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IN THE COURT OF COMMON PLEAS
GEAUGA COUNTY, OHIO

FILED
IN COMMON PLEAS COURT

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

'86 SEP 18 PM 3 09

Plaintiff,

BETTY J. MONTAGU
CLERK OF COURT
DEPT. OF COUNTY

Case No. 86 m 792

v.

Judge JUDGE H. F. INDERLIED, JR.

VILLAGE OF ~~BURTON~~,

CONSENT JUDGMENT

Defendant.

The Plaintiff having filed the Complaint in this action to enforce the State safe drinking water statute and supporting regulations, and Plaintiff and Defendant, Village of Burton, having consented to this 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:

I.

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 the Defendant under Sections 6109.31, 6109.32 and 6109.33 of the Ohio Revised Code.

II.

This Court will retain jurisdiction of this action 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.

III.

The provisions of this Consent Judgment shall apply to and be binding upon the parties to this action and their officers, directors, agents, employees, servants, 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 the Defendant, Village of Burton, and its officers, directors, agents, servants, employees, successors and assigns.

IV.

The Defendant, Village of Burton, operates a public water system (PWS - ID: 2800312) as defined by Ohio Revised Code (O.R.C.) Section 6109.01(A) and Ohio Administrative Code (O.A.C.) Rule 3745-81-01(J). This system is located at the Geauga County Fairgrounds in Burton, Ohio. This public water system serves a year-round population of approximately sixteen hundred (1600) persons and is therefore a community water system as defined by rule 3745-81-01(J)(1) of the O.A.C.

V.

Defendant has violated O.R.C. Section 6109.31 and O.A.C. Rule 3745-83-02(B) due to its failure to comply with the community water system chlorine disinfection requirements set forth in O.A.C. Rule 3745-83-02(B). Defendant has failed to chlorinate its community water system subsequent to May 26, 1982. Defendant is therefore subject to a civil penalty of up to ten thousand dollars (\$10,000.00) per day for each day of violation pursuant to O.R.C. Section 6109.31 and 6109.33 as well as to injunctive relief pursuant to O.R.C. Section 6109.32.

VI.

Defendant acknowledges that it has been in continuous violation of O.R.C. Section 6109.31 and O.A.C. Rule 3745-83-02(B) from May 26, 1982, until the present.

VII.

Defendant agrees and is hereby enjoined to install and place into operation within sixty days of the Court's entry of this Consent Judgment, equipment capable of meeting the chlorine disinfection requirements called for pursuant to O.A.C. Rule 3745-83-02(B). This equipment will be used to chlorinate Defendant's public water system (PWS - ID: 2800312) located at the Geauga County fairgrounds in Burton, Ohio.

VIII.

Defendant agrees and is hereby enjoined to comply with O.A.C. Rule 3745-83-02(B) within sixty days of this Court's entry of this Consent Judgment.

IX.

Defendant further agrees and is hereby enjoined to pay a stipulated civil penalty pursuant to O.R.C. Section 6109.33 in the amount of seventeen thousand dollars (\$17,000.00), should the Defendant fail to achieve compliance with O.A.C. Rule 3745-83-02(B) sixty days of the Court's entry of this Consent Judgment as required by paragraph VII and VIII of this Consent Judgment. Should this penalty be implemented due to a failure by Defendant to comply with the conditions set forth above, the Defendant shall pay this penalty by delivering to Plaintiff's counsel, for payment into the state treasury, a check in said amount of seventeen thousand dollars (\$17,000.00) made payable to the order of "Treasurer, State of Ohio".

X.

Defendant further agrees to dismiss its adjudication hearing request pending before the Ohio Environmental Protection Agency (Case No. 83-CT-006) within thirty (30) days of the date of entry of this Consent Judgment. Defendant's adjudication hearing request pertains to the Director's Proposed Findings and Orders issued on March 7, 1983, which denied the Defendant's application for an exemption under O.A.C. Rule 3745-83-02.

XI.

Compliance by Defendant with the terms of this Consent Judgment shall constitute full satisfaction of any and all liability of Defendant for violations of Chapter 6109 of the Ohio Revised Code charged in the Complaint and all similar violations of Chapter 6109, Revised Code since the filing of the Complaint to the date of entry of this Consent Judgment.

This Consent Judgment shall not be construed so as to preclude the State of Ohio from seeking monetary, injunctive or other relief provided by law or equity for violations of O.R.C. Chapter 6109 and O.A.C. 3745-83-02(B), should any such violations occur subsequent to the date of entry of this Consent Judgment.

XII.

Defendant shall pay the Court costs.

3/ H. F. Underhill Jr. 9-15-86

JUDGE, COURT OF COMMON PLEAS

APPROVED:

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