

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, MISSOURI

STATE OF MISSOURI ex rel.)	
Attorney General Chris Koster)	
and Missouri Department of)	
Natural Resources,)	
)	
Plaintiff,)	
)	
v.)	Case No. 13JE-CC00769-01
)	
TRAVIS NOACK,)	
)	
Defendant.)	

CONSENT JUDGMENT

Plaintiff State of Missouri, by and through its relators Attorney General Chris Koster and the Missouri Department of Natural Resources, and Defendant Travis Noack, by and through counsel, 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 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.

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.

The parties, having consented to the entry of this Consent Judgment, 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. "Defendant" means Travis Noack.

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

D. "Site" means the property where Defendant lives and that has approximately 13 acres of disturbed land, located at 11366

Highway 21 in Hillsboro and legally described as Northwest ¼, Section 15, Township 40 North, and Range 4 East.

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 pursuant to Article V, § 14 of the Missouri Constitution and § 478.070 RSMo.¹

4. Venue is proper in this court pursuant to § 644.076.1 RSMo because the Defendant resides in and the conduct giving rise to this action took place in Jefferson County.

IV. Parties Bound

5. 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. Defendant 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

¹ All statutory references shall be to the 2013 Cumulative Supplement to the Missouri Revised Statutes 2000 unless specifically stated otherwise.

6. 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, 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 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, Defendant's Site, acts or omissions, whether related to the violations addressed in this Consent Judgment or otherwise.

VI. Injunctive Relief

8. Defendant agrees and is ordered to comply with Chapter 644 RSMo, and all implementing regulations regarding land disturbance practices, for any and all future activities in the State of Missouri.

9. Defendant agrees to begin implementing the following Schedule of Compliance to reduce and prevent erosion on the property:

A. Within thirty (30) days from the entry of this Consent Judgment, Defendant must implement, and thereafter maintain, all necessary best management practices to stabilize any disturbed land at the Site to prevent sediment from eroding offsite or into waters of the State;

B. Within ninety (90) days from the entry of this Consent Judgment, Defendant must:

1. Prepare a seed bed by light disking exposed soil;

2. Broadcast the following seeds in bare areas that do not have exposed rock: white clover (2 pounds of Pure Live Seed per acre), annual rye (6 pounds of Pure Live Seed per acre), redtop (3 pounds of Pure Live Seed per acre), and fescue seed (12 pounds of Pure Live Seed per acre);
3. Apply fertilizer and mulch to the newly seeded areas;

C. Within one-hundred eighty (180) days from the entry of this Consent Judgment, Defendant must:

1. Rebroadcast white clover, annual rye, redtop, and fescue seed in remaining bare areas and previously seeded areas;
2. Apply two to four inches (2"–4") of crushed stone, hay, and soil—in that order—in gullies, rills, and runoff trenches, to create a mounding effect so that water will mostly be diverted on the side of the erosion feature;
3. Then seed with white clover and redtop on the erosion features (gullies, rills, and runoff trenches) for the purpose of ensuring that the mounding effect remains stable;

D. By September 30, 2016, Defendant shall have:

1. Implemented the above schedule, and reapplied seed, mulch, and fertilizer on any redeveloping bare ground, patchy ground, and erosion features;
2. Remediated disturbed land features so that perennial vegetation composes at least seventy percent (70%) of fully established plant density over one hundred percent (100%) of the disturbed areas.

10. If at any future time Defendant implements any other non-agricultural change in use involving land disturbance, Defendant shall submit an application for a Missouri State Operating Permit for Land Disturbance (“Permit Application”) to the Department for review and approval.

11. Within 15 days of receiving Department comments on the Permit Application, Defendant shall respond to and address, to the Department’s satisfaction, all of the Department’s comments on the Permit Application.

VII. Civil Penalty

12. Defendant consents to the entry of judgment in favor of the State of Missouri for a civil penalty of \$10,000. Defendant hereby authorizes entry of this judgment against him and in favor of the State of Missouri for this sum.

13. Suspended Civil Penalty. \$9,500 of the total penalty of \$10,000 shall be suspended upon the condition that Defendant complies with the Missouri Clean Water Law and its implementing regulations for a period of two (2) years from the entry of this Consent Judgment. Once a violation of the Missouri Clean Water Law is documented by the Missouri Department of Natural Resources, the Missouri Attorney General's Office shall send a written demand for the suspended penalty to Defendant. Defendant shall have fifteen (15) days from its receipt of the written demand to submit the suspended penalty in the manner described in paragraph 14. The suspended penalty provided in this Consent Judgment shall be in addition to any other rights, remedies, or sanction available to State for Defendant's violation of this Consent Judgment or applicable law.

14. Payment Plan. Defendant agrees to pay the \$500 up-front portion of the civil penalty in three separate payments. Defendant shall make a payment of \$100 by February 15, 2016, a payment of \$200 by March 15, 2016, and a payment of \$200 by April 15, 2016. Defendant shall make all payments by submitting a check made payable to the "*State of Missouri (Jefferson County)*" to Collections Specialist, Missouri Attorney General's Office, P.O. Box 899, Jefferson City, MO 65102-0899. If Defendant fails to make any payment within ten calendar days of the due date, the Defendant shall

become immediately liable for payment of the entire unpaid amount, including the suspended penalty described in paragraph 13.

VIII. Stipulated Penalties

15. 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 a schedule to be determined by the court.

16. 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 (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 this Consent Judgment and Missouri law.

17. 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

18. 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

19. Defendant shall pay all court costs in this action.

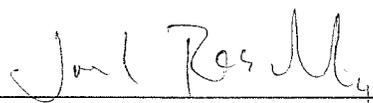
The parties hereby consent to entry of this Consent Judgment through their duly authorized representatives as indicated below.

TRAVIS NOACK

By: 

Date: 1-12-2014

MISSOURI ATTORNEY GENERAL'S OFFICE

By: 
Joel B. Reschly
Assistant Attorney General

Date: 1-13-16

MISSOURI DEPARTMENT OF NATURAL RESOURCES

By: John Madras
John Madras, Director
Water Protection Program, DNR

Date: 1/13/16

SO ORDER



Hon. Darrell E. Missey, Circuit Judge

Date: 1/14/16