

I. JURISDICTION AND VENUE

1. The Court has jurisdiction over the parties and the subject matter of this action pursuant to ORC Chapter 6109. The Complaint filed in this action states a claim upon which relief can be granted against the Defendant under ORC Chapter 6109, and venue is proper in this Court.

II. PARTIES

2. The provisions of this Consent Order shall apply to and be binding upon the Defendant, its agents, officers, employees, assigns, successors in interest and any person acting in concert, privity or participation with the Defendant.

3. Defendant shall provide a copy of this Consent Order to any lessee or successor in interest and each key employee, consultant or contractor employed to perform work referenced herein.

III. SATISFACTION OF LAWSUIT

4. Plaintiff alleges in its Complaint that the Defendant owns and operates and has operated the public water system ("PWS") at Huber MHP in such a manner as to result in numerous violations of the State of Ohio's safe drinking water laws, ORC Chapter 6109 and the regulations adopted thereunder, including violations related to: lead, copper, synthetic organic chemical and microbiological contaminant monitoring; public notice; minimum water pressure; exceedances of maximum microbiological contaminant levels; failure to acquire plan approval and maintain chlorine residuals.

5. Except as provided in Section IV below, compliance with the terms of this Consent Order shall constitute full satisfaction of all civil liability by Defendant for all claims alleged in the State's Complaint.

IV. RESERVATION OF RIGHTS

6. Nothing in this Consent Order, including the imposition of stipulated civil penalties for violations of this Consent Order, shall limit the authority of the State of Ohio to:

a. Seek relief against appropriate persons other than Defendant for claims or conditions alleged in the Complaint.

b. Seek any legal or equitable relief from Defendant for violations, claims or conditions not alleged in the Complaint, including violations that occur after the filing of the Complaint;

c. Seek any legal or equitable relief from Defendant or any other person for claims or conditions alleged in the Complaint which occur or exist on the date of or after the entry of this Consent Order;

d. Enforce this Consent Order through a contempt action or otherwise seek relief for violations of this Consent Order;

e. Take any action authorized by law against any person, including Defendant, to eliminate or mitigate conditions of the PWS at Huber MHP and the surrounding areas that may present a threat to the public health or welfare, or the environment; and/or,

f. Bring any legal or equitable action against any person other than Defendant for

any violation of applicable laws.

7. For the purposes of this Consent Order, and in particular the provisions of this Paragraph, the term "person" includes: an individual; corporation; business trust; estate; trust; partnership; association; municipal corporation; interstate body created by compact; and other officers, agents, employees and/or those in active concert or participation with any of them.

V. PERMANENT INJUNCTION

8. Defendant is hereby permanently enjoined and ordered to immediately comply with the applicable provisions in Ohio's safe drinking water laws, ORC Chapter 6109, and the regulations adopted thereunder, including but not limited to Ohio Administrative Code (hereinafter "OAC") Chapters 3745-7, 3745-9, and 3745-81 through 3745-99, except as otherwise provided in Section VI below.

9. The Defendant shall not expand the size or number of lots or households at Huber MHP until such time as all of the provisions of this Consent Order have been complied with, all plan approvals have been obtained and the Defendant is in compliance with all applicable state and local Health Codes and laws. Before any expansion of Huber MHP, the Defendant shall further obtain approval for any and all plans submitted in accordance with ORC Section 6109.07 and OAC Chapter 3745-91.

10. Defendant shall at all times provide the necessary staff to achieve compliance with the monitoring requirements of the State of Ohio's safe drinking water laws.

11. The Defendant shall issue public notification in accordance with OAC Rule

3745-81-32 for any violation of OAC Chapter 3745-81 that occurs after the effective date of this order. The Defendant shall inform the Director of the Ohio Environmental Protection Agency ("Director" and "Ohio EPA," respectfully) of any public notifications by complying with the requirements of OAC Rule 3745-81-32(A)(7), which includes, but is not limited to, providing Ohio EPA with a copy of any notice given pursuant to OAC Rule 3745-81-32 or this Consent Order, together with a signed affidavit stating the methods used and the date the notice was issued, by the tenth day of the month following the date the notice was given.

12. While the Defendant is operating a PWS as defined in OAC Rules 3745-81-01 and 3745-81-02, Defendant is permanently enjoined and immediately ordered to operate the PWS according to an approved contingency plan when conditions warrant, to maintain copies of the contingency plan as required by OAC Rule 3745-85-03, and to update the plan as required by OAC Rule 3745-85-05, but at least annually.

13. While the Defendant is operating a PWS as defined in OAC Rules 3745-81-01 and 3745-81-02, the Defendant is permanently enjoined and immediately ordered to submit monthly operating reports in compliance with OAC Rule 3745-83-05(A) and comply with the other reporting requirements contained in OAC Chapter 3745-81. The monthly operating report required by OAC Rule 3745-83-05(A)(1) must be completed by the operator of the PWS each month on forms provided by the Director of the Ohio EPA. The Defendant shall include in the monthly operating report the information set forth in OAC Rule 3745-83-05(A)(1), and any other information deemed to be required by Ohio EPA including, but not limited to:

a. The name, address, public water system identification number (PWS ID. NO.), the phone number of the person preparing the report, and the month for which the report is being prepared;

b. Daily free and combined chlorine residual levels for the three plant taps and from three representative points in the distribution system; and,

c. The signature of the person who has overall responsibility for the public water system and the signature of the certified operator.

VI. COMPLIANCE SCHEDULES

14. Defendant Huber MHP is enjoined and ordered to complete construction and improvements to its public drinking water system so as to attain compliance with the State of Ohio's safe drinking water laws in accordance with the following schedule:

a. Interim Measures

<u>TASK</u>	<u>COMPLIANCE DATE</u>
1. LOOPING OF DEAD-END MAINS	
a) Submittal of approvable detail plans for improvements to PWS that involve looping the water system dead-end mains.	<u>Completed</u>
b) Initiation of construction on above improvements to water system.	<u>Completed</u>
c) Completion of above improvements to water system.	<u>Completed</u>
2. WELL DETAIL PLAN APPROVAL	
a) Submittal of necessary documentation for well site acceptance by Ohio EPA for Well #3.	<u>Completed</u>

b) Submittal of necessary plans and documentation for approval of Well #3 by Ohio EPA. Completed

3. SUPPLEMENTAL STORAGE FOR PEAK DRINKING WATER DEMAND/PRESSURIZATION

a) Submittal of approvable detail plans. Completed

b) Provision to Ohio EPA of list of potential sources of emergency potable drinking water. Completed

c) Initiation of construction on storage, pumping and alarm system for the drinking water system. June 1, 1998

d) Completion of above improvements to water system. June 26, 1998

e) Submittal of test results indicating the maintenance of a minimum of 20 pounds per square inch ("psi") in the system for one week. July 10, 1998

4. CONTINGENCY PLAN

a) Submittal of an approvable contingency plan to Ohio EPA. Completed

b. Permanent Measures

1. CONNECTION TO MUNICIPAL WATER SUPPLY

a) Submission of plans to Greene County and the City of Dayton for the proposed extension of the municipal water system water main to serve Huber MHP. June 30, 1998

b) Submission of approvable detail plans to Ohio EPA for the proposed extension of the municipal water system water main to serve Huber MHP. August 4, 1998

- c) Initiation of construction of the proposed municipal water system main to Huber MHP. Sept. 30, 1998
- d) Completion of construction:
 - i) Connection to municipal water supply. Oct. 31, 1998
 - ii) Disconnection of existing wells from distribution system. Oct. 31, 1998

VII. SUBMITTAL OF DOCUMENTS

15. Documents that are required to be submitted to Ohio EPA's Southwest District Office pursuant to this Consent Order shall be sent to: Environmental Protection Agency, Southwest District Office, Division of Drinking and Ground Waters, ATTN: DDAGW, Steven Roth, at 401 E. Fifth Street, Dayton, Ohio, 45402. Documents that are required to be submitted to Ohio EPA's Central Office shall be sent to: Ohio EPA, Division of Drinking and Ground Waters-E&OS, ATTN: Todd Kelleher, P.O. Box 1049, Columbus, Ohio, 43216.

VIII. CIVIL PENALTY

16. Defendant shall pay to the State of Ohio a civil penalty of Fifteen Thousand Dollars (\$15,000.00) for violations of Ohio's safe drinking water laws. The penalty shall be paid by delivering certified checks payable to the order of "Treasurer, State of Ohio," to Jena Suhadolnik, Administrative Assistant, or her successor, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428, according to the following payment schedule:

Within sixty (60) days of the entry of this Order \$5,000.00

Within one hundred and twenty (120) days of the entry of this Order \$5,000.00

Within one hundred and eighty (180) days of the entry of this Order \$5,000.00

IX. STIPULATED PENALTIES

17. In the event that Defendant fails to comply with any requirement of Sections V and/or VI of this Order, Defendant is liable for and shall immediately pay stipulated penalties in accordance with the following schedule for each failure to comply:

- a. For each day of each failure to comply with a requirement or meet a deadline, up to and including fifteen (15) days -- Two Hundred Fifty Dollars (\$250) per day for each requirement or deadline not met.
- b. For each day of each failure to comply with a requirement or meet a deadline, from sixteen (16) days to thirty (30) days -- Five Hundred Dollars (\$500) per day for each requirement or deadline not met.
- c. For each day of each failure to comply with a requirement or meet a deadline, from thirty-one (31) days to sixty (60) days -- Seven Hundred Fifty Dollars (\$750) per day for each requirement or deadline not met.
- d. For each day of each failure to comply with a requirement or meet a deadline, for sixty-one (61) days or more -- One Thousand Dollars (\$1,000) per day for each requirement or deadline not met.

18. Payments required by this section shall be paid within thirty (30) days of the violation by delivering a certified check payable to "Treasurer, State of Ohio," to Jena Suhadolnik, Administrative Assistant, or her successor, Environmental Enforcement Section, Ohio Attorney General's Office, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428,

along with a letter summarizing the violations and time periods for which the penalty is paid. The payment of stipulated penalties by Defendant and the acceptance of such stipulated penalties by the State for specific violations pursuant to Section IX shall not be construed to limit the State's authority to seek additional relief or to otherwise seek judicial enforcement of this Consent Order.

X. TERMINATION OF STIPULATED PENALTIES

19. The provisions set forth in Article IX of this Consent Order requiring the payment of stipulated penalties may be terminated upon a demonstration by Defendant Huber MHP that: 1) it has successfully completed the requirements outlined in paragraphs 8 through 15 of this Consent Order; 2) it has paid all penalties and costs required by this Consent Order outlined in paragraphs 16, 17 and 18; and 3) a period of at least twelve (12) months has passed since Huber MHP has successfully tied in to a municipal water supply and disconnected its existing wells from its drinking water distribution system as outlined in paragraph 14.

20. Termination of the stipulated penalty section of this Consent Order shall only be by order of the Court upon application by any party, and a demonstration that the conditions outlined in paragraphs 8 through 18 have been met.

XI. POTENTIAL FORCE MAJEURE

21. If any event occurs which causes or may cause a delay of any requirements of this Consent Order, Huber MHP shall notify the Ohio EPA in writing within ten (10) days of the event, describing in detail the anticipated length of the delay, the precise cause or causes of the

delay, the measures taken and to be taken by the Defendant to prevent or minimize the delay and the timetable by which measures will be implemented. Huber MHP will adopt all reasonable measures to avoid or minimize any such delay.

22. In any action by the Plaintiff to enforce any of the provisions of this Consent Order, Huber MHP may raise that it is entitled to a defense that its conduct was caused by reasons entirely beyond its control such as, by way of example and not limitations, acts of God, strikes, acts of war or civil disturbances. While the Plaintiff does not agree that such a defense exists, it is, however, hereby agreed upon by Huber MHP and the Plaintiff that it is premature at this time to raise and adjudicate the existence of such a defense and that the appropriate point at which to adjudicate the existence of such a defense is at the time that an enforcement action, if any, is commenced by the Plaintiff. At that time, Huber MHP will bear the burden of proving that any delay was or will be caused by circumstances entirely beyond the control of Huber MHP. Unanticipated or increased costs associated with the implementation of any action required by this Consent Order, or changed financial circumstances, shall not constitute circumstances entirely beyond the control of Huber MHP or serve as a basis for an extension of time under this Consent Order. Failure by Huber MHP to comply with the notice requirements of this Section shall render this Section void and of no force and effect as to the particular incident involved and shall constitute a waiver of Huber MHP's right to request an extension of its obligations under this Consent Order based on such incident. An extension of one date based on a particular incident does not mean that Huber MHP qualifies for an extension of a subsequent

date or dates. Huber MHP must make an individual showing of proof regarding each incremental step or other requirement for which an extension is sought. Acceptance of this Consent Order does not constitute a waiver by Huber MHP of any rights or defenses it may have under constitutional, statutory or common law.

XII. COMPLIANCE NOT DEPENDANT ON GRANTS OR LOANS

23. Performance of the terms of this Consent Order by Defendant is not conditioned on the receipt of any Federal or State grants, loans and/or funds. In addition, Defendant's performance is not excused by the failure to obtain or any shortfall of any Federal or State grants, loans and/or funds or by the processing of any applications for the same.

XIII. EFFECT OF CONSENT ORDER

24. This Consent Order does not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing treatment works or sewer system, or the modification of any existing public water system or distribution system. Approval for any such construction or modification shall be by permit issued by Ohio EPA or other such permits as may be required by applicable federal, state, or local laws, rules or regulations.

XIV. MISCELLANEOUS

25. Nothing in this Consent Order shall affect Defendant's obligation to comply with any and all applicable federal, state or local laws, regulations, rules or ordinances. Defendant shall obtain any and all federal, state, or local permits necessary to comply with this Order.

26. Any acceptance by the State of Ohio of any payment, document or other work due hereunder subsequent to the time that the obligation is due under this Consent Order shall not relieve Defendant from the obligations created by this Consent Order.

27. Defendant shall inform the Ohio EPA of any change of its business addresses or telephone numbers, or the cessation of the business that is the subject of this action.

XV. COSTS

28. Defendant shall pay the Court costs of this action.

XVI. CONTINUING JURISDICTION

29. This Court shall retain jurisdiction over this action for the purpose of enforcing and administering Defendant's compliance with this Consent Order.

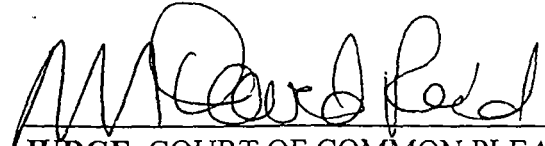
XVII. ENTRY OF CONSENT ORDER AND FINAL JUDGMENT BY CLERK

30. Pursuant to Rule 58 of the Ohio Rules of Civil Procedure, upon the signing of this Consent Order by the Court, the clerk is hereby directed to enter it upon the journal. Within three (3) days of entering the judgment upon the journal, the clerk is hereby directed to serve upon the parties notice of the judgment and its date of entry upon the journal in the manner prescribed by Rule 5(B) of the Ohio Rules of Civil Procedure and note the service in the appearance docket.

IT IS SO ORDERED.

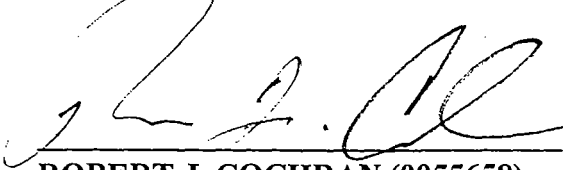
6-26-98

DATE


JUDGE, COURT OF COMMON PLEAS
GREENE COUNTY *YM*

APPROVED:

BETTY D. MONTGOMERY,
ATTORNEY GENERAL OF OHIO



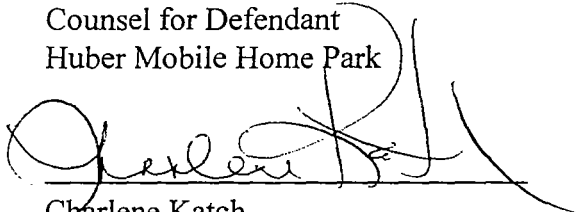
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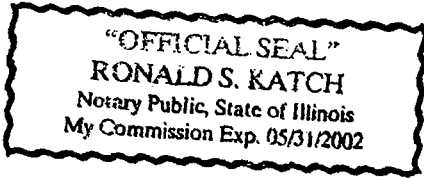
Counsel for Defendant
Huber Mobile Home Park



Charlene Katch
260 N. Deere Park
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Daughter and Attorney-In-Fact of
Owner, Clifford Brown

Sworn to and subscribed before me this 21st day of MAY, 1998.



Ronald S. Katch
Notary Public

Anita R. Geller
Anita R. Geller
1735 Trail Rd.
Mendota Heights, Minnesota 55118

Daughter and Attorney-In-Fact of
Owner, Clifford Brown

Sworn to and subscribed before me this 26th day of May, 1998.

Jeffery J. Weiker
Notary Public

