

BEFORE THE OHIO OIL AND GAS BOARD OF REVIEW

TANSKY OIL PRODUCTION,

:

Appellant.

:

Appeal No. 383

v.

:

Chief's Order No. 89-66

DONALD L. MASON, CHIEF
DIVISION OF OIL AND GAS

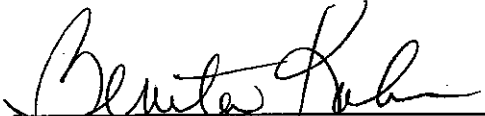
:

Appellee.

:

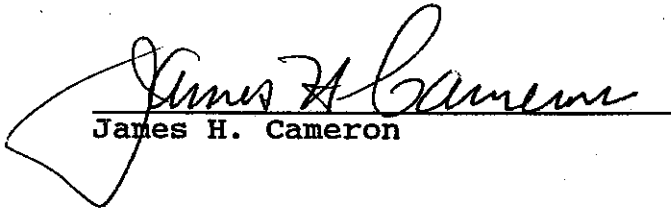
ORDER

Having read and considered the Joint Motion for Consent Decision, filed by Appellant and Appellee, the Board HEREBY DISMISSES Appeal No. 383 with prejudice.


Benita Kahn


William J. Taylor

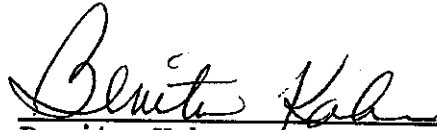
Gail Ignatz-Hoover


James H. Cameron


John A. Gray

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was served on John Tanksy, Tansky Oil Production, 297 East Main St. North, Logan, Ohio 43138 and Sandra H. Ramos, Assistant Attorney General, Division of Oil and Gas, Environmental Enforcement Section, 4435 Fountain Square, Building A, Columbus, Ohio 43224 by regular U.S. Mail, postage prepaid this 27th day of October, 1993.



Benita Kahn

BEFORE THE OIL AND GAS BOARD OF REVIEW
DEPARTMENT OF NATURAL RESOURCES
STATE OF OHIO

TANSKY OIL PRODUCTION)

Appellant,)

v.)

DONALD L. MASON, CHIEF,)
Division of Oil and Gas)
Ohio Department of Natural)
Resources)

Appellee.)

APPEAL NO. 383


REVIEW OF CHIEF'S ORDER
NO. 89-666

JOINT MOTION FOR CONSENT DECISION


Now come the parties to the above action with their Joint Motion for Consent Decision and respectfully request this Board to adopt the attached Consent Decision and dismiss the instant appeal with prejudice.

Respectfully submitted,

LEE FISHER
ATTORNEY GENERAL OF OHIO



JOHN TANSKY
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297 East Main St., North
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SANDRA H. RAMOS
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BEFORE THE OIL AND GAS BOARD OF REVIEW
DEPARTMENT OF NATURAL RESOURCES
STATE OF OHIO

TANSKY OIL PRODUCTION)	
)	
Appellant,)	
)	
v.)	APPEAL NO. 383
)	
DONALD L. MASON, CHIEF,)	REVIEW OF CHIEF'S ORDER
Division of Oil and Gas)	NO. 89-666
Ohio Department of Natural)	
Resources)	
)	
Appellee.)	

CONSENT DECISION

WHEREAS, Appellant, Tansky Oil Production, owned the H. & E. Miller well, Permit No. 4080, Monday Creek Township, Perry County, Ohio ("Miller #3 well"), which well was used for the annular disposal of brine; and

WHEREAS, Mr. Homer Miller is the owner of real property described as Twp. Rd. 234, 6056-A, Logan, Ohio 43138 and located less than one-quarter mile from the Miller No. 3 well; and

WHEREAS, Mr. Homer Miller had obtained his domestic water from a spring located on the above described property; and

WHEREAS, on October 6, 1989, Chief's Order No. 89-666 was issued to Appellant, ordering it to either reimburse Mr. Homer Miller for the cost of the new water well drilled on the Miller property or determine the difference between the fair market value of Mr. Miller's interest in the real property before damage occurred to his water supply as a result of a leak in Appellant's annular disposal transport line and the fair market value after the damage occurred, and pay that amount to Homer Miller; and

WHEREAS, for purposes of R.C. 1509.22(F) the cost of reimbursing Mr. Miller for the cost of his new water well exceeds the aforementioned difference in fair market values; and

WHEREAS, for purposes of 1509.22(F) only, Appellant and Homer Miller have agreed upon a monetary amount representing the aforementioned difference in fair market values; and

WHEREAS, on or about October 27, 1989, Appellant filed an appeal of Chief's Order No. 89-666 with the Oil and Gas Board of Review; and

WHEREAS, prior to hearing of any issue of law or fact in this appeal, an agreement has been reached between the parties to this appeal which disposes of the need for a hearing on this matter.

NOW, THEREFORE, in settlement of this appeal, the parties hereby agree to the following:

1. Appellant, Tansky Oil Production, consents to the entry of this CONSENT DECISION and waives any objection or further right to appeal it may have with respect to Chief's Order No. 89-666.

2. Tansky Oil Production shall pay Twenty Five Hundred Dollars (\$2,500.00), by a certified check made payable to "Homer Miller", to be delivered to Homer Miller, 6056-A Township Road 234, Logan, Ohio 43138 no later than October 5, 1993 and shall immediately notify counsel for the Division, Sandra H. Ramos, Assistant Attorney General, at the offices of the Division that payment has been made.

3. The payment required herein represents payment for the difference in fair market value of Homer Miller's interest in the subject real property before damage occurred to his water supply

and the fair market value after the damage occurred and shall not be construed as a civil penalty assessment. Upon breach of this Agreement, nothing in this Agreement shall limit the State from pursuing appropriate civil penalties.

4. Upon receipt by Homer Miller of payment of the full sum set forth above, the Division shall fully and forever release and discharge Tansky Oil Production from the civil cause of action which the Division has against Tansky Oil Production for the violation of R.C. 1509.22(A) described in Chief's Order 89-666.

5. In the event of any default of payment herein required, the Division may elect any and all remedies it deems appropriate. Further, in the event of default, Tansky Oil Production agrees that in any litigation brought by the Division to enforce this Agreement, a) venue shall be proper in the Franklin County Court of Common Pleas; b) it consents to service of process and summons thereof; and c) interest shall be assessed at ten percent (10%) per annum, along with costs and reasonable attorney fees.

6. The debt created herein shall not be reduced or released in the event that Tansky Oil Production files a petition in bankruptcy affecting its assets.

7. Nothing in this CONSENT DECISION shall be construed so as to prejudice the right of the Division of Oil and Gas to issue other decisions and orders to enforce the provisions of Revised Code Chapter 1509 and Chapter 1501 of the Ohio Administrative Code.


8. Nothing in this CONSENT DECISION shall be construed as a waiver of any right or cause of action Mr. Homer Miller may have regarding damage to this water supply from the oil and gas operations conducted by Tansky Oil Production.

9. Appeal No. 383 is dismissed with prejudice.

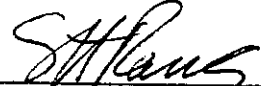
Respectfully submitted,

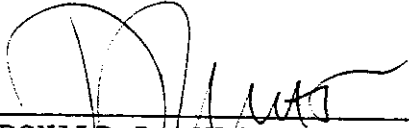
LEE FISHER
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By:


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