

IN THE COURT OF COMMON PLEAS, HENRY COUNTY, OHIO

STATE OF OHIO, et rel.)	
William J. Brown)	Case No. 20411
Attorney General of Ohio)	
)	FINDINGS OF FACT,
Plaintiff)	CONCLUSIONS OF LAW,
vs.)	ORDERS
)	AND
Gregory M. Sader, et.al.)	JUDGMENT ENTRY
)	
Defendants)	

APR 4 9 59 AM 1980
 COMMON PLEAS
 HENRY COUNTY
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This matter came on for formal hearing on plaintiff's complaint for preliminary and permanent injunction on the 18th day of January, 1980. The Court granted plaintiff's request to consolidate the two and the hearing proceeded to the production of testimony and evidence by all parties. At the request of all counsel, leave was granted to file post trial and reply briefs and with the last one being filed on March 28, 1980, the Court then proceeded to take the matter under advisement.

The Court acknowledges that there was pending before it at the time of the aforementioned hearing defendant's Motion to Dismiss. For the purposes of disposition of this matter in its entirety, the Court can find no distinction between the presentments necessary under such a motion as was presented in aforementioned hearing. Consequently, the Court considers such motion rendered moot by both of the parties proceeding to merit consideration of plaintiff's Complaint on January 18, 1980. Further, as a mere matter of technicality to bring the record to date, the Court overrules and denies the said motion.

The Court comes on now to enter its findings of fact, conclusions of law, the making of orders thereon and for the rendering and filing of its Judgment Entry in accord therewith.

As to findings of fact, the Court finds that:

1. The defendant Gregory M. Sader is a chief officer of the defendant G.M. Sader Excavating and Paving, Incorporated, and appears to conduct most business affairs of the Corporation in such capacity.

2. The defendant's were engaged in the removal of sand from the premises of another for profit, if not from the land owner, at the very least from those they sold the removed sand to.
3. The situs of the deposit of sand occasioned more than one acre and the face of the situs from the bottom of the removal area to its highest point was at the least ten feet, i.e., more than five feet in depth.
4. That the defendants have not secured a permit nor complied with other regulatory matters as the same are provided for in O.R. Chapter 1514 of the State of Ohio.

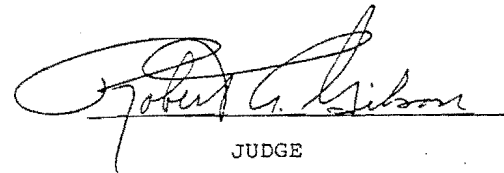
As to conclusions of law, the Court concludes that;

1. The defendants are operators of a business which is engaged in the for-profit business of the removal of sand from lands of another and, when they exceed the minimal standards of the applicable statutes, they are subject to regulation by O.R. Chapter 1514 as surface mining.
2. That the State of Ohio has a valid interest in the conservation and preservation of all lands of the said State and, as such, may through the exercise of its police powers regulate the conservation and preservation of all lands so long as, as it has in this instance, afforded due process and equal protection.
3. That the use of lands which results in the defacing of same and without a showing of reclamation efforts constitutes an irreparable injury contrary to the best interests of the State of Ohio.
4. That a showing of irreparable injury to the public interests and welfare is a sufficiency to invoke the equitable powers of the Courts of Ohio.

Now, therefore, it is hereby ordered, adjudged and decreed that the defendants are preliminarily and permanently enjoined from conducting such business in Section 26, Washington Township, Henry County, Ohio, until such time as they have complied with the provisos of O.R. Chapter 1514; costs of proceedings taxed to the defendants.

These being the orders of the Court, the Court does now make Judgment Entry in accord therewith, hereby.

This being the Judgment Entry of the Court the Clerk is hereby ordered to enter the same upon the Journal of the Court and to forthwith cause copies of the same to be served upon all counsel of record.


JUDGE