

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

STATE OF OHIO, ex rel.	:	
ANTHONY J. CELEBREZZE, JR.	:	
ATTORNEY GENERAL OF OHIO,	:	
	:	Case No. 85045
Plaintiff,	:	
	:	JUDGE PAUL R. MATIA
vs.	:	
	:	<u>CONSENT JUDGMENT</u>
CITY OF BROADVIEW HEIGHTS,	:	
	:	
Defendant.	:	

The State of Ohio, on the relation of its Attorney General (hereinafter "Plaintiff"), upon the request of the Ohio Environmental Protection Agency ("Ohio EPA"), filed the Complaint herein on December 28, 1984, against the City of Broadview Heights (hereinafter "Defendant"), alleging water pollution in violation of Sections 6111.04, 6111.07 and 6111.44 of the Revised Code and creation of a nuisance in violation of Section 3767.13 of the Revised Code. Plaintiff and Defendant having consented, without trial of any issue of fact or law herein, to this judgment:

NOW, THEREFORE, upon the consent of the parties hereto, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

I.

This Court has jurisdiction of the subject matter herein, and the Complaint states a claim upon which relief can be granted.

II.

The provisions of this Consent Judgment shall apply to and be binding upon Plaintiff and Defendant, their successors and assigns, and all present or successor officials, agents and employees of either party.

III.

Defendant agrees and is hereby enjoined to install and commence operation of two (2) pumps, each with a pumping capacity of no more than one hundred (100) gallons per minute, at the Briarwood Wastewater Treatment Plant, and to repipe the existing five hundred (500) gallon per minute pumps presently located in the new wet well at the Briarwood Wastewater Treatment Plant to provide a bypass to divert wet weather peak flows away from the Briarwood Wastewater Treatment Plant, in accordance with the plans approved by the Director of Ohio EPA on July 15, 1985, as expeditiously as possible but no later than May 1, 1986.

IV.

Defendant agrees and is hereby enjoined to improve the operation and maintenance of the Briarwood Wastewater Treatment Plant by accomplishing the following as expeditiously as possible, but no later than June 1, 1986:

(a) Install an additional functional motor and blower to serve as a backup for the aeration processes at the Briarwood Wastewater Treatment Plant.

(b) Repair the grating that covers the open tankage at the Briarwood Wastewater Treatment Plant.

(c) Install a covered container for the collection of scum, grit, and other sewage related waste materials, and properly dispose of the contents of such container on a regular basis so as to prevent the creation of nuisance conditions such as odors, flies, and rats.

(d) Operate and maintain the Briarwood Wastewater Treatment Plant in proper working condition until the Briarwood

Plant is abandoned as a result of the connection of Defendant's sewage collection system to the Cuyahoga Valley Interceptor.

V.

A. Defendant agrees and is hereby ordered to pay the amount of twenty-five thousand dollars (\$25,000.00) as a civil penalty under Section 6111.09 of the Revised Code. Said civil penalty shall be paid by Defendant in five (5) installments by delivering to Plaintiff's counsel for payment into the State's General Revenue Fund a certified check in the amount of five thousand dollars (\$5,000.00) payable to "Treasurer, State of Ohio" on March 1, 1986, June 1, 1986, September 1, 1986, December 1, 1986, and March 1, 1987.

B. In lieu of additional cash civil penalties pursuant to Section 6111.09 of the Revised Code, Defendant agrees and is hereby enjoined to install and operate chlorination equipment in accordance with Paragraph VI, below, and to perform an infiltration/inflow study of Defendant's sanitary sewer collection system and to expend a minimum of fifteen thousand dollars (\$15,000.00) repairing such collection system in accordance with Paragraph VII, below.

C. Payment of the civil penalty as set forth in subparagraph A, and performance of the work in lieu of payment of additional cash civil penalties as set forth in subparagraph B, shall be in satisfaction of any and all liability of Defendant for the violations of Chapter 6111 of the Revised Code charged in the Complaint and all similar violations of Chapter 6111, Revised Code, since the filing of the Complaint to the date of entry of this Consent Judgment.

VI.

Defendant agrees and is hereby enjoined to install equipment to chlorinate both the effluent discharged from the Briarwood Wastewater Treatment Plant and the wet weather bypass flow diverted away from the Briarwood Wastewater Treatment Plant prior to its discharge to the receiving stream in accordance with the following schedule:

(a) Submit approvable plans for such chlorination equipment to the Ohio EPA, Northeast District Office (Attention David Budd), no later than February 14, 1986.

(b) Install and commence operation of such chlorination equipment as expeditiously as possible but no later than June 1, 1986.

VII.

Defendant agrees and is hereby enjoined to conduct an infiltration/inflow ("I/I") study of Defendant's sanitary sewer collection system and to implement the results of such study as follows:

(a) Commence such I/I study no later than May 1, 1986.

(b) Submit a copy of the I/I study results and recommendations to the Ohio EPA, Northeast District Office (Attention David Budd), no later than August 1, 1986.

(c) Implement the recommendations resulting from the I/I study within one hundred, twenty (120) days of completion of the I/I study by expending a minimum of fifteen thousand dollars (\$15,000.00) for repairs to the sanitary sewer collection system. Such funds shall be expended first for repairs to the Briarwood sanitary sewer collection system, and if less than the fifteen thousand dollars (\$15,000.00) is necessary for those repairs, the remaining funds shall be expended for repairs in other parts of Defendant's sanitary sewer collection system.

VIII.

If Defendant fails to perform any of the acts specified in Paragraphs III, IV, VI (b), VII (b), and VII (c) within the time frames specified therein, Defendant shall pay a civil penalty pursuant to Section 6111.09 of the Revised Code of five hundred dollars (\$500.00) for each day that a failure to perform any of the acts occurs. A separate civil penalty will accrue for the failure to perform each act. Any payments which must be made pursuant to this provision shall be made by forwarding to Plaintiff's counsel a certified check in the

appropriate amount payable to "Treasurer, State of Ohio" for deposit in the State's General Revenue Fund.

IX.

No later than January 27, 1986, Defendant shall dismiss the appeal it filed in this case presently pending in the Cuyahoga County Court of Appeals as Case No. 50476.

X.

Defendant shall pay the Court costs in both this Court and the Court of Appeals.

XI.

The Court retains jurisdiction of this suit 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.

Paul R. Matia
PAUL R. MATIA, JUDGE
Court of Common Pleas

APPROVED:

Anthony J. Celebrezze, Jr.
Attorney General of Ohio

By:

Martha E. Horvitz
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City of Broadview Heights

RECEIVED FOR FILING

FEB 28 1986

GERALD E. FUERST, CLERK
BY J. P. [Signature] DEP.