

STATE OF WISCONSIN CIRCUIT COURT OUTAGAMIE COUNTY
BRANCH __

STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 18-CX-__

Complex Forfeiture: 30109

TOWN OF GREENVILLE,

MICHAEL WOODS,

and

ROBERT J. IMMEL EXCAVATING, INC.,

Defendants.

STIPULATION AND ORDER FOR JUDGMENT

Plaintiff State of Wisconsin brought this civil action against defendants Town of Greenville, Michael Woods, and Robert J. Immel Excavating, Inc., regarding alleged violations of the State's wetland and waterway laws. The State and defendants now wish to settle this matter by agreement and avoid further litigation and, therefore, enter into this Stipulation.

IT IS STIPULATED AND AGREED by the State of Wisconsin and defendants Town of Greenville, Michael Woods, and Robert J. Immel

Excavating, Inc. that this case shall be settled on the merits, with prejudice, on the following terms and conditions:

1. The parties to this Stipulation are the plaintiff, State of Wisconsin and the defendants Town of Greenville (the Town), Michael Woods (Mr. Woods), and Robert J. Immel Excavating, Inc. (Immel) (collectively, the Defendants).

2. The Circuit Court of Outagamie County, Wisconsin (the Court) has jurisdiction over the parties and the subject matter of this action.

3. This Stipulation and Order for Judgment as approved by the Court shall apply to and be binding on the parties and on the successors and assignees of the parties.

4. Nothing contained in this Stipulation and Order for Judgment shall be construed as an admission of liability by the Defendants in any proceeding now pending or hereafter commenced, or as a concession by the State regarding the veracity of the State's allegations.

5. Defendants agree that: (1) payments made by a party are not to be construed as an allocation of liability among the Defendants; and (2) issues relating to allocation of liability among the Defendant's, restitution, contribution, and other individual claims shall be litigated in Outagamie County Case No. 18-CV-227.

6. Judgment shall be entered in favor of the State of Wisconsin and against the Defendants in the amount of \$90,000.00. This sum is comprised of forfeitures, statutory surcharges, and costs as follows: forfeitures of \$61,137.76 under Wis. Stat. §§ 30.298(1), 30.298(2) 281.36(14)(a) and 281.98(1), a 26% penalty surcharge of \$15,895.82 under Wis. Stat. § 814.75(18), a 20% environmental surcharge of \$12,227.55 under Wis. Stat. § 814.75(12), \$25.00 in court costs under Wis. Stat. § 814.63(1), a \$13.00 crime laboratories and drug law enforcement surcharge under Wis. Stat. § 814.75(3), a \$68.00 court support services surcharge under Wis. Stat. § 814.75(2), a 1% jail surcharge of \$611.37 under Wis. Stat. § 814.75(14), and a \$21.50 justice information system surcharge under Wis. Stat. § 814.75(15).

7. Defendants shall pay \$90,000.00 by check payable to the Outagamie County Circuit Court and delivered to the Clerk of Courts, 320 South Walnut Street, Appleton, Wisconsin 54911, along with a cover letter to the Court identifying the case by name and number. A copy of the cover letter shall be simultaneously mailed as proof of payment to Environmental Unit Director Anna J. Wildeman at the Wisconsin Department of Justice, Post Office Box 7857, Madison, Wisconsin 53707-7857. Payment shall be made within thirty (30) days of the Court signing the Order for Judgment.

8. Pursuant to discussions and negotiations between the parties, the Town made certain improvements to stabilize the Site (as defined below) at an estimated cost of \$32,950.00.

9. Pursuant to discussions and negotiations between the parties, the Town developed the Lin Stream Restoration Plan at an estimated cost of \$61,000.00.

10. Pursuant to discussions and negotiations between the parties, the Town applied for and received necessary permits from Outagamie County and the Wisconsin Department of Natural Resources (DNR) to complete the restoration in accordance with the DNR-approved Lin Stream Restoration Plan at an estimated cost of \$5,000.00.

11. The Defendants shall restore the navigable waterway and wetlands at SE ¼, NE ¼, Sec. 22, T.21N.-R. 16E, Town of Greenville, Outagamie County, Wisconsin (the Site) pursuant to the DNR-approved Lin Stream Restoration Plan that is attached as Exhibit A.

12. The Defendants estimate that it will cost approximately \$250,000.00 to restore the navigable waterway and wetlands on the Site pursuant to the DNR-approved Lin Stream Restoration Plan.

13. Defendants are jointly and severally liable for timely completion of the DNR-approved Lin Stream Restoration Plan in accordance with all applicable permit conditions and local, state and federal law.

14. No Defendant who farms and cultivates property at SE ¼, NE ¼, Sec. 22, T.21N.-R. 16E, Town of Greenville, Outagamie County, Wisconsin, shall conduct any agricultural activities within the vegetated buffer established pursuant to the DNR-approved Lin Stream Restoration Plan. Each intrusion into the vegetated buffer by a Defendant for agricultural purposes shall entitle the State to recover from that Defendant liquidated forfeitures in the amount of \$500.00 (inclusive) per day that the intrusion is documented.

15. If any Defendant conducts agricultural activities within the vegetated buffer, that Defendant shall be responsible to remedy any disturbance and restore the buffer to the condition required by the DNR-approved Lin Stream Restoration Plan. Each day that the vegetated buffer remains disturbed as a result of agricultural activities by any Defendant shall entitle the State to recover from that Defendant liquidated forfeitures in the amount of \$500.00 (inclusive) per day that the disturbance is documented.

16. To enforce paragraphs 14 and 15, subsequent to each event that results in a stipulated forfeiture, the State may file with the Court a proposed order and proposed amended judgment requiring that the stipulated forfeitures be paid by January 1 of the following year. Each subsequent amended judgment will become the final judgment as to that Defendant in this case.

17. The parties acknowledge that this Stipulation and Order for Judgment sets forth the entire understanding of the parties with respect to resolution of the violations alleged in the Complaint.

18. The Defendants waive the requirement for formal service of an authenticated Summons and Complaint.


19. Compliance by the Defendants with their obligations under this Stipulation and Order for Judgment shall constitute full compromise, settlement, and satisfaction of their liability for the violations described in the Complaint.

20. The Order for Judgment accompanying this Stipulation will be a final and appealable Order. However, the parties hereby waive their right to appeal the Order.

21. The Order for Judgment and Judgment may be entered incorporating the terms of this Stipulation without further notice, and the Judgment may be docketed, pursuant to Wis. Stat. § 806.10(1).

Dated this 18th day of May, 2018.

BRAD D. SCHIMEL
Attorney General of Wisconsin



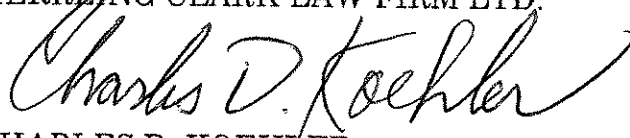
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Dated this 18 day of MAY, 2018.

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Dated this ____ day of _____, 2018.

SILTON SEIFRT CARLSON SC

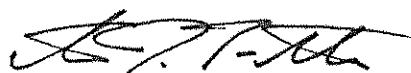
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Dated this 18th day of May, 2018.

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Dated this 18th day of May, 2018.

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Dated this ____ day of _____, 2018.

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ORDER FOR JUDGMENT

The Court approves of the terms of the foregoing settlement Stipulation in the *State of Wisconsin v. Town of Greenville, Michael Woods, and Robert J. Immel Excavating, Inc.* Outagamie County Case No. 18-CX-____, pursuant to which defendant's Town of Greenville, Michael Woods, and Robert J. Immel Excavating, Inc. will pay \$90,000.00 in forfeitures, surcharges, and costs. The Court therefore directs the clerk to enter and docket the Judgment accordingly.

This is a final order that disposes of the entire matter in litigation between the State of Wisconsin and Town of Greenville, Michael Woods, and Robert J. Immel Excavating, Inc. and is intended by the Court to be an appealable order within the meaning of Stat. § 808.03(1).

Dated this ____ day of _____, 2018.

BY THE COURT:

OUTAGAMIE COUNTY CIRCUIT COURT