

IN THE CIRCUIT COURT OF CAMDEN COUNTY, MISSOURI

STATE OF MISSOURI ex rel. )  
Attorney General Chris Koster and )  
Missouri Department of )  
Natural Resources, )  
 )  
Plaintiff, )

*FILED*  
*1/28/2015 11:16 AM*  
*Jo McElwee*  
*Camden County*  
*Circuit Clerk*

v. )

Case No. 10CM-CC00135

J BAR H ESTATES MASTER )  
ASSOCIATION, INC., )

Defendant/Third-Party Plaintiff, )

v. )

J BAR H ESTATES, INC. and )  
SANDRA NELSON, )

Third-Party Defendants. )

**CONSENT JUDGMENT**

Plaintiff, by and through its relators Attorney General Chris Koster and the Missouri Department of Natural Resources, and Defendant/Third Party Plaintiff, J Bar H Estates Master Association, Inc., Third Party Defendants, J Bar Estates, Inc. and Sandra Nelson, by and through the undersigned, 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. 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 agreed 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. "Defendants" mean J Bar H Estates Master Association, Inc. and Third Party Defendants, J Bar H Estates, Inc. and Sandra Nelson.

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

d. "Facility" means the wastewater treatment facility that serves J Bar H Estates Subdivision located on Rodeo Drive in Camdenton, Camden County, Missouri.

e. "Plaintiff" and "State" means the State of Missouri on the relationship of Attorney General Chris Koster and the Department.

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

3. This Court has jurisdiction over the subject matter and the parties in this case. Venue is proper in this court pursuant to § 644.076.1 RSMo1 because Defendants' conduct giving rise to this action occurred in Camden County.

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

#### **IV. 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, and assigns. Defendants 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, Defendants are 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 any regulation promulgated thereunder, 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 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, Defendants' facility, acts or omissions, whether related to the violations addressed in this Consent Judgment or otherwise.

## **VI. Injunctive Relief**

7. Defendant, J Bar H Estates Master Association, Inc. 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. In

accordance with the foregoing, Defendant, J Bar H Estates Master Association, is ordered to perform the following;

- A. Remove all weeds, brush, and/or excessive vegetation from the surface of the filter beds on a monthly basis to decrease organic loading, prevent ponding of wastewater, and ensure the facility is properly functioning;
- B. Back-wash the filter on a monthly basis to prevent clogging;
- C. Ensure the recirculating pumps are working properly at all times;
- D. Submit all future Discharge Monitoring Reports to the Department, as required by Part "A" of Missouri State Operating Permit no. MO-0117552.

## **VII. Civil Penalty**

8. Defendants consent to the entry of judgment in favor of the State of Missouri for a civil penalty of \$3000.00. Defendants hereby authorize entry of this judgment against them and in favor of the State of Missouri for this sum.

9. Defendant, J Bar H Estates Master Association, Inc. agrees to pay \$1,000.00 of the total civil penalty and Defendant, J Bar H Estates, Inc., agrees to pay \$2,000.00 of the total civil penalty by checks made payable to

the "*State of Missouri (Camden County)*" within thirty (30) days of the entry of this Consent Judgment by mailing same to: Collections Specialist, Missouri Attorney General's Office, P.O. Box 899, Jefferson City, MO 65102-0899.

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### **VIII. Stipulated Penalties**

10. 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. \$100.00 per day for each day of each violation up to thirty days.
- B. \$200.00 per day for each day of each violation, from thirty-one days to sixty days.
- C. \$300.00 per day for each day of each violation, beyond sixty days.

11. Stipulated penalties shall be due and payable within ten 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 (Camden 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.

#### IX. Modification

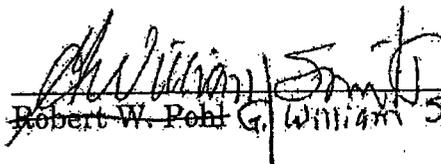
13. Except as otherwise specified herein, this Consent Judgment may be modified or amended only upon written agreement by and among the parties, their successors and assigns and with the approval of the Court. All modifications shall be in writing and filed with the Court.

#### X. Costs

14. The Parties hereto shall bear their own costs.

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

SANDRA NELSON

  
~~Robert W. Pohl~~ G. William Smith

Date 12-11-2014

J BAR ESTATES, INC

~~Mark G. Warren~~ TODD E. IRELAND <sup>6/30/14</sup> Date 12/18/14  
INGLISH & MONACO, P.C. atty's for J Bar H Estates, Inc

MISSOURI DEPARTMENT OF NATURAL RESOURCES

John Madras Date 12/24/14

John Madras, Director  
Water Protection Program

CHRIS KOSTER, Attorney General

Brook D. McCarrick Date 12/18/14  
Brook D. McCarrick  
Assistant Attorney General

J BAR H ESTATES MASTER ASSOCIATION, INC.

Matthew P. Hamner Date 12/17/14  
Matthew P. Hamner

SO ORDERED.

Stan Moore  
Circuit Judge

Date: 1-28-15