

mailed \$1000 1/28/13

IN THE CIRCUIT COURT OF MORGAN COUNTY
STATE OF MISSOURI

STATE OF MISSOURI ex rel.)
 CHRIS KOSTER, the Attorney)
 General of Missouri, and the)
 MISSOURI DEPARTMENT OF)
 NATURAL RESOURCES,)
)
 Plaintiffs,)
)
 v.)
)
 STEVE VAN LERBERG)
)
 and)
)
 VAN'S HOLDINGS)
 ENTERPRISES, LLC)
)
 Defendants.)

FILED
 JUL 11 2013
 CHERYL MORRIS
 CLERK OF CIRCUIT COURT

Case No. 10MG-CC00028

CONSENT JUDGMENT

Plaintiff, the State of Missouri, at the relation of Chris Koster, Attorney General, the Missouri Department of Natural Resources ("Department"), Defendant Steve Van Lerberg, and Defendant Van's Holdings Enterprises, LLC, hereby consent to the entry of this judgment for the purpose of resolving the issues between them raised by the filing of Plaintiff's Petition for Injunctive Relief and Civil Penalties.

The Court, having read Plaintiff's Petition and being fully advised of its premises, is satisfied that the provisions of this Consent Judgment are

intended for amicable resolution of the issues in Plaintiff's Petition herein and the parties desire to terminate the controversy and have consented to the making and entry of this judgment without trial. The Court finds that the terms of this Consent Judgment protect the public's interests.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

1. For the purpose of this decree, this Court has jurisdiction over the subject matter of this action and over the parties consenting to this decree. This action involves alleged violations of the Missouri Clean Water Law and regulations promulgated under its authority with respect to Defendants' operation, use or maintenance of a water contaminant source at Van's Mill Creek Point Subdivision, 30141 Mill Creek Loop in Gravois Mills, Morgan County, Missouri. Venue is proper in this case.
2. Each Defendant acknowledges service of the Petition filed in this case.
3. Defendants, in compromise and satisfaction of all alleged past violations of laws set forth in the Plaintiff's Petition and without admitting the validity or occurrence of the same, consents and agrees to the terms and conditions in this Consent Judgment.
4. Defendants agree that at all times to date Defendants owned and operated a wastewater treatment system that serves the Van's Mill Creek

Point Subdivision, located at 30141 Mill Creek Loop in Gravois Mills, Morgan County, Missouri (the "WWTF"). The Missouri Clean Water Commission issued Missouri State Operating Permit ("MSOP") No. MO-0128481 on November 6, 2003 (the "Permit").

5. Effluent from the WWTF discharges to the Lake of the Ozarks.

6. The Lake of the Ozarks is a "water of the State" as defined in §644.016(26), RSMo.

7. Defendants agree that enough evidence exists that this Court could determine that Defendants violated the Missouri Clean Water Law and regulations by: failing to submit a timely permit renewal application in violation of §644.051.9, RSMo, § 644.076.1, RSMo, and 10 CSR 20-6.010(5)(C); failing to submit timely and complete discharge monitoring reports in violation of §644.076.1, RSMo and 10 CSR 20-7.015(9)(A); failing to post warning signs in violation of 10 CSR 20-8.140(9) and § 644.076.1, RSMo; and failing to properly mark an outfall, in violation of a permit condition and §644.076.1. These violations have since been corrected. These violations did not create an environmental threat.

8. Defendants, in compromise and satisfaction of the allegations relating to the above-referenced claimed violations, agree, without admitting liability or fault, to complete the following:

A. To comply with all of the Permit conditions in the future

operation of the Van's Mill WWTF.

B. Within fifteen days of the effective date of this Judgment, Defendants shall clearly mark and maintain access to outfall number 001 and properly install warning signs around the facility to advise the public of the risks of unauthorized entrance.

C. Should Defendants fail to meet the terms of this Judgment, Defendants shall pay stipulated penalties in the following amount:

| <u>Days of Violation</u> | <u>Amount of Penalty</u> |
|--------------------------|--------------------------|
| 1 to 30 days | \$50.00 per day |
| 31 to 90 days | \$100.00 per day |
| 91 days and above | \$250.00 per day |

Such penalties shall begin on the date of notification of any alleged violation, but after Defendants shall have been given a reasonable opportunity to cure any failure to meet the terms of this Judgment.

9. Defendants agree to pay a civil penalty in the sum of \$6,000.00. \$1,000.00 of this civil penalty will be paid on or before March 30, 2013. The remaining \$5,000.00 will remain suspended for a period of one years following entry of this Judgment, contingent upon each Defendant remaining in compliance with the Missouri Clean Water Law during that period. If Plaintiff claims that a violation of the Missouri Clean Water Law has occurred, then Plaintiff shall so advise Defendant in writing. If Defendant disputes that a violation of the Missouri Clean Water Law has occurred, Plaintiff may move to enforce the consent judgment. Only those violations of the Missouri Clean Water Law that constitute an environmental threat shall

trigger Defendant's liability for the suspended penalty.

10. Defendants will submit payment of the \$1,000.00 up-front civil penalty on or before March 30, 2013 by check made payable to the "*State of Missouri (Morgan County)*" and mail it to: Collections Specialist, Missouri Attorney General's Office, P.O. Box 899, Jefferson City, MO 65102-0899.

11. The suspended and stipulated penalties provided for in this Consent Judgment shall be in addition to any other rights, remedies or sanctions available to Plaintiff in the event Defendants violates the terms of this Consent Judgment or of applicable law.

12. Defendants agree not to violate or cause to be violated, through action or inaction, the Missouri Clean Water Law and regulations promulgated under its authority,

13. Defendants agree that this Consent Judgment shall be binding and enforceable on them.

14. Nothing in this Consent Judgment shall prevent Plaintiff from applying to this Court for further orders or relief to enforce this Consent Judgment if violations of it or any Missouri law or regulation occur.

15. Nothing in this Consent Judgment shall preclude Plaintiff from seeking equitable or legal relief for future violations of the Missouri Clean Water Law or regulations promulgated under its authority.

16. The provisions of this Consent Judgment shall be binding on the parties to this action and their agents, servants, employees, successors, assignees and lessees and to 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 action or their agents, servants, employees, successors, assignees or lessees.

17. This Court shall retain jurisdiction over this matter to ensure compliance with the foregoing provisions until such time as the matters to be performed by the parties have been completed.

18. This Consent Judgment may be modified or amended only by written agreement between the parties and with Court approval.

19. The parties hereto shall bear their own costs.

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IN WITNESS WHEREOF, the parties hereto executed this Consent Judgment.

STEVE VAN LERBERG



Date 4/23/2013

VAN'S HOLDINGS ENTERPRISES, LLC

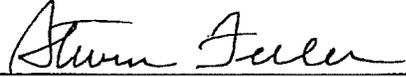


Date 4/23/2013

By:

MISSOURI DEPARTMENT OF NATURAL RESOURCES

MISSOURI DEPARTMENT OF NATURAL RESOURCES



Date June 14, 2013

for Leanne Tippett Mosby, Director
Division of Environmental Quality

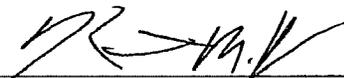
CHRIS KOSTER, Attorney General



Date 7.20.13

Don Willoh
Assistant Attorney General

IT IS SO ORDERED THIS 17th day of July, 2013.



CIRCUIT JUDGE