

IN THE CIRCUIT COURT OF STONE COUNTY, MISSOURI
DIVISION I

STATE OF MISSOURI ex rel.)
Chris Koster, the Attorney General of)
Missouri, and the Missouri Department of)
Natural Resources,)
Plaintiff)
vs.) Case Number 10SN-CC00160
INDIAN RIDGE RESORT, INC. and)
JAMES E. SHIRATO, Individually,)
Defendants)

DEFAULT JUDGMENT

Plaintiff's Motion for Default Judgment was heard the 5th day of February, 2013. Plaintiff appeared by deputy attorney general Kara Valentine. Defendants, duly served, appeared not and, having failed to file their Answer, were and remain in default. Hearing was held on the record. Evidence was adduced and received. Plaintiff filed its Motion to Reopen the Default Record to Allow Additional Evidence on March 11, 2013, which is hereby sustained and the Affidavit of Paul Dickerson is admitted into evidence.

The Court having reviewed the evidence submitted, takes the case from advisement.

The Court finds it has jurisdiction over the subject matter of this action and over the parties hereto.

The Court hereby ORDERS, ADJUDGES and DECREES as follows:

All injunctive orders contained herein shall be binding upon the parties to this Judgment, their agents, servants, employees, heirs, successors, assigns and all persons, firms, corporations and other entities who are or will be acting in concert

or privity with or on behalf of the parties to this Judgment or their agents, servants, employees, heirs, successors and assigns.

Defendants are permanently ordered and enjoined to immediately bring the premises of Indian Ridge Resort in Stone County, Missouri, which premises (hereinafter the "Premises") are the subject of Missouri State Operating Permit No. MO-R109N01 issued by the Missouri Clean Water Commission in December, 2005, and renewed in May, 2007 (hereinafter referred to as "the Permit"), into compliance with the Missouri Clean Water Law (§§644.006-644.150 R.S.Mo.), its implementing rules and regulations and maintain said compliance in all future operations on the Premises.

Defendants are permanently ordered and enjoined to comply with all of the conditions and requirements of the Permit until such time as the Premises are stabilized pursuant to the Permit and the Permit is properly terminated.

Defendants are permanently ordered and enjoined to submit to the Missouri Department of Natural Resources a revised Storm Water Pollution Prevention Plan within sixty (60) days of the date hereof, which shall have been prepared by a certified Storm Water Pollution Prevention Plan preparer specifically for the Premises, employing approved guidance documents or other acceptable resources described in the Permit in determining which Best Management Practices to install.

Defendants are permanently ordered and enjoined to implement the revised Storm Water Pollution Prevention Plan to prevent further discharge of sediment from the Premises and bring the Premises into compliance with the Missouri Clean Water Law, its implementing regulations and the Permit immediately upon the

preparation and submission of the revised Storm Water Pollution Prevention Plan to the Missouri Department of Natural Resources and until the Premises are stabilized pursuant to the Permit and the Permit is properly terminated.

Defendants are permanently ordered and enjoined to respond to and adequately address all of the Missouri Department of Natural Resource's comments on the Storm Water Pollution Prevention Plan within fifteen (15) days of receipt of Missouri Department of Natural Resources comments on the Storm Water Pollution Prevention Plan,.

Defendants are permanently ordered and enjoined to cause a certified erosion control specialist to conduct inspections of the Premises, evaluate the Premises for compliance with the Missouri Clean Water Law and develop and implement Best Management Practices on the Premises to assure compliance with the Clean Water Law until the Premises are stabilized pursuant to the Permit and the Permit is properly terminated. Defendants shall cause the certified erosion control specialist to conduct the inspections and maintain reports thereof in accordance with the Permit until the Premises are stabilized pursuant to the Permit and the Permit is properly terminated.

Defendants are permanently ordered and enjoined to cause sampling of stormwater discharges at all outfalls within the first sixty (60) minutes of discharge occurring as a result of precipitation events of .01 inches or greater, but no more frequently than one sample within a forty-eight (48) hour period until the Premises are stabilized pursuant to the Permit and the Permit is properly terminated. Precipitation events shall include rainfall and run-off from melting or frozen

precipitation. Defendants shall cause the samples to be analyzed for settleable solids using the latest edition of the Standard Methods for the Examination of Water and Wastewater. Defendants shall submit the results of said samples to the Missouri Department of Natural Resources within ten (10) days of the sampling. If the results show a violation of the permitted effluent limitation for settleable solids, Defendants shall include a written description of the corrective actions taken to prevent future violations.

Judgment against Defendants, jointly and severally, is awarded to Plaintiff in the amount of One Hundred Thousand Dollars (\$100,000.00), calculated at \$10,000.00 per day times the ten (10) days of violation cited in Plaintiff's evidence, as a civil penalty, pursuant to §644.076.1 R.S.Mo., with payment to be made to the State of Missouri (Stone County), mailed to: Collections Specialist, Office of the Attorney General of Missouri, P.O. Box 899, Jefferson City, MO 65102-0899.

Judgment against Defendants, jointly and severally, is awarded to Plaintiff for cost recovery and damages to reimburse the State of Missouri for its costs to date in investigating, responding to and monitoring the contamination to waters of the state caused by Defendants in the amount of \$7,718.58, pursuant to §644.096 R.S.Mo., with payment to be made to the State of Missouri, mailed to: Collections Specialist, Office of the Attorney General of Missouri, P.O. Box 899, Jefferson City, MO 65102-0899.

Judgment against Defendants, jointly and severally, is awarded to Plaintiff pursuant to §644.096 R.S.Mo. for future costs and expenses incurred by the State of Missouri to investigate, respond to and monitor the cleanup of the contamination

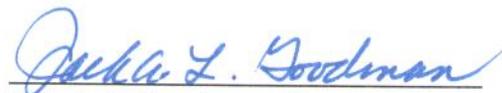
caused by Defendants' pollution to waters of the State up to a maximum of \$8,000.00 per year for each of the five successive one-year periods following the date of this Judgment, for a maximum of \$40,000.00, with Plaintiff to send Defendants invoices with instructions for payment quarterly for the actual costs and expenses incurred by the State to investigate, respond to and monitor the cleanup of the contamination caused by Defendants' pollution to the waters of the State up to the annual maximum.

Judgment against Defendants, jointly and severally, is awarded to Plaintiff in the amount of \$18,000.00 for damages to the groundwater, surface water and natural resources of the State resulting from events described in Plaintiff's Petition. Payment shall be to the "State of Missouri (Natural Resource Damages Subaccount No. 0555), addressed to: Collections Specialist, Office of the Attorney General of Missouri, P.O. Box 899, Jefferson City, Missouri 65102-0899.

Costs assessed against Defendants.

SO ORDERED.

Dated: April 22, 2013



Jack A. L. Goodman, Circuit Judge
39th Circuit