

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

F

STATE OF OHIO, ex rel.
ANTHONY J. CELEBREZZE, JR.
ATTORNEY GENERAL OF OHIO,

Plaintiff,

-vs-

BOYAS EXCAVATING, INC.,
et al.,

Defendants.

CASE NO. 72589

JUDGE FRANK J. GORMAN

FINAL CONSENT JUDGMENT

The Complaint having been filed under Sections 3704.05, 3704.06 and 3767.13 of the Ohio Revised Code to enforce the air pollution statutes, and Plaintiff and Defendant by their respective attorneys having consented to the entry of this Final 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:

JURISDICTION

1. The Court has jurisdiction over the parties and the subject matter of the case. The Complaint states a claim upon which relief can be granted against Defendant under Sections 3704.05, 3704.06 and 3767.13 of the Ohio Revised Code.

PERSONS BOUND

2. The provisions of this Final Consent Judgment shall apply to

and be binding upon the parties to this action, including the Corporation,

VOL1006 PG 629

their officers, directors, agents, servants, employees, representatives, successors and/or assigns.

SATISFACTION OF LAWSUIT

3. Plaintiff has alleged in its Complaint that Defendants violated various sections of Ohio Revised Code Chapter 3704. Defendants deny those allegations. Compliance with the terms of this Final Consent Judgment and the Consent Judgment filed on August 17, 1984, shall be deemed full satisfaction of Defendants' alleged liability for the Plaintiff's claims under Chapter 3704 of the Ohio Revised Code, and for any other criminal, civil, or administrative liability for alleged violations of Chapter 3704, or any other action which could have been asserted against Defendants arising out of matters raised in Plaintiff's Complaint.

4. Defendants agree to donate two (2) PM-10 air monitors to the Cleveland Division of Air Pollution Control for use as that Division sees fit. Defendants' donation includes purchase, installation and initial servicing (if required) of these monitors. Defendants agree to complete the installation and initial servicing of these monitors within three (3) months of the entry of this Final Consent Judgment.

5. Defendants agree to pay Ten Thousand Dollars (\$10,000.00) to the State of Ohio pursuant to Ohio Revised Code Section 3704.06(C). Payment shall be made by tendering a certified check or money order to Plaintiff's attorney within fourteen (14) days of entry of this Final Consent Judgment. Said check shall be made payable to "Treasurer of the State of Ohio."

MISCELLANEOUS

6. Nothing in this Final Consent Judgment shall be construed to

limit the authority of the State of Ohio to seek relief for other claims against Defendants or to enforce the terms of the August 17, 1984, Consent Judgment, except as provided in paragraph 3.

7. This Court shall retain jurisdiction of this matter for the purpose of making any order or decree which it deems necessary to carry out this Final Consent Judgment or the Consent Judgment entered August 17, 1984.

Frank J. Gorman

JUDGE FRANK J. GORMAN

APPROVED:

ANTHONY J. CELEBREZZE, JR.
ATTORNEY GENERAL OF OHIO

MANSOUR, GAVIN, GERLACK & MANOS
CO., L.P.A.

By *Dale T. Vitale*

By *Michael T. Gavin*

DALE T. VITALE
LAUREN PALIK ALTERMAN
Assistant Attorneys General
Environmental Enforcement Section
30 East Broad Street - 17th Floor
Columbus, Ohio 43266-0410

MICHAEL T. GAVIN
ELI MANOS
2150 Illuminating Building
55 Public Square
Cleveland, Ohio 44113

Attorneys for Defendants

Attorneys for Plaintiff

RECEIVED FOR FILING

DEC 16 1987

GERALD E. MURPHY, CLERK

G. E. Murphy

C

VOL1006 PG 631