

E. Dennis

DIANA ZALESKI

APR 3 3 41 PM '91

CLERK OF COURTS

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

STATE OF OHIO, ex rel	:	CASE NO. CV 89-06-1995
ANTHONY J. CELEBREZZE, JR.	:	
ATTORNEY GENERAL OF OHIO	:	JUDGE SPICER
	:	
Plaintiff,	:	
	:	
vs.	:	
	:	
CITY OF TWINSBURG	:	<u>CONSENT ORDER</u>
	:	
	:	
Defendant.	:	

The Complaint in the above-captioned matter having been filed herein, and the Plaintiff State of Ohio by its Attorney General Anthony J. Celebrezze, Jr. (hereinafter "Plaintiff") and Defendant City of Twinsburg (hereinafter "Defendant" or "Twinsburg") having consented to the entry of this Order,

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

I. JURISDICTION AND VENUE

1. The Court has jurisdiction over the parties and the subject matter of this case. The Complaint states a claim upon which relief can be granted against Defendant under Chapter 6111 of the Ohio Revised Code, and venue is proper in this Court.

II. PARTIES

2. The provisions of this Consent Order shall apply and be binding upon the parties to this action, their agents, officers, employees, assigns, successors in interest and any person acting in concert or privity with any of them. Defendant shall provide a copy of this Consent Order to each contractor it employs to perform work itemized herein, and each general contractor shall provide a copy of this Consent Order to each of its sub contractors for such work.

III. SATISFACTION OF LAWSUIT

3. Plaintiff alleges in its Complaint that Defendant has operated its wastewater treatment plant and sewer system in such a manner as to result in numerous violations of the discharge limitations and monitoring requirements of the NPDES Permit issued to it by the Director of Ohio EPA and in violation of the water pollution laws of the State of Ohio. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Defendant for all claims under such laws alleged in the Complaint. Nothing in this Order shall be construed to limit the authority of the State of Ohio to seek relief for claims or conditions not alleged in the Complaint, including violations which occur after the filing of the Complaint.

IV. INJUNCTION

4. Defendant is hereby permanently Enjoined and Ordered to immediately comply with the requirements of Chapter 6111 of the Ohio Revised Code and the terms and conditions of the rules and regulations adopted under that Chapter and Defendant's NPDES Permit No. 3PD00039*ED, and any renewals or modifications thereof. Defendant Twinsburg is hereby enjoined and ordered to eliminate any discharges from overflows and bypasses from its sanitary sewer system.

Defendant Twinsburg is hereby Enjoined and Ordered to properly operate and maintain its wastewater treatment plant and any associated equipment and structures.

V. CIVIL PENALTY

5. Defendant Twinsburg shall pay to the State of Ohio a civil penalty pursuant to R.C. §6111.09 of eighteen thousand dollars (\$18,000). The penalty shall be paid by delivering to counsel for Plaintiff a certified check for that amount, payable to the order of "Treasurer, State of Ohio" within forty-five (45) days from the date of entry of this Consent Order.

VI. STIPULATED PENALTIES

6. In the event that Defendant Twinsburg fails to meet any of the requirements of this Consent Order set forth in paragraph 4 above, the Defendant shall immediately and automatically be liable for payment of a stipulated penalty of \$3,000.00 per

day of each violation of said requirement. The Defendant shall be liable for an additional stipulated penalty of Two Thousand Dollars (\$2,000.00) per day of each violation if the failure to comply continues for more than thirty (30) days, i.e. Five Thousand Dollars (\$5,000.00) per day of each violation. The Defendant shall be liable for an additional stipulated penalty of Two Thousand Dollars (\$2,000.00) per day of each violation if failure to comply continues for more than sixty (60) days, i.e., Seven Thousand Dollars (\$7,000.00) per day of each violation. The Defendant shall be liable for an additional stipulated penalty of Three Thousand Dollars (\$3,000.00) per day of each violation if failure to comply continues for more than 90 days, i.e. Ten Thousand Dollars (\$10,000.00) for each of each violation.

7. Any payment required to be made under the provisions of Paragraph 6 of this Order shall be made by delivering to Plaintiff's counsel a certified check or checks for the appropriate amounts, within forty-five (45) days from the date of the failure to meet the requirement of the Consent Order, made payable to "Treasurer, State of Ohio".

VII. COMPLIANCE NOT DEPENDENT ON GRANTS OR LOANS

8. Performance of the terms of this Consent Order by Twinsburg is not conditioned on the receipt of any Federal or State grant funds or loans. In addition, Twinsburg's performance is not excused by the failure to obtain or

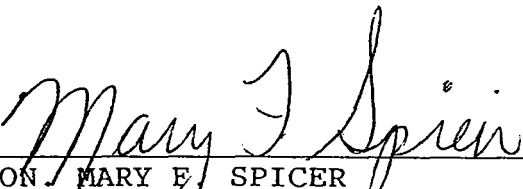
shortfall of any Federal or State grant funds or loans, or by the processing of any applications for the same.

VIII. RETENTION OF JURISDICTION

9. The Court will retain jurisdiction of this action for the purpose of making any order or decree which it deems appropriate to carry out this Consent Order.

IX. COSTS

10. Defendant Twinsburg is hereby ordered to pay the costs of this action.



HON. MARY E. SPICER
JUDGE, COURT OF COMMON PLEAS OF
SUMMIT COUNTY, OHIO

APPROVED:

STATE OF OHIO, ex rel.
LEE FISHER
ATTORNEY GENERAL OF OHIO

BY:

Bryan F. Zima

BRYAN F. ZIMA
TERRENCE S. FINN
Assistant Attorneys General
Columbus, Ohio 43266-0410
(614) 466-2766

Attorneys for Plaintiff,
State of Ohio

Charles K. Webster

CHARLES K. WEBSTER, LAW DIRECTOR
ANDRACHIK AND WEBSTER
2200 Illuminating Building
55 Public Square
Cleveland, Ohio 44113

Attorney for Defendant,
City of Twinsburg

Jamar Kusobee Mayor

Authorized Representative of
City of Twinsburg

1845E
mp