

IN THE CIRCUIT COURT OF CLAY COUNTY, WEST VIRGINIA

**KATHERYN EMERY, DIRECTOR,
DIVISION OF WATER AND WASTE
MANAGEMENT, WEST VIRGINIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,**

Plaintiff,

v.

**CIVIL ACTION NO. CC-08-2022-C-23
Judge Jack Alsop**

**JAMIE M. MORRIS d/b/a
JOE'S CAR WASH,**

Defendant.

CONSENT DECREE

WHEREAS, Plaintiff, Katheryn Emery, Director, Division of Water and Waste Management, West Virginia Department of Environmental Protection (hereinafter referred to as "WVDEP" or "Plaintiff") filed the Complaint herein alleging that Jamie M. Morris (hereinafter referred to as "Jamie Morris" or "Defendant") is in violation of the West Virginia Water Pollution Control Act (hereinafter referred to as "WPCA"), W. Va. Code §§ 22-11-1 to 22-11-30, and the West Virginia Solid Waste Management Act (hereinafter referred to as "SWMA"), W. Va. Code §§ 22-15-1 to 22-15-23; and

WHEREAS, both prior to the filing of the complaint and at the time of the filing of the complaint, Jamie Morris was alleged by WVDEP to be operating his car wash facility in violation of the WPCA and SWMA; and

WHEREAS, Jamie Morris is not admitting to any factual and legal allegations made by the WVDEP regarding his operation of his car wash facility and is reserving all rights and defenses available regarding liability or responsibility in any proceedings

regarding Defendant other than proceedings, administrative or civil, to enforce this Consent Decree; and

WHEREAS, the parties have agreed that settlement of this matter is in the public interest and that entry of this Consent Decree without further litigation is the most appropriate means of resolving this matter;

NOW, THEREFORE, it is hereby **ORDERED, ADJUDGED, and DECREED** as follows:

I. JURISDICTION AND VENUE

This Court has jurisdiction over the subject matter and the parties hereto pursuant to W. Va. Code §§ 22-11-22 and 22-15-15. Venue is proper in the Circuit Court of Clay County pursuant to W. Va. Code §§ 22-11-22 and 22-15-15 because Jamie Morris operated a car wash facility in Clay County in or near Maysel, West Virginia, and because the alleged violations that are the subject of this action occurred in Clay County.

II. APPLICATION OF CONSENT DECREE

This Consent Decree applies to, and is binding upon, Jamie Morris, his successors, and assigns.

III. INJUNCTIVE RELIEF

Defendant has capped the drainage pipes at the four (4) locations at his car wash facility named in WVDEP's letter of December 12, 2023. As stated in said letter, the 4 locations are:

- A. The drainage outlet to the creek.
- B. The drainage pipe at the filtration system.
- C. The drainage pipes located at the car wash itself.

D. The drainage pipe located on the hillside connecting to the pond.

In addition to the preceding remedial work, Jamie Morris has placed a “No Trespassing” sign and chains around the car wash bays at his car wash facility to discourage dumping and has made an effort to clean up the car wash site. WVDEP expects Defendant to continue to periodically clean the site to prevent accumulation of solid waste at the facility.

Finally, as stated in the Order entered January 23, 2024, should the car wash facility ever be reopened by Defendant, he shall obtain the appropriate West Virginia National Pollutant Discharge Elimination System (WV/NPDES) permit from WVDEP for the facility.

IV. CIVIL PENALTY

Jamie Morris provided information during settlement negotiations that was used to perform an economic analysis which evaluated his ability to pay a civil administrative penalty. Therefore, in settlement of WVDEP’s claims in the Complaint relating to alleged violations of the WPCA and SWMA, the parties have agreed that Jamie M. Morris shall pay a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) to the Plaintiff upon entry of this Consent Decree. Payment shall be submitted to the Chief Inspector, Environmental Enforcement, West Virginia Department of Environmental Protection, 601 57th Street SE, Charleston, West Virginia 25304, by check payable to the “West Virginia Department of Environmental Protection” for deposit in the Water Quality Management Fund.

V. RETENTION OF JURISDICTION

The Court shall retain jurisdiction over this matter to interpret and enforce the terms of this Consent Decree.

VI. MODIFICATIONS

This Consent Decree contains the entire agreement between the parties. It may not be enlarged, modified, or altered, unless made in writing and approved by the parties and the Court.

VII. PUBLIC NOTICE

The parties acknowledge and agree that final approval of this Consent Decree is subject to public notice and comment as provided in W. Va. Code R. § 47-10-16. The public shall have at least thirty (30) days to make any comments on this Consent Decree, and the WVDEP reserves the right to withhold or withdraw its consent if the comments indicate that this Consent Decree is inappropriate, improper or inadequate. Jamie Morris consents to entry of this Consent Decree without further notice. If for any reason, the Court should decline to approve this Consent Decree in the form presented, this agreement is voidable at the sole discretion of the WVDEP, and the terms of the agreement may not be used as evidence in any litigation between the parties.

The public comment period in this case will conclude on July 6, 2024.

VIII. EFFECTIVE DATE

The effective date of this Consent Decree shall be the date upon which it is entered by the Court.

IX. TERMINATION

Termination of this Consent Decree shall be by order of the Court upon application by any party, provided all of the following conditions have been met: (1) Jamie Morris has achieved complete compliance with all requirements of this Consent Decree; (2) the Defendant has paid the civil penalty required herein; and (3) all motions and other proceedings concerning this Consent Decree have been completed and are no longer subject to further judicial review, and all relief resulting from such motions or other proceedings have been fully satisfied.

X. PARTIES BOUND BY CONSENT DECREE

This Consent Decree is binding on Jamie Morris, his successors and assigns and shall remain in effect until the Defendant or his successors or assigns demonstrate they have complied with all the terms of this Consent Decree.


XI. SIGNATORIES AUTHORIZED

Each of the signatories to this Consent Decree certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to bind legally the party to the Consent Decree so represented by him or her.

It is so ORDERED this _____ day of _____, 2024.


JUDGE

We hereby consent to the entry of this Decree.



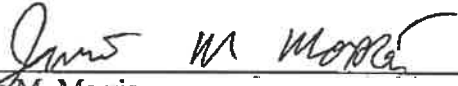
Jeremy Bandy¹, Director
Division of Water and Waste Management
West Virginia Department of Environmental Protection
601 57th Street SE
Charleston, West Virginia 25304

5-30-24
Date



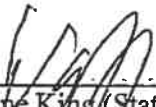
Andrew F. Tarr, Attorney (State Bar No. 5033)
Office of Legal Services
West Virginia Department of Environmental Protection
601 57th Street SE
Charleston, West Virginia 25304
(304) 926-0460
Counsel for Plaintiff

5/30/24
Date



Jamie M. Morris
Post Office Box 31
Maysel, West Virginia 25133

5/30/24
Date



Wayne King (State Bar No. 2045)
Attorney at Law
Post Office Box 356
Clay, West Virginia 25043
(304) 587-2110
Counsel for Defendant

5-30-24
Date

¹ Jeremy Bandy is the new Director of the Division of Water and Waste Management in succession to Katheryn Emery.