

FILED
ATHENS COUNTY, OHIO

APR 27 2011

[Signature] CLERK
OF COMMON PLEAS COURT

IN THE COURT OF COMMON PLEAS
ATHENS COUNTY, OHIO

STATE OF OHIO, ex rel. RICHARD
CORDRAY, OHIO ATTORNEY GENERAL :

CASE NO. 09CI0065

Plaintiff, :

JUDGE MICHAEL WARD

v. :

RAYMOND CROXFORD :

and :

RAYMOND CROXFORD d.b.a.
KNOLLWOOD MOBILE HOME PARK :

Defendants. :

CONSENT ORDER

Plaintiff, the State of Ohio, by and through its counsel Attorney General Richard Cordray, filed a Complaint against Raymond Croxford, himself, and doing business as Knollwood Home Park ("Defendant") alleging violations of Ohio's Water Pollution Control laws, Ohio Revised Code ("R.C.") Chapter 6111. The allegations relate to the wastewater treatment works and disposal system owned and operated by Defendant and located at U.S. Route 50 West, 4 miles west of Athens, in Athens County, Ohio ("Knollwood Mobile Home Park"). This Consent Order constitutes a resolution of disputed claims.

NOW THEREFORE, without the trial of any issue of fact or law, 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 both jurisdiction over the parties and the subject matter of this action pursuant to R.C. Chapter 6111. The Complaint states a claim upon which relief can be granted against the Defendant under R.C. Chapter 6111. 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 the Defendant, Defendant's agents, employees, assigns, successors in interest and any person acting in concert, privity or participation with Defendant.

3. Defendant shall provide a copy of this Consent Order to any lessee or successor in interest and each key employee, consultant or contractor employed to perform work referenced herein or operate the disposal system or treatment works.

III. SATISFACTION OF LAWSUIT

4. Plaintiff alleges in its Complaint that Defendant operates and has operated the wastewater treatment works and disposal system at Knollwood Mobile Home Park ("Knollwood WWTP") in such a manner as to result in numerous violations of the discharge limitations and monitoring requirements of Defendant's National Pollutant Discharge Elimination System ("NPDES") Permit No. OPV00007*FD. Additionally, Plaintiff alleges in its Complaint that since NPDES Permit No. OPV00007*FD expired on September 30, 2006, Defendant has continued to discharge treated, partially treated or raw wastewater from the WWTP into Margaret Creek without authorization, and failed to employ an operator of record licensed to operate Defendant's WWTP. All of Plaintiff's allegations in its Complaint related to Defendant's violations of Ohio's water pollution control laws, R.C. Chapter 6111, and the rules adopted thereunder.

5. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Defendant for all claims alleged in the State's Complaint.

IV. RESERVATION OF RIGHTS

6. Nothing in this Consent Order, including the imposition of stipulated civil penalties for violations of this Consent Order, shall limit the authority of the State of Ohio to:

(a) Seek any legal or equitable relief from Defendant or any other appropriate person for claims or conditions not alleged in the Complaint, including violations that occur after the filing of the Complaint;

(b) Seek any legal or equitable relief from Defendant or any other appropriate person for claims or conditions alleged in the Complaint that occur or exist on the date of or after the entry of this Consent Order;

(c) Enforce this Consent Order through a contempt action or otherwise seek relief for violations of this Consent Order;

(d) Take any action authorized by law against any appropriate person, including Defendant, to eliminate or mitigate conditions at the wastewater treatment plant/disposal system at Knollwood Mobile Home Park and the surrounding areas that may present a threat to the public health or welfare, or the environment; and/or,

(e) Bring any legal or equitable action against any appropriate person other than Defendant for any violation of applicable laws. For the purposes of this Consent Order, and in particular the provisions of this Paragraph, the term "person" includes: an individual, corporation, business trust, estate, trust, partnership, association, municipal corporation, interstate body created by compact, and other officers, agents, employees, attorneys, and/or those in active concert or participation with any of them.

V. PERMANENT INJUNCTION

7. Defendant is permanently enjoined and ordered to comply immediately with all applicable provisions of R.C. Chapter 6111 and the rules promulgated under that chapter.
8. Defendant is enjoined and ordered to comply with all terms and conditions of the expired NPDES Permit No. OPV00007*FD and to continue to do so until a new permit is issued.
9. Defendant is enjoined and ordered to immediately submit an NPDES permit application to the Director and to timely respond to any comments by the Ohio EPA; and once the new or renewal permit is issued, to immediately comply with the new permit.
10. Defendant is enjoined to hire and maintain a properly certified operator to oversee the technical operation of the Knollwood Mobile Home Park WWTP.
11. Defendant is enjoined and ordered to submit a Permit to Install application to the Director for installation of a disinfection system at the Knollwood Mobile Home Park WWTP by December 20, 2010 or upon signing this Consent Order. Defendant is further enjoined and ordered to complete installation of the disinfection system that is the subject of the Permit to Install application by May 1, 2011.
12. Defendant is enjoined and ordered to hire a consultant qualified in wastewater treatment plant operation and evaluation to assess the Knollwood Mobile Home Park WWTP and collection system by December 31, 2010, and this consultant shall complete a report on the results of the assessment by February 21, 2011. Defendant shall provide a copy of the report to the Ohio EPA Southwest District Office. The Defendant is further enjoined and ordered to complete all recommended repairs of the Knollwood WWTP by November 21, 2011.

VI. SUBMITTAL OF DOCUMENTS

13. Documents required to be submitted to Ohio EPA's Southwest District Office pursuant to this Consent Order shall be sent to: Environmental Protection Agency, Southeast District Office, Division of Surface Water (ATTN: DSW Enforcement Group Leader) at 2195 Front Street, Logan, Ohio 43138.

VII. CIVIL PENALTY

14. Defendant shall pay to the State of Ohio a civil penalty of one hundred thousand dollars (\$100,000.00) for violations of Ohio's water pollution control laws in installments according to the following schedule:

- (a) By February 21, 2011, Defendant shall pay the first ten thousand dollars (\$10,000.00) of the civil penalty.
- (b) By May 20, 2011, Defendant shall pay fifteen thousand dollars (\$15,000.00) of the civil penalty.
- (c) By August 22, 2011, Defendant shall pay fifteen thousand dollars (\$15,000.00) of the civil penalty.
- (d) By November 21, 2011, Defendant shall pay fifteen thousand dollars (\$15,000.00) of the civil penalty.
- (e) By February 21, 2012, Defendant shall pay fifteen thousand dollars (\$15,000.00) of the civil penalty.
- (f) By May 21, 2012, Defendant shall pay fifteen thousand dollars (\$15,000.00) of the civil penalty.
- (g) By August 22, 2012, Defendant shall pay the final fifteen thousand dollars (\$15,000.00) of the civil penalty.

15. Penalty payments shall be made by a certified check for the amount as stated above, payable to the order of "Treasurer, State of Ohio" and delivered to Karen Pierson,

Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400.

16. If the Defendant misses any of the scheduled payments as set forth in paragraph 14, above, all remaining payments, along with interest as set forth in R.C. 5703.47 accruing from the date of entry of this Consent Decree, shall become due and owing immediately.

VIII. STIPULATED PENALTIES

17. In the event that Defendant fails to comply with any requirement of this Order, Defendant is liable for and shall immediately pay stipulated penalties in accordance with the following schedule for each failure to comply:

- (a) For each day of each failure to comply with a requirement or meet a deadline from one (1) day to thirty (30) days – two hundred fifty dollars (\$250.00) per day per requirement not met;
- (b) For each day of each failure to comply with a requirement or meet a deadline from thirty-one (31) days to sixty (60) days – five hundred dollars (\$500.00) per day per requirement not met;
- (c) For each day of each failure to comply with a requirement or meet a deadline over sixty-one (61) days – seven hundred fifty dollars (\$750.00) per day per requirement not met.

18. For the purpose of calculating stipulated penalties under the provisions of Paragraph 15, each 7-day period of violations of a specific 7-day average effluent limitation shall be calculated as a single violation. Additionally, for the purpose of calculating stipulated penalties under the provisions of this paragraph, each 30-day period of violation of a specific 30-day average effluent limitation shall be calculated as a single violation.

19. Payments due under Paragraph 15 shall be made within forty-five (45) days from the date of the failure to meet the applicable deadline or knowledge of the effluent limitation violation.

Payments shall be accompanied by a written explanation of the deadline missed and/or the effluent violation. Any payment required to be made under this paragraph shall be made by delivering a certified check or checks for the appropriate amount(s), made payable to "Treasurer, State of Ohio," to Karen Pierson, Environmental Enforcement Section, Ohio Attorney General's Office, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400. The payment of stipulated penalties by Defendant 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. Further, payment by Defendants shall not be considered an admission of liability on the part of Defendants.

20. The stipulated penalties imposed by Paragraph 15 of this Consent Order may be terminated as to each specific paragraph of this Consent Order, for which stipulated penalties are imposed, only after Defendant has achieved and maintained compliance with all the requirements of that paragraph for a period of twelve consecutive months and has paid all stipulated penalties incurred related to that paragraph. Termination of one paragraph subject to stipulated penalties under this Consent Order shall not terminate the accrual of or the liability for payment of stipulated penalties under any other paragraph. Termination of stipulated penalties under this Consent Order shall only be upon written application by any party, and by order of the Court after the Court has made a determination that the requirements of this paragraph have been satisfied.

IX. COMPLIANCE NOT DEPENDENT ON GRANTS OR LOANS

21. Performance of the terms of this Consent Order by Defendant is not conditioned on the receipt of any Federal or State grants, loans and/or funds. In addition, Defendant's performance is not excused by the failure to obtain or any shortfall of any Federal or State grants, loans and/or funds or by the processing of any applications for the same.

X. EFFECT OF CONSENT ORDER

22. 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, or the modification of any existing public water system or distribution system. 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.

XI. MISCELLANEOUS

23. Nothing in this Consent Order shall affect Defendant's obligation to comply with all applicable federal, state or local laws, regulations, rules or ordinances.

24. Any acceptance by the State of Ohio of any payment, document or other work due hereunder subsequent to the time that the obligation is due under this Consent Order shall not relieve Defendant from the obligations created by this Consent Order.

25. Defendant shall inform the Ohio EPA of any change of his home and business addresses or telephone numbers, or the cessation of the business that is the subject of this action.

XII. COSTS

26. Defendant shall pay the court costs of this action.

27. Defendant is hereby ordered to pay the costs incurred by the Ohio EPA for the publication of the Consent Order in Ohio EPA's Weekly Review and a newspaper of general circulation. Defendant shall pay the costs associated with publication by delivering a certified check payable to: "Treasurer, State of Ohio" and with a notation indicating that the funds are

going to "Fund 699" on it, in the amount of the costs, to the Fiscal Officer, Ohio EPA, P.O. Box 1049, Columbus, Ohio 43216-1049, within thirty (30) days from the date he receives notice of the costs from Ohio EPA.

XII. CONTINUING JURISDICTION

28. This Court shall retain jurisdiction over this action for the purpose of enforcing and administrating Defendant's compliance with this Consent Order.

XIV. ENTRY OF CONSENT ORDER AND FINAL JUDGMENT BY CLERK

29. The parties agree and acknowledge that final approval by the Plaintiff and the Defendant and entry of this Consent Order is subject to the requirements of 40 C.F.R. 123(d)(1)(iii), which provides for notice of the lodging of the Consent Order, opportunity for public comment, and the consideration of any public comments. Both the State of Ohio and the Defendant reserve the right to withdraw this Consent Order based on comments received during the public comment period.

30. Pursuant to Rule 58 of the Ohio Rules of Civil Procedure, 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 the parties a 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.


4/27/11
DATE



JUDGE WARD
COURT OF COMMON PLEAS
ATHENS COUNTY

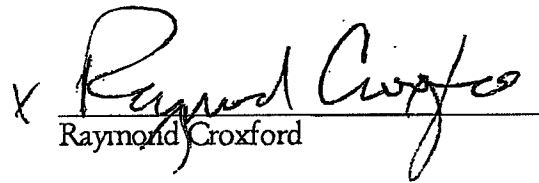
APPROVED:

RICHARD CORDRAY
OHIO ATTORNEY GENERAL

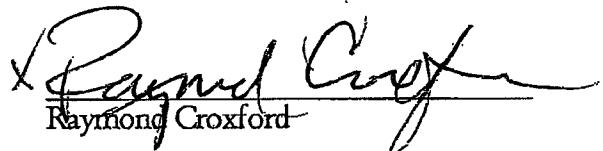


Janean R. Weber (0083960)
L. Scott Helkowski (0068622)
Assistant Attorneys General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215
Telephone: 614-466-2766
Facsimile: 614-644-1926
janean.weber@ohioattorneygeneral.gov
lawrence.helkowski@ohioattorneygeneral.gov

Counsel for Plaintiff, State of Ohio

x 

Raymond Croxford
Defendant

x 

Raymond Croxford
On behalf of Knollwood Mobile Home Park