

Consent judgment filed

Shaker, Judge

IN THE COURT OF COMMON PLEAS

TRUMBULL COUNTY, OHIO

STATE OF OHIO, ex rel.,	:	CASE NO. 80-CV-925
ANTHONY J. CELEBREZZE, JR.	:	
ATTORNEY GENERAL OF OHIO,	:	JUDGE SHAKER
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
DAVID A. WALDRON AND ASSOCIATES,	:	
INC., et al.,	:	
	:	
Defendants.	:	

CONSENT JUDGMENT

A motion to modify the Court's judgment in the above-captioned case having been filed, and the Plaintiff State of Ohio, by its Attorney General, Anthony J. Celebrezze, Jr. (hereinafter "Plaintiff") and the Defendant David A. Waldron and Associates, Inc., (hereinafter "Defendant") having consented to entry of this Consent Judgment,

NOW, THEREFORE, without trial of any of the issues of law or fact raised by the motion, and upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED and DECREED as follows:

1. This Court has jurisdiction over the subject matter herein pursuant to Chapter 6111 of the Ohio Revised Code. The Complaint states a claim upon which relief can be granted against Defendant under this statute. This Court has jurisdiction over the parties hereto. Venue is proper in this Court.

2. The provisions of this Consent Judgment shall apply to and be binding upon the parties to this action, their agents, officers, employees, assigns, and successors in interest.

3. Plaintiff alleges in its motion to modify that Defendant has violated the water pollution requirements of Revised Code Chapter 6111. Compliance with the terms of this Consent Judgment shall constitute full satisfaction of any liability by Defendant to the State of Ohio for all violations of this Chapter known to Plaintiff at this time. All such violations known to the State of Ohio have been alleged in the motion.

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4. Defendant shall pay to the State of Ohio a civil penalty of five thousand dollars (\$5,000.00) not later than thirty (30) days after the entry of this Consent Judgment by delivering to Plaintiff's counsel, for payment into the State Treasury, a certified check drawn in such amount to the order of "Treasurer, State of Ohio."

5. As used in this Consent Judgment, "facility" means Defendant's office located at 1432 Prairie Lane Road, Wooster, Ohio, including all structures, grounds, and parking lots owned or used by Defendant which are located adjacent thereto, as well as the lot (Point A)* located on the opposite side of Prairie Lane Road.

6. Beginning on the ninetieth (90th) day after entry of this Consent Judgment, Defendant is prohibited from parking any salt water disposal vehicle (whether or not it is holding salt water) at the facility, except where the vehicle is being refueled, the vehicle is temporarily unable to run due to repairs in process (in which case the vehicle must be completely empty of salt water), or the vehicle is parked on a concrete asphalt pad which meets the following requirements:

- (a) is sufficiently impervious to contain accumulated liquid, thus preventing the liquid from coming into contact with the soil at the facility;
- (b) is located near poured concrete sump(s) which, without leaking into the soil or overflowing, collect(s) all liquid coming into contact with the pad; and
- (c) is sloped or otherwise constructed so that all liquid coming into contact with the pad drains into the sumps and does not flow off the pad onto the soil at the facility.

*Items identified in this Consent Judgment as Points A through D refer to locations designated as A through D on the map attached hereto, which is a rough sketch of the facility.

7. Whenever Defendant installs a pad to be used for parking salt water disposal vehicles, Defendant shall provide written notification of the time and date of installation to the wastewater section of the Ohio Environmental Protection Agency ("Ohio EPA") Northeast District Office at least five (5) business days before installing the pad and shall allow a representative of Ohio EPA to observe its installation. Whenever a contractor installs such a pad for Defendant, Defendant must provide oral notification of the time and date of installation to the Ohio EPA Northeast District Office as soon as possible after Defendant is informed of the time and date of installation. Defendant shall allow Ohio EPA to inspect the pad after its installation.

8. All liquid collected in the sump(s) described in paragraph 6 above shall be disposed of in accordance with law.

9. All pipes connecting the shed (Point B) with a ditch(es) shall be kept plugged with concrete in a manner that prevents any liquid from flowing from the shed into a ditch.

10. Defendant shall prevent any liquid from flowing out of the pipe identified as Point C.

11. All oil, salt water, and other liquid drained from vehicles in the garage (Point D), spilled in the garage, or collected from the garage and all sewage produced at the facility shall be disposed at the City of Wooster sewage treatment facility or disposed in another manner approved in writing by Ohio EPA.

12. Defendant is prohibited from:

- (a) spreading or placing any liquid containing chlorides on the soil or grounds of the facility or into the ditches near the facility;
- (b) spreading or placing any liquid containing chlorides within 2,500 feet of any water production well owned or operated by the City of Wooster;
- (c) discharging any oil or other liquid from the garage (Point C) into ditches or onto the soil;

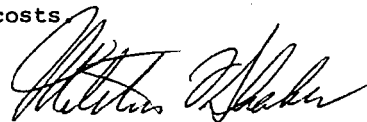
- (d) allowing any sewage from the facility to reach, to flow, or to be placed in any ditches; and
- (e) violating the provisions of Ohio Revised Code Section 6111.04.

13. Plaintiff and Defendant agree that in any action to enforce this Consent Judgment, Defendant may raise at that time the issue of whether it is entitled to raise a defense that its violation of the terms thereof resulted from causes beyond its control, such as, but not limited to, acts of God (since the facility is located in a floodplain, floodwaters could wash salt water into waters of the State), of public enemies, conflicting orders of an entity having police power and jurisdiction over the Defendant, or impossibility of the performance of the terms hereof. While Plaintiff disagrees that such a defense exists, the parties do, however, agree and stipulate that it is premature at this time to raise and adjudicate the existence of such a defense, and that the appropriate time to adjudicate the existence of such a defense is at such time that Plaintiff seeks to enforce the provisions of this Consent Judgment.

14. The orders of the Court contained in this Consent Judgment supplement the previous orders of the Court entered in this action and do not rescind or abrogate such previous orders.

15. The Court retains jurisdiction of this matter for the purpose of making any order or decree which it may deem at any time to be necessary to carry out this Consent Judgment.

16. Defendant shall pay court costs.


JUDGE, COURT OF COMMON PLEAS

APPROVED:

ANTHONY J. CELEBREZZE, JR.
ATTORNEY GENERAL OF OHIO

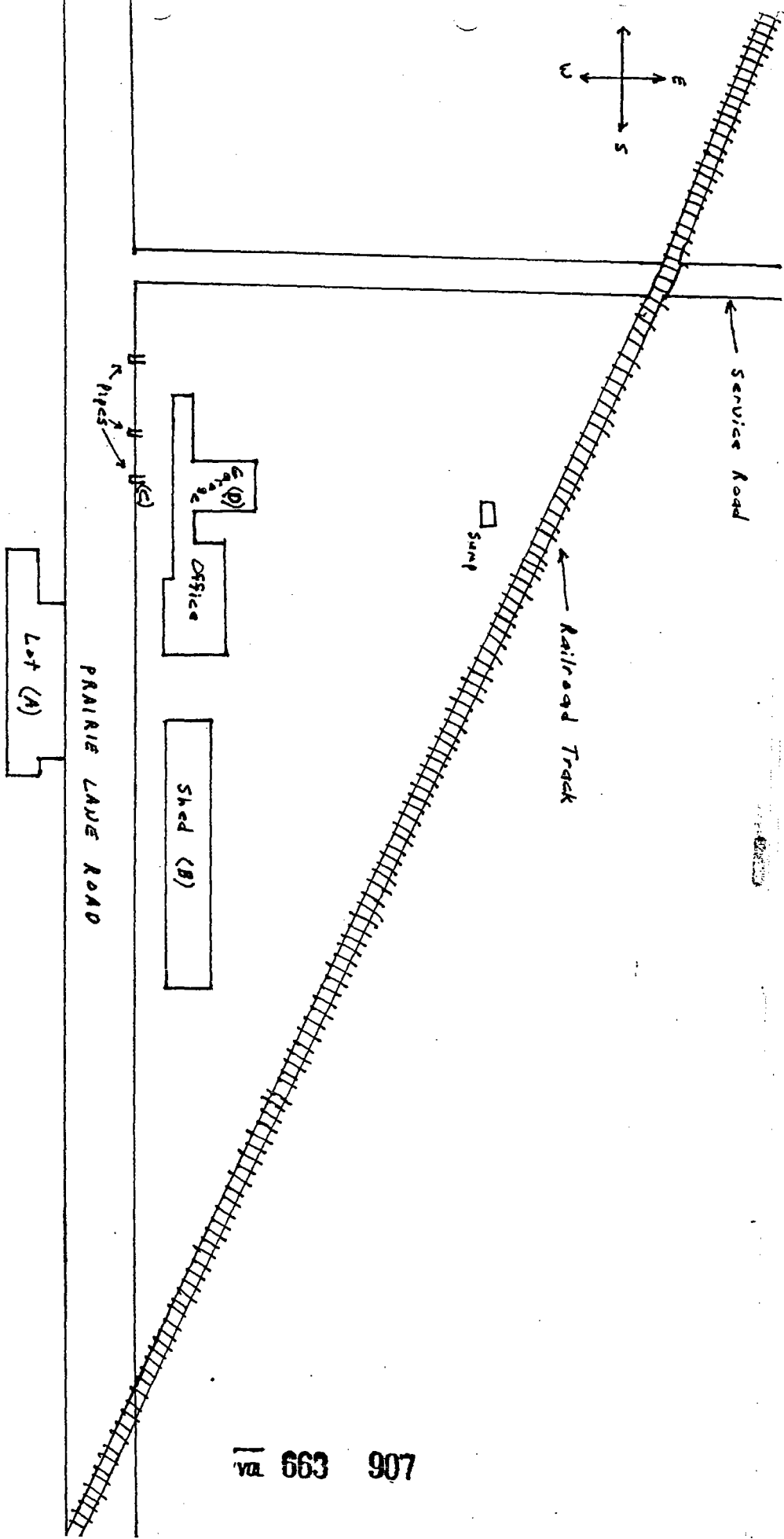
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