

IN THE COURT OF COMMON PLEAS

TRUMBULL COUNTY, OHIO

STATE OF OHIO, ex rel. : CASE NO. 82-CV-68
ANTHONY J. CELEBREZZE, JR. :
ATTORNEY GENERAL OF OHIO, : JUDGE SHAKER
 :
Plaintiff, :
 :
v. :
 :
RAY PANDER TRUCKING, INC., : CONSENT JUDGMENT GRANTING
et al., : INJUNCTIVE RELIEF AND
 : CIVIL PENALTIES
Defendants. :

This action was brought by the State of Ohio against inter alia, defendants, Raymond Pander and Ray Pander Trucking, Inc., to enforce the state water pollution statutes, under Sections 6111.04, 6111.07, and 6111.09, of the Ohio Revised Code. The plaintiff and defendants, Raymond Pander and Ray Pander Trucking, Inc. have consented to the entry of this Consent Judgment.

NOW THEREFORE, before the taking of any testimony and upon the pleadings, it is Ordered, Adjudged, and Decreed as follows:

I.

This Court has jurisdiction of the subject matter herein and of the parties consenting thereto. The Complaint states a claim upon which relief can be granted against Defendants Raymond Pander and Ray Pander Trucking, Inc., under §§ 6111.07 and 6111.09 of the Ohio Revised Code.

II.

The provisions of the Consent Judgment shall apply to and binding upon Raymond Pander and Ray Pander Trucking, Inc., their

officers, directors, agents, employees, successors, and assigns. 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 defendants, Raymond Pander and Ray Pander Trucking, Inc., their officers, directors, agents, servants, employees and assigns.

III.

This Consent Judgment is intended to settle all matters in controversy between the plaintiff and Raymond Pander and Ray Pander Trucking, Inc., together with their heirs, employees, officers, successors, and assigns, with regard to the incidents of pollution alleged in the Plaintiff's Amended Complaint and specifically identified in Plaintiff's Definite Statement filed on May 6, 1982, as well as those set forth and referred to in the initial pollution incident reports numbered 12-76-3014, 7-67-1640, and 12-67-2865, as well as any other incidents described in any discovery documents furnished in the course of this litigation by the State. The State does not, by agreeing to this Consent Judgment, waive any right to pursue prosecution of such causes of action as it may now have, or that may, in the future, accrue against defendants, Raymond Pander, and/or Ray Pander Trucking, Inc., and which are unrelated to the afore-described incidents and claims.

IV.

Defendants, Raymond Pander and Ray Pander Trucking, Inc. expressly disclaim the commission of the violations alleged in

the Complaint. Nevertheless, defendants agree and the Court hereby orders that defendants, Raymond Pander and Ray Pander Trucking, Inc., pursuant to Revised Code 6111.07, are directed to comply with Section 6111.04 which states in part as follows:

No person shall cause pollution or place or cause to be placed any sewage, industrial waste, or other wastes in a location where they cause pollution of any waters of the state, and any such action is hereby declared to be a nuisance except in such cases where the Director of Environmental Protection has issued a valid and unexpired permit or renewal thereof, as provided in Sections 6111.01 to 6111.08 of the Revised Code, or any application for renewal is pending.

It is understood that this order does not prohibit the application of industrial wastes or other wastes, specifically salt water, to unpaved roads, or other dust control applications, as long as no violation of Chapter 6111, and/or 1509 of the Revised Code results from such conduct.

v.

Defendant, Ray Pander Trucking, Inc., shall pay a civil penalty, pursuant to Ohio Revised Code Section 6111.09, in the amount of \$10,000.00. This penalty shall be paid in four installments of \$2,500.00 each by delivering to plaintiff's counsel, for payment into the State Treasury to the credit of the general revenue fund, a check in such amount made to the order of "Treasurer, State of Ohio". The first installment of \$2,500.00 shall be paid no later than March 30, 1984. The second installment of \$2,500.00 shall be paid no later than June 30, 1984. The third installment of \$2,500.00 shall be paid no later than September 30, 1984. The fourth installment of \$2,500.00 shall be paid no later than December 30, 1984.

VI.

It is further ordered that defendant, Ray Pander Trucking, Inc., shall pay a civil penalty of \$5,000.00 under §6111.09 ORC. Such a civil penalty is hereby suspended, pending completion of the installation or construction, and commencement of operation of the injection well, as set forth in paragraph VII below. In the event that defendant fails to construct and commence operation of an injection well, as specified in paragraph VII, the civil penalty of \$5,000.00 will be reinstated upon the motion of plaintiff, and defendant, Ray Pander Trucking, Inc., shall pay into the State Treasury a civil penalty of \$5,000.00, pursuant to ORC Section 6111.09. If and when defendant does complete construction and installation of an injection well, as specified in paragraph VII within six (6) months of the entry of this judgment, defendant Ray Pander Trucking, Inc.'s obligation to pay the civil penalty of \$5,000.00, described herein, shall terminate.

VII.

It is further ordered that defendant, Ray Pander Trucking, Inc., shall complete the installation, and/or construction, within six (6) months of the entry of this Consent Judgment, of an injection well for the disposal of some, or all of the brine and other wastes disposed of by defendant, Ray Pander Trucking, Inc., in its provision of oil and gas field services. It is expressly understood that said injection well may be owned in partnership between defendant and another entity. Such well shall be constructed, and made operable by defendant, within the State of Ohio, in compliance with all permits and approvals

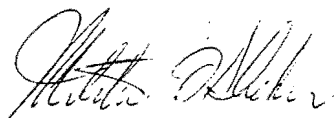
required by state and federal laws and regulations. Construction of such well shall be completed within six (6) months of the entry of this Consent Judgment. Upon completing installation and construction of said injection well, and upon commencing operation, defendant shall notify the Ohio EPA in writing. By such notification, defendant, Ray Pander Trucking, Inc., shall certify that the injection well has been completely constructed in compliance with all applicable laws and regulations. Provided, however, that the plaintiff, State of Ohio, may, in a written report to this Court, disagree with defendant's certification, within sixty (60) days after defendant's notice to the E.P.A., and either party may submit this matter to this Court for resolution.

VIII.

The Court retains jurisdiction of this case as to defendants, Ray Pander Trucking, Inc., and Raymond Pander, for the purpose of making any order or decree which it may deem, at any time, to be necessary to carry out this Judgment. This order shall not confer upon this Court jurisdiction for future claimed violations of law such as would otherwise be improperly venued in Trumbull County.

IX.

The costs of this action associated with defendants, Ray Pander Trucking, Inc., and Raymond Pander, are hereby assessed against Ray Pander Trucking, Inc.

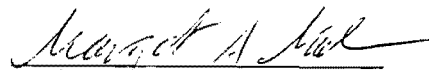


HONORABLE MITCHELL SHAKER
JUDGE, COURT OF COMMON PLEAS

APPROVED:

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