

IN THE CIRCUIT COURT OF STONE COUNTY, MISSOURI

STATE OF MISSOURI, *ex rel.*)
Attorney General Chris Koster and the)
Department of Natural Resources,)
)
Plaintiff,)
)
v.) Case No. 14SN-CC00126
)
STONE COUNTY SEWER)
DISTRICT NO. 1,)
)
Defendant.)

CONSENT JUDGMENT

The State and the Stone County Sewer District No. 1 (the "Sewer District"), by and through counsel, assent to the entry of this Consent Judgment.

The Court has read the Petition for Injunctive Relief and Civil Penalties, in which the State alleges that the Sewer District violated the Missouri Clean Water Law. The parties advise the Court that they have consented to the terms in this Consent Judgment for settlement purposes only, and that they condition their consent 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

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over the matter in order to enforce every term of this Consent Judgment.

The parties agree to the following.

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 State's Petition.

II. Definitions

2. Terms used herein shall have the same meaning as provided in the Missouri Clean Water Law 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 Stone County Sewer District No. 1;
- c. "Department" means the Missouri Department of Natural Resources;
- d. "Facility" means Box Canyon Watershed Wastewater Treatment Facility;
- e. "Permit" means Missouri State Operating Permit number MO-0129470;
- f. "Plaintiff" and "State" mean the State of Missouri;

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g. The "Receiving Stream" is an unnamed tributary that flows into Table Rock Lake.

III. Jurisdiction and Venue

3. This Court has jurisdiction over the subject matter of this case pursuant to Article V, § 14 of the Missouri Constitution and § 478.070, RSMo.

4. Venue is proper in this Court pursuant to § 644.076.1, RSMo, because Stone County is "where the defendant's principal place of business is located or where the water contaminant or point source is located or was located at the time the violation[s] occurred."

IV. Parties Bound

5. The provisions of this Consent Judgment shall be binding upon the parties to this action as well as their agents, servants, employees, heirs, successors, and assigns. They also bind 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 consent judgment to all persons or entities retained to perform work required by it.

V. Satisfaction and Reservation of Rights

6. Upon the completion of all terms of this Consent Judgment, including the completion of all schedules of compliance and the payment of

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any stipulated penalties due under its terms, Defendant is relieved of liability for the violations alleged in the Petition.

7. 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. Without limiting the foregoing, the parties expressly agree that nothing in this Consent Judgment shall:

- a. Prevent the State from applying to this Court for further orders or relief if violations of this Consent Judgment occur;
- b. 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. Preclude the State from seeking equitable or legal relief for future violations of the Missouri Clean Water Law or regulations promulgated under its authority.

8. The State of Missouri 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.

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VI. Injunctive Relief

9. Defendant agrees and is ordered to comply with all State of Missouri environmental statutes and all implementing regulations for all future activities in the State of Missouri.

10. Defendant agrees and is ordered to comply with all conditions and requirements of the Permit.

11. Defendant agrees and is ordered to maintain all components of the Facility in compliance with the conditions and requirement of the Permit, even if it requires the purchase and installation of new parts or equipment or repair of the Facility.

12. Defendant agrees and is ordered to post warning signs along the Receiving Stream if *E. coli* levels in the effluent exceed permitted effluent limitations.

13. Defendant agrees and is ordered to complete construction of a new wastewater treatment facility, as approved by the Department, on or before the expiration of construction permit number CP000165, but no later than April 1, 2016.

14. Within 60 (sixty) days of completing construction, Defendant agrees and is ordered to submit to the Department a Statement of Work Complete form that has been signed and dated by a professional engineer registered in the State of Missouri. The Statement shall certify that the new

wastewater treatment facility is complete and operable in accordance with plans and specifications approved by the Department.

15. Within 60 (sixty) days of completing construction, Defendant agrees and is ordered to request modification of the Permit by submitting to the Department a completed application with the required fee.

16. Within 60 (sixty) days of completing construction, Defendant agrees and is ordered to achieve compliance with the final effluent limitations contained in Part A of the Permit.

17. Defendant agrees and is ordered to notify the Department and the Office of the Attorney General by telephone or electronic mail immediately upon becoming aware of the fact that it will not be able to meet any of the deadlines articulated in this Consent Judgment

VII. Information Collection and Retention

18. The State's authorized representatives shall have the right of entry into any facility covered by this Consent Judgment, at all reasonable times, upon presentation of credentials, to:

- a. Monitor the progress of activities required under this Consent Judgment;
- b. Verify any data or information submitted to the State in accordance with the terms of this Consent Judgment;
- c. Obtain samples and, upon request, splits of any samples

taken by Defendant or its representatives, contractors, or consultants;

d. Obtain documentary evidence, including photographs and similar data; and

e. Assess Defendant's compliance with this Consent Judgment.

19. Upon request, Defendant shall provide the State's authorized representatives splits of any samples taken by Defendant.

20. Until five years after the termination of this Consent Judgment, Defendant shall retain, and shall instruct its contractors and agents to preserve, all non-identical copies of all documents, records, or other information (including documents, records, or other information in electronic form) in its or its contractors' or agents' possession or control, or that come into its or its contractors' or agents' possession or control, and that relate in any manner to Defendant's performance of its obligations under this Consent Judgment. This information-retention requirement shall apply regardless of any contrary corporate or institutional policies or procedures. At any time during this information-retention period, upon request by the State, Defendant shall provide copies of any documents, records, or other information required to be maintained under this Paragraph.

21. At the conclusion of the information-retention period provided in the preceding Paragraph, Defendant shall notify the State at least 90

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(ninety) days prior to the destruction of any documents, records, or other information subject to the requirements of the preceding Paragraph and, upon request by the State, Defendant shall deliver any such documents, records, or other information to the State.

22. This Consent Judgment in no way limits or affects any right of entry and inspection, or any right to obtain information, held by the State pursuant to applicable federal or state laws, regulations, or permits, nor does it limit or affect any duty or obligation of Defendant to maintain documents, records, or other information imposed by applicable federal or state laws, regulations, or permits.

VIII. Stipulated Penalties

23. In the event that Defendant fails to comply with the requirements set forth in this Consent Judgment, it shall be liable for stipulated penalties in accordance with the following schedule:

- a. \$100.00 per day for each day up to thirty days;
- b. \$250.00 per day for each day, from thirty-one days to sixty days;
- c. \$500.00 per day for each day beyond sixty days.

24. Stipulated penalties shall be due and payable within ten days of demand by the Attorney General's Office.

25. Defendant shall pay stipulated penalties by check made payable

to the "State of Missouri (Stone 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.

26. 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

27. 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

28. 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.

**MISSOURI DEPARTMENT
OF NATURAL RESOURCES**

Leanne Tippet Mosby
for Leanne Tippet Mosby, Director,
Division of Environmental Quality

DATE: 12/22/2014

**CHRIS KOSTER
Attorney General**

Laura E. Elsbury
Laura E. Elsbury
Assistant Attorney General
Missouri Bar No. 60854
Attorneys for State of Missouri

DATE: Dec. 17, 2014

**STONE COUNTY SEWER
DISTRICT NO. 1**

John J. ...
Title: PRESIDENT

DATE: 12/8/2014

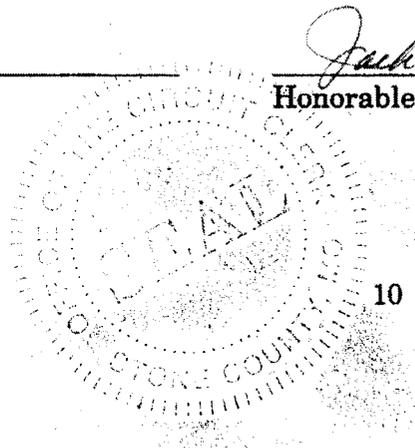
MOTLEY LAW FIRM

Thomas D. Motley
Thomas D. Motley
Missouri Bar No. 39243
Attorney for Defendant

DATE: 12/8/2014

IT IS SO ORDERED,

2/6/15
Date *Jack A.L. Goodman*
Honorable Jack A.L. Goodman



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