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IN THE CIRCUIT COURT OF LAWRENCE COUNTY,
STATE OF MISSOURI

STATE OF MISSOURI ex rel.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 10LW-CC00068
	)	
CRAIG H. POST, et al.	)	
	)	
Defendants.	)	

AUG 21 2015

CONSENT JUDGMENT

The parties to this Consent Judgment are the Missouri Department of Natural Resources, (the Department), Chris Koster, Attorney General of Missouri, (the Attorney General), and Craig H. Post, C.H.P. Environmental, Inc., and Black Oak Organics, LLC, (Defendants). The parties stipulate and agree as follows:

WHEREAS, Chris Koster is the duly elected, qualified, and acting Attorney General of the State of Missouri;

WHEREAS, the Department director or his designee, on behalf of the Missouri Clean Water Commission, administers the provisions of the Missouri Clean Water Law, Chapter 644 of the Revised Statutes of Missouri (as amended);

WHEREAS, Plaintiff, the state of Missouri, at the relation of Attorney

General Chris Koster, the Department, and the Missouri Clean Water Commission (Commission) and Defendants Craig H. Post, C.H.P. Environmental, Inc., and Black Oak Organics, LLC, hereby enter into this Consent Judgment to resolve the issues between them raised by the filing of Plaintiff's Third Amended Petition for Injunctive Relief and Civil Penalties.

This Consent Judgment is made, agreed upon in its entirety for the purpose of settlement only. In the event the Court does not enforce 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 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.

NOW THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the Parties agree as follows:

I. Purpose of the Parties

Electronically Filed - Lawrence - August 05, 2015 - 11:44 AM

Electronically Filed - Lawrence - August 05, 2015 - 11:44 AM

1. The purpose of the parties to this Consent Judgment is to protect human health and the environment and to resolve allegations contained in Plaintiff's Amended Petition.

II. Definitions

2. Terms used herein shall have the same meaning as provided in the Missouri Clean Water Law, Chapter 644 RSMo, the Missouri Solid Waste Management Law § 260.100 RSMo *et seq.*, and their 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. "Defendants" mean Craig H. Post, C.H.P. Environmental, Inc., and Black Oak Organics, LLC.

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

d. "Plaintiff" or "State" means the state of Missouri on the relationship of Attorney General Chris Koster, the Missouri Department of Natural Resources, and the Missouri Clean Water Commission.

e. "Facility" means the composting facility located at 14062 Lawrence 2170, Verona, Lawrence County, Missouri with a legal description of SE 1/4, NE 1/4, Section 19, T27N, R26W, in Lawrence County, Missouri.

f. "SWMP" means the Solid Waste Management Program of the Missouri Department of Natural Resources.

g. "Water Protection Program" or "WPP" means the Water Protection Program of the Missouri Department of Natural Resources.

III. Jurisdiction

3. The Parties reserve their rights to enforce this Consent Judgment and to all other legal and equitable remedies available under Missouri law. **IV.**

Parties Bound

4. The provisions of this Consent 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 assigns. Defendants shall provide a copy of this order to all persons or entities retained to perform work required by this order.

Electronically Filed - Lawrence - August 05, 2015 - 11:44 AM

5. This Consent Judgment shall not be deemed an admission of liability by the Parties in this or any proceeding.

V. Satisfaction, Termination, and Reservation of Rights

6. Upon the completion of all terms of this Consent Judgment, including the payment of civil penalties and completion of all schedules of compliance that may apply under the terms of this Consent Judgment, Defendants are relieved of liability for the violations alleged in the Third Amended Petition.

7. In the event that Defendants comply with the terms set forth within this Consent Judgment, the Plaintiffs, and any agents, subsidiaries, affiliates, lessees, officers, servants, or any other person or entity acting pursuant to, through, or for the Department or the Attorney General, agree not to cause or be brought any civil or administrative action under the Missouri Clean Water Law and/or regulations against Defendants for the violations alleged in the Plaintiff's Third Amended Petition and for violations related to the T & C Sanitary Landfill facility.

8. This Consent Judgment shall not be construed to limit the rights of Plaintiff to obtain penalties or injunctive relief under Missouri or federal law except as expressly stated in the preceding paragraphs of this Consent Judgment. Without limiting the foregoing, the parties expressly agree that:

Electronically Filed - Lawrence - August 05, 2015 - 11:44 AM

a. Except as otherwise provided, nothing shall preclude Plaintiff from seeking equitable or legal relief for violations of Missouri laws or regulations that were not alleged in Plaintiff's Amended Petition.

b. Nothing in this Consent Judgment shall preclude Plaintiff from seeking equitable or legal relief for future violations of the Missouri Clean Water Law, the Missouri Solid Waste Management Law, or regulations promulgated under their authority.

c. Except as otherwise provided, 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, the Facility, whether related to the violations addressed in this Consent Judgment or otherwise.

d. Nothing in this Consent Judgment shall be construed or otherwise considered an admission of wrong-doing by the Defendants herein.

Electronically Filed - Lawrence - August 05, 2015 - 11:44 AM

Electronically Filed - Lawrence - August 05, 2015 - 11:44 AM

9. This Order shall remain in effect until a written notice of termination is issued by an authorized representative of the Plaintiff. Such notice shall be given by Plaintiff upon the completion of all terms of this Consent Judgment, including the payment of civil penalties and completion of all schedules of compliance that may apply under the terms of this Consent Judgment.

VI. Injunctive Relief

10.Defendants are hereby permanently enjoined from operating a regulated composting facility as that term is defined by applicable laws and regulations in the State of Missouri without an operating permit. Nothing in this Consent Judgment prohibits Defendant from applying for or receiving a construction or operating permit for a regulated compost facility.

11. The State agrees to give Defendants a period of sixty (60) days from the date of entry of this Consent Judgment to remove piles of asphalt shingles, and any other regulated (solid waste) materials from the Facility. Defendants shall dispose of shingles at a shingle recycling facility, and all regulated solid waste at a permitted solid waste disposal facility and submit receipts of proper disposal to the SWMP. Within twelve (12) calendar months of Defendants' signing this Consent Judgment, Defendants shall remove

recovered materials (wood, concrete and metal products) pursuant to approved methods, provide records to the Plaintiff verifying all locations to which the material are taken, along with descriptions of the intended use, and ensure that established vegetation is secure throughout the Facility, including the borrow pit basin that pre-existed Defendants' operation of the Facility and the retention basin constructed during Defendants' operation of the Facility. All timeframes under Section VI shall run concurrent and may be extended upon written request and written approval by the Department.

VII. Civil Penalty & Cost Recovery

12. Civil Penalty. Defendant agrees to pay a civil penalty of $45,000.00, with the Parties' agreement that $15,000.00 of this penalty will be suspended as described in paragraph 14.

13. Defendants agree to pay the civil penalty by check made payable to the "*State of Missouri (Lawrence County)*." Upon signing of this Consent Judgment by Defendants, Defendants will pay $8,000.00 of the civil penalty by mailing 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 may hold or deposit the check consistent with its internal policies until such time as the Consent Judgment

Electronically Filed - Lawrence - August 05, 2015 - 11:44 AM

is entered by the Court. After entry by the Court, the Attorney General's Office will assure that the payment is credited to the proper account.

Defendants agree to pay the remaining $22,000 of the up-front civil penalty in 22 separate monthly payments. Within thirty (30) days from the entry of this Consent Judgment, Defendants shall make the first payment of $1,000. All but the first payment shall be made by the 1st day of each succeeding month. All of the payments shall be made by submitting a check made payable to the "*State of Missouri (Lawrence County)*" to Collections Specialist, Missouri Attorney General's Office, P.O. Box 899, Jefferson City, MO 65102-0899. If Defendants fail to make any payment within five calendar days of the due date, Plaintiff will send Defendant a written notification giving Defendant fourteen (14) days to submit the monthly payment. If Defendant does not submit the monthly payment by the fourteenth (14th) calendar day from the date of Plaintiff's notification, it shall become immediately liable for payment of the entire unpaid amount including the suspended penalty described in Paragraph 14.

14. Suspended Civil Penalty. $15,000.00 of the total penalty of $45,000.00 shall be suspended upon the condition that Defendants comply with this Consent Judgment, the Missouri Clean Water Law, the Missouri Solid Waste Management Law, and their implementing regulations for a

Electronically Filed - Lawrence - August 05, 2015 - 11:44 AM

period of two years, or the date upon which the non-suspended penalty portion is paid in full and all other requirements of this Consent Judgment have been fulfilled, whichever date occurs first, from the entry of this Consent Judgment. Except as provided in Paragraph 18, once a violation of this Consent Judgment, the Missouri Clean Water Law, or the Missouri Solid Waste Management Law is documented by the Missouri Department of Natural Resources, Plaintiff shall send a written demand for the suspended penalty to Defendants. Defendants shall have fifteen (15) days from its receipt of the written demand to submit the suspended penalty in the manner described in paragraph 13. The suspended penalty provided in this Consent Judgment shall be in addition to any other rights, remedies, or sanction available to State for Defendants' violation of this Consent Judgment or applicable law.

15. Reimbursement of State's Costs and Expenses Incurred under § 644.096, RSMo. Upon signing of this Consent Judgment by Defendants, Defendants shall reimburse the Department for its investigative costs and expenses incurred up through the date of the filing of Plaintiff's Third Amended Petition, as a result of the events described in the Petition, in the amount of $12,858.

Electronically Filed - Lawrence - August 05, 2015 - 11:44 AM

Electronically Filed - Lawrence - August 05, 2015 - 11:44 AM

VIII. Stipulated Penalties

16. In the event that Defendants fail to comply with the requirements set forth in this Consent Judgment, Defendants 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. $200.00 per day for each day of each violation, beyond sixty days.

17. Stipulated penalties shall be due and payable within ten (10) days of demand being made by Plaintiff. Defendants shall pay stipulated penalties by check made payable to the *"State of Missouri (Lawrence County)"* and mailed, along with a copy of Plaintiff'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.

IX. Dispute Resolution

18. Any Party that believes that the other Party has breached any obligation under this Consent Judgment shall serve written notice on the other Party outlining the alleged breach (the "Written Notice"). The Parties will attempt in good faith to resolve any dispute or claim contained in the

Written Notice. Such good faith attempt to resolve the dispute or claim contained in the Written Notice must include at a minimum each of the Parties designating a person with authority to settle relevant dispute (the "Designated Representative") and each of Designated Representative conferring with each other for at least sixty (60) from service of the Written Notice to resolve the relevant dispute. If the dispute cannot be settled amicably within such sixty (60) day period, then either Party may seek relief in any court of competent jurisdiction. It is understood and agreed by the Parties that no Party may seek to enforce any provision of this Consent Judgment or seek any judicial relief whatsoever that in any way concerns the issues in this Consent Judgment without first complying with the procedures outlined in this Paragraph 18.

X. Notices and Submittals

19. Whenever notice is required to be given or a report or other document is required to be forwarded by one party to another under the terms of this Consent Judgment, 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-

Electronically Filed - Lawrence - August 05, 2015 - 11:44 AM

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:

Joan Doerhoff
Water Protection Program

Larry Lehman
Solid Waste Management Program
P.O. Box 176
Jefferson City, MO 65102
(573) 751-3443
joan.doerhoff@dnr.mo.gov
larry.lehman@dnr.mo.gov

To the Attorney General's Office:

Timothy A. Blackwell
Assistant Attorney General
Agriculture and Environment Division
State of Missouri Office of Attorney General
P.O. Box 899
Jefferson City, Missouri 65102
Voice: (573) 751-8846
Fax: (573) 751-8796

To Evans & Dixon, LLC:

Aimee Davenport
Attorney for Defendants
Evans & Dixon, LLC
501 Cherry Street, Suite 200
Columbia, Missouri 65201
Voice: 573-607-1010
Fax: 314-884-4541
adavenport@evans-dixon.com

Electronically Filed - Lawrence - August 05, 2015 - 11:44 AM

Electronically Filed - Lawrence - August 05, 2015 - 11:44 AM

XI. 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.

XII. Costs

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

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

22. This Consent Judgment shall be effective when the Department has signed and dated the Consent Judgment as the last party signing the Consent Judgment. The Department shall promptly distribute copies of the fully signed Consent Judgment to the other signatories.

23. The terms stated herein constitute the entire and exclusive agreement of the Parties. There are no other obligations of the Parties, be they expressed or implied, oral or written, except those which are expressly set forth herein. The terms of this Consent Judgment supersede all previous memoranda of understanding, notes, conversations, and agreements expressed or implied. This Consent Judgment may not be modified verbally.

24. This Consent Judgment shall not be deemed an admission by any of the Parties in any proceeding.

CRAIG H. POST

_____ Date 7-29-15

C.H.P. ENVIRONMENTAL, INC.

By: _____ Date 7-29-15
Craig Post, *President*

BLACK OAK ORGANICS, LLC

By: _____ Date 7-29-15
Craig Post, *Member*

MISSOURI ATTORNEY GENERAL'S OFFICE

By: _____ Date 8/4/15
Timothy A. Blackwell, Missouri Bar No. 35443
Assistant Attorney General

MISSOURI DEPARTMENT OF NATURAL RESOURCES

By: Steven Fuller Date: 8/5/2015

SO ORDERED.

Jack A. L. Goodman
_____
Judge

Date: August 21, 2015

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