

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between the Missouri Attorney General’s Office (“Attorney General”), the Missouri Department of Natural Resources (“Department”) (collectively “State”), and Didion Land Project Association, LLC (“LLC”), Judith Fetsch, Dan Fetsch, and Thomas Stewart, collectively “Defendants”. The State and the Defendants together shall be referred to as “Parties.”

WHEREAS, Defendants are the owners of property located at 4894 North Service Road, St. Peters, St. Charles County, Missouri (“Property”);

WHEREAS, the Property was formerly utilized as a foundry and contains vast quantities of abandoned foundry sand and other refuse;

WHEREAS, on November 12, 2013, the State filed its First Amended Petition in the Circuit Court of St. Charles County, case number 111-CV09048, alleging violations of Missouri Air Conservation Act, Missouri Solid Waste Law, Missouri Clean Water Law, and the Missouri Hazardous Waste Management Law;

WHEREAS, on November 10, 2015, the Defendants filed an answer specifically denying the allegations set forth in the State’s First Amended Petition;

WHEREAS, the State incurred costs investigating, sampling and overseeing the remedial work performed at the property in the amount of \$31,620.78;

WHEREAS, the Parties anticipate the sale of the property at a price of \$2,225,000.00;

WHEREAS, the Parties anticipate that the purchaser of the property will complete any environmental remediation required by the Department;

WHEREAS, without admitting any liability, fault, or wrongdoing on the part of any Party hereto, in order to save the expenses of, and avoid the uncertainties associated with, continuing litigation, the Parties wish to settle and resolve fully and finally all differences, disputes or claims between them, whether actual or potential, known or unknown, suspected or unsuspected, specifically mentioned herein or not, related to the allegations in the First Amended Petition and the Answer, and to release each of the Parties from any and all liability connected therewith, with the understanding that the releases do not constitute an admission of any liability, wrongdoing of any nature, or the lack of merit of any claims, counterclaims, or defenses asserted in this litigation;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the Department, the Attorney General, and the Defendants agree as follows:

1. The provisions of this Agreement shall apply to and be binding upon the parties executing this Agreement, their agents, successors, assigns, subsidiaries, affiliates, and lessees, including the officers, agents, servants, corporations and any persons acting under, through, or on behalf of the parties hereto.

2. The Defendants agree to pay the amount of \$31,620.78 as reimbursement to the State for the costs incurred during 2012 and 2013 in full and final settlement of all issues alleged in the First Amended Petition under the following conditions:

- a. The property sells for a price of no less than \$2,225,000.00;
- b. The closing occurs within 120 days of execution of this Agreement; and,
- c. There are no use restrictions placed on the Property by the Department.

3. All amounts due and owing shall be paid by check made payable to the "*State of Missouri (Department of Natural Resources)*" and delivered to a representative of Missouri Attorney General's Office at the closing of the sale of the Property.

4. The Department, the Attorney General, the State and any/all related entities, successors and assigns agree not to bring or cause to be brought any civil action against Defendants, officers, directors, owners, shareholders, agents, employees, affiliated entities, heirs, successors, assigns and attorneys for violations alleged in the First Amended Petition provided that the LLC delivers the payment as set forth in the above Paragraph 3.

5. In consideration for the Defendants performance of the payment obligation set forth above Paragraph 3, the Defendants are released from any and all obligations, debts, demands, claims, covenants, contracts, agreements, undertakings, costs, attorney's fees, accounts, actions, causes of action, or complaints that the State has or claims to have, related to the matters alleged in the Petition.

6. The State agrees to file a dismissal with prejudice on or before September 12, 2016, in the Circuit Court of St. Charles County, Case No: 111-CV09048.

7. In consideration for States dismissal, Defendants agree to release the State from any and all obligations, debts, demands, claims, covenants, contracts, agreements, undertakings, costs, attorney's fees, accounts, actions, causes of action, or complaints that the Defendant has or claims to have, related to the matters alleged in the States Petition.

8. Notwithstanding paragraph 5, the State reserves the right to institute proceedings in a new action with respect to enforcement of this agreement.

9. The terms stated herein constitute the entire and exclusive agreement of the parties hereto.

10. The State has not assigned any claims that are being released herein.

11. This agreement shall not be amended or modified except by written instrument signed by the parties hereto.

12. This Agreement may be executed in counterparts and such counterparts shall together constitute one and the same agreement.

The remainder of this page was intentionally left blank.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as follows.

By: 
Dan Fetsch
Dixon Land Project Association

Date: 7/29/16

By: 
Dan Fetsch

Date: 7/26/2016

By: 
Judith Fetsch

By: 
Thomas Stewart

Date: 7/29/16

MISSOURI ATTORNEY GENERAL'S OFFICE

By: 
Brook D. McCarrick
Assistant Attorney General

Date: 8-2-16

MISSOURI DEPARTMENT OF NATURAL RESOURCES

By: 
~~Aaron Schmidt~~ Leanne J. Tippett Mosby
Missouri Department of Natural Resources

Date: 8/4/16