

IN THE COURT OF COMMON PLEAS
MONTGOMERY COUNTY, OHIO

STATE OF OHIO, ex rel.
MICHAEL DeWINE
OHIO ATTORNEY GENERAL

Plaintiff,

v.

TEMPLE BAPTIST CHURCH OF
CARLISLE, INC.

Defendant.

CASE NO.

JUDGE

CONSENT ORDER FOR INJUNCTIVE RELIEF AND CIVIL PENALTY

Plaintiff State of Ohio, by its Attorney General Michael DeWine (hereinafter “State” or “Plaintiff”), filed a Complaint in this action against Defendant Temple Baptist Church of Carlisle, Inc. (hereinafter “Defendant”) alleging violations of the State of Ohio’s drinking water laws and the rules promulgated thereunder. The allegations relate to the Defendant’s operation of the “public water system” (hereinafter “PWS”) ID Number: OH5740412 located at their facility, Temple Baptist Church, 229 Walnut 229 Ave., Carlisle, Montgomery County, Ohio 45005. This Consent Order constitutes a resolution of disputed claims.

NOW THEREFORE, without trial of any issue of fact or law, and upon consent of the Plaintiff and Defendant, it is hereby **ORDERED, ADJUDGED** and **DECREED** as follows:

I. JURISDICTION AND VENUE

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

II. PERSONS BOUND

2. All terms and provisions of this Consent Order shall apply to and be binding upon Defendant, its officers, assigns, successors in interest, and others bound by Rule 65(D) of the Ohio Rules of Civil Procedure, who are or will be acting in concert and/or in privity with the Defendant. The undersigned representative of each party to this Consent Order certifies that he or she is fully authorized by the party or parties whom she or he represents to enter into the terms and conditions of the Consent Order and execute and legally bind that party or parties to it. This Consent Order is in settlement and compromise of disputed claims and nothing in this Consent Order is to be construed as an admission of any facts or liability.

III. SATISFACTION OF LAWSUIT

3. Plaintiff alleges in its Complaint that Defendant has operated a PWS at Temple Baptist Church in such a manner as to result in numerous violations of the safe drinking water laws of the State of Ohio. Defendant specifically disputes Plaintiff's allegations. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Defendant for all claims under such laws alleged in the Complaint filed contemporaneously with this Consent Order.

4. Compliance with the terms of this Consent Order shall constitute full satisfaction of all requirements set forth in the December 30, 2009 Director's Final Findings and Orders issued to Temple Baptist Church of Carlisle, Inc.

5. Nothing in this Consent Order shall be construed to limit the authority of the State of Ohio to seek relief against Defendant or other appropriate persons for claims or conditions not alleged in the Complaint, including violations which occur after the filing of the Complaint. Nothing in this Consent Order shall be construed to limit the authority of the State of Ohio to seek relief against other appropriate persons, not covered by this Consent Order, for claims or conditions alleged in the Complaint. Similarly, nothing in this Consent Order shall be construed to limit the authority of the State of Ohio to undertake any action against any person, including Defendant, to eliminate or mitigate conditions that may present a threat to the public health, welfare or the environment.

IV. PERMANENT INJUNCTION

6. Defendant is permanently enjoined and ordered to immediately comply with the requirements of R.C. Chapter 6109 and the rules adopted thereunder.

7. Defendant is permanently enjoined and ordered to comply with its contaminant monitoring schedule for the 2012 calendar year and all subsequent monitoring schedules issued by the Director.

8. Defendant is permanently enjoined and ordered to hire a certified laboratory to collect, analyze, and report required samples during the 2012 calendar year and all subsequent years.

9. Defendant is permanently enjoined and ordered to comply with the total coliform bacteria routine and repeat monitoring requirements, in accordance with O.A.C. 3745-81-21.

10. Defendant is permanently enjoined and ordered to comply with maximum contaminant level requirements, in accordance with O.A.C. 3745-81-14.

11. Defendant is permanently enjoined and ordered to issue public notice, in accordance with O.A.C. 3745-81-32, for all past violations of R.C. Chapter 6109 and the rules adopted thereunder.

V. EFFECT OF CONSENT ORDER

12. This Consent Order does not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing public water system where a permit is required. 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.

VI. CIVIL PENALTY

13. Pursuant to R.C. 6109.33 it is hereby ordered that Defendant shall pay to the State of Ohio a cash civil penalty of ten thousand dollars (\$10,000.00). The penalty shall be without interest provided that payment is made by May 31, 2012.

14. The civil penalty payment shall be made by delivering to Martha Sexton, Paralegal, or her successor, at the Ohio Attorney General's Office, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio, 43215, a certified check, made payable to the order of the "Treasurer, State of Ohio," for the appropriate amount.

VII. STIPULATED PENALTIES

15. In the event that Defendant fails to meet any of the requirements of this Consent Order set forth in paragraphs 6 through 14, the Defendant shall immediately and automatically be liable for and shall pay a stipulated penalty of one hundred fifty dollars (\$150.00) per day for each requirement not met, for the first sixty (60) days of noncompliance. The Defendant shall be liable for an additional stipulated penalty of three hundred dollars (\$300.00) per day for each requirement not met

if the failure to comply continues for more than sixty (60) days but less than one hundred twenty (120) days. In the event that failure to comply continues more than one hundred twenty (120) days, Defendant shall be liable for an additional four hundred fifty dollars (\$450.00) per day for each requirement not met.

16. Any payment required to be made under the provisions of paragraph 15 of this Consent Order shall be made by delivering a certified check or checks, made payable to “Treasurer, State of Ohio”, for the appropriate amounts, within forty-five (45) days from the date of the failure to meet the requirement of the Consent Order, by mail, or otherwise, to Martha Sexton Paralegal or her successor, at the address set forth in paragraph 14.

17. The payment of stipulated penalties by Defendant and the acceptance of such stipulated penalties by Plaintiff for specific violations pursuant to Section VII shall not be construed to limit Plaintiff’s authority to seek additional relief or to otherwise seek judicial enforcement of this Consent Order. Further, payment by Defendant shall not be considered an admission of liability on the part of Defendant.

VIII. COMPLIANCE NOT DEPENDENT ON GRANTS OR LOANS

18. Performance of the terms of this Consent Order by Defendant is not conditioned on the receipt of any federal or state grant funds or loans. In addition, Defendant’s performance is not excused by the failure to obtain or shortfall of any federal or state grant funds or loans, or by the processing of any applications for the same.

IX. MODIFICATION

19. No modification shall be made to this Consent Order without the written agreement of the parties.

X. RETENTION OF JURISDICTION

20. The Court will retain jurisdiction of this action for the purposes of overseeing that Defendant complies with this Consent Order and making any order or decree that it deems appropriate to carry out this Consent Order.

XI. COURT COSTS

21. Defendant is hereby ordered to pay the court costs of this action.

XII. ENTRY OF CONSENT ORDER AND FINAL JUDGMENT BY CLERK

22. Pursuant to Rule 58 of the Ohio Rules of Civil Procedure, upon 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.

DATE

JUDGE

APPROVED:

STATE OF OHIO

/s/ Alana R. Shockey

**ALANA R. SHOCKEY (0085234)
CHRISTINE L. RIDEOUT (0088134)
Assistant Attorneys General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215
(614) 466-2766**

Counsel for Plaintiff State of Ohio

**5/14/2012
DATE**

/s/ Mark Godbey

**MARK E. GODBEY (0041214)
708 Walnut Street, Suite 600
Cincinnati, Ohio 45202
(513) 241-6650**

Counsel for Defendant

**5/1/2012
DATE**

/s/ Robert Smith by MEG

**Robert Smith, on behalf of
Temple Baptist Church of Carlisle, Inc.
229 Walnut Ave.
Carlisle, Ohio 45005**

Defendant

**5/1/2012
DATE**



General Division
Montgomery County Common Pleas Court
41 N. Perry Street, Dayton, Ohio 45422

Case Title: STATE OF OHIO EX REL. MICHAEL DEWINE vs
TEMPLE BAPTIST CHURCH OF CARLISLE INC.
Case Number: 2012 CV 03517
Type: Order:

So Ordered

A handwritten signature in black ink that reads "Mary K. Huffman".

Mary K. Huffman