IN THE CIRCUIT COURT OF RALLS COUNTY, MISSOURI

STATE OF MISSOURI ex rel. Attorney General Chris Koster and Missouri Department of Natural Resources, Plaintiff, v. MARY LOU CALLICOTT, d/b/a CALLICOTT MOBILE HOME PARK, Defendant.	)	Case No. 13RL-CV00098

FILED
GINA JAMESON
NOV - 5 2013
CIRCUIT CLERK
RALLS COUNTY, MO

CONSENT JUDGMENT

Plaintiff, by and through its relators Attorney General Chris Koster and the Missouri Department of Natural Resources, and Defendant Mary Lou Callicott, 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. 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. "Defendant" means Mary Lou Callicott.

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

d. "Facility" means the unpermitted wastewater lagoon servicing the parcel of property and business known as Callicott Place Mobile Home Park ("Park").

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

f. "Related real property" means the parcel of real property known as Callicott Place Mobile Home Park.

III. Jurisdiction and Venue

3. This Court has jurisdiction over the subject matter and the parties in this case pursuant to § 644.076.1 RSMo.[1] Venue is proper in this court pursuant to § 644.076.1 RSMo because the Defendant's conduct giving rise to this action took place in Ralls County.

IV. Parties Bound

4. 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

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

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

7. 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.

VI. Injunctive Relief

8. Defendant agrees and is ordered to comply with Missouri Clean Water Law, Chapter 644 RSMo and its implementing regulations for any and all future activities in the State of Missouri.

9. Defendant agrees to immediately cease all discharges of wastewater from the Facility and pump and haul wastewater generated by the Park to a permitted wastewater treatment facility with the capacity to accept the load. Defendant must continue to pump and haul wastewater so as to prevent a discharge of wastewater until the Facility is brought into compliance with the Missouri Clean Water Law and its implementing regulations through the Schedule of Compliance and a Missouri State Operating Permit (MSOP) is issued for the Facility, as described in paragraph 12.

10. Defendant must maintain records that include the date the wastewater was pumped, the number of gallons pumped and name of the wastewater hauler and permitted treatment facility accepting the loads. Defendant shall submit copies of the records to the Department every month by the 10th day of the following month.

11. Defendant agrees and is ordered to comply with the following schedule of compliance:

~~A.~~ Within 15 days of entry, Defendant must file an ~~executed~~ copy of this Consent Judgment ~~to the~~ Ralls County Recorder of Deeds, to be attached to the Deed of the related real property of ~~the Park~~ and Facility.

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JTW 10.16.13

B. Within 30 days of entry of this Consent Judgment, Defendant must submit an executed copy of this Consent Judgment to the Ralls County Recorder of Deeds for attachment to the Park's deed and title.

C. Within 30 days of the entry of this Consent Judgment, Defendants must submit to the Department for review and approval an engineering report prepared by a professional engineer licensed to practice in the State of Missouri. The engineering report shall evaluate the current condition of the facility and recommend improvements, replacement, or closure of the lagoon that will achieve compliance with Missouri Clean Water Law in Chapter 644 et seq. and implementing regulations. The engineering report shall be developed in accordance with Missouri Clean Water Regulation 10 CSR 20-8 and shall include a schedule to implement the recommendations. The schedule for completing improvements contained in the engineering report shall not exceed 180 days of the effective date of this Consent Judgment and shall become fully enforceable as a condition for compliance with this Consent Judgment, upon Department approval of the engineering report.

D. Within 15 days of the receipt of comments from the Department on the engineering report or any other submittal required

to complete the approved recommendations, Defendants must respond to and adequately address to the Department's satisfaction all Department comments.

E. If applicable, Defendants must, within 15 days of completing all required construction in accordance with the approved engineering report, submit to the Department an approvable application for a Missouri State Operating Permit for the constructed wastewater treatment facility built in accordance to the Department approved plans and specifications.

F. Defendants must, within 30 days of completing all required construction in accordance with the approved engineering report, submit to the Department a completed statement of work complete, signed, sealed and dated by a professional engineer registered in the State of Missouri certifying that the project is complete and operable in accordance with the Department approved plans and specifications.

VII. Penalties

12. Defendant consents to the entry of judgment in favor of the State of Missouri for a civil penalty of $8,000.00. Defendant hereby authorizes entry of this judgment against her and in favor of the State of Missouri for this sum.

13. The parties further agree that $3,855.14 of the total $8,000.00 civil penalty shall be suspended as described in paragraph 17. The Defendant agrees to pay the State's investigative costs of $855.14 and the remaining civil penalties of $4,144.86, in the methods set out in the below paragraphs.

14. The Defendant agrees to pay the State's investigative costs of $855.14. Defendant agrees to pay the $855.14 by a certified check or cashier's check made payable to the "State of Missouri." The payment will be made within 30 days of the entry of this Consent Judgment by mailing the same to:

Accounting Program
Missouri Department of Natural Resources
P.O. Box 477
Jefferson City, MO 65102-0176

15. Defendant agrees to pay $4,144.86 of the civil penalty by check made payable to the *"State of Missouri (Ralls County)"* within forty-five (45) days of the entry of this Consent Judgment by mailing same to:

Collections Specialist
Missouri Attorney General's Office
P.O. Box 899
Jefferson City, MO 65102-0899

16. Suspended Civil Penalty. $3,855.14 of the total penalty of $8,000.00 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:

A. The Missouri Attorney General's Office shall send a written demand for the suspended penalty to Defendant.

B. Defendant shall have fifteen (15) days from its receipt of the written demand to submit the suspended penalty in the manner described in paragraph 15.

C. The suspended penalty provided in this Consent Judgment shall be in addition to any other rights, remedies, or sanction available to State for Defendant' violation of this Consent Judgment or applicable law.

VIII. Stipulated Penalties

17. In the event that Defendant fail 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. $200.00 per day for each day of each violation, from thirty-one days to sixty days.

C. $300.00 per day for each day of each violation, beyond sixty days.

18. 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 or money order made out and mailed to the entities provided in paragraph 15. That check or money order will be deposited and processed in accordance with the Consent Judgment and Missouri law.

19. 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

20. 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

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

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

MARY LOU CALLICOTT

By: Mary Lou Callicott

Date: 10-8-13

MISSOURI ATTORNEY GENERAL'S OFFICE

By: J Westen

Jacob T. Westen, Assistant Attorney General

Date: 10-16-13

MISSOURI DEPARTMENT OF NATURAL RESOURCES

By: Steven Tuller

for Leanne Tippett Mosby, Director
Division of Environmental Quality

Date: 10/22/2013

SO ORDERED.

SEAL - RALLS COUNTY CIRCUIT COURT DIV. 8 MISSOURI

Circuit Judge, Ralls County

Date: 11-5-13