

2016 JUN 15 PM 2:49

COURT OF COMMON PLEAS  
CHAMPAIGN COUNTY, OHIO

PERCIVAL S. UNDERWOOD  
COMMON PLEAS COURT  
CHAMPAIGN COUNTY, OHIO

STATE OF OHIO, ex rel.  
MICHAEL DEWINE,

Plaintiff,

v.

VALLEY VIEW MOBILE HOME  
PARK, et al.,

Defendants.

CASE NO. 14 CV 53

JUDGE SELVAGGIO

MAGISTRATE SCHOCKLING

C-07

FINAL  
APPEALABLE  
ORDER

---

CONSENT ORDER

---

WHEREAS, Plaintiff, the State of Ohio ("Plaintiff"/ "State"), by its Attorney General Michael DeWine ("State" or "Plaintiff"), has filed the Complaint in the above-captioned case against the Valley View Mobile Home Park, L.K.L., Ltd., and William L. Neer (collectively referred to as "Defendants") to enforce the State of Ohio's Safe Drinking Water Laws and Water Pollution Control Laws under R.C. Chapters 6109 and 6111, respectively, and the rules promulgated thereunder, concerning the Defendants operation of the public water system and wastewater treatment plant at the Valley View Mobile Home Park, located at 110 East Hickory Grove Road, Urbana, Ohio 43078; and

WHEREAS, Plaintiff's Complaint seeks injunctive relief and civil penalties for Defendants' alleged violations of Ohio's Safe Drinking Water Laws under R.C. Chapter 6109, and Ohio's Water Pollution Control Laws under R.C. Chapter 6111, and the rules and permits promulgated thereunder; and

WHEREAS, Defendants have agreed to enter into this Consent Order to resolve

Entity: Valley View Mobile Home Park  
Doc Type: Judicial Order  
Doc Subtype: Consent Order  
Program: NPOES  
County: Champaign  
Secondary ID: 1PY0000d



Pollution Control Laws. Compliance with the terms of this Consent Order shall constitute full satisfaction and a complete release and/or discharge of any civil liability by Defendants, and all their owners, operators, officers, members, agents, employees, attorneys, respective heirs, executors, predecessors, successors, and assigns for all claims alleged in the Plaintiff's Complaint or any other environmental violations, civil claims, or conditions presently known by Plaintiff and/or the Ohio Environmental Protection Agency (Ohio EPA") as of the date of this Consent Order.

#### **IV. RESERVATION OF RIGHTS**

4. Nothing in this Consent Order shall limit the authority of the State of Ohio to seek any legal or equitable relief from Defendants or any other appropriate person for claims or conditions not known by Plaintiff as of the date of this Consent Order. Notwithstanding the preceding Section, Plaintiff acknowledges the allegations in the Complaint allege all believed conditions and/or violations related to the operation of the PWS and WWTP at the Valley View Mobile Home Park. Nothing in this Consent Order shall be construed to limit the authority of the State of Ohio to seek any legal or equitable relief from Defendants or any other appropriate person(s) for claims or conditions that occur or exist after the entry of this Consent Order to the extent that those claims or conditions are not addressed by this Consent Order.

Nothing in this Consent Order shall be construed to limit the authority of the State of Ohio to enforce this Consent Order through a contempt action or otherwise seek relief for violations of this Consent Order. Nothing in this Consent Order shall be construed to limit the authority of the State of Ohio to take any action authorized by law against any appropriate person, including Defendants, to eliminate or mitigate conditions at the Valley View Mobile

Home Park that may present a threat to the public health or welfare, or the environment in derogation of applicable laws and regulations, for which Ohio EPA has the authority to enforce; and/or, bring any legal or equitable action against any appropriate person other than the Defendants 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. INJUNCTIVE RELIEF AND COMPLIANCE

### A. PUBLIC WATER SYSTEM

5. Defendants are hereby permanently enjoined from violating R.C. Chapter 6109 and the rules promulgated under this chapter.

6. Defendants are hereby permanently enjoined and ordered to comply with the following conditions:

- a. Defendants shall immediately sever all connections from Valley View Mobile Home Park's distribution system to existing well No. 2 which had water sample test results exceeding the maximum contaminant level for nitrate.
- b. On or before June 30, 2016, Defendants shall seal the existing abandoned well No. 2, which had water sample test results exceeding the maximum contaminant level for nitrate, in accordance with Ohio Adm. Code 3745-9-10; and within thirty (30) days of sealing the abandoned well, Defendant shall submit a copy of the well-sealing report required by R.C. 1521.05 to Ohio EPA, in accordance with Ohio Adm. Code 3745-9-10(D).
- c. On or before, January 29, 2017, Defendants shall submit detailed plans and obtain approval from the Director of Ohio EPA prior to installing a treatment system to remove manganese from the Valley View Mobile

Home Park Public Water System (PWSID: OH1101312) pursuant to Ohio Adm. Code Chapter 3745-91 and the special condition included in the Valley View Mobile Home Park Plan Approval issued on October 29, 2015; and

- d. **On or before October 29, 2017**, Defendants shall complete installation, in accordance with detail plans approved by Ohio EPA and Ohio Adm. Code Chapter 3745-91, and commence operation of a treatment system to remove manganese from the Valley View Mobile Home Park Public Water System in accordance with the special condition included in the Valley View Mobile Home Park Plan Approval issued on October 29, 2015. Within seven (7) days of the completion of the requirements listed in this Section, the Defendants shall submit written notification of compliance with the requirements.

7. Defendants are hereby permanently enjoined and ordered to continue to comply with all current and future monitoring schedules issued by the Director of the Ohio EPA for the Valley View Mobile Home Park public water system in accordance with Ohio Adm. Code rule 3745-81.

8. Defendants are hereby permanently enjoined and ordered to comply with the operational requirements to maintain minimum chlorine residuals for disinfection in accordance with Ohio Adm. Code rule 3745-83-01.

9. Defendants are hereby permanently enjoined and ordered to comply with maximum contaminant level requirements in accordance with Ohio Adm. Code rule 3745-81-14.

10. Defendants are permanently enjoined and ordered to comply with public notification requirements in accordance with Ohio Adm. Code rule 3745-81-32.

11. Defendants are permanently enjoined and ordered to comply with annual consumer confidence water quality reporting requirements in accordance with Ohio Adm. Code Chapter 3745-96.

12. Documents required to be submitted pursuant to this Section V. A. shall be sent to: Jeffery Stark or his replacement, District Office Compliance Coordinator, Ohio Environmental Protection Agency, DDAGW- Southwest District Office, 401 East Fifth Street, Dayton, Ohio 45402-2911.

**B. WASTEWATER TREATMENT PLANT**

13. Defendants are hereby permanently enjoined from violating R.C. Chapter 6111 and the rules promulgated under this chapter.

14. Defendants are hereby permanently enjoined and ordered to comply with the following requirements:

- a. Defendants shall comply with the detailed plans, requirements, and conditions of the Permit To Install ("PTI") approved and issued by the Director of Ohio EPA for completing the required improvements to the wastewater treatment plant at the Valley View Mobile Home Park;
- b. **On or before July 1, 2016**, the Defendants shall initiate construction of the wastewater treatment plant improvements in accordance with the approved PTI;
- c. **On or before December 31, 2016**, the Defendants shall complete construction of the wastewater treatment plant improvements in accordance with the approved PTI;
- d. **On or before March 1, 2017**, the Defendants shall obtain operational level and final compliance;
- e. **On or before April 1, 2017**, the Defendant shall obtain final compliance with all terms, conditions, and requirements of NPDES Permit No. 1PY00002\*BD issued to the Valley View Mobile Home Park; and
- f. Within seven (7) days of the completion of the requirements listed in Section V. B., the Defendants shall submit written verification of the completion to: Joseph Reynolds, Ohio Environmental Protection Agency, DSW-Southwest District Office, 401 E. Fifth St., Dayton, Ohio 45402.

## VI. CIVIL PENALTY

15. Pursuant to R.C. 6109.33 and 6111.09, Defendants shall pay to the State of Ohio a civil penalty in the amount of forty thousand dollars (\$40,000.00), in ten (10) equal installments of four-thousand Dollars (\$4,000) each as follows:

- i. On or before March 31, 2017, Defendants shall pay the first installment of four thousand dollars (\$4,000).
- ii. On or before June 30, 2017, Defendants shall pay the second installment of four thousand dollars (\$4,000).
- iii. On or before September 30, 2017, Defendants shall pay the third installment of four thousand dollars (\$4,000).
- iv. On or before December 30, 2017, Defendants shall pay the fourth installment of four thousand dollars (\$4,000).
- v. On or before March 31, 2018, Defendants shall pay the fifth installment of four thousand dollars (\$4,000).
- vi. On or before June 30, 2018, Defendants shall pay the sixth installment of four thousand dollars (\$4,000).
- vii. On or before September 30, 2018, Defendants shall pay the seventh installment of four thousand dollars (\$4,000).
- viii. On or before December 31, 2018, Defendants shall pay the eighth installment of four thousand dollars (\$4,000).
- ix. On or before March 31, 2019, Defendants shall pay the ninth installment of four thousand dollars (\$4,000).
- x. On or before June 30, 2019, Defendants shall pay the tenth installment of four thousand dollars (\$4,000).

16. Penalty payments shall be made by certified check for the amount as stated above, payable to the order of "Treasurer, State of Ohio" and delivered to Scott Hainer, Paralegal, or his replacement, Environmental Enforcement Section, 30 East Broad Street, 25<sup>th</sup> Floor, Columbus, Ohio 43215.

17. If the Defendants fail to make any one of the civil penalty payments on or before the date specified by Paragraph 15 of this Consent Order for such payment, the total civil penalty of forty thousand dollars (\$40,000.00) plus applicable interest, less any amount already paid under this Order, shall become immediately due and owing. Any delinquent payments shall accrue interest at the maximum statutory rate prescribed by R.C. 5703.47 calculated from the Effective Date of this Order.

18. It is expressly understood and agreed that upon entry of this Consent Order, the State shall be entitled to file a Judgment Lien against Defendants in the amount of forty thousand dollars (\$40,000.00) to secure payment of the civil penalty set forth in this Consent Order. Such Lien may be subordinated or partially released by consent of the State, which consent will not be unreasonably withheld provided: (a) the proceeds of the transaction necessitating a subordination or partial release will be used to construct environmental improvements contemplated by this Consent Order; and (b) the State has adequate security for the remaining balance of the civil penalty. Within ten (10) days following Defendants' payment in full of the civil penalty, the State will file a Release of the Judgment Lien described in this paragraph.

#### **VII. EFFECT OF CONSENT ORDER**

19. This Consent Order does not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing structure at the Valley View Mobile Home Park without obtaining the required permit(s) from the Ohio EPA. 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. Plaintiff shall not unreasonably or arbitrarily withhold any permit or authorization

required or contemplated by this Consent Order.

### **VIII. COMPLIANCE NOT DEPENDENT ON GRANTS OR LOANS**

20. Performance of the terms of this Consent Order by Defendants is not conditioned on the receipt of any federal or state grant funds or loans. In addition, Defendants' 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**

21. No modification shall be made to this Consent Order without the written agreement of the parties or an order of the Court.

### **X. RETENTION OF JURISDICTION**

22. The Court will retain jurisdiction of this action for the purposes of administering and enforcing compliance with this Consent Order and making any order or decree that it deems appropriate to carry out this Consent Order.

### **XI. COURT COSTS**

23. Defendant L.K.L. Ltd. is hereby ordered to pay the court costs of this action.

24. Defendant L.K.L. Ltd. shall 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 L.K.L., Ltd. shall pay the costs associated with publication by delivering a certified check payable to: "Treasure, 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 1094, Columbus, Ohio 43219-1049, within thirty (30) days from the date they receive notice of the costs from Ohio EPA.

**XII. ENTRY OF CONSENT ORDER AND FINAL JUDGMENT BY CLERK**

25. The parties agree and acknowledge that final approval by Plaintiff and Defendants and entry of this Consent Order is subject to the requirements of 40 C.F.R. 123.27(d)(2)(iii), which provides for notice of the lodging of the Consent Order, opportunity for public comment, and the consideration of any public comments. Both Plaintiff and Defendants reserve the right to withdraw this Consent Order based on comments received during the public comment period.

26. 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.**

6/10/16  
DATE

  
JUDGE SELVAGGIO

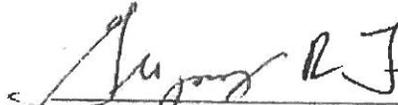
**APPROVED:**

**MICHAEL DEWINE**  
**OHIO ATTORNEY GENERAL**



**KELLY D. McCLOUD (0085847)**  
Assistant Attorney General  
Environmental Enforcement Section  
30 East Broad Street, 25<sup>th</sup> Floor  
Columbus, Ohio 43215  
Telephone: (614) 466-2766  
Facsimile: (614) 644-1926  
kelly.mccloud@ohioattorneygeneral.gov

*Counsel for Plaintiff, State of Ohio*



**GREGORY R. FLAX (0081206)**  
Martin, Brown, Hull & Harper, PLL  
One South Limestone St., Suite 800  
P.O. Box 1488  
Springfield, Ohio 45501-1488  
Telephone: (937) 324-5541

*Counsel for Defendants, Valley View  
Mobile Home Park, et al.*



L.K.L., Ltd., dba Valley View Mobile Home  
Park

By: William L. Neer, President



William L. Neer  
Individually

*Defendants*

Copies by Clerk:

- Kelly D. McCloud, Esq., Asst. Attorney General, Environmental Enforcement Section, Ohio Attorney General, 30 E. Broad Street, 25<sup>th</sup> Floor, Columbus, OH 43215, Attorney for Plaintiff
- Gregory R. Flax, Flax Law, LLC, 2177 Olympic Street, Springfield, OH 45503, Attorney for Defendants
- William L. Neer, PO Box 790, Urbana OH 43078

PENNY S. UNDERWOOD  
CHAMPAIGN COUNTY CLERK OF COURTS  
200 N. MAIN ST.  
URBANA, OHIO 43078  
(937) 484-1047  
June 15, 2016

TO: KELLY D MCCLLOUD  
ENVIRONMENTAL ENFORCEMENT SECTION  
30 EAST BROAD STREET, 25TH FLOOR  
COLUMBUS, OH 43215-3400

PENNY S. UNDERWOOD  
CLERK OF COURTS  
CHAMPAIGN COUNTY, OHIO

2016 JUN 15 PM 2:58

FILED

**NOTICE OF FINAL APPEALABLE ORDER**

STATE OF OHIO EX REL MICHAEL DEWINE  
PLAINTIFF

vs.

VALLEY VIEW MOBILE HOME PARK et al  
DEFENDANT

**CASE NO. 2014 CV 00053**

As required by Civil Rule 58(B), the Clerk of Courts hereby notifies you that a final appealable order was filed and journalized on June 15, 2016 in the above entitled case.

PENNY S. UNDERWOOD, Clerk of Courts

By Kimberly McWally  
Deputy Clerk

cc: WILLIAM L NEER  
GREGORY R FLAX

