

F I L E D
 ATHENS COUNTY, OHIO
 OCT 30 1992
Christie Mitchell
 CLERK OF COMMON PLEAS COURT

IN THE COURT OF COMMON PLEAS
 ATHENS COUNTY, OHIO

STATE OF OHIO,
 ex rel. LEE FISHER
 ATTORNEY GENERAL OF OHIO,

: CASE NO. 92CI070430
 :
 : JUDGE GOLDSBERRY

Plaintiff,

: CONSENT ORDER
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 :
 :

vs.

MARK ABDELLA, d.b.a.
 TOMOKO MOBILE HOME PARK,

Defendant.

THIS IS A FINAL
 APPEALABLE ORDER

WHEREAS, the Complaint in the above captioned matter having been filed herein, and the Plaintiff State of Ohio by its Attorney General Lee Fisher (hereinafter "State") and Defendant Mark Abdella, (hereinafter "Defendant") d.b.a. Tomoko Mobile Home Park having consented to the entry of this Decree,

THEREFORE, without trial of any issue of law or of fact and upon the consent of the parties hereto, it is hereby ORDERED, ADJUDGED and DECREED AS FOLLOWS:

I. JURISDICTION AND VENUE

1. The Court has jurisdiction over the parties and the subject matter of this case. Venue is proper in this court. The Complaint states a claim upon which relief can be granted.

II. PERSONS BOUND

2. The provisions of this Consent Order shall apply to and be binding upon the Defendant, his agents, employees, assigns, successors in interest, and those persons in active concert or participation with them. The Defendant shall provide a copy of this Consent Order to each consultant or contractor employed to perform work referenced herein or to monitor, test, treat and/or sample the drinking water consumed by the inhabitants at the Tomoko Mobile Home Park (hereinafter "Facility").

III. SATISFACTION OF LAWSUIT

3. Plaintiff alleges in its Complaint that the Defendant has operated a community water system so as to result in numerous violations of Chapter 6109 of The Ohio Revised Code and the rules promulgated thereunder. Compliance with terms of this Consent Order shall constitute full satisfaction of civil liability of the Defendant for all claims which have been alleged in the Complaint and which have occurred prior to the filing of the Complaint. Nothing in this consent Decree, including imposition of stipulated civil penalties, shall be construed to limit the authority of the State of Ohio to seek relief for claims for conditions not alleged in the Complaint, including any violations which have and/or may occur after the filing of the Complaint.

IV. INJUNCTION

4. The Defendant is enjoined and ordered to immediately comply with the Ohio drinking water laws and regulations,

O.R.C. Chapter 6109 and Ohio Administrative Code Chapters 3745-07, 3745-09 and 3745-81 through 3745-99.

V. COMPLIANCE SCHEDULE

5. The Defendant is ordered and enjoined to satisfy the following compliance schedule:

(a) within fourteen days, the Defendant shall conduct the testing required by Ohio Administrative Code Rule 3745-81-21 for the community public water system at the Facility. Thereafter, the Defendant shall maintain compliance with Ohio Administrative Code Rule 3745-81-21 at all times;

(b) within thirty days of the entry of this order, the Defendant shall conduct the testing required by Ohio Administrative Code Rules 3745-81-23, 3745-81-24 and 3745-81-26 for the community public water system at the Facility. Thereafter, the Defendant shall maintain compliance with these Rules at all times.

(c) within 14 days of the entry of this order, the Defendant shall post in a conspicuous place on the grounds of the Facility a notice of the following violations:

(i) Failure to conduct microbiological monitoring for the months of July, October, November, December of 1989, May, June, September and November of 1990, March, July, August, October, and December of 1991 and January of 1992, failure to conduct monitoring of inorganic chemicals and volatile organic chemicals in March, June, September, and December of 1991 and March of 1992, and failure to monitor for radiological contaminants in November of 1990, all as required by Ohio Administrative Code Chapter 3745-81.

(ii) Exceeding the maximum contaminant levels established in Ohio Administrative Code Chapter

3745-81 for microbiological contaminants in July, August, and September of 1991.

The notice shall be in the form required by Ohio Administrative Code Rule 3745-81-32 and shall remain posted for at least thirty consecutive days.

VI. REPORTING REQUIREMENTS

6. The results of all tests conducted pursuant to Sections IV and V of this order shall be reported to the Southeast District Office, Ohio Environmental Protection Agency, 2195 Front Street, Logan, Ohio 43138, attention: Steven Skinner, as required in Ohio Administrative Code Chapters 3745-07, 3745-09 and 3745-81 through 99. A copy of the notice required by Section V, Paragraph 5(c), together with a signed affidavit stating where and when the notice was posted and that the notice was posted for at least thirty consecutive days, shall be submitted within sixty days of the entry of this order to the address listed in the previous sentence.

VII. CIVIL PENALTY

7. Defendant is hereby ordered and enjoined to pay a total civil penalty of eight thousand four hundred dollars (\$8,400.00), pursuant to R.C. §6109.33. Payment shall be by certified check or money order made payable to "Treasurer, State of Ohio," which check shall be delivered by mail, or otherwise to Janis Miller or her successor at her office at the Ohio Attorney General's office, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43266-0410. Three thousand dollars of the civil penalty shall

be paid within 30 days of the entry of this Consent Order. The remainder of the civil penalty shall be paid in eighteen monthly payments of three hundred dollars (\$300.00), with payments to be made on the fifteenth of each month, beginning November, 1992, and ending April, 1994.

VIII. STIPULATED PENALTIES

In the event that the Defendant fails to perform any test required by Sections IV and/or V of this Consent Order, the Defendant shall immediately and automatically be liable for and shall pay stipulated penalties according to the following schedule: for each day of each violation or failure to meet a requirement, up to thirty (30) days - five hundred dollars (\$500.00) per day; for each day of violation or failure to meet a requirement, from thirty-one (31) to sixty (60) days - one thousand dollars (\$1,000.00) per day; for each day of each violation or failure to meet a requirement, from sixty-one (61) to ninety (90) days - one thousand five hundred dollars (\$1,500.00) per day per violation; for each day of each violation or failure to meet a requirement, over ninety (90) days - two thousand dollars (\$2,000.00) per day per violation.

10. In the event that the Defendant subsequent to the entry of this Order, violates any maximum contaminant level (MCL) established in Ohio Administrative Code Chapter 3745-81, the Defendant shall immediately and automatically be liable for and shall pay stipulated penalties according to the following schedule: for the first violation of any MCL-five hundred

dollars (\$500.00); for the second violation of that same MCL-one thousand dollars (\$1,000.00); for the third violation of that same MCL-one thousand five hundred dollars (\$1,500.00); for each subsequent violation of that same MCL-two thousand dollars (\$2,000.00).

11. In the event that the Defendant fails to make the payments as required by Section VII of this order, the Defendant shall immediately and automatically be liable for and pay stipulated penalties according to the following schedule: For each day a payment is late, up to ten (10) days, twenty five dollars (\$25.00) a day; for each day a payment is late, from eleven (11) to twenty days - fifty dollars (\$50.00) per day; for each day a payment is late, over twenty (20) days, one hundred dollars (\$100.00) per day.

12. In the event that the Defendant violates any other terms of this Consent Order, the Defendant shall immediately and automatically be liable for and shall pay stipulated penalties according to the following schedule: for each day of each violation, up to thirty (30) days - five hundred dollars (\$500.00) per day; for each day of each violation, from thirty-one (31) to sixty (60) days - one thousand dollars (\$1,000.00) per day; for each day of each violation, from sixty one (61) to ninety (90) days - one thousand five hundred dollars (\$1,500.00) per day; for each day of each violation, over ninety (90) days - two thousand dollars (\$2,000.00) per day.

13. Any payment required to be made pursuant to Section IX of this Consent Order shall be paid by certified check made payable to "Treasurer, State of Ohio," which check shall be delivered by mail, or otherwise, to Janis Miller, or her successor at her office at the Ohio Attorney General's Office, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43266-0410, within thirty (30) days of the violation or failure to meet the requirement of this Consent Order.

IX. RETENTION OF JURISDICTION

14. The Court will retain jurisdiction of this action for the purpose of issuing any order necessary to ensure compliance with this Consent Order.

X. NOTICE

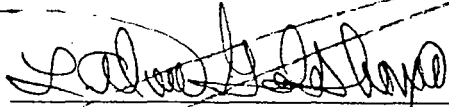
15. Any submission to the Ohio EPA as required by this Consent Order unless otherwise indicated shall be delivered to:

- a. Ohio EPA
Southeast District Office
2195 Front Street
Logan, Ohio 43138
Attn: Steven C. Skinner or his successor
- b. Ohio EPA
Division of Public Drinking Water
P.O. Box 1049
1800 WaterMark Drive
Columbus, Ohio 43266-0149
Attn: Beth Bankoske or her successor

XI. COURT COSTS

16. The Defendant shall pay the court costs of this action.

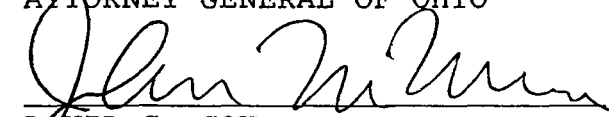
10/30/92
DATE



JUDGE, ATHENS COUNTY COURT
OF COMMON PLEAS

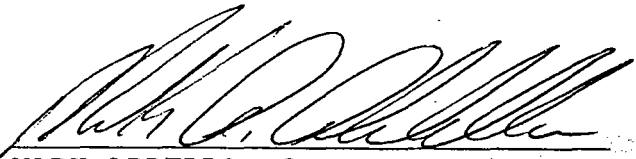
APPROVED:

LEE FISHER
ATTORNEY GENERAL OF OHIO



DAVID G. COX

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Assistant Attorneys General
Environmental Enforcement
Section, 25th Floor
30 East Broad Street
Columbus, Ohio 43266-0410
(614) 466-2766



MARK ABDELLA, Owner

Tomoko Mobile Home Park

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