

Water poll. control 2007

IN THE COURT OF COMMON PLEAS  
COSHOCKTON COUNTY, OHIO

92 CI 251

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

CASE NO. \_\_\_\_\_

Plaintiff,

JUDGE \_\_\_\_\_

vs.

CONSENT ORDER

HAPPY VALLEY, INC.

and

LUTHER COOK

Defendants.

RECEIVED  
JUN 11 1992  
Environmental Enforcement Section

JUDY STEINBERG  
CLERK OF COURTS  
COSHOCKTON CO., OHIO

92 JUN -5 PM 2:45

FILED

The Complaint in the above-captioned matter having been filed herein, and the Plaintiff State of Ohio by its Attorney General Lee Fisher (hereinafter "Plaintiff") and Defendants Happy Valley, Inc. and Luther Cook (hereinafter "Defendants" or "Happy Valley") having consented to the entry of this Order,

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 AND VENUE

1. The Court has jurisdiction over the parties and the subject matter of this case. The Complaint states a claim upon which relief can be granted against Defendants under Chapter 6109 of the Ohio Revised Code, and venue is proper in this Court.

## II. PARTIES

2. The provisions of this Consent Order shall apply and be binding upon the parties to this action, their agents, officers, employees, assigns, successors in interest and any person acting in concert or privity with any of them. Defendants shall provide a copy of this Consent Order to each contractor it employs to perform work itemized herein, and each general contractor shall provide a copy of this Consent Order to each of its sub contractors for such work.

## III. SATISFACTION OF LAWSUIT

3. Plaintiff alleges in its Complaint that Defendants have operated their public drinking water system in such a manner as to result in numerous violations of the safe drinking water laws of the State of Ohio. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Defendants for all claims under such laws alleged in the Complaint. Nothing in this Order shall be construed to limit the authority of the State of Ohio to seek relief for claims or conditions not alleged in the Complaint, including violations which occur after the filing of the Complaint.

## IV. INJUNCTION

4. Defendants are hereby permanently Enjoined and Ordered to immediately comply with the requirements of Chapter 6109 of the Ohio Revised Code (ORC) and the terms and conditions of the

rules and regulations adopted under that Chapter and Defendants' submitted and approved public water supply system plans (Approved Plan), and any approved renewals or modifications pursuant to Section 6109.07 of the ORC and Chapter 3745-91 of the Ohio Administrative Code (OAC). Defendants' Approved Plan and the Director's approval letter are attached to this Consent Order as Exhibit "A".

Defendants are hereby enjoined and ordered to implement, install, and have operational the Approved Plan pursuant to all terms, conditions, and requirements of Section 6109 of the ORC and Chapter 3745-91 of the OAC within one hundred fifty (150) days of the entry of this Consent Order. In this regard, Defendants are hereby enjoined and ordered to comply with the requirements of Section 6109 of the ORC, including but not limited to the following requirements:

- a. Sample for microbiological contaminants, as required by Ohio administrative Code ("OAC") Rule 3745-81-21;
- b. Monitor for inorganic chemicals, as required by OAC Rule 3745-81-23;
- c. Monitor for organic chemicals, as required by OAC Rule 3745-81-24;
- d. Monitor for radioactivity, as required by OAC Rule 3745-81-26;
- e. Maintain a minimum chlorine residual, as required by OAC Rule 3745-82-02;
- f. Report sampling and analysis results as specified in OAC Chapter 3745-81, unless ordered to do otherwise by the Director of the Ohio EPA; and
- g. Prepare and submit monthly operating reports as specified in OAC Rule 3745-83-05, unless ordered to do otherwise by the Director of the Ohio EPA.

V. CONSTRUCTION SCHEDULE

5. Defendants are enjoined and ordered to complete construction of its public water supply system in accordance with the detail plans approved by the Director of Ohio EPA on June 13, 1991. (Exhibit "A"). Defendants shall complete construction in accordance with the following schedule:

<u>TASK</u>	<u>COMPLETION DATE</u>
a. Initiation of Construction (within sixty (60) days from entry of the Consent Order)	_____
b. System Fully Operational one hundred and fifty (150) days from initiation of construction	_____

6. Within seven (7) days from each completion date listed above, Defendants shall submit a written report stating whether or not Defendants have performed the task set forth therein to Ohio EPA's Southeast District Office. This report shall be directed to Jeffrey O. Crisler, SEDO/Public Drinking Water.

VI. CIVIL PENALTY

7. Defendants shall, pursuant to R.C. 6119.09 pay to the State of Ohio a civil penalty of ten thousand dollars (\$10,000). Payment shall be made in thirty-six successive monthly payments of two hundred seventy-seven dollars and seventy-seven cents (\$277.77) per month due by the seventh day of each month beginning with the first month following the date of entry of this Order. The penalty shall be paid by delivering to Janis Miller, Administrative Assistant or a person

subsequently designated by the State, Environmental Enforcement Section, checks for that amount, payable to the order of "Treasurer, State of Ohio", for deposit in the General Revenue Fund.

VII. STIPULATED PENALTIES

8. In the event that Defendants fail to meet any of the requirements of this Consent Order set forth in paragraphs four (4) and five (5) above, Defendants shall immediately and automatically be liable for payment of a stipulated penalty of \$3,000.00 per day of each violation of said requirement. Defendants shall be liable for an additional stipulated penalty of Two Thousand Dollars (\$2,000.00) per day of each violation if the failure to comply continues for more than thirty (30) days, i.e. Five Thousand Dollars (\$5,000.00) per day of each violation. Defendants shall be liable for an additional stipulated penalty of Two Thousand Dollars (\$2,000.00) per day of each violation if failure to comply continues for more than sixty (60) days, i.e., Seven Thousand Dollars (\$7,000.00) per day of each violation. Defendants shall be liable for an additional stipulated penalty of Three Thousand Dollars (\$3,000.00) per day of each violation if failure to comply continues for more than 90 days, i.e. Ten Thousand Dollars (\$10,000.00) for each of each violation.

9. Any payment required to be made under the provisions of Paragraph 6 of this Order shall be made by delivering a certified check or checks for the appropriate amounts, within thirty (30) days from the date of the failure to meet the

requirement of the Consent Order, made payable to "Treasurer, State of Ohio".

VIII. TERMINATION OF STIPULATED PENALTIES

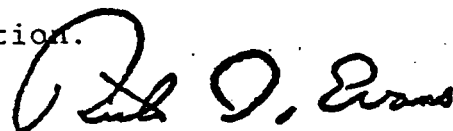
10. The provisions of this Consent Order set forth in Section VII, Paragraphs 8 and 9 requiring the payment of stipulated penalties may be terminated after Defendants have achieved and maintained compliance with the requirements of this Consent Order set forth in Paragraphs 4 and 5 above, for a period of one (1) year and payment of all penalties required pursuant to this Consent Order. Termination of stipulated penalties shall be by Order of the Court, upon application by any party and a demonstration that the conditions set forth in this paragraph have been met.

IX. RETENTION OF JURISDICTION

11. The Court will retain jurisdiction of this action for the purpose of making any order or decree which it deems appropriate to carry out this Consent Order.

X. COSTS

12. Defendants Happy Valley and Luther Cook are hereby ordered to pay the costs of this action.

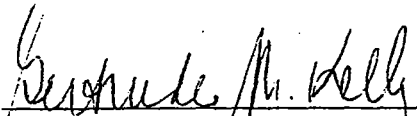


JUDGE, COURT OF COMMON PLEAS OF  
COSHOCTON COUNTY, OHIO

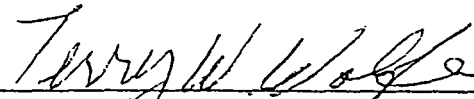
APPROVED:

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

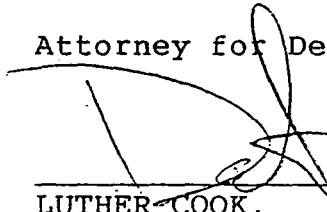
BY:

  
\_\_\_\_\_  
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Assistant Attorney General  
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(614) 466-2766

Attorney for Plaintiff,  
State of Ohio

  
\_\_\_\_\_  
TERRY W. WOLFE, ESQ. (0015687)  
1826 South Main Street  
Akron, Ohio 44307  
(216) 773-3394

Attorney for Defendants

  
\_\_\_\_\_  
LUTHER COOK,  
Authorized Representative of  
Happy Valley, Inc.

0967E/1-7



State of Ohio Environmental Protection Agency

EXHIBIT A

P.O. Box 1049, 1800 WaterMark Dr.  
Columbus, Ohio 43266-0149  
(614) 644-3020  
FAX (614) 644-2329

George V. Voinovich  
Governor

June 13, 1991

Re: Coshocton County  
Riverfront Estates  
Application No. SE-408-WS  
Community Water Supply, 1600312  
Detail Plans of Water System Improvements  
For Riverfront Estates  
Plans Received March 28, 1989, Final  
Revisions Received May 29, 1991  
From Tom Boyd, Progressive Water Treatment

Happy Valley, Inc.  
1826 South Main Street  
Akron, Ohio 43824

Attention: Mr. David Cook

Gentlemen:

The Ohio Environmental Protection Agency has reviewed the plans submitted pursuant to Ohio Revised Code Sections 6109.07 et seq. These plans are approved subject to the condition of compliance with all applicable laws, rules, regulations and standards. Further, all construction must be supervised by a registered engineer, if required by law, or expert qualified in such work.

The owner shall provide for the proper maintenance and operation of the water supply and distribution system.

Lead solder and flux that exceeds a 0.2% lead content and any pipe or pipe fitting that exceeds an 8% lead content shall not be used in the installation of the proposed facilities.

The proposed facility may be constructed only in accordance with plans approved by the Director of the Ohio Environmental Protection Agency. There may be no deviation from the approved plans without the express, written approval of the Agency. Any deviation from the approved plans or the above conditions may lead to denial of a discharge permit or other sanctions and penalties provided under Ohio law. Approval of these plans does not constitute an assurance that the proposed facilities will operate in compliance with all Ohio laws and regulations. Additional facilities shall be installed upon orders of the Ohio Environmental Protection Agency if the proposed facilities prove to be inadequate or cannot meet applicable standards.

Should there be any questions regarding the requirements, meaning or interpretations of any of the above which we may clarify, please contact the Public Drinking Water Unit in the appropriate District Office of the Ohio Environmental Protection Agency.



Happy Valley, Inc.  
June 13, 1991  
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You are hereby notified that this action of the Director is final and may be appealed to the Environmental Board of Review pursuant to Section 3745.04 of the Ohio Revised Code by any person who was a party to this proceeding. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. It must be filed with the Environmental Board of Review within thirty (30) days after notice of the Director's action. A copy of the appeal must be served on the Director of the Ohio Environmental Protection Agency and the Environmental Law Division of the Office of the Attorney General within three (3) days of filing with the Board. An appeal may be filed with the Environmental Board of Review at the following address:

Environmental Board of Review  
236 East Town Street, Room 300  
Columbus, Ohio 43266-0557

Sincerely,



Donald R. Schregardus  
Director

DRS/bs

cc: Coshocton County Health Department  
Mr. Tom Boyd  
Southeast District Office, Public Drinking Water  
Central Office, Public Drinking Water

REPORT ON DETAIL PLANS FOR RIVERFRONT ESTATES,  
WATER SYSTEM IMPROVEMENTS, COSHOCTON COUNTY

Logan, Ohio, June 3, 1991

On March 28, 1989, detail plans for Riverfront Estates, Water system Improvements, Coshocton County were received from Tom Boyd of Progressive Farm Supply. Revisions were received on April 23, 1991 and May 29, 1991.

The iron removal facilities were illegally installed and have been in operation for more than two years. Detail plans were finally submitted as part of an agreement at a "pre-litigation" meeting held in Columbus on April 18, 1991.

General:

The plans are for two intermittent regeneration manganese greensand filters followed by a 4600 gallon clearwell with 2 high service pumps and 5 hydropneumatic tanks.

The mobile home park has 75 lots available but does not have full occupancy. A meter is available to measure flows and an average daily flow of 7000 gallons per day was considered to be acceptable based on data in the original plan submitted in March 1989. Data submitted for early 1991 indicates average daily flows between 3000 GPD and 7000 GPD based on a current occupancy of 39 mobile homes. Using the submitted figure of 180 GPD/MH, the anticipated average daily flow at full occupancy would be 13,500 GPD and the peak daily flow would be 27,000 GPD. The iron removal filters are limited to 9 GPM/filter which gives a design capacity of 25,900 GPD.

Existing System:

The existing system consists of 2 drilled wells with an estimated capacity of 30 GPM, a 120 gallon flow through pneumatic tank on the discharge line from each well, chlorination facilities, three 120 gallon hydropneumatic tanks, the two illegally installed manganese greensand filters and a water meter.

It is proposed to modify the system so that the 2 wells pump through the 2 filters to a 4600 gallon clearwell. Two high service pumps would then pump in conjunction with 5 hydropneumatic tanks to provide system pressure.

Manganese Greensand Iron Removal Filters:

Two intermittent regeneration manganese greensand iron removal filters are provided. Each filter is 24 inches in diameter by 72 inches in height with a surface area of 3.14 square feet. The total surface area is 6.28 square feet which will allow a filtration rate of 18.8 gallons per minute at 3 GPM/FT. A flow controller on the filtered water outlet will limit the flow to 9 GPM per filter. Each fiberglass filter will contain 3.2 cubic feet of manganese greensand media supported by 100 pounds of gravel. Six inches of anthracite having an effective size of 0.8 to 1.2 MM and a uniformity coefficient less than 1.85 will cap the greensand media. The filters will be automatically backwashed and with potassium permanganate using timers. Two day tanks are provided for the potassium permanganate. Since the filters were already piped to backwash using the well pumps, it was agreed to allow this arrangement rather than requiring finished water for backwashing. The plans indicate a backwash flow controller will allow a backwash rate of 25 GPM or 8 GPM ft<sup>2</sup>. The wastewater discharge to the STP was verbally approved by our Public Wastewater Section.

Hydropneumatic Tanks

Five hydropneumatic tanks are used for high service pump control. There are two Myers AV120G tanks with a gross capacity of 120 gallons each and three Well-X-Trol WX-302 tanks with a gross capacity of 85 gallons each. Total gross capacity of the tanks is 495 gallons. A pressure switch is used to operate the high service pumps.

The original estimated cost of the project is \$10,200. It is recommended that the plans be approved.

David L. Greenwood, P.E.  
District Engineer  
Public Drinking Water

DLG/cdc