

IN THE IOWA DISTRICT COURT FOR WAPELLO COUNTY

STATE OF IOWA, ex rel., IOWA DEPARTMENT OF NATURAL RESOURCES, Plaintiff, vs. CHAMNESS TECHNOLOGY, INC., Defendant.

CASE NO. WEQ 108302

CONSENT ORDER, JUDGMENT AND DECREE

WAPELLO COUNTY, IOWA FILED 2011 NOV -7 PM 11:39 CLERK OF DISTRICT COURT

The Court is presented with Plaintiff's petition seeking civil penalties and injunctive relief pursuant to Iowa Code sections 455B.191 and 455B.307. The Court having read the petition and being otherwise advised by the parties FINDS:

- 1. The Court has jurisdiction of the parties and the subject matter of this action, and the parties consent to entry of this Consent Order, Judgment and Decree.
2. For purposes of settlement in this action, Defendant admits the violations alleged in paragraphs 69-74 of Plaintiff's petition. Defendant neither admits nor denies the remaining alleged violations.
3. Defendant states that any basin overflows were unintentional and occurred in connection with significant rainfall events which it did not anticipate.
4. Defendant states that in December 2010 and May 2011, Red Barn, LLC, a company under common ownership and control with Defendant, voluntarily purchased approximately 422 acres of land in Monroe and Wapello Counties at a cost exceeding \$1.4 million for the purpose of providing land application of water from the retention basins to provide greater control of storm water runoff and to assist in avoiding future overtopping of the basins.

5. Defendant states that in 2010 and 2011 it spent over \$2.3 million on new equipment for the facility which assists in management and control of water, in addition to the land purchased for land application of water.

6. Permit No. 90-SDP-10-97P-COM was revised and reissued effective February 28, 2011.

7. Defendant states that it has installed a new plant manager at the Eddyville facility.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

8. Defendant is assessed a civil penalty of Thirty Thousand and no/100 Dollars (\$30,000.00) for the violations admitted herein.

9. Defendant shall pay the civil penalty within ten (10) days of the entry of this Consent Order, Judgment and Decree. Defendant shall also pay interest pursuant to Iowa Code section 535.3(1) on any unpaid balance. Payments of the civil penalty and interest shall be made payable to the State of Iowa and submitted to plaintiff's attorney, David S. Steward, at the address noted below.

10. Defendant is hereby permanently enjoined from future violations of Iowa Code section 455B.186(1), 567 Iowa Admin. Code 61.3(2)Ad@, 64.3(1) and 105.3(3), NPDES Permit No. 90-00-1-05, the storm water management and pollution prevention requirements of Composting Permit No. 90-SDP-10-97P-COM, and Administrative Consent Orders 2008-WW-31/2008-SW-40 and 2010-WW-10/2010-SW-27.

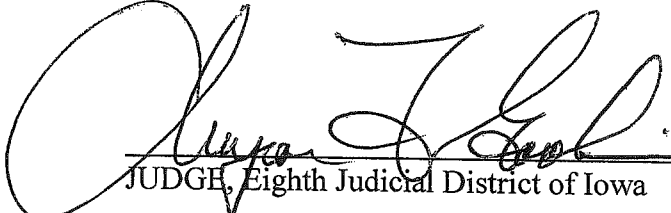
11. This Consent Order, Judgment and Decree is in full compromise and settlement of all violations alleged in the Petition to have been committed by Defendant, and all violations by Defendant arising out of the same facts and circumstances referred to in the Petition which were known to the State of Iowa or were reasonably ascertainable from information in the State's possession as of the date of the filing of this Consent Order, Judgment and Decree, except for the alleged release of retention pond wastewater from an irrigation hose occurring on or about November

1, 2010, at Defendant's Eddyville, Iowa, facility which matter was referred to the United States Environmental Protection Agency.

12. Willful failure to comply with the terms of this Consent Order, Judgment and Decree, and the injunction set out above may subject Defendant to punishment for contempt of court as well as other penalties and sanctions provided by law. Violations will not be deemed willful if they were caused by unanticipated and exceptional rainfall events and the Defendant fully complied with the "Storm Water Pollution Prevention Plan" and "Retention Lagoon Water Level Action Points and Operating Steps" contained in the Eddyville Composting Facility Operating Plan, as incorporated by Composting Permit No. 90-SDP-10-97P-COM. The Court, therefore, retains jurisdiction over this matter to ensure compliance with the terms of this Order.

13. Costs of this action are taxed to Defendant in the amount of \$ 185.⁰⁰ (Clerk to enter).

Dated this 7th day of November, 2011.


JUDGE, Eighth Judicial District of Iowa

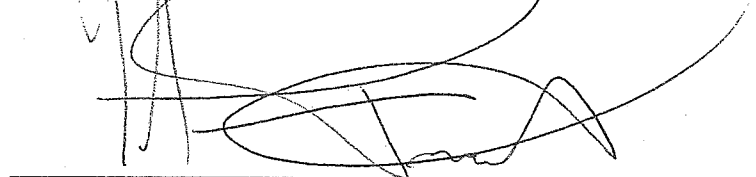
Approved as to form:

IOWA DEPARTMENT OF NATURAL
RESOURCES



ROGER L. LANDE, DIRECTOR

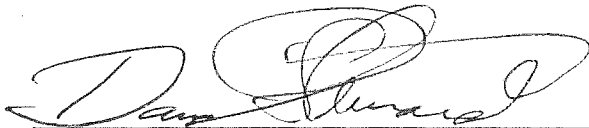
CHAMNESS TECHNOLOGY, INC.



GARY CHAMNESS, PRESIDENT

THOMAS J. MILLER
Attorney General of Iowa

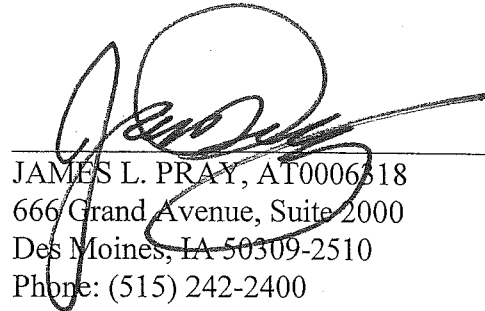
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