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SUMMIT COUNTY
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

STATE OF OHIO ex rel. **MICHAEL DEWINE** **OHIO ATTORNEY GENERAL** **Plaintiff,** **v.** **JEAN HOBBS** **dba GREENTREE PLACE** **APARTMENTS** **Defendant.**	:	**CASE NO. 2013 05 2229** **JUDGE MARY MARGARET ROWLANDS**

CONSENT ORDER FOR PERMANENT INJUNCTIVE RELIEF AND CIVIL PENALTY

WHEREAS, Plaintiff State of Ohio, by its Attorney General Michael DeWine ("State" or "Plaintiff"), has filed the Complaint in this action against Jean Hobbs ("Defendant") to enforce the State of Ohio's Water Pollution Control Laws, R.C. Chapters 6111, and the rules promulgated thereunder, concerning the Defendant's operation of a wastewater treatment plant ("WWTP") at the Greentree Place Apartments, located at 4866 Massillon Road, 4888 Massillon Road, and 4900 Massillon Road, Green Township, Summit County, Ohio ("the Apartments").

NOW THEREFORE, without trial of any issue of fact or law, and upon consent of the Plaintiff and Defendant, it is hereby **ORDERED** 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 6111 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, her agents, employees, 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 her WWTP in such a manner as to result in violations of the Water Pollution Control 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. 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, nor shall anything in this Consent Order limit the right of Defendant to any defenses it may have for such claims including that Defendant no longer operates a WWTP. 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

5. Defendant is permanently enjoined from violating R.C. Chapters 6111 and the rules adopted under those laws.

6. Defendant is enjoined and ordered to complete connection to the Summit County publicly owned sanitary sewer in accordance with Ohio Adm.Code 3745-42 and R.C. Chapter 6111, which includes the following:

a. Submit to Ohio EPA a complete and approvable permit to install ("PTI") application and detail plans, prepared by a professional engineer, for the construction of a sanitary sewer extension to the Summit County sanitary sewer collection system and for the proper abandonment of the existing WWTP, within sixty days (60) of entry of this Order;

b. Initiate construction of an extension to the Summit County sewer in accordance with all federal, state, and local rules, requirements and permits within one hundred and fifty (150) days of entry of this Order;

c. Complete construction of an extension to the Summit County sewer, including all necessary lateral tie ins as approved by the PTI, in accordance with all federal, state, and local rules, requirements and permits within three hundred (300) days of entry of this Order;

d. Connect to the Summit County sewer and cease all discharges to waters of the State in accordance with all federal, State and local rules, requirements and permits, including, but not limited to, those imposed or required by Ohio EPA and the Summit County Department of Environmental Services, within three hundred sixty (360) days of entry of this Order;

e. Complete the abandonment and demolition of the WWTP at the Apartments in accordance with all federal, state, and local rules, requirements and permits within forty-five (45) days of completing the connection to the Summit County sewer in accordance with Section IV.6.(d) of this Order; and

f. Notify Ohio EPA within seven (7) days of completing the abandonment and demolition of the WWTP at the Apartments.

V. EFFECT OF CONSENT ORDER

7. 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 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

8. Pursuant to R.C. 6111.09(A) Defendant shall be subject to a civil penalty in the amount of one hundred fifty thousand dollars ($150,000.00), which shall be secured by filing judgment liens on the real properties owned by the Jean A. Hobbs Revocable Living Trust and shall be satisfied in accordance with paragraphs 8 through 11 or this order. Defendant agrees not to oppose the State's filing of a judgment lien for one hundred fifty thousand dollars ($150,000.00) on the real properties owned by the Jean A. Hobbs Revocable Living Trust. Defendant further agrees to notify the State within seven (7) days of obtaining any necessary financing for completion of the injunctive relief set forth in Section IV of this order, and shall

provide the State with a copy of any mortgage or lien filed to secure the necessary financing. The State agrees not to file its judgment liens until receiving notice from Defendant that all necessary financing has been obtained.

9. If Defendant fully complies with the requirements and deadlines set forth in Section IV of this order, and pays the State a cash civil penalty in the amount of thirty thousand dollars ($30,000.00) in accordance with the following terms and deadlines, the State agrees to thereafter remove all one hundred fifty thousand dollars ($150,000.00) in judgment liens on the real properties of the Jean A. Hobbs Revocable Living Trust:

a. Defendant shall pay fifteen thousand dollars ($15,000.00) within one year of the entry of this Order;

b. Defendant shall pay the remaining fifteen thousand dollars ($15,000.00) within two years of the entry of this Order;

10. The civil penalty payment shall be made by delivering to Scott Hainer, Paralegal, or his 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.

11. If Defendant fails to fully comply with any of the terms and deadlines set forth in paragraph 9 of this order, the State shall have discretion in determining whether to remove all one hundred fifty thousand dollars ($150,000.00) in judgment liens on the real properties of the Jean A. Hobbs Revocable Living Trust.

VII. STIPULATED PENALTIES

12. In the event that Defendant fails to meet any of the terms or requirements of this Consent Order, including the deadlines therefor, Defendant shall immediately and automatically

be liable for and shall pay a stipulated penalty of two hundred fifty dollars ($250.00) per day for each requirement not met, for the first sixty (60) days of noncompliance. Defendant shall be liable for an additional stipulated penalty of five hundred dollars ($500.00) 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 seven hundred fifty dollars ($750.00) per day for each requirement not met.

13. Any payment required to be made under the provisions of paragraph 11 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 Scott Hainer, Paralegal or his successor, at the address set forth in paragraph 10.

14. 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. REPORTING REQUIREMENT

15. Defendant shall communicate and/or send all documents, notifications, reports, and/or communications required pursuant to this order to Ohio EPA Northeast District Office, Division of Surface Water, Attn: Jennifer Bennage, or her successor, at 2110 East Aurora Road, Twinsburg, Ohio 44087.

IX. COMPLIANCE NOT DEPENDENT ON GRANTS OR LOANS

16. 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.

X. MODIFICATION

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

XI. RETENTION OF JURISDICTION

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

XII. COSTS

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

20. Defendant is hereby ordered to pay for 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 to Scott Hainer, Paralegal, or his 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," with a notation of "publication cost" written on the check, in an amount of two hundred dollars ($200.00), within thirty (30) days from the date of entry of this Order.

XIII. ENTRY OF CONSENT ORDER AND FINAL JUDGMENT BY CLERK

21. 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)(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 the State of Ohio and the Defendant reserve the right to withdraw this Consent Order based on comments received during the public comment period.

22. 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.

6-9-15
DATE

MARY MARGARET ROWLANDS
Judge, Summit County Court of Common Pleas

APPROVED:

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Individually
Defendant

Jean Hobbs, Trustee
The Jean A Hobbs Revocable Living Trust