

BEFORE THE COURT OF COMMON PLEAS  
DARKE COUNTY, OHIO

STATE OF OHIO, ex rel., JIM PETRO  
ATTORNEY GENERAL  
30 East Broad St, 25<sup>th</sup> Floor  
Columbus, Oh 43215-3400

Plaintiff,

v.

GAYLEN BLOSSER  
6655 Woodbriar Lane  
Greenville, Ohio 45331

and

AMERICAN BUILDERS INC.  
c/o Gaylon Blosser, Statutory Agent  
6655 Woodbriar Lane  
Greenville, Ohio 45331

Defendants.

CASE NO. 06-CV-63116

JUDGE JONATHAN P. HEIN

CINDY PIKE  
CLERK

2006 NOV 15 PM 1 30

DARKE COUNTY, OHIO

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CONSENT ORDER

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Plaintiff State of Ohio ("Plaintiff"), by its Attorney General Jim Petro, having filed a Complaint seeking injunctive relief and civil penalties for violations of Ohio Revised Code ("R.C.") Chapter 6111, Ohio's water pollution control law, and the rules promulgated thereunder, and Defendants, Gaylen Blosser, himself and on behalf of American Builders, Inc., hereby consent to the entry of this Consent Order.

NOW, THEREFORE, without 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 jurisdiction over the parties and the subject matter of this case pursuant to R.C. Chapter 6111. The Complaint states a claim upon which relief can be granted against the Defendants pursuant to R.C. Chapter 6111. Venue is proper in this Court.

## **II. PERSONS BOUND**

2. The provisions of this Consent Order shall apply to and be binding upon the parties to this action, and their officers, agents, servants, employees, successors, and assigns, and those persons in active concert or participation with them. Defendants shall provide a copy of this Consent Order to each general contractor and consultant that Defendants employ to perform the work itemized herein. Defendants shall require each general contractor to provide a copy of this Consent Order to each of its subcontractors for such work.

3. Defendants shall give thirty (30) days notice to Ohio EPA before sale or transfer of the Greene Villa Mobile Home Park ("Greene Villa MHP"). In addition, Defendants shall provide a copy of this Consent Order to any subsequent owner(s) or successor(s) prior to the transfer of Defendants' ownership rights.

4. Defendants shall inform the Ohio EPA of any change in business address or telephone number within sixty (60) days of the change.

## **III. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS**

5. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Defendants for all claims or violations alleged in the Complaint against Defendants, including the claims for injunctive relief and civil penalties.

6. Nothing in this Consent Order shall be construed so as to limit the authority of the State of Ohio to seek relief against other appropriate persons for claims or conditions alleged in the

Complaint. Nothing in this Consent Order shall be construed so as 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. Similarly, nothing in this Consent Order shall be construed so as 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.

7. Within seven (7) days of Defendant's signing of this Consent Order, Defendants agree to file a Notice or Stipulation of Dismissal with the Environmental Review Appeals Commission ("ERAC") for the State of Ohio, in the appeal, *American Builders, Inc. v. Koncelik*, ERAC Case No. 195701. Defendants agree to pay all costs due to ERAC arising out of this action.

#### IV. COMPLIANCE NOT DEPENDENT ON GRANTS OR LOANS

8. Performance of the terms of this Consent Order by Defendants is not conditioned on the receipt of any federal, state or any other grant, loan, or funds. In addition, Defendants' performance is not excused by the failure to obtain, or shortfall of, any such grant, loan, or funds, or by the processing of any applications for the same.

#### V. REPORTING REQUIREMENT

9. Any report or notification required under this Consent Order shall be sent to Ohio EPA at the following address:

Ohio Environmental Protection Agency  
South West District Office  
401 East Fifth St.  
Dayton, Ohio 45402-2911  
Fax Number: (937) 285-6249  
Attention: Sandra Leibfritz or her successor

## VI. INJUNCTIVE RELIEF

10. Defendants are hereby enjoined and immediately ordered to permanently comply with R.C. Chapter 6111 and the regulations adopted thereunder, including eliminating all wastewater discharges from the Greene Villa MHP to waters of the state.

## VII. CIVIL PENALTY

11. It is hereby ordered that Defendants shall pay to the State of Ohio a civil penalty of **\$25,000** in accordance with the following schedule:

- a. Five thousand (\$5,000) dollars shall be paid within ninety (90) days of the <sup>filing</sup>~~signing~~ of this Consent Order.
- b. An additional ten thousand (\$10,000) dollars shall be paid by no later than June 29, 2007.
- c. An additional ten thousand (\$10,000) dollars shall be paid by no later than June 30, 2008.

12. If Defendants fail to make any one of the civil penalty payments on or before the date specified in this Consent Order, the total civil penalty less any amount of civil penalty that has already been paid to the State of Ohio pursuant to this section, is immediately due and payable.

13. Each civil penalty payment required under this section, shall be made by **certified check** payable to "Treasurer, State of Ohio", and shall be delivered by mail, or otherwise, to Mark Lemmon, Paralegal, or his successor, at the Ohio Attorney General's Office, Environmental Enforcement Section, Public Protection Division, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400.

STIPULATED PENALTIES

14. In the event that Defendants fail to meet any of the requirements of this Consent Order, Defendants ~~shall immediately and automatically~~ <sup>may</sup> be liable for ~~and shall pay~~ a stipulated penalty according to the following payment schedule:, according to the Court's discretion:

- i. For each day of each failure to meet a requirement of the Consent Order from one (1) day to thirty (30) days <sup>7</sup> Seven Hundred Fifty (\$750.00) per day not met; up to
- ii. For each day of each failure to meet a requirement of the Consent Order from thirty-one (31) days to sixty (60) days - one thousand dollars (\$1,000.00) per day not met; up to
- iii. For each day of each failure to meet a requirement of the Consent Order over sixty-one (61) days - ~~one thousand dollars~~ five hundred (\$1,500.00) per day not met. up to

15. Any stipulated penalty payment required to be made under the provisions of this Consent Order shall be made <sup>according to Court Order</sup> ~~within thirty (30) days of the violation~~, by certified check, payable to "Treasurer, State of Ohio", and shall be delivered by mail, or otherwise, to:

Ohio Attorney General's Office  
Environmental Enforcement Section  
Public Protection Division  
30 East Broad Street, 25th Floor  
Columbus, Ohio 43215-3400  
Attention: Mark Lemmon, Paralegal, or his successor

A letter indicating what violations are being covered by the specific check shall accompany each payment.

16. The imposition, payment and collection of stipulated penalties pursuant to violations of this Consent Order shall not prevent Plaintiff from pursuing additional remedies, civil, criminal or administrative, <sup>/ future</sup> for violations of applicable laws.

**VIII. RETENTION OF JURISDICTION**

17. The Court will retain jurisdiction of this action for purposes of enforcing this Consent Order.

**IX. COURT COSTS**

18. Defendants are hereby ordered to pay all court costs of this action.

**X. MISCELLANEOUS**

19. Nothing in this Consent Order shall affect Defendants' obligation to comply with all applicable federal, state and local laws, regulations, rules and ordinances. Defendants shall obtain any and all federal, state, or local permits necessary to comply with this Consent Order.

**XI. ENTRY OF CONSENT ORDER AND FINAL JUDGEMENT BY CLERK**

20. The parties agree and acknowledge that final approval of this Consent Order by the Plaintiff and Defendants, and entry of this Consent Order by the Court, is subject to the requirements of 40 CFR § 123.27(d)(2)(iii), which requires a public notice period to inform the public that this Consent Order has been lodged with the Court, opportunity for public comment, and the consideration of any public comment. The parties reserve the right to withdraw this Consent Order based on comments received during the public comment period.

21. Defendants shall pay the cost of publishing the public notice.

22. Pursuant to Rule 58(B) 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 notice of the judgment and its date of entry in 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.

**XII. AUTHORITY TO ENTER INTO THE CONSENT ORDER**

23. The signatory for Defendants represents and warrants that he/she has been duly authorized to sign this document and so bind the Defendants to all terms and conditions thereof.

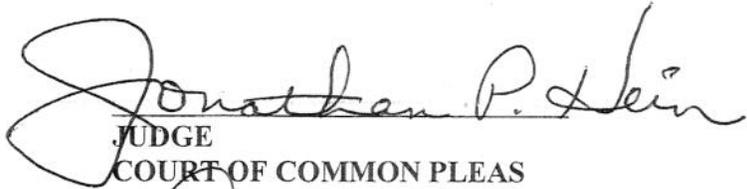
**IT IS SO ORDERED**

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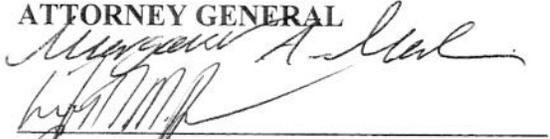
ATTORNEY GENERAL OFFICE  
ENVIRONMENTAL ENFORCEMENT

November 15, 2006  
DATE

  
JUDGE  
COURT OF COMMON PLEAS  
DARKE COUNTY

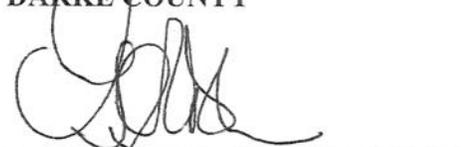
**APPROVED:**

**JIM PETRO,  
ATTORNEY GENERAL**



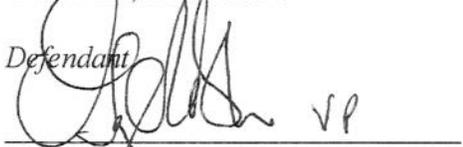
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State of Ohio*



**GAYLEN BLOSSER**  
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Greenville, Ohio 45331

*Defendant*



**AMERICAN BUILDERS, INC**  
6655 Woodbriar Lane  
Greenville, Ohio 45331

*Defendant*



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*Attorney for Defendants*

cc: Jessica B. Atleson/Margaret A. Malone, Assistant Attorneys General for Plaintiff  
Jason Asling, Attorney for Defendants