

granted against Defendants under Chapter 6109 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 Defendants, their 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 Defendants. 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 Defendants violated the Drinking Water laws and rules of the State of Ohio during their operation of the Apple Pie Inn. Defendants specifically dispute Plaintiff's allegations. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability of these Defendants for all claims under such laws alleged in the Complaint.

4. Nothing in this Consent Order shall be construed to limit the authority of the State of Ohio to seek relief against Defendants 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 Defendants to any

defenses they may have for such claims including that Defendants no longer operate a PWS. 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 Defendants, to eliminate or mitigate conditions that may present a threat to the public health, welfare or the environment.

IV. PERMANENT INJUNCTION

5. Defendants are permanently enjoined from violating R.C. Chapter 6109 and the rules promulgated and adopted under those laws.

6. Defendants are permanently enjoined from operating a PWS at any facility, including but not limited to the Apple Pie Inn, either individually or as a part of any corporate entity, unless and until such time as Defendants provide Ohio EPA with written notice of the intent to apply for a license to operate as a PWS. Defendants agree to provide such written notice at least sixty (60) days in advance of submitting a license to operate application to the following address: Ohio EPA, Division of Drinking and Ground Waters, Lazarus Government Center, 50 W. Town St., Suite 700, P.O. Box 1049, Columbus, OH 43216-1049.

7. Defendants are permanently enjoined from operating as a PWS at the Apple Pie Inn at any time in the future, unless and until such time as Defendants are in compliance with this Order, including Section VI, Section IV.7.a through f below, and all other requirements as may be necessary to obtain a license to operate:

a. apply for and retain a license to operate a public water supply at Apple Pie

Inn;

- b. collect and analyze a raw water sample for volatile organic chemicals using a laboratory certified by the Director to perform drinking water analysis, and if the results indicate that the well contains levels of volatile organic chemicals below the MCL, perform the following:
 - i. submit to Ohio EPA a variance request to maintain the current well with a known source of contamination within its isolation radius, in accordance with Ohio Adm.Code Rule 3745-9-02(E), along with detail plans, prepared by an Ohio Department of Health registered well driller, to replace the unauthorized compression flange with a pitless adapter unit that is welded or threaded onto the well casing;
 - ii. upon approval of detail plans and variance request by Ohio EPA, complete necessary replacement and repairs;
 - iii. collect and analyze a raw water sample for volatile organic chemicals within twelve (12) months of the date the sample was collected and annually thereafter;
 - iv. if any volatile organic chemical result obtained during annual monitoring in accordance with C.b.iii above is above the MCL, the variance is voided and Respondent shall proceed with completing option IV.7.c. immediately below;
- c. if the results from the sample collected pursuant to IV.7.b. above indicate the well contains levels of any volatile organic chemical above the MCL, properly abandon the existing well and submit detail plans to provide an approved alternate source of water from either a hauled water system, or a new well in accordance with Ohio Adm.Code Chapter 3745-9.
- d. comply with all future monitoring schedules provided by the Director, including, but not limited to, monitoring for total coliform, nitrate, and nitrite;
- e. comply with the MCLs for total coliform bacteria, nitrate, and nitrite;

- f. public notice any monitoring or MCL violations in accordance with the requirements of Ohio Adm.Code Chapter 3745-81-32.

V. EFFECT OF CONSENT ORDER

8. 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

9. Pursuant to R.C. 6109.33 Defendants shall be jointly and severally liable to pay a cash civil penalty in the amount of five thousand dollars (\$5,000) in accordance with the following scheduled:

- A. Defendants shall pay one thousand dollars (\$1,000) within three months of entry of this order;
- B. Defendants shall pay two thousand dollars (\$2,000) within fifteen months of entry of this Order;
- C. Defendants shall pay two thousand dollars (\$2,000) within twenty-seven months of entry of this Order.

10. The civil penalty payments 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 Defendants fail to make any payment in full or within the time period the payment is due as required by this section, all remaining civil penalty payments required by this section shall become immediately due and owing, plus applicable interest pursuant to R.C. 131.02(D). Any delinquent payments shall accrue interest at the maximum statutory rate under R.C. 5703.47, calculated from the date of the entry of this Consent Order. In addition, if Defendants fail to make any payments, the Plaintiff will enter judgment liens upon Defendants' property in the amount of the full judgment (less any payments made) plus applicable interest.

VII. COMPLIANCE NOT DEPENDENT ON GRANTS OR LOANS

12. 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.

VIII. MODIFICATION

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

IX. RETENTION OF JURISDICTION

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

X. COSTS

15. Defendants are hereby ordered to pay the court costs of this action.

IT IS SO ORDERED.

4-27-16
DATE

S/HOWARD E. HALL
Judge
Morrow County Court of Common Pleas

APPROVED:

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Charles Santee
Individually
Defendant

Charles Santee
Apple Pie Inn, Inc.
Charles Santee, President
Defendant

The Clerk is directed to enter this Judgment upon the Journal, and shall within three (3) days thereafter, in compliance with Civil Rule 58 (3), serve the parties directly (or if represented by Counsel serve through their attorneys) in a manner prescribed by Civil Rule 5 (B) and note the service in the Appearance Docket.