

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH 9

WAUKESHA COUNTY

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STATE OF WISCONSIN  
17 West Main Street  
Post Office Box 7857  
Madison, Wisconsin 53707-7857,

Plaintiff,

v.

Case No. 11-CX-7

LEE L. CRESCA  
S90 W38028 Highway 59  
Eagle, Wisconsin 53119,

Complex Forfeiture: 30109

and

EAGLE SPRING ENVIRONMENTAL, LTD.  
a domestic business corporation  
S90 W38028 Highway 59  
Eagle, Wisconsin 53119,

Defendants.

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#### STIPULATION AND ORDER FOR JUDGMENT

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The plaintiff State of Wisconsin, at the request of the Wisconsin Department of Natural Resources, brought this action against defendants Lee L. Cresca and Eagle Spring Environmental, Ltd., seeking forfeitures for defendants' violations of Wisconsin's water protection laws related to grading, dredging and filling activity at a pond and wetlands at 2250 South Springdale Road, New Berlin, Waukesha County, Wisconsin. The parties now wish to settle this matter by agreement and avoid further litigation and, therefore, enter into this stipulation.

THE PARTIES STIPULATE AND AGREE 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 State of Wisconsin, Lee L. Cresca and Eagle Spring Environmental, Ltd.

2. 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 assigns of the parties. No change in ownership or corporate or partnership status shall in any way alter the responsibilities of the defendants under this settlement.

4. The defendants shall pay a judgment in the amount of \$7,500, comprising forfeitures of \$1,613.95 for the violations described in the complaint, plus \$419.63 for the 26% penalty surcharge under Wis. Stat. § 814.77(11), \$322.79 for the 20% environmental surcharge under Wis. Stat. § 814.77(5), the \$25 court costs under Wis. Stat. § 814.63(1), the \$13 crime laboratories and drug law enforcement surcharge required by Wis. Stat. § 814.77(2), the \$68 court support services surcharge as required by Wis. Stat. § 814.77(1m), the \$16.13 for the jail surcharge under Wis. Stat. § 814.77(7), and the \$21.50 justice information system surcharge required by Wis. Stat. § 814.77(8), plus \$3,000 for the costs of the Department of Natural Resources' investigation and \$2,000 as attorney fees for the Department of Justice under Wis. Stat. § 281.98(2).

5. Current outstanding judgments against defendants for similar violations of Wisconsin's water protection laws are:

Racine County			
Case No. 2005-CX-05	§ 281.36	\$ 4,000.00	
Unlawful dredging and filling wetlands without certification			
Racine County			
Case No. 2005-CX-06	§ 281.98(1)	\$23,647.50	
Unlawful dredging and filling wetlands without certification			
Sheboygan County			
Case No. 2005-CX-05	§ 30.19(1)(a)	\$ 2,000.00	
Unlawful dredging and filling wetlands without certification, artificial pond construction without permit, grading without permit			
Washington County			
Case No. 2005-CX-08	§ 30.20(1)(a)	\$ 4,000.00	
Unlawful dredging without permit			- 613.61 payment +2,473.02 interest \$5,928.72 balance due
Waukesha County			
Case No. 2005-FO-542	§ 30.20.19(1)(c)	\$ 4,000.00	
Unlawful dredging and grading banks without permit			- 187.00 adjustments - 962.50 payment \$2,850.00 balance due

6. Based on defendants' representations as to their financial situation, defendants shall pay the judgment amount of \$7,500 in this case and the judgments in the other cases listed in ¶ 5, by making monthly payments of \$500 beginning January 15, 2012, in the order set forth as follows:

a. Payments of \$500 per month shall be made by check payable to the Washington County Clerk of Circuit Court and sent to the Clerk of Circuit Court, Washington County Courthouse, 432 East Washington Street, PO Box 1986, West Bend, WI 53095, in Washington County Case No. 2005-CX-08, until the balance of \$5,928.72

is paid. Defendants shall send the check along with a cover letter to the court identifying the case by name and number, and shall send a photocopy of the check and cover letter submitted to the Clerk of Court to Assistant Attorney General JoAnne F. Kloppenburg at the address below.

b. Payments of \$500 per month shall be made by check payable to the Wisconsin Department of Justice and sent to Assistant Attorney General JoAnne F. Kloppenburg at the address below, until the total of \$2,000 in this case, and \$23,388.50 in Racine County Case No. 2005-CX-06 is paid.

c. Payments of \$500 per month shall be made by check payable to the Wisconsin Department of Natural Resources and sent to Assistant Attorney General JoAnne F. Kloppenburg at the address below, until the total of \$3,000 in this case is paid.

d. Payments of \$500 per month shall be made by check payable to the Waukesha County Clerk of Circuit Court and sent to the Clerk of Circuit Court, Waukesha County Courthouse, 515 West Moreland Road, Waukesha, WI 53188-2428, in this case until the total forfeitures and surcharges of \$2,500 is paid. Defendants shall send the check along with a cover letter to the court identifying the case by name and number, and shall send a photocopy of the check and cover letter submitted to the Clerk of Court to Assistant Attorney General JoAnne F. Kloppenburg at the address below.

e. Payments of \$500 per month shall be made by check payable to the Racine County Clerk of Circuit Court and sent to the Clerk of Circuit Court, Racine County Courthouse, 730 Wisconsin Avenue, Racine, WI 53403-1238, in Racine County Case No. 2005-CX-05, until the judgment of \$4,000 is paid. Defendants shall send the check along

with a cover letter to the court identifying the case by name and number, and shall send a photocopy of the check and cover letter submitted to the Clerk of Court to Assistant Attorney General JoAnne F. Kloppenburg at the address below.

f. Payments of \$500 per month shall be made by check payable to the Waukesha County Clerk of Circuit Court and sent to the Clerk of Circuit Court, Waukesha County Courthouse, 515 West Moreland Road, Waukesha, WI 53188-2428, in Waukesha County Case No. 2005-FO-542, until the total judgment of \$2,850 is paid. Defendants shall send the check along with a cover letter to the court identifying the case by name and number, and shall send a photocopy of the check and cover letter submitted to the Clerk of Court to Assistant Attorney General JoAnne F. Kloppenburg at the address below.

g. Payments of \$500 per month shall be made by check payable to the Sheboygan County Clerk of Circuit Court and sent to the Clerk of Circuit Court, Sheboygan County Courthouse, 615 North Sixth Street, Sheboygan, WI 53081-4612, in Sheboygan County Case No. 2005-CX-5, until the total judgment of \$2,000 is paid. Defendants shall send the check along with a cover letter to the court identifying the case by name and number, and shall send a photocopy of the check and cover letter submitted to the Clerk of Court to Assistant Attorney General JoAnne F. Kloppenburg at the address below.

h. Payment of \$259 per month shall be made by check payable to the Racine County Clerk of Circuit Court and sent to the Clerk of Circuit Court, Racine County Courthouse, 730 Wisconsin Avenue, Racine, WI 53403-1238, in Racine County Case No. 2005-CX-06, as part of the \$500 per month payments prescribed in this payment plan. Defendants shall send the check along with a cover letter to the court

identifying the case by name and number, and shall send a photocopy of the check and cover letter submitted to the Clerk of Court to Assistant Attorney General JoAnne F. Kloppenburg at the address below.

7. The defendants shall be jointly and severally liable for payment of the amounts set forth in paragraphs 5 and 6 above.

8. In addition to making the payments set forth in paragraphs 5 and 6 above, the defendants agree that in addition to any other requirement of local, state or federal law, they will notify the DNR in writing no later than five working days prior to the time that they or anyone working under their direction or control commences such activity, of their intention to excavate, anywhere in Wisconsin:

- a) Any new pond;
- b) The expansion of any existing pond; or
- c) Any wetlands or navigable waters whatsoever.

Such notification shall be provided to the DNR field supervisor for the area in which the proposed project site is located. Nothing in this stipulation eliminates the defendants' need, during or after the three-year period, to obtain any and all permits which otherwise are required by law.

9. If the defendants fail to mail a check for the required amount on or before a payment date set forth in this stipulation, the defendants shall be in default, and all obligations remaining under this stipulation shall be accelerated and shall be immediately due and payable as set forth under this stipulation.

10. Compliance with the terms of this Stipulation and Order for Judgment shall constitute full compromise, settlement and satisfaction of all of the undersigned defendants' (including predecessors, successors, and all current and former officers, directors, employees, trustees, and agents) civil, administrative and criminal liability for, and shall bar further action, civil, administrative or criminal, against the defendants in connection with, any and all violations alleged in the complaint.

11. The accompanying 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 12<sup>th</sup> day of September, 2011.  
J.B. VAN HOLLEN  
Attorney General

Dated this 12<sup>th</sup> day of September, 2011.  
WILSNACK LAW OFFICES

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Dated this 12<sup>th</sup> day of September, 2011.  
LEE L. CRESCA

Dated this 12<sup>th</sup> day of September, 2011.  
EAGLE SPRING ENVIRONMENTAL, LTD.

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By: \_\_\_\_\_

Title: \_\_\_\_\_

## ORDER FOR JUDGMENT

This matter, *State of Wisconsin v. Lee L. Cresca and Eagle Spring Environmental, Ltd.*, Case No. 11-CX-7, came before the Court on the stipulation for entry of judgment entered into by the plaintiff, by counsel, and the defendants, Lee L. Cresca and Eagle Spring Environmental, Ltd., by their counsel. The Court accepts the foregoing stipulation of the parties, and orders that judgment in the amount of \$7,500 against the defendants Lee L. Cresca and Eagle Spring Environmental, Ltd., be entered accordingly, pursuant to the terms of the stipulation, which provide for a payment schedule for this judgment and for judgments against the defendants in Racine, Waukesha, Washington, and Sheboygan County Courts, and which are to be incorporated into the judgment in their entirety, and directs the clerk to enter the judgment incorporating the terms of this stipulation, and to docket the judgment, this \_\_\_\_ day of \_\_\_\_\_, 2011. This is a Final Order under Wis. Stat. § 808.03(1).

BY THE COURT:

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DONALD J. HASSIN, Jr.  
Circuit Court Judge, Branch 9