with Standard Conditions for National Pollutant Discharge Elimination System (NPDES) Permits, Part III, Section I, Closure Requirements.

ii. Within fifteen (15) days of receiving the Department's comments on the engineering report, plans, and specifications, application for sewer extension, and lagoon closure plan, Defendants shall respond to and adequately address, to the Department's satisfaction, all of the Department's comments.

iii. Within one hundred eighty (180) days of the Department's issuance of the construction permit, Defendants shall complete construction of the sewer extension.

iv. Within thirty (30) days of completing construction, Defendants shall submit to the Department a Statement of Work Completed Form, signed, sealed, and dated by a professional engineer certifying that the project is complete and operable in accordance with Department approved plans and specifications.

v. Within ninety (90) days of completing construction the sewer extension, Defendants must complete closure of the Facility according to the Department-approved closure plan.

B. Replacement of Facility

i. Within sixty (60) days of the Court's entry of this Default Judgment, submit to the Department for review and comment a complete Antidegradation submittal prepared pursuant to the applicable Antidegradation Rule and Implementation Procedure for the State of Missouri. The Antidegradation submittal must include a Division of Geology and Land Survey Geohydrologic Evaluation that has been

completed less than one year before the Antidegradation submittal.

ii. Within fifteen (15) days receipt of Department comments on the Antidegradation submittal, respond to and adequately address, to the Department's satisfaction, all of the Department's comments on the Antidegradation submittal.

iii. Within sixty (60) days of Department approval of the Antidegradation Review, submit to the Department for review and approval a complete application for an operating permit with applicable fee, and an engineering report. The engineering report shall include a comprehensive evaluation of the current condition of the wastewater collection system, and wastewater treatment options and recommendations for a new wastewater treatment facility for the JLC Trailer Court so that effluent from the facility will comply with the Missouri Clean Water Law and its implementing regulations. The engineering report must also include a lagoon closure plan for the existing Facility that complies with Standard Conditions for National Pollutant Discharge Elimination System (NPDES) Permits, Part III, Section I, Closure Requirements.

iv. Within fifteen (15) days receipt of Department comments on the engineering report and lagoon closure plan, Defendants shall respond to and adequately address, to the Department's satisfaction, all of the Department's comments.

v. Within thirty (30) days of the date the Department approves the engineering report and lagoon closure plan, Defendants shall submit to the Department for review and approval, a complete application for a construction permit, including the applicable fee, design summary, plans and specifications signed and sealed by a professional engineer licensed to practice in the State of Missouri for replacement of the Facility that will enable the effluent to comply with the Missouri Clean Water Law and its implementing regulations.

vi. Within fifteen (15) days receipt of Department comments on the construction permit application, Defendants shall respond to and adequately address, to the Department's satisfaction, all of the Department's comments on the construction permit application.

vii. Within one hundred eighty (180) days of issuance of the construction permit, Defendants shall complete construction in accordance with Department-approved plans and

specifications in the construction permit, and submit to the Department a complete application requesting issuance of the operating permit. Additionally, Defendants shall submit a Statement of Work Completed Form, signed, sealed and dated by a professional engineer registered in the State of Missouri certifying that the project has been completed in accordance with the Department-approved plans and specifications.

viii. Within thirty (30) days of completing construction of the new wastewater treatment facility, Defendants shall achieve compliance with the Missouri Clean Water Law and its implementing regulations and effluent limitations contained in Part "A" of the operating permit.

The Consent Judgment executed by the parties provides for a civil penalty in the total amount \$20,400.00 to be paid by Defendants.

\$13,200.00 of the penalty was to be suspended on the condition that Defendants comply with the Missouri Clean Water Law for a period of two years. Under the Consent Judgment, once a violation of Missouri Clean Water Law was documented by the Department of Natural Resources, the suspended penalty would become due and owing upon written demand from Missouri Attorney General's Office.

The Consent Judgment includes a provision for stipulated penalties in the event Defendants failed to comply with the requirements set forth in the Consent Judgment.

The Court being fully advised in the premises finds as follows:

A. Defendants failed to cease all discharges and pump and haul the wastewater from the lagoon to a permitted wastewater treatment facility with the capacity to treat the wastewater in accordance with the terms of the Consent Judgment;

B. Defendants failed to complete the schedule of compliance in either paragraph A or B;

C. Defendants failed to pay the unsuspended portion of the civil penalty in the amount of \$7,200.00;

D. The Missouri Attorney General's Office sent written demand for the total civil penalty, including the suspended and unsuspended portions, to the Defendants on January 22, 2015, to date the Defendants have failed and refused to pay the civil penalty totaling \$20,400.00.

E. Pursuant to the Consent Judgment, Defendants are subject to stipulated penalties in the amount of \$131,500.00.

NOW THEREFORE IT IS HEREBY ORDERED THAT Defendants shall immediately cease all discharges from the wastewater treatment

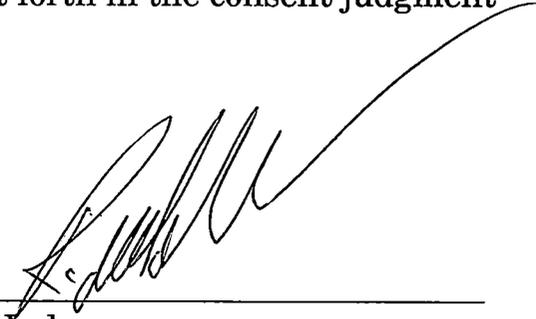
facility serving the JLC Trailer Court and commence pumping and hauling the wastewater from the lagoon to a permitted facility with the capacity to treat the wastewater.

IT IS FURTHER ORDERED THAT Defendants complete the schedule of compliance in either paragraph A or B above.

Defendants are ordered to pay the civil penalty in the amount of \$20,400.00 and pay stipulated penalties in the amount of 0 within 30 days of entry of this Order.

Defendants are ordered to pay stipulated penalties in the amount of \$100.00 per day for every day Defendants fail to meet the deadlines contained in the schedules of compliance set forth in the consent judgment and reiterated above.

SO ORDERED.



Circuit Judge

Date: 9-23-15