

IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

STATE OF OHIO, *ex rel.*
JIM PETRO
ATTORNEY GENERAL
30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3400

Case No. CV 2005 01 0211

FILED BUTLER CO.
COURT OF COMMON PLEAS

MAR 05 2007

CINDY CARPENTER
CLERK OF COURT

Judge Keith M. Spaeth

Plaintiff,

v.

JGR PROPERTIES, INC.
P.O. Box 610
Oxford, Ohio 45056

Defendant.

CONSENT ORDER

The Plaintiff State of Ohio, by and through its Attorney General (hereinafter "Plaintiff" or "State of Ohio") and Defendant, JGR Properties ("Defendant") hereby consent to the entry of this Consent Order to resolve the allegations in this consolidated matter and pursuant to Chapter 6111 of the Ohio Revised Code (hereinafter "R.C."). This matter consists of three Butler County Court of Common Pleas cases--CV 2005 02 0408, CV 2005 02 0397, CV 2005 02 0396-- which have been consolidated into one. The entry of this Consent Order shall resolve each of the three actions.

NOW THEREFORE, without trial of any issue of law or fact, and upon the 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 consolidated case pursuant to R.C. Chapter 6111. Each of the three Complaints states a claim upon which relief can be granted against the Defendant and venue is proper in this Court.

II. PARTIES

2. The provisions of this Consent Order shall apply and be binding upon the Plaintiff and Defendant, their agents, officers, employees, assigns, successors in interest, buyers or lessees of any of Defendant's waste water treatment plants, and any person acting in concert or privity with any of them. Defendant shall provide a copy of this Consent Order to each contractor and consultant that it employs to perform the work itemized herein. Defendant shall require each general contractor to provide a copy of this Consent Order to each of its subcontractors for such work.

III. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS

3. Defendant has operated its wastewater treatment plants (hereinafter "WWTPs") and sewer systems, located at Brookside Village Mobile Home Park, Sunshine Mobile Home Park, and Island Lake Mobile Home Park in violation of applicable National Pollutant Discharge Elimination System ("NPDES") Permits as well as the water pollution control laws of the State of Ohio. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Defendant for all claims or violations alleged in the three Complaints, including the claims for injunctive relief and civil penalties.

4. Nothing in this Consent Order shall be construed to limit the authority of the State of Ohio to seek relief against other appropriate persons for claims or conditions alleged in the Complaints. 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 Complaints, including violations, which occur after the filing of the Complaints. Nor shall anything in this Consent Order limit the right of Defendant to any defenses that it may have for such claims. 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, which may present a threat to the public health, welfare or the environment.

IV. PERMANENT INJUNCTION

5. Defendant is hereby permanently enjoined and ordered to immediately comply with the requirements of R.C. Chapter 6111 and the rules adopted thereunder. Additionally, Defendant is ordered to immediately and permanently comply with the terms and conditions of NPDES Permits 1PV00097*AD, 1PV00019*BD, 1PV00021*DD, and any renewals or modifications of those permits for Brookside Village Mobile Home Park, Sunshine Mobile Home Park, and Island Lake Mobile Home Park.

V. UPGRADE SCHEDULE

6. Defendant is enjoined and ordered to upgrade the wastewater treatment system at Brookside Village Mobile Home Park in accordance with the following schedule:

TASK	DEADLINE
a. Defendant shall submit to Ohio EPA an approvable Permit to Install ("PTI") Application and Detail Plans for wastewater treatment plant improvements. The improvements shall include, but not be limited to, improvements to the flow equalization basin, sludge holding tank, and surface sand filters.	August 15, 2007

- b. Commence construction of wastewater treatment plant improvements in accordance with the approved PTI. February 15, 2008
- c. Complete construction of the wastewater treatment plant improvements in accordance with the approved PTI. July 15, 2008
- d. Achieve and maintain compliance thereafter with the effluent limitations contained in Exhibit A of this Consent Order or the final effluent limitations contained in the applicable NPDES permit, whichever is more stringent. August 15, 2008
- e. Submit to Ohio EPA an approvable sludge management plan for closure of the tertiary lagoon that complies with Chapter 3745-40 of the Ohio Administrative Code. The sludge management plan shall describe in detail the methods and management practices that will be used for decommissioning the tertiary lagoon undergoing closure and completing closure under the plan. The plan shall describe past and present management practices of sewage sludge from January 1996 to January 2007. December 1, 2007
- f. Complete closure of the tertiary lagoon in accordance with the approved sludge management plan. January 15, 2009

7. Defendant is enjoined and ordered to discontinue discharging effluent from the east wastewater treatment plant ("WWTP") at Sunshine Mobile Home Park to waters of the State by July 15, 2008. The effluent currently being discharged from the east WWTP shall receive full primary and secondary treatment in the east WWTP and shall by July 15, 2008 be discharged to the west WWTP at Sunshine Mobile Home Park to receive full tertiary treatment before being discharged from the west WWTP to waters of the State in accordance with the terms and

conditions of the then applicable NPDES permit. In order to comply with this paragraph, Defendant shall upgrade the east and west WWTPs in accordance with the schedule detailed in paragraph 8.

8. Defendant is enjoined and ordered to upgrade the east and west WWTPs at Sunshine Mobile Home Park in order to comply with paragraph 7 above. When the upgrades are completed, the WWTPs at Sunshine Mobile Home Park shall meet the requirements detailed in paragraph 7 above, Ohio Revised Code Chapter 6111 and the rules adopted thereunder, and NPDES Permit Number 1PV00019*BD. The upgrades shall be completed in accordance with the following schedule:

TASK	DEADLINE
a. Submit an application for modification of existing NPDES Permit allowing the discharge of the effluent from the east WWTP to be discharged from the west WWTP.	March 1, 2007
b. Defendant shall submit an approvable Permit to Install ("PTI") application(s) and detail plans for wastewater treatment plant improvements at the east and west WWTPs.	March 1, 2007
c. Commence construction of wastewater treatment plants improvements in accordance with the approved PTI(s).	December 15, 2007
d. Complete construction of wastewater treatment plant improvements in accordance with the approved PTI(s).	July 15, 2008
e. Achieve and maintain compliance thereafter with the effluent limitations	August 15, 2008

contained in Exhibit B of this Consent Order or the final effluent limitations contained in the applicable NPDES permit, whichever is more stringent.

9. Within seven calendar (7) days of each completion date listed in paragraphs 6, 7, and 8 Defendant shall submit a written report to Ohio EPA's Southwest District Office stating whether or not the action set forth therein has been performed.

10. This Consent Order does not constitute authorization or approval of the construction of any physical structure or facilities or the modification of any existing treatment works or sewer system. Approval for any such construction or modification shall be by permit issued by the Director or other such permits as may be required by applicable federal, state, or local laws, rules or regulations.

VI. CIVIL PENALTY

11. It is hereby ordered that Defendant shall pay to the State of Ohio a civil penalty of Seventy Five Thousand Dollars (\$75,000.00). The civil penalty shall be paid as follows:

Defendant shall pay Five Thousand Dollars (\$5000.00) within 30 days of this Consent Order being entered by the Court.

On or before the first day of each succeeding month, Defendant shall pay Two Thousand Dollars (\$2000.00) for thirty five (35) successive months.

The civil penalty payment shall be paid by delivering certified checks for the appropriate amounts, made payable to "Treasurer, State of Ohio," to J. Mark Lemmon, or his successor, at the Ohio Attorney General's Office, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400 with a copy to the Ohio EPA DSW Enforcement Group Leader at the address set forth in Section IX, paragraph 21,

12. If any of the Defendant's civil penalty payments is either not timely received or is dishonored when presented to a bank or financial institution according to the schedule set forth

in paragraph 11 of this Consent Order, Defendant shall be in default of this Consent Order. After being provided written notice from the State of Ohio of a default, the Defendant shall have 30 days after being provided with the notice to cure the default by submitting the payment that was late or dishonored. Written notice of default shall be sent to James H. Geyer, 5500 College Corner Pike, P.O. Box 610, Oxford, Ohio 45056 with a copy to his attorney John H. Phillips, 9521 Montgomery Road, Cincinnati, Ohio 45242. The Defendant shall immediately inform the Office of the Attorney General of Ohio of any change in the foregoing addresses, and the failure of the Defendant to do so shall not constitute an excuse for not complying with a default notice otherwise validly sent. If the Defendant does not cure the default within 30 days after being provided written notice of the default, the total remaining unpaid balance of the civil penalty shall become immediately due and payable to the State of Ohio, and Defendant will be liable for stipulated penalties as detailed in Section VII of this Consent Order. Should Defendant cure a default payment as provided in this paragraph, it shall not be liable for stipulated penalties as detailed in Section VII of this Consent Order.

VII. STIPULATED PENALTIES

13. In the event that the Defendant violates any of the requirements of this Consent Order, Defendant shall pay a stipulated penalty according to the following schedule:

(1) For each day of each violation of a requirement of this Consent Order up to thirty (30) days - five hundred dollars (\$500.00) per day per requirement not met;

(2) For each day of each violation of a requirement of this Consent Order from thirty-one (31) to sixty days (60) - seven hundred and fifty dollars (\$750.00) per day per requirement not met; and

(3) For each day of each violation of a requirement of this Consent Order over (61) days - one thousand dollars (\$1,000.00) per day per requirement not met.

14. In the event that the Defendant violates any of the terms and conditions of NPDES Permits 1PV00097*AD, 1PV00019*BD, 1PV00021*DD, and any renewals or modifications of those permits, Defendant shall pay a stipulated penalty according to the following schedule:

(1) For each day of each violation of the terms and conditions of the NPDES permit up to thirty (30) days - five hundred dollars (\$500.00) per day per requirement not met;

(2) For each day of each violation of the terms and conditions of the NPDES permit from thirty-one (31) to sixty days (60) - seven hundred and fifty dollars (\$750.00) per day per requirement not met; and

(3) For each day of each violation of the terms and conditions of the NPDES permit over (61) days - one thousand dollars (\$1,000.00) per day per requirement not met.

15. In the event that Defendant has a bypass or unauthorized discharge from any location of the WWTPs or disposal systems at Island Lake Mobile Home Park, Sunshine Mobile Home Park, or Brookside Village Mobile Home Park, except as otherwise provided by the applicable NPDES permit, Defendant shall pay an additional stipulated penalty of one thousand and five hundred dollars (\$1,500.00) per day for each day of the violation.

16. In the event that Defendant fails to submit monthly operating reports (Form 4500) as required under Part III, Item 4 (Reporting) of NPDES Permits 1PV00097*AD, 1PV00019*BD, 1PV00021*DD, or any renewals or modifications of those permits, Defendant shall pay an additional stipulated penalty of seven hundred (\$700) dollars per month of violation.

17. In the event that Defendant fails to report any NPDES permit violations to Ohio EPA as required under Part III, Item 12 of NPDES Permit Numbers 1PV00097*AD, 1PV00019*BD, 1PV00021*DD, or any renewals or modifications of those permits, Defendant shall pay an additional stipulated penalty of seven hundred (\$700) dollars per month of violation.

18. Any payment required to be made under the provisions of Section VII of this Consent Order shall be made by delivering to J. Mark Lemmon, or his successor, with a copy to the Ohio EPA DSW Enforcement Group Leader at the addresses set forth in Section IX, paragraph 21, 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." Defendant shall also state in writing the specific failure of the Consent Order and/or NPDES permit term and condition which was not complied with and the date(s) of non-compliance. The payment of stipulated penalties by Defendant and the acceptance of such stipulated penalties by Plaintiff for specific violations pursuant to Sections IV, V, and VI shall not be construed to limit Plaintiff's authority to seek additional relief or to otherwise seek judicial enforcement of this Consent Order.

VIII. MISCELLANEOUS

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

20. Defendant shall immediately inform the Ohio EPA of any change of its business addresses or telephone numbers and of any change in the ownership/control of Defendant and of any of the mobile home parks and/or WWTP's noted in this Consent Order.

IX. NOTICES

21. All notices and correspondence required to be delivered in this Consent Order, unless otherwise noted herein, shall be sent to:

- a. Ohio EPA DSW Enforcement Group Leader
Southwest District Office
Ohio Environmental Protection Agency
401 East Fifth Street
Dayton, Ohio 45402; and
- b. Office of the Ohio Attorney General
Environment Enforcement Section, Section Chief
30 East Broad St., 25th floor
Columbus, Ohio 43215--3400

22. All permits, applications, and related documents required to be delivered in this Consent Order, unless otherwise noted herein, shall be sent to:

- a. Ohio EPA DSW
Southwest District Office
Ohio Environmental Protection Agency
401 East Fifth Street
Dayton, Ohio 45402

X. POTENTIAL FORCE MAJEURE

23. If any event occurs which causes or may cause a delay in Defendant's compliance with any requirement of this Consent Order, Defendant shall notify the Ohio EPA in writing within ten (10) days from when the Defendant knew, or by the exercise of due diligence should have known, of the event. The notification to Ohio EPA shall describe in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by the Defendant to prevent or minimize the delay, and the timetable by which those measures will be implemented. Defendant shall adopt all reasonable measures to avoid or minimize any such delay.

24. In any action by the Plaintiff to enforce any of the provisions of this Consent Order, Defendant may raise that it is entitled to a defense that its conduct was caused by reasons entirely beyond its control such as, by way of example and not limitations, acts of God, strikes, acts of war or civil disturbances. While the Plaintiff does not agree that such a defense exists, it is, however, hereby agreed upon by Defendant and the Plaintiff that it is premature at this time to raise and adjudicate the existence of such a defense and that the appropriate point at which to adjudicate the existence of such a defense is at the time, if ever, that a court proceeding to enforce this Consent Order is commenced by the Plaintiff. At that time, Defendant will bear the burden of proving that any delay was or will be caused by circumstances entirely beyond the control of Defendant. Unanticipated or increased costs associated with the implementation of any action required by this Consent Order, or a change in Defendant's financial circumstances, shall not constitute circumstances entirely beyond the control of Defendant or serve as a basis for an extension of time under this Consent Order. Failure by Defendant to timely comply with the notice requirements of this Section shall render this Section void and of no force and effect as to the particular incident involved and shall constitute a waiver of Defendant's right to request an extension of its obligations under this Consent Order based on such incident. An extension of one date based on a particular incident does not mean that Defendant qualifies for an extension of a subsequent date or dates. Defendant must make an individual showing of proof regarding each incremental step or other requirement for which an extension is sought. Acceptance of this Consent Order without a Force Majeure Clause does not constitute a waiver by Defendant of any rights or defenses it may have under applicable law.

XI. RETENTION OF JURISDICTION

25. The Court will retain jurisdiction of this action for the purpose of administering or enforcing Defendant's compliance with this Consent Order.

XII. COSTS

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

XIII. ORDER AND ENTRY OF CONSENT FINAL JUDGMENT BY CLERK

27. The parties agree and acknowledge that final approval by the Plaintiff and Defendant, and entry of this Consent Order is subject to the requirement of 40 C.F.R. 123.27 (d)(2)(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 Defendant reserve the right to withdraw consent to this Consent Order based on comments received during the public comment period. Defendant shall pay the cost of publishing the public notice within thirty (30) days of receipt of a bill or notice from Ohio EPA.

28. 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.

XIV. SIGNATORIES

29. The undersigned is the President of Defendant and understands the terms and conditions of this Consent Order and certifies that he is fully authorized to enter into the terms and conditions of this Consent Order and to execute and legally bind the Defendant to this document.

IT IS SO ORDERED:



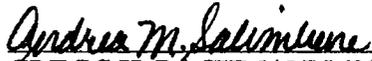
JUDGE KEITH M. SPAETH
COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

12-21-06
Date

Approved,

JIM PETRO
ATTORNEY GENERAL

By:


GREGG H. BACHMANN (0039531)
ANDREA M. SALIMBENE (0080622)
Assistant Attorneys General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, OH 43215-3428
Telephone: (614) 466-2766
Facsimile: (614) 644-1926/752-2441
Attorneys for Plaintiff, State of Ohio

Approved,

JGR PROPERTIES, INC.

By:


JAMES H. GEYER
Authorized Representative of JGR
Properties, Inc.
5500 College Corner Pike
P.O. Box 610
Oxford, Ohio 45056
Telephone: (513) 523-6329

HAVE SEEN, READ, AND APPROVED BY COUNSEL


GREGG H. BACHMANN (0039531)
ANDREA M. SALIMBENE (0080622)
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Environmental Enforcement Section
30 East Broad Street, 25th Floor
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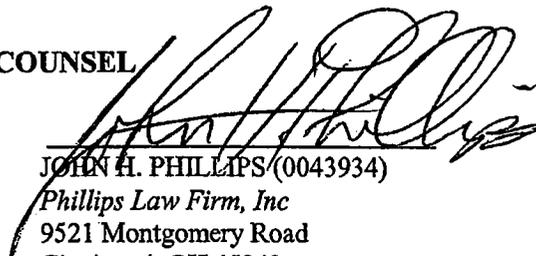

JOHN H. PHILLIPS (0043934)
Phillips Law Firm, Inc
9521 Montgomery Road
Cincinnati, OH 45242
Telephone: (513) 985-2500
Facsimile: (513) 985-2503
Attorney for Defendant,
JGR Properties, Inc

EXHIBIT A
(Brookside Village Mobile Home Park)

Parameter	30 Day Concentration	7 Day Concentration	30 Day Loading	7 Day Loading
Total Suspended Solids	12 mg/l	18 mg/l	3.0 kg/d	4.5 kg/d
Nitrogen/Ammonia (summer)	1.0 mg/l	1.5 mg/l	0.32 kg/d	0.48 kg/d
Nitrogen/Ammonia (winter)	3.0 mg/l	4.5 mg/l	0.96 kg/d	1.44 kg/d
CBOD ₅	10 mg/l	15 mg/l	3.0 kg/d	4.5 kg/d
Fecal Coliform	1000/100 ml	2000/100 ml		
Chlorine Residual	0.038 mg/l (daily maximum)			
Dissolved Oxygen	6.0 mg/l (daily minimum)			
pH	Between 6.5 S.U. and 9.0 S.U.			

Exhibit A is for Brookside based on the flow value agreed to in court of 84,300 gpd.

EXHIBIT B
(Sunshine Mobile Home Park)

Parameter	30 Day Concentration	7 Day Concentration	30 Day Loading	7 Day Loading
Total Suspended Solids	12 mg/l	18 mg/l	1.32 kg/d	1.98 kg/d
Nitrogen/Ammonia (summer)	1.0 mg/l	1.5 mg/l	0.11 kg/d	0.165 kg/d
Nitrogen/Ammonia (winter)	3.0 mg/l	4.5 mg/l	0.33 kg/d	0.49 kg/d
CBOD ₅	10 mg/l	15 mg/l	1.1 kg/d	1.65 kg/d
Fecal Coliform	1000/100 ml	2000/100 ml		
Chlorine Residual	0.019 mg/l (daily maximum)			
Dissolved Oxygen	6.0 mg/l (daily minimum)			
pH	Between 6.5 S.U. and 9.0 S.U.			

Exhibit B is for Sunshine based on the combined flow value from the two plants of 29,000 gpd.