

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY
STATE OF MISSOURI**

STATE OF MISSOURI ex rel.,)
CHRIS KOSTER, Attorney General of)
Missouri, the MISSOURI)
DEPARTMENT OF NATURAL)
RESOURCES, and the MISSOURI)
CLEAN WATER COMMISSION,)

Plaintiff,)

v.)

Case No. 11JE-CC00905

MEDLEY HILL TERRACE REALTY)
AND DEVELOPMENT CO.)

Defendant.)

CONSENT JUDGMENT

Plaintiff State of Missouri, at the relation of Attorney General Chris Koster, the Missouri Department of Natural Resources, and the Missouri Clean Water Commission, and Defendant Medley Hill Terrace Realty and Development Co. have agreed 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 the Petition.

II. Definitions

2. Terms used below shall have the same meaning as provided in the Missouri Clean Water Law and its implementing regulations. 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 Medley Hill Terrace Realty and Development Co.

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

d. "WWTF" means the wastewater treatment lagoon that formerly served the Lake Tamarack Subdivision, located on Evergreen Drive, High Ridge, Jefferson County, Missouri.

e. "Plaintiff" and "State" means the State of Missouri at the relation of Attorney General Chris Koster and the Department.

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 Jefferson County.

III. 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,

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

and assigns. Defendant shall provide a copy of this order to all persons or entities retained to perform work required by this order.

IV. Satisfaction and Reservation of Rights

5. Upon the completion of all terms of this Consent Judgment, including the 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 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 Lagoon, acts or omissions, whether related to the violations addressed in this Consent Judgment or otherwise.

V. Injunctive Relief

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

8. Within one hundred eighty days (180) days of the entry of this Consent Judgment, Defendant is ordered to complete closure of the WWTF. Sludge from the lagoon may be removed and land applied pursuant to the following conditions:

a. The site must be within a 20-mile radius of the wastewater treatment lagoon and sludge applied for beneficial use in accordance with these standard conditions unless otherwise specified in a site-specific permit. If the land application site is greater than a 20-mile radius of the wastewater treatment facility, approval must be granted from the Department.

b. Land application shall not adversely affect a threatened or endangered species or its designated critical habitat.

c. No more than the necessary agronomic rate of nitrogen should be applied. Dry weight application rate is tan two dry tons per acre per year.

d. Sludge should not be land applied within 300 feet of a water supply well, sinkhole, lake, pond, water supply reservoir or water supply intake in a stream; a losing stream, no-discharge stream, stream stretches designated for whole body contact recreation, wild and scenic rivers, Ozark National Scenic Riverways, or outstanding state resource waters as listed in the Water Quality Standards, 10 CSR 20-7.031.

e. Sludge shall not be applied within 150 feet of dwellings.

f. Sludge shall not be applied within 100 feet of wetlands or permanent flowing streams.

g. Sludge shall not be applied within 50 feet of a property line or other waters of the State, including intermittent flowing streams.

h. Slope limitations for application sites are as follows:

ii. A slope of zero to six percent has no rate limitation

iii. Applied to a slope of seven to twelve percent, the applicator may apply sludge when soil conservation practices are used to meet the minimum erosion levels

iv. On slopes greater than twelve percent, sludge may be applied only when grass is vegetated and maintained with at least 80 percent ground cover at a rate of two dry tons per acre per year or less

i. No sludge may be land applied in an area where it is reasonably certain that pollutants will be transported into waters of the State.

j. Sludge may not be applied to sites with soil that is snow-covered, frozen, or saturated with liquid.

Once 50 percent of the sludge by volume has been removed and properly applied, closure of the lagoon must be completed pursuant to the following conditions:

a. The sludge left in place must be mixed with at least as much soil as sludge, at a ratio of 1 to 1. The base of the soil/sludge mixture must not extend below the root zone (generally two to three feet). The mixture must remain over the original lagoon seals and be evenly distributed.

b. Lime may be used to help dry the sludge and make it easier to work.

c. No more than 300 pounds of PAN per acre may be left on the lagoon site.

d. The site must be seeded immediately after final grading. Erosion control measures must be taken to minimize erosion until vegetation has been established.

e. Public access to the site should be restricted for at least one year after final closure. The Department does not recommend that structures or pavement be placed on the site.

f. Land disturbance activities of one acre or more require a Missouri State Operating Permit to discharge storm water (10 CSR 20-6.2-00). The permit requires best management practices sufficient to control runoff and sedimentation to protect waters of the State.

9. Within thirty (30) days of closure, Defendant is ordered to submit written documentation that the WWTF has been closed in accordance with the attached closure guidelines to Missouri Department of Natural Resources, Water Protection Program, P.O. Box 176, Jefferson City, Missouri 65102-0176.

VI. Stipulated Penalties

10. 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. \$50.00 per day for each day of each violation up to thirty days.

B. \$100.00 per day for each day of each violation, from thirty-one days to sixty days.

C. \$250.00 per day for each day of each violation, beyond sixty days.

11. Stipulated penalties shall be due and payable within ten (10) days of demand being made by the Attorney General's Office. Defendants shall pay stipulated penalties by check made payable to the "*State of Missouri (Jefferson 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 the consent judgment and Missouri law.

12. 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.

VII. Notices and Submittals

13. Whenever under the terms of this Consent Judgment notice is required to be given or a report or other document is required to be forwarded by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice in writing of another individual designated to receive such communications. Notice to the individuals listed below or such other individuals designated pursuant to the foregoing, in writing and hand-delivered or sent by registered or certified mail, postage prepaid, shall constitute complete satisfaction of any notice requirement of the Consent Judgment.

To the Missouri Department of Natural Resources:

Missouri Department of Natural Resources
Water Protection Program
P.O. Box 176
Jefferson City, Missouri 65102
Phone: 573-526-2417

To the Attorney General's Office:

Timothy A. Blackwell
Assistant Attorney General
State of Missouri Office of Attorney General
P.O. Box 899
Jefferson City, Missouri 65102
Phone: 573-751-8846
Fax: 573-751-8796

VIII. 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.

I certify and attest that the above is a true copy of the original record of the Court in case number JE 000905 as it appears on file in my office.

Issued Apr. 10th, 2014

Howard Wagner, Circuit Clerk
Jefferson County Circuit Court

By Linda K. Scheetz
Deputy Clerk

