

05 MAY 27 PM 4:03

IN THE COURT OF COMMON PLEAS
SENECA COUNTY, OHIO

STATE OF OHIO, ex rel.,
BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO

Plaintiff,

vs.

PARK PROPERTIES ONE, et al.

Defendants.

CASE NO. 01-54206

JUDGE MICHAEL P. KELBLEY

2003 MAY 21 PM 1:51
CLERK WARD

CONSENT ORDER AND FINAL JUDGMENT ENTRY

The Plaintiff State of Ohio, by its Attorney General ("Plaintiff" or "State of Ohio") and Defendants Park Properties One, Jay D. Wagner, William A. Lawrence and the Lawrence Family Trust ("Defendants"), hereby consent to the entry of this Consent Order in order to resolve the allegations in this matter as to Defendants and pursuant to Chapter 6111 of the Ohio Revised Code ("R.C.").

NOW THEREFORE, without trial or admission 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. DEFINITIONS

As used in this Consent Order:

"**Consent Order**" means this Consent Order and Final Judgment Entry.

"Defendants" means Park Properties One, Jay D. Wagner, William A. Lawrence and the Lawrence Family Trust.

"Director" means Ohio's Director of Environmental Protection.

"Effective Date" means the date the Seneca County Court of Common Pleas enters this Consent Order.

"Hopewell Mobile Home Park" means the track of land located at 8702 West, State Route #2, Fostoria, Seneca County, Ohio upon which manufactured homes used for habitation are parked, either free of charge or for revenue purposes, and include any roadway, building, structure, vehicle or enclosure used or intended for use as a part of the facilities of the park.

"NPDES" means national pollutant discharge elimination system.

"NPDES permit" means the current national pollutant discharge elimination system permit and any renewals thereof.

"Ohio EPA" means Ohio Environmental Protection Agency.

"Plaintiff" means the State of Ohio by and through the Attorney General of Ohio.

"Wastewater treatment plant" or **"WWTP"** means a facility containing a series of tanks, screens, filter, and other processes by which pollutants are removed from water.

"Sewerage system" means pipelines or conduits, pumping stations, and force mains, and all other constructions, devices, appurtenances, and facilities used for collecting or conducting water borne sewage, industrial waste, or other wastes to a point of disposal or treatment.

II. JURISDICTION AND VENUE

1. The Court has jurisdiction over the Parties and the subject matter of this case pursuant to R.C. Chapter 6111. The Complaint states a claim upon which relief can be granted against Defendants and venue is proper in this Court.

III. PARTIES

2. The provisions of this Consent Order shall apply and be binding upon the Plaintiff and Defendants, Defendants' agents, officers, employees, assigns, successors in

interest, buyers and any person acting in concert or privity with any of them.

IV. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS

3. Defendants have operated their Hopewell Mobile Home Park wastewater treatment plant ("WWTP"), sewer system in such a manner as to result in violations of the requirements of the National Pollution Discharge Elimination System (NPDES) Permit issued to them by Ohio Director of Environmental Protection Agency and in violation of the water pollution 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 of violations alleged in the Complaint alleged against Defendants, including the claims for injunctive relief and civil penalties.

4. Nothing in this Consent Order shall be construed so as to limit the authority of the State of Ohio to seek relief against other appropriate persons for claims or conditions alleged in the Complaint. Nothing in this Consent Order shall be construed so as to limit the authority of the State of Ohio to seek relief against any Defendants or other appropriate persons for claims or conditions not alleged in the Complaint, including violations which occur or continue after the filing of the Complaint, nor shall anything in this Consent Order limit the right of any Defendant to any defenses it may have for such claims. Similarly, nothing in this Consent Order shall be construed so as to limit the authority of the State of Ohio to undertake any action against any Defendant, to eliminate or mitigate conditions which may present a threat to the public health, welfare or the environment.

V. INJUNCTIVE RELIEF

5. Defendants have indicated they no longer own the Hopewell Mobile

Home Park. Defendants shall not regain operation or ownership of the Hopewell Mobile Home Park at any future time.

VI. COMPLIANCE NOT DEPENDENT ON GRANTS OR LOANS

6. Performance with the terms of this Consent Order by Defendants is not conditioned on the receipt of any federal or state grant, loan or funds. In addition, Defendants' performance is not excused by the failure to obtain or shortfall of any federal or state grant, loan or funds, or by the processing of any applications for the same.

VII. CIVIL PENALTY

7. Within forty-five (45) days of the effective date of this Consent Order, it is hereby ordered that Defendants shall pay to the State of Ohio a civil penalty of Ten Thousand Dollars (\$10,000.00) for violation of R.C. Chapter 6111. The civil penalty payment shall be paid by delivering a certified check for the appropriate amount, made payable to "Treasurer, State of Ohio," to Jena Suhadolnik, or her successor, at the Ohio Attorney General's Office, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio, 43215-3400.

VIII. STIPULATED PENALTIES

8. If Defendants fail to meet the requirements of Section VII, paragraph 7 of this Consent Order, Defendants shall pay a stipulated penalty according to the following schedule:

- (1) For each day of each failure to meet the requirement of Section VII, paragraph 7 of this Consent Order up to thirty (30) days - fifty dollars (\$50.00) per day per requirement not met;
- (2) For each day of each failure to meet the requirement of Section VII, paragraph 7 of this Consent Order from thirty - one (31) to sixty days (60) - one hundred dollars (\$100.00) per day per requirement not met; and

- (3) For each day of each failure to meet the requirement of Section VII, paragraph 7 of this Consent Order over (61) days – two hundred dollars (\$200.00) per day per requirement not met.

9. Any payment required to be made under the provisions of Section VIII of this Consent Order shall be made by delivering to Jena Suhadolnik, or her successor, at the Ohio Attorney General's Office, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio, 43215-3400, a certified check or checks, for the appropriate amounts within forty-five (45) days from the date of the failure to meet the requirement of this Consent Order, made payable to "Treasurer, State of Ohio." The payment of stipulated penalties by Defendants and the acceptance of such stipulated penalties by Plaintiff for specific violations pursuant to Section VIII shall not be construed to limit Plaintiff's authority to seek additional relief or to otherwise seek judicial enforcement of this Consent Order.

IX. MISCELLANEOUS

10. Nothing in this Consent Order shall affect Defendants' obligation to comply with all applicable federal, state or local law, regulation, rule or ordinance. Defendants shall obtain any and all federal, state, or local permits necessary to comply with this Consent Order.

X. RETENTION OF JURISDICTION

11. The Court will retain jurisdiction of this action for the purpose of administering or enforcing Defendants compliance with this Consent Order.

XI. COSTS

12. Defendants are hereby immediately ordered to pay the court costs of this action.

XII. ENTRY OF CONSENT ORDER AND FINAL JUDGMENT BY CLERK


13. The parties agree and acknowledge that final approval by the Plaintiff and Defendants, and entry of this Consent Order is subject to the requirement of 40 C.F.R. §123.27(d)(1)(iii), which provides for notice of the lodging of this Consent Order, opportunity for public comment, and the consideration of any public comment. The Plaintiff and Defendants reserve the right to withdraw consent to this Consent Order based on comments received during the public comment period. Defendants shall pay the cost of publishing the public notice within thirty (30) days of receipt of a bill or notice from Ohio EPA.

14. 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 all 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.

XIII. AUTHORITY TO ENTER INTO THE CONSENT ORDER

15. Each signatory for a trust represents and warrants that he/she has been duly authorized as trustee and may sign this document and so bind the trust to all terms and conditions thereof and that he/she submits with this Consent Order an authenticated letter(s) of appointment from a probate court having jurisdiction of the subject matter of the trust.

IT IS SO ORDERED:



MICHAEL P. KELBLEY, JUDGE
SENECA COUNTY
COURT OF COMMON PLEAS

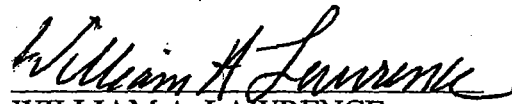
20 May 2003
DATE

APPROVED:

BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO

By:

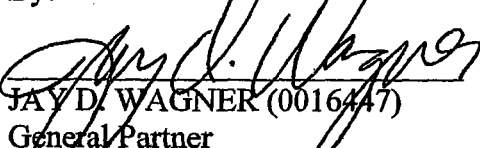

LORI A. MASSEY (0047226)
TODD DeBOE (0072034)
Assistant Attorneys General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3400
Telephone: (614) 466-2766
Facsimile: (614) 644-1926/752-2441
E-Mail: lmassey@ag.state.oh.us

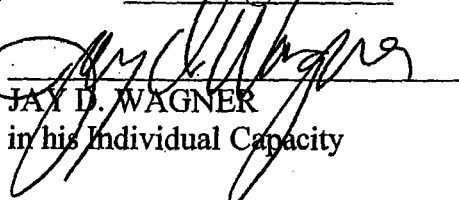

WILLIAM A. LAWRENCE
in his Individual Capacity
1251 Cimmaron Road
Las Vegas, Nevada 89117
Telephone: (702) 371-0632
Facsimile: (702) 838-1883

Attorneys for State of Ohio

PARK PROPETIES ONE


By:


JAY D. WAGNER (0016447)
General Partner
Wagner Law Firm, P.L.L.
118 Harding Way West
Galion, Ohio 44833
Telephone: (419) 468-1131
Facsimile: (419) 462-5058
E-Mail: wwwlaw@ncool.net


JAY D. WAGNER
in his Individual Capacity

LAWRENCE FAMILY TRUST

By:


WILLIAM A. LAWRENCE
Trustee
1251 Cimmaron Road, Apt. 7
Las Vegas, Nevada 89117
Telephone: (702) 371-0632
Facsimile: (702) 838-1883