

JUN 8 3 17 PM '93

IN THE COURT OF COMMON PLEAS
ROSS COUNTY, OHIO

ROSS COUNTY CLERK OF
PLEAS COURT

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

Plaintiff,

CASE NO. 87-CI-66

JUDGE WILLIAM CORZINE

vs.

COUNTRY WOODS ESTATES
MOBILE HOME PARK

and

WILLIAM COOK

Defendants.

AMENDED CONSENT DECREE

The Complaint in the above-captioned matter was filed with the Court. On March 17, 1988, the Court entered an order for injunctive relief in the above-captioned case ordering the Defendants, Country Woods Estates Mobile Home Park and William Cook (hereinafter "Defendants"), to complete specific upgrades to Defendants' public water system within the time periods specified in the March 17, 1988 Consent Decree. Defendants have failed to comply with, and are in contempt of, the March 17, 1988 order of this Court. In order to purge this contempt,

Defendants shall comply with the terms of this Amended Consent Decree. The terms of this Amended Consent Decree shall supersede and replace the March 17, 1988 order of this Court, except to the extent that the terms of the March 17, 1988 Consent Decree has been incorporated by reference into this Amended Consent Decree.

The Plaintiff State of Ohio, by its Attorney General, Lee Fisher (hereinafter "Plaintiff") and the Defendants, having consented to entry of this Amended Consent Decree. NOW, THEREFORE, without trial of any of the issues of law or fact raised by the Joint Motion to amend, and upon consent of the parties hereon, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

I. JURISDICTION

1. This Court has jurisdiction over the subject matter herein pursuant to Chapter 6109 of the Ohio Revised Code, and paragraph 15 of the March 17, 1988 Consent Decree. This Court has jurisdiction over the parties hereto. Venue is proper in this Court.

II. PARTIES

2. The provisions of this Amended Consent Decree shall apply to, and be binding upon, the parties to this action,

their agents, officers, employees, assigns, successors in interest, and those persons in active concert or participation with them who receive notice of this Decree.

III. SATISFACTION

3. The Joint Motion To Amend establishes that the Defendants have not complied with the March 17, 1988 Consent Decree, and are thus in contempt, by failing to complete the required improvements to their public water system. Defendants' violations are summarized in paragraphs 3 and 4 of the Joint Motion to Amend.

4. Compliance with the terms of this Consent Decree shall constitute full satisfaction of any liability by Defendants to the State of Ohio for all violations alleged in Plaintiff's Complaint, and described in the 3 and 4 paragraphs of the Joint Motion to Amend, except as to the Defendants' liability for stipulated penalties, as provided for in the March 17, 1988 Consent Decree, and paragraph 6, below.

IV. RESERVATION OF RIGHTS

5. Nothing in this Consent Decree shall be construed to limit the authority of the State of Ohio to seek relief for claims or conditions not alleged in the State's Complaint, and in paragraphs 3 and 4 of the Joint Motion to Amend, including, but not limited to, any violations which occurred after the filing of the State's Complaint.

6. Nothing in this Amended Consent Decree shall preclude the State from obtaining stipulated penalties from the Defendants as a result of Defendants' violations of the March 17, 1988 Consent Decree.

V. INJUNCTION

7. Within 110 days of the filing of this Consent Decree the Defendants are hereby enjoined and ordered to take all necessary steps, including but not limited to entering into contract(s) and obtaining adequate financing, in order to complete all installation, construction and other necessary work for the connection of Country Woods Mobile Home Park into the Ross County Water Company.

8. Defendants are permanently enjoined and ordered to comply with the requirements of O.A.C. Chapter 3745-81.

9. Defendants are permanently enjoined and ordered to comply with R.C. Chapter 6109. and the regulations adopted thereunder.

10. Defendants are enjoined and ordered to provide a copy of this Consent Decree to any subsequent owner and/or operator of the Mobile Home Park, currently known as Country Woods Estates Mobile Home Park, prior to such time as any subsequent

owner incurs any financial obligation, and/or prior to such time as any subsequent operator undertakes such activities.

11. Within ten (10) days of completion of the installation referred to in paragraph 7, above, the Defendants are ordered and enjoined to cease operation of Defendants' public water system. In the event that Defendant Cook determines to use the well at Defendant's trailer park for his personal consumption, he must comply with O.A.C. 3745-9-09.

12. Defendant is ordered and enjoined to fully cooperated with the State of Ohio and timely provide the State with all documents that the State requests during the State's review of Defendants financial condition.

VI. STIPULATED PENALTIES

13. In the event that Defendants violate any of the terms of this Consent Decree, Defendants shall immediately and automatically be liable for and shall pay stipulated penalties according to the following schedule. For each day of violation or failure to meet a requirement, up to thirty (30) days - Five-Hundred Dollars (\$500.00) per day for each violation or requirement not met. 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 violation or

requirement not met. For each day of 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 for each violation or requirement not met. For each day of violation or failure to meet a requirement, over ninety (90) days - Two Thousand Five Hundred Dollars (\$2,500.00) per day for each violation or requirement not met. Any payment required to be made pursuant to Section VII of this Consent Decree 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 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 Decree.

VII. MISCELLANEOUS

14. This Court shall retain jurisdiction of this matter for the purpose of making any order or decree which it may deem at any time to be necessary to carry out this Consent Decree.

15. In the event the parties fail to reach an agreement on Defendants' stipulated penalty liability for Defendants' violations of the March 17, 1988 Consent Decree, this Court shall provide an opportunity for a hearing for the purpose of

assessing this penalty against the Defendants, pursuant to the terms of the March 17, 1988 Consent Decree.

16. The costs of this action are hereby assessed against the Defendants.

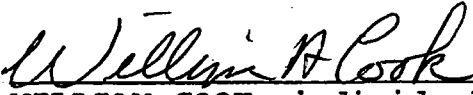
signed/W.M. J. CORZINE

THE HONORABLE WILLIAM CORZINE
JUDGE, ROSS COUNTY COURT OF
COMMON PLEAS


APPROVED

BY:

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



WILLIAM COOK, individually
and as the authorized
representative of
Country Woods Estates
Mobile Home Park



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Counsel for Plaintiff
State of Ohio

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IN THE COURT OF COMMON PLEAS ROSS COUNTY, OHIO
ROSS COUNTY COMMON PLEAS COURT

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

Plaintiff,

: CASE NO. 87-CI-66

:
: JUDGE WILLIAM CORZINE

vs.

COUNTRY WOODS ESTATES MOBILE
HOME PARK

and

WILLIAM COOK

Defendants.

JOINT MOTION TO AMEND THE MARCH 17, 1988 CONSENT DECREE

On March 17, 1988, the Court entered a Consent Decree in this case between Plaintiff, State of Ohio (hereinafter "Plaintiff" or "State") and Defendants, Country Woods Estates Mobile Home Park and William Cook (hereinafter "Defendants"). Plaintiff and Defendants hereby jointly move the Court to amend the March 17, 1988 Consent Decree entered in this case by approving and entering a new Consent Decree which is submitted with this Motion. The grounds for this Motion are set forth as follows:

1. On March 17, 1988, Plaintiff and Defendants agreed to a Consent Decree which was entered by this Court, and which required the Defendants to take a number of actions at Defendants' mobile home park in order to comply with Ohio's Safe Drinking Water Act, R.C. Chapter 6109., and the rules promulgated thereunder.

2. Defendants failed to perform specific acts, as required by the March 17, 1988 Consent Decree, and thus have violated that decree. Defendants' violations of the March 17, 1988 Consent Decree are set forth in paragraphs 3 and 4 below.

3. Paragraph 7 of the March 17, 1988 Consent Decree required Defendants to complete installation of specific improvements of its public water system within 155 days after Ohio EPA approved Defendants' plans.

4. The Ohio EPA approved Defendants' plans on August 10, 1988. However, Defendants never completed installation of the improvements in accordance with the approved plans, as required by paragraph 7 of the March 17, 1988, Consent Decree.

5. As a result of Defendants' violations of this Court's March 17, 1988 Consent Decree, described in paragraphs 3 and 4 above, Defendants are in contempt.

6. The March 17, 1988 Consent Decree requires that Defendants pay specific stipulated penalties to the State of Ohio for these violations.

7. While Plaintiff and Defendants have negotiated a resolution of the matters described in paragraphs 3 and 4, above, the parties have not resolved the stipulated penalty issue described in paragraph 6, above.

8. Accompanying this Motion is an Amended Consent Decree which would supersede and replace this Court's March 17, 1988, Decree.

9. In order to avoid any further delays in correcting the violations referenced in paragraphs 3 and 4 above, the parties are seeking to amend the Consent Decree at this time, with an expressed reservation of rights provided to the State to seek relief from this court for the State's outstanding stipulation penalty claims, in the event an agreement is not reached regarding that issue.

10. The parties request that this Court approve and file the accompanying Amended Consent Decree, pursuant to this Court's continuing jurisdiction over the Consent Decree, as provided by paragraph 15 of the March 17, 1988 Consent Decree, and this Courts inherent powers.

BY:

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

William A Cook

WILLIAM COOK

Individually and as authorized
representative of Country
Woods Estates

Terrence S. Finn

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State of Ohio

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