

IN THE COURT OF COMMON PLEAS
ROSS COUNTY, OHIO

STATE OF OHIO, EX REL.
ANTHONY J. CELEBREZZE, JR.,
ATTORNEY GENERAL OF OHIO

Plaintiff,

vs.

COUNTRY WOODS ESTATES
MOBILE HOME PARK, et al.,

Defendants.

FILED
JUL 21 1966
CLERK OF COURT
J. MOWREY

CASE NO. 87-CI-66

JUDGE MOWREY

CONSENT DECREE

The Complaint in the above-captioned case having been filed herein, and the Plaintiff, State of Ohio, by its Attorney General, Anthony J. Celebrezze, Jr. (hereinafter "Plaintiff"), and the Defendants, Country Woods Estates Mobile Home Park and William Cook (hereinafter "Defendants"), having consented to the entry of this Decree,

Now, THEREFORE, without trial of any issue of fact or law, and upon consent of the parties hereto, 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. The Complaint states a claim upon which relief can be granted against the Defendants under these statutes. This Court has jurisdiction over the parties hereto. Venue is proper in this Court.

II. PARTIES

2. The provisions of this Consent Decree shall apply to and be binding on all Defendants to this action, their officers, directors, agents, servants, employees and those persons in active concert or participation with them who receive notice of this Decree.

III. SATISFACTION OF LAWSUIT

3. Plaintiff alleges in the Complaint that the Defendants have operated a public water system at Country Woods Estates Mobile Home Park in violation of Chapter 6109. of the Revised Code and regulations promulgated thereunder. Compliance with the terms of this Consent Decree shall be full satisfaction for the Defendants' liability to the State of Ohio for the violations alleged in the Complaint. All such claims known to the State of Ohio at this time have been alleged in the Complaint.

4. Nothing in this Decree shall be construed to limit the authority of the State of Ohio to seek relief for claims or conditions not alleged in the Complaint or addressed by this Consent Decree.

IV. COMPLIANCE SCHEDULE

5. Within sixty (60) days after entry of this Consent Decree, Defendants shall submit plans for the approval of the Ohio Environmental Protection Agency ("Ohio EPA") which meet the requirements of Ohio Administrative Code ("OAC") Chapter 3745-91 relating to public drinking water systems. If Ohio EPA, after reviewing the plans, requests changes and/or additions in the plans, Defendants shall submit these changes and/or additions to Ohio EPA within twenty (20) days after receiving these requests.

6. Within forty (40) days after Ohio EPA has approved the plans, Defendants shall submit to Ohio EPA a contingency plan meeting the requirements of Ohio Administrative Code (OAC) rule 3745-85-04.

7. Within one hundred and fifty-five (155) days after Ohio EPA has approved the plans, the construction and installation of the improvements to the public water system in accordance with the approved plans shall be completed and the improvements shall be in operation.

V. STIPULATED PENALTIES

8. Should Defendants fail to comply with any requirement set forth in Section IV above, Defendants shall incur, upon notice and demand by Plaintiff's counsel, a stipulated penalty for each such day of noncompliance in the amount of sixty-five dollars (\$65.00).

9. Stipulated penalties shall be paid within seven (7) days of demand by delivering a certified check to Plaintiff's counsel, James O. Payne, Jr., or his successor, payable to "Treasurer, State of Ohio." This stipulated penalty is not to be suspended in whole or in part and Defendants waive any and all rights it may have to contest the imposition of these stipulated penalties for violations of this Consent Decree except the defense that they did in fact fully comply. Provided however, the parties disagree on the existence of force majeure as a defense to the imposition of stipulated penalties: Plaintiff maintains forcemajeure is not a defense; Defendant maintains it is a defense. The parties agree, however, to reserve this issue for litigation in the event of an action brought to enforce this Consent Decree. Acceptance of this Consent Decree without a forcemajeure clause does not foreclose the Defendants from raising this defense in any such enforcement action.

VI. INJUNCTION

10. Defendants are permanently enjoined from beginning construction or installation of, or making a substantial change in, the public water system currently known as Country Woods Estates Mobile Home Park until plans therefore have been approved by the Director of Environmental Protection.

11. Defendants are enjoined from violating O.A.C. Rule 3745-81-21 [Microbiological Contaminant Sampling and Analytical Requirements] and O.A.C. Rule 3745-81-32 [Public Notification] for a period of one year from the date of entry of this Consent Decree.

12. Defendants shall provide notice of the existence of this Consent Decree and a copy of this Consent Decree to any transferee of the mobile home park currently known as County Woods Estates Mobile Home Park prior to such time as the transferee incurs any obligation to purchase said park.

VII. CIVIL PENALTY

13. Within thirty (30) days after the entry of this Decree, Defendants shall pay, pursuant to R.C. Section 6109.33, a civil penalty of five thousand dollars (\$5000.00). Payment shall be made by delivering to Plaintiff's counsel, James O. Payne, Jr., or his successor, for payment into the State Treasury, a certified check in the above amount, made payable to "Treasurer, State of Ohio."

VIII. OTHER STATUTES AND REGULATIONS

14. Nothing in the Consent Decree shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations applicable to Defendants' public water system. Plaintiff reserves all rights and privileges except as specified herein.

IX. MISCELLANEOUS

15. The Court will retain jurisdiction of this matter for the purpose of enforcing compliance with the terms of this Consent Decree.

16. All reports, requests, and information submitted to Plaintiff by Defendants pursuant to this Consent Decree shall be submitted to:

Division of Public Water Supply
Southeast District Office
Ohio Environmental Protection Agency
2195 Front Street
Logan, Ohio 43138

X. COSTS

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

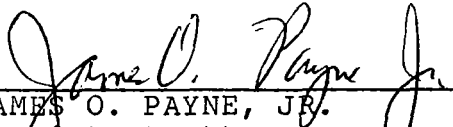
signed/VAL B. MOWREY JR.

Date

Judge, Court of Common Pleas

Approved:

Plaintiff
STATE OF OHIO, EX REL.
ANTHONY J. CELEBREZZE, JR.
ATTORNEY GENERAL OF OHIO



JAMES O. PAYNE, JR.
Assistant Attorney General
Environmental Protection Section
30 East Broad Street, 17th Floor
Columbus, Ohio 43266-0410
(614) 466-2766

Defendants
Country Woods Estates Mobile Home Park
William Cook

William A Cook
WILLIAM COOK

William C Boulger
WILLIAM C. BOULGER
Rooms 10-12-14 Foulke Block
Chillicothe, Ohio 45601

Counsel for Defendants

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JOP:slc

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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.

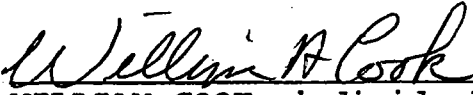
signed/WM. J. CORZINE

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



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

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

TERRENCE S. FINN

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

Counsel for Plaintiff
State of Ohio

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