

**COPY**

**IN THE CIRCUIT COURT OF CRAWFORD COUNTY, MISSOURI**

STATE OF MISSOURI ex rel., )  
 Attorney General Chris Koster, )  
 and the Missouri Department )  
 of Natural Resources, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 RICHARD SHELESKI, d/b/a )  
 SKIPPY'S ROUTE 66 INN )  
 )  
 Defendant. )

**FILED**

JAN 08 2013

CIRCUIT CLERK  
CRAWFORD CO., MO

Case No. 13CF-CC00003

Div I

**CONSENT JUDGMENT**

Plaintiff, State of Missouri, at the relation of Attorney General Chris Koster, and the Missouri Department of Natural Resources, and Defendant Richard Sheleski, by and through counsel, hereby 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 (Chapter 644, RSMo) and its implementing regulations. 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.

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JAN 07 2013

CIRCUIT COURT

This Consent Judgment is made, agreed upon, and submitted to the Court for the purpose of settlement only, and upon the condition that the Court approves it in its entirety. In the event the Court does not approve of this Consent Judgment in its entirety and as agreed by the parties, it shall be null and void and have no effect in this or any other proceeding. The parties understand and agree that each and every term of this Consent Judgment shall be enforceable by further order of this Court, and to that end, the Court retains jurisdiction of the matter in order to enforce each and every term of this Consent Judgment. The Court finds that the terms of this Consent Judgment protect the public's interest.

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 Richard Sheleski, d/b/a Skippy’s Route 66 Inn.

c. “Department” means the Missouri Department of Natural Resources.

d. “Plaintiff” means the State of Missouri on the relationship of Attorney General Chris Koster, the Department, and the Missouri Clean Water Commission.

### **III. Jurisdiction and Venue**

3. This Court has jurisdiction over the subject matter herein and of the parties consenting hereto pursuant to § 644.076, RSMo (2000).<sup>1</sup> The Defendant’s actions giving rise to this action took place in Crawford County, and venue is proper pursuant to § 644.076.1, RSMo.

### **IV. Parties Bound**

4. The provisions of this Order shall be binding upon the parties to this action as well as their agents, servants, employees, heirs, successors,

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

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. 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 Law or regulations or under federal 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 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 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 State from seeking equitable or legal relief for future violations of the Missouri Clean Water Law or regulations promulgated under its authority.

d. Plaintiff 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.

## **VI. Injunctive Relief**

7. Defendant agrees and is ordered to comply with the Missouri Clean Water Law and all implementing regulations for any and all future activities in the state of Missouri.

## **VII. Civil Penalty**

8. Defendant consents to the entry of judgment in favor of the Plaintiff for a civil penalty of \$15,000. Defendant hereby authorizes entry of this judgment against him and in favor of the Plaintiff for this sum.

9. Suspended Civil Penalty. The Parties further agree that \$14,500 of the total penalty of \$15,000 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, the Missouri Attorney General's Office shall send a written demand for the suspended penalty to Defendant. Defendants shall have fifteen (15) days from its receipt of the written demand to submit the suspended penalty in the manner described in paragraph ten (10) below. The suspended penalty provided in this Consent Judgment shall be in addition to any other rights, remedies, or sanctions available to State for Defendant's violation of this Consent Judgment or applicable law.

10. Defendant agrees to pay the \$500 unsuspended civil penalty by check made payable to the "*State of Missouri (Crawford County)*" within sixty (60) days of the Court's entry of this Consent Judgment. Defendant shall mail the check and a copy of the Consent Judgment to Collections Specialist, Missouri Attorney General's Office, P.O. Box 899, Jefferson City, MO 65102-0899. The Attorney General's Office will assure that the payment is credited to the proper account.

## VIII. Stipulated Penalties

11. In the event that Defendant 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 per day for each day of each violation up to thirty days.
- B. \$100 per day for each day of each violation, from thirty-one days to sixty days.
- C. \$200 per day for each day of each violation, beyond sixty days.

12. Stipulated penalties shall be due and payable within ten (10) 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 (Crawford 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.

13. 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**

14. 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**

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

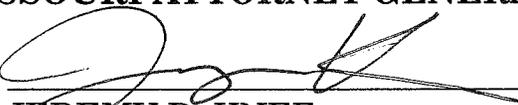
The parties hereby consent to this Consent Judgment through their  
duly authorized representatives as indicated below.

**RICHARD SHELESKI**



Date: 11/27/12

**MISSOURI ATTORNEY GENERAL'S OFFICE**

By: 

JEREMY D. KNEE  
Assistant Attorney General

Date: 11/30/12

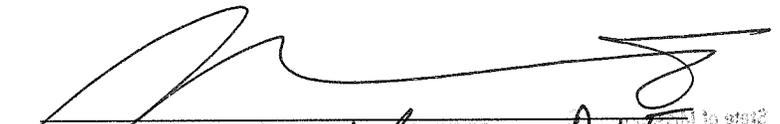
**MISSOURI DEPARTMENT OF NATURAL RESOURCES**

By: 

ALAN J. REINKEMEYER, Acting Director  
Division of Environmental Quality

Date: 12/14/2012

**SO ORDERED.**

  
Circuit Judge Sid Pearson, D.J.E.

Date: 1/8/13