



previously filed Consent Order, this Magistrate granted Plaintiff's motion for temporary restraining order and preliminary injunction.

The standards necessary for the issuance of a preliminary injunction are as follows: (1) whether the Plaintiffs have shown a strong or substantial likelihood or probability of success on the merits; (2) whether the Plaintiffs have shown that irreparable injury will result if the preliminary injunction is not granted; (3) whether the issuance of a preliminary injunction would cause substantial harm to others; and (4) whether issuing a preliminary injunction would serve the public interest. *Deck v. City of Toledo* (1998), 29 F. Supp.2d 431.

Notwithstanding this Magistrate's finding that the Plaintiff had satisfied the necessary standards, as set forth above, this Magistrate further found, with regard to the specific element of irreparable injury, that "when a statute grants a specific injunctive remedy to an individual or to the state, the party requesting the injunction 'need not aver and show, as under ordinary rules in equity, that great or irreparable injury is about to be done for which he has no adequate remedy at law.'" *Mid-America Tire, Inc. v. PTZ Trading, Ltd.* (2002), 95 Ohio St.3d 367, and *State v. Alexander Brothers, Inc.* (1974) 43 Ohio App.2d 154 (Ohio App. 5 Dist.); See also, Plaintiff's motion at pp. 6-9.

Therefore, this Magistrate hereby GRANTS Plaintiff's Motion for a Temporary Restraining Order and Preliminary Injunction. It is therefore ORDERED that William Walker Sr., Norma Kathryn Walker, and William Walker, Sr. dba Hillview Mobile Home Park, and/or dba Hillview Mobile Court are ENJOINED AND ORDERED to do all of the following:

**A. Drinking Water Treatment and Distribution System**

**Provision of Bottled Water**

(1) Make 250 gallons of bottled water available each day, on the Hillview grounds, purchased by Defendants at Defendants' cost, beginning no later than March 15, 2009 and continuing until Defendants connect Hillview into the Village of Brewster's Public Water System;

(2) Maintain a running inventory of the number of gallons of water placed in the green barn each day for use by the residents and the number of gallons of water that were removed each day by the residents;

(3) Submit to the Ohio EPA once a month, on the first day of each month beginning April 1, 2009, copies of the previous month's daily inventories and all receipts for bottled water purchased for the residents during that month. Said daily inventories and receipts shall be submitted monthly until Defendants connect Hillview to the Village of Brewster's Public Water System;

**Public Notice of Violations and Verification of Distribution of Notices**

(4) Securely fasten, continually post, and immediately replace as necessary, a copy of the notice identified as "Attachment 1" (attached hereto), as periodically revised by the Ohio EPA but without other revision, to the communal mailbox at Hillview, beginning no later than March 15, 2009 and continuing until Defendants connect Hillview to the Village of Brewster's Public Water System;

(5) Enjoin and order Defendants to distribute copies of "Attachment 1," as periodically revised by the Ohio EPA but without other revision, directly to each individual Hillview residence, on a monthly basis beginning on March 15, 2009, and continuing on the 15<sup>th</sup> of each subsequent month until Defendants connect Hillview to the Village of Brewster's Public Water System;

(6) Submit a copy of each notice posted and/or distributed, along with the verification form ("Attachment 2" attached hereto), to the Ohio EPA by no later than 10 days after Defendants post and/or distribute each public notice;

(7) Remove all signs or other forms of communication existing on or near the Hillview grounds regarding the water that is available to the residents of Hillview, whether bottled or tap, with the exception of "Attachment 1," as periodically revised by the Ohio EPA, beginning no later than March 15, 2009;

(8) Refrain from posting, delivering, or in any manner making available any other notice of any kind regarding the water that is available to the residents of Hillview, whether bottled or tap, beginning no later than March 15, 2009;

### **Unauthorized Modifications to the Drinking Water Treatment System**

(9) Physically disconnect all equipment installed on the Hillview drinking water system by no later than March 15, 2009 for which plans have not been submitted, reviewed, and approved by the Ohio EPA;

(10) Physically disconnect the new filter located in a corner near the new black day tank for potassium permanganate, the new black day tank for potassium permanganate, and the new storage tank next to the plant tap by no later than March 15, 2009 until otherwise approved by Ohio EPA;

(11) Refrain from making any changes of any kind to Hillview's public water system, other than those ordered herein by the Court or otherwise reviewed and approved by Ohio EPA, and to continue to comply with this requirement until Defendants connect Hillview into the Village of Brewster's Public Water System;

### **Class I Water Supply Certified Operator**

(12) Hire and retain an operator of record who holds a valid Class I Water Supply Operator Certificate and ensure that such an operator of record is working at Hillview in compliance with O.A.C. Chapter 3745-7 by no later than March 17, 2009 and to continue to employ said Class I Water Supply Certified Operator until the public water system has been connected to the Village of Brewster's Public Water System;

(13) Hire and retain an operator of record who holds a valid Class I Water Supply Operator Certificate and ensure that such an operator of record is physically present at Hillview for at least three days per week for a minimum of 1.5 hours per week, and ensure that said Class I Water Supply Operator is maintaining an onsite record of the date and times of his/her arrival to and departure from the Hillview public water system in compliance with O.A.C. Chapter 3745-7, by no later than March 17, 2009 and to continue to employ said Operator until the public water system has been connected to the Village of Brewster's Public Water System;

## **B. Wastewater Treatment Works**

### **Compliance With Effluent Limits and Monitoring Requirements**

(14) Bring the Hillview Wastewater Treatment Works into full compliance with the terms and conditions of "Attachment 3" by no later than March 16, 2009 and maintain full compliance with the terms and conditions of "Attachment 3" until the Hillview Wastewater Treatment Works is tied into the Village of Brewster's Publicly Owned Treatment Works;

**Connecting to the Village of Brewster's WWTW**

(15) Submit a complete and approvable Permit to Install application to the Director that seeks approval for the abandonment of Hillview's Wastewater Treatment Works and for the installation of a sewer connection to the Village of Brewster's Publicly Owned Treatment Works, by no later than March 20, 2009;

(16) Connect the Hillview Wastewater Treatment Works into Brewster's Publicly Owned Treatment Works and abandon the Hillview Wastewater Treatment Works in accordance with the March 20, 2009 Permit to Install application, as approved by the Ohio EPA, by no later than 60 days after the Village of Brewster completes construction of a sanitary sewer line main to a location where Hillview can extend the line to connect to their collection system;

**Class I Wastewater Works Certified Operator**

(17) Hire an operator of record who holds a valid Class I Wastewater Works Operator Certificate and ensure that said an operator of record is working at Hillview in compliance with O.A.C. Chapter 3745-7 by no later than March 17, 2009 and ensure that said operator of record continues to work in compliance with O.A.C. Chapter 3745-7 until the Hillview Wastewater Treatment Works has been connected to the Village of Brewster's Publicly Owned Treatment Works;

(18) Report compliance with this Court's order by report filed with the Court and counsel of record monthly, as set by the Court, until the public water system is connected to the Village of Brewster System and the Wastewater Treatment Works is connected to the Village of Brewster Publicly Owned Treatment Works, or until otherwise ordered by this Court;

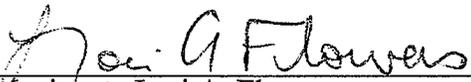
IT IS HEREBY ORDERED that no bond is required of the State; and it is further ORDERED that this matter be set before Judge Brown for an In-Chambers Pretrial on Friday, April 3, 2009, at 2:00 p.m.

Counsel for the Defendants' objection to this Magistrate's ruling is noted for the record. Specifically, defense counsel requested this Magistrate to reconsider her ruling with regard to the granting of the preliminary injunction as to those matters not contained in the previously agreed Consent Order, i.e., the modification of Hillview's drinking water treatment system.

This Magistrate's denial of defense counsel's oral motion for reconsideration is based upon the following findings by this Magistrate: (1) defense counsel was made aware of the issues that were in dispute between the parties based upon the exchange of communications between counsel prior to the motion being filed by Plaintiff and the Hearing being scheduled by the Court (See, Plaintiff's Exhibits 2 and 3, and the "Notice for Requested Service of Notice for Threatened Temporary Restraining Order" filed by the Defendants on March 9, 2009); (2) Plaintiff's motion is titled as a "Motion for a Temporary Restraining Order and Preliminary Injunction"; and (3) it is undisputable that Defendants' did not first obtain approval from the OHIO EPA prior to modifying Hillview's drinking water treatment system, regardless of whether or not said modification is effective, as the effectiveness or approval of any modification is a finding that is to be made by the Ohio EPA, not by this Court.

Pursuant to Civ. R. 53, a party may file written objections to a Magistrate's decision within 14 days of the filing of the decision. A party shall not assign as error on appeal the Court's adoption of any finding of fact or conclusion of law in that decision unless the party timely and specifically objects to that finding or conclusion pursuant to the Rule.

IT IS SO ORDERED.

  
Magistrate Lori A. Flowers

Approved by:

  
Judge Charles E. Brown, Jr.

Copies: Lauren C. Angell, Esq./Bridget E. Carty, Esq.  
William E. Walker, Jr., Esq.