

Judgment

IN THE COURT OF COMMON PLEAS
JEFFERSON COUNTY, OHIO

STATE OF OHIO, EX. REL.
ANTHONY J. CELEBREZZE, JR.
ATTORNEY GENERAL OF OHIO,

Plaintiff,

v.

VILLAGE OF IRONDALE, OHIO,
ET. AL.,

Defendants.

CASE NO. 80-CIV-451

JUDGE JOHN J. MASCIO

CONSENT JUDGMENT

FILED
IN COMMON PLEAS COURT
JEFFERSON COUNTY, OHIO
DEC 16 1985
JOSEPH G. HAMROCK
CLERK

The Complaint having been filed under Chapter 6109 of the Ohio Revised Code (hereinafter "O.R.C.") to enforce Ohio laws with regard to public water systems and Plaintiff and Defendants by their respective attorneys having consented to the entry of this Consent Judgment.

Therefore, before the taking of any testimony upon the pleadings and upon the consent of the parties hereto, it is hereby ORDERED, ADJUDGED and DECREED as follows:

I.

The Court has jurisdiction over the parties and the subject matter of this action. The Complaint states a claim upon which relief can be granted against the Defendants the Village of Irondale, the Mayor of Irondale, the Members of the Village Council of the Village of Irondale, and the Members of

the Board of Public Affairs of Irondale under Sections 6109.31
6109.32, and 6109.33 O.R.C.

II.

The provisions of this Consent Judgment shall apply to and be binding upon the Defendants, the Village of Irondale, Ohio, the Mayor of Irondale, Ohio, the Members of the Village Council of Irondale, Ohio, ~~the Members of the Board of Public Affairs of Irondale, Ohio,~~ their agents, servants, employees, assigns, successors in interest, and successors in office. In addition, the provisions of this Consent Judgment shall apply to all persons, corporations, and other entities having notice of this Consent Judgment, who are or will be acting in concert and privity with the Defendants or their office holders, agents, servants, employees, successors, and assigns.

III.

The Complaint filed in this matter alleges that the Defendants have violated Chapter 6109 O.R.C. by failing to analyze the community water system operated by the Defendants for coliform bacteria and turbidity as required by O.A.C. 3745-18-21 and O.A.C. 3745-81-22, and by failing to maintain a maximum contaminant level for coliform bacteria in the system

consistent with that established in O.A.C. 81-14, which failures constitute violations of the rules cited above and Section 6109.31 O.R.C.

Defendants deny these allegations. However, Defendants have determined that it is in the public interest to resolve the pending litigation and that the entry of this Consent Judgment is the most appropriate means of resolving this matter. Compliance with the terms of the Consent Judgment shall be in full satisfaction of Defendants' liability for the violations alleged in the Complaint.

Nothing in this Consent Judgment shall be construed to limit the authority of the State of Ohio to seek relief for any claim or condition not alleged in the Complaint.

IV.

It is ordered that the Defendants, their office holders, successors in office, agents, servants, employees, assigns, and successors in interest are permanently enjoined from violating O.A.C. 3745-81-13, O.A.C. 3745-81-14, O.A.C. 3745-81-21, O.A.C. 3745-81-22 and Section 6109.31 O.R.C.

V.

The parties recognize and the Court finds that under the rules as currently in effect, if the Village of Irondale's community water system is not supplied in whole or part by a surface water source the Defendants do not have any obligation under current O.A.C. 3745-81-13 or O.A.C. 3745-81-22 to sample for the purpose of demonstrating that their system meets the maximum contaminant level for turbidity.

VI.

Defendants agree to and are hereby ordered and enjoined to pay a civil penalty under Section 6109.33 O.R.C. in the amount of Five Thousand Dollars (\$5,000.00). The Court suspends the payment of such penalty contingent upon the Defendants continued compliance with the terms of this Consent Judgment.

In the event that the Defendants after the date of the entry of this Consent Judgment violate any of the terms of this Judgment, the Defendants agree to and are hereby ordered to pay a stipulated civil penalty of Five Hundred Dollars (\$500.00) for each occurrence of each violation of the terms of this Consent Judgment. The Defendants further agree and are further ordered to pay an additional stipulated civil penalty of Five Thousand Dollars (\$5,000.00) per month during the years 1986,

1987, and 1988 if, during the twelve month period immediate preceding that month Defendants have violated the terms of this Consent Judgment four(4) times.

VII.

The stipulated civil penalties required in Paragraph VI above shall be automatically paid within thirty days of the occurrence of the violation or the accrual of the penalty. Payment of stipulated penalties shall be made by delivering a certified or cashier's check made to the order of "Treasurer, State of Ohio", to Plaintiff's counsel, or to such other person as Plaintiff may direct, for payment into the General Revenue Fund. The amounts of stipulated civil penalties required by Paragraph VI shall not be suspended in whole or in part by the Court.

VIII.

This Consent Judgment shall not be construed so as to preclude the State of Ohio or its agencies from seeking monetary, injunctive, or other relief against Defendants for any violation of any state or federal law other than for those violations of law alleged in the Complaint, regardless of when the violation occurred, nor shall it be construed to preclude

the State of Ohio or its agencies from seeking monetary, injunctive, or other relief, including contempt against Defendants for any violation of any state or federal law, which violation occurs subsequent to the filing of the Consent Judgment.

IX.

The Court retains jurisdiction of this case as to the Defendants, for the purpose of making any order or decree which it may deem at any time to be necessary to carry out this Judgment.

X.


The costs of this action are hereby assessed against the Defendants.



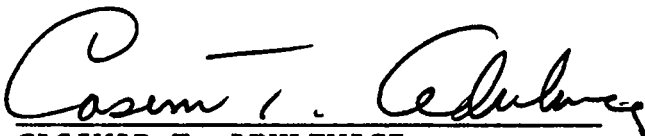
THE HONORABLE JOHN J. MASCIO

APPROVED:

ANTHONY J. CELEBREZZE, JR.
ATTORNEY GENERAL OF OHIO


MARGARET A. MALONE *rs* *Authority*
Assistant Attorney General
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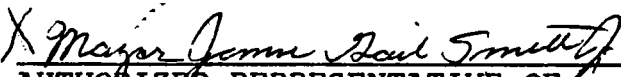
ATTORNEY FOR PLAINTIFF



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P.O. Box 1388
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SOLICITOR, VILLAGE OF IRONDALE

ATTORNEY FOR DEFENDANTS

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AUTHORIZED REPRESENTATIVE OF
THE VILLAGE OF IRONDALE, OHIO