

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION : HUDSON COUNTY
DOCKET NO. C 658-68

CITY OF JERSEY CITY, a
municipal corporation of the
State of New Jersey,

Plaintiff,

vs.

TOWN OF DOVER, et als,

Defendants.

CIVIL ACTION

ORDER TO ENTER
STIPULATION OF SETTLEMENT

This matter having been presented to the Court for the
named parties by the respective Attorneys as follows:

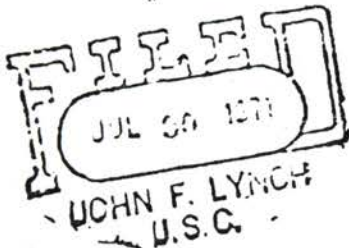
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James, Wyckoff, Vecchio & Thomas
Attorneys for Defendant, Borough of Rockaway

Edward Krown, Esq.
Attorney for Defendant, Township of Rockaway

Joel Murphy, Esq. of
Mills, Doyle & Muir
Attorneys for Defendant, Township of Denville

Alfred Villorresi, Esq.
Attorney for Defendant, Township of Randolph



SCHEDULE "A"


E. Marco Stirone, Esq.
Attorney for Defendant, Borough of Victory Gardens

Edwin W. Orr, Jr., Esq.
Attorney for Wharton Sewerage Authority

Joseph J. Maraziti, Jr., Esq. of
Maraziti, Maraziti & Sabbath
Attorneys for Defendants, Towns of Dover and Boonton; and

It being represented to the Court that a settlement has been reached in the above captioned matter which is to be set forth on the recbrd of the Court, and the Court being of the Opinion that an order should be entered directing that the settlement terms be set forth on the records of the Court;

It is on this 30th day of July, 1971, ORDERED that the terms and conditions of the Stipulation of Settlement by and between the parties of record, which Stipulation is attached hereto, be made part of the record of this Court.


JOHN F. LYNCH J. S. C.

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Plaintiff

-vs-

TOWN OF DOVER, et als,

Defendants

CIVIL ACTION

STIPULATION OF SETTLEMENT

WHEREAS, the City of Jersey City (hereinafter referred to as City) plaintiff, did commence litigation in a matter captioned, City of Jersey City, Plaintiff, vs. Town of Dover, Town of Boonton, Borough of Rockaway, Township of Rockaway, Township of Denville, Township of Randolph, Borough of Victory Gardens and Wharton Sewerage Authority, Defendants, and docketed in the Superior Court, Chancery Division, Hudson County as Number C 658-68, wherein the City alternatively sought to reform, modify, rescind various contracts of the City with respective defendants for treatment of sewage and to relieve the City of any contractual obligation to collect and treat sewage from the respective defendant municipalities; and

WHEREAS, said litigation was stimulated by a directive of this Court, supplementing an April 27, 1967 order of the State Board of

Health that the City cease discharge of improperly, inadequately and insufficiently treated sewage into the waters of the Rockaway River, and alter, add to or improve the sewage treatment plant operated by the City to provide for adequate treatment of sewage with an effluent discharge which meets applicable water quality standards as prescribed by regulations of State Board of Health referred to in said order, which said order of the Court dated July 12, 1968 required emergency repairs to the City treatment plant as well as compliance with the aforesaid State Board of Health Order; and

WHEREAS, a ban was imposed by the Court on the construction of new buildings, or alterations and additions to existing buildings within the corporate limits of the respective defendant municipalities and which ban has imposed and continues to impose substantial and significant hardship on said municipalities and their respective constituents; and

WHEREAS, said defendant municipalities did submit answers in the above captioned matter asserting the validity of the respective contracts and asserting aliunde other rights and interests and the failure of the City to meet its contractual responsibilities; and

WHEREAS, all parties recognize that protracted, extensive and expensive litigation can result from the above captioned matter without adequate solution of the overall problem of sewage treatment and which could contaminate the Jersey City water supply, and that a settlement propounded on the basis of a permanent solution to the whole overall problem

would be in the best interests of the respective parties, their citizens and constituents and other municipalities located on the Rockaway River below the City sewage treatment plant;

NOW THEREFORE IT IS HEREBY AGREED AND STIPULATED by the respective parties that the above captioned matter be settled through their respective attorneys as follows:

1. That a Regional Sewerage Authority shall be formed pursuant to the provisions of N. J. S. A. 40:14A-1 et seq. as amended having all the rights, powers, authority and duties set forth thereunder and in accordance with the terms of this stipulation.

2. That all of the respective parties to the above captioned matter shall be members of said Regional Sewerage Authority in the manner prescribed by N. J. S. A. 40:14A-1 et seq., as amended, provided however the defendant municipalities shall have the option of becoming customers of the Regional Authority in lieu of membership subject to such rules, regulations, rates and fees as shall be promulgated by said Regional Authority and such other authority reposed in the Authority pursuant to the provisions of N. J. S. A. 40:14A-1 et seq., as amended.

3. That said Regional Authority may consist of such other member municipalities as shall be permitted by the provisions of N. J. S. A. 40:14A-1 et seq., as amended.

4. That said Regional Authority when established and constituted according to law shall assume the supervision, operation, maintenance, complete control and complete responsibility therefor of the present sewage

treatment plant of the City upon the following conditions:

a. The City shall have completed and placed in satisfactory operation all improvements and equipment deemed necessary by orders of the Court to prevent the bypassing of raw sewage to the Rockaway River and to provide treatment of the raw sewage so the effluent does not constitute a health hazard in the receiving stream as determined by Christian T. Hoffman, Jr., the Court appointed supervisor, or his successor.

b. The City shall transfer all its right, title and interest to the Authority in and to the following in the manner described:

(1) The present sewage treatment plant at Boonton, New Jersey, including all buildings, fixtures and appurtenances and further including all lands under the said plant and related facilities as shown on the map attached hereto as Schedule "A", by Bargain and Sale Deed with covenants against acts of grantor.

(2) The Jersey City trunkline utilized for collection of sewage, all its equipment, appurtenances; easements, rights of way or other interests in land held by the City used in conjunction with the trunkline to their complete extent for the entire length of said trunkline by absolute assignment of such easement, right of way or interest in land. The City shall convey to the Authority an easement fifty (50') feet wide across its lands from the Washington

Street Bridge to the upstream end of the syphon lines. Said fifty (50') feet shall consist of twenty-five (25') feet on each side of the centerline of the present trunkline. The City shall also convey an easement one hundred (100') feet wide across its lands beginning at the upstream end of the syphon lines and continuing downstream to the existing plant. Said one hundred (100') feet shall be located in the area presently occupied by the existing syphon lines and shall be more specifically described in accordance with an accurate survey of the area.

The transfers, conveyances or assignments required hereunder shall be made simultaneously with assumption of operation by the Regional Authority of the present Treatment Plant at Parsippany Troy Hills, and shall be free and clear of all liens and encumbrances. Inventory of all equipment and appurtenances to be transferred is attached hereto and designated Schedule "B".

In the event that the Regional Authority shall cease to have use ~~for~~ ^{For Sewerage TRANSMISSION, Treatment} any part of the land, plant facilities or easements ^{AND Related Purposes} required to be conveyed hereby, the said land, easements or facilities shall be deeded back by similar type instrument to the City.

c. The City shall pay for all operation, maintenance and repair expenses of the existing treatment plant and trunkline up to an average daily flow of 4.5 million gallons per day. Payments for such expenses shall be in monthly installments after billing.

submitted by the Regional Authority except for the first 3 months' installments which shall be paid on an estimated figure simultaneously with the date of assumption of control and operation by the Regional Authority of the Boonton Plant. After actual determination of first 3 months expenses as outlined above the City shall pay any amount over the estimate due after a bill is submitted by the Regional Authority and in the event of overpayment the City shall receive a credit against the next monthly payment.

The average cost of all operation, maintenance and repair expenses for the average daily flow from 4.5 million gallons per day up to and including 6 million gallons per day shall be borne by the respective municipalities served by the treatment plant on a pro rata basis with each bearing the same ratio to the total expense that the number of each municipalities connections bear to the total number of all connections to the sewage collection system.

The cost for all operation, maintenance and repair expenses for the average daily flow above 6 million gallons per day up to and including 7 million gallons per day (referred to hereinafter as overage expense) shall be borne equally by the City and the Regional Authority. The City shall pay its share of the overage expense in monthly installments after being billed there-

for by the Regional. Each municipality shall pay a share of overage expense based on the formula set forth in the preceding paragraph to make up the Regional share of said overage expense.

The cost for all operating, maintenance and repair expenses for flows above 7 mgd shall be borne by the Authority; except that the City shall not contribute beyond the cost of 5 mgd on a total basis.

Upon completion of new treatment facilities by the Regional Authority, the City payments shall be as hereinafter set forth and the responsibility for payment, as outlined in this Section 4, shall be terminated.

Any and all Federal, State or any other public funds that are paid over to the Regional Authority shall be given pro rated allocation to the project cost shares of the City and the Regional based upon the formulas set forth in 6a, hereinafter.

5. The Regional Authority shall construct an interceptor sewer for the collection of sewage and shall construct and/or acquire and/or enlarge a new sewage treatment facility at such site as shall be determined by said Authority and approved in accordance with the laws of the State of New Jersey, (hereinafter referred to as the "project"). The Regional Authority will attempt to complete the project within 3 years of date of take-over of City plans at Boonton.

6. The City shall pay over to the Regional Authority at such times as shall be determined by the Authority the following amounts:

a. A capital or principal amount equivalent to an amount that bears the same ratio to the total and complete cost of the project that 4.5 million gallons per day bears to the total daily treatment capacity of the new treatment plant and the interceptor and appurtenant facilities which comprise the "project":

i. e.: City Share =

$$\begin{aligned} & \text{Total Cost Treatment Plant} \times \frac{4.5 \text{ mgd}}{\text{Total Daily Capacity Treatment Plant}} \\ & + \text{Total Cost Interceptor Sewers and Appurtenant Facilities} \times \frac{4.5 \text{ mgd}}{\text{Total Daily Capacity of Interceptor Sewers}} \end{aligned}$$

b. An amount which represents its share of the annual operating, maintenance, repair and upkeep expenses of the project bearing the same ratio to the total annual operating, repair and maintenance costs that 4.5 million gallons per day bears to the average daily plant flow:

i. e.: City Share =

$$\text{Total Annual Operating, Repair and Maintenance} \times \frac{4.5 \text{ mgd}}{\text{Average daily plant flow}}$$

7. In the event the new treatment facility and interceptor and appurtenances ("project") are expanded or enlarged, the City shall not be

responsible for any enlargement or expansion costs. Upon complete repayment of all interest and principal for the original project cost, the City shall not be responsible for any further principal and interest expenses, but shall be responsible for their share of operating, repair and maintenance costs as long as "project" is maintained in operation.

8. The amounts paid by the City, as outlined in Sections 4 c. and 6 above, shall be allocated to the respective municipalities as set forth in Schedule "C" attached hereto and made a part hereof.

9. The City shall, within 30 days of this agreement, provide to representatives of defendant municipalities a list with names and addresses of all sewerage connections with private property owners that provide for direct connection to the present trunk facilities. The City shall assign any such contracts to the Regional Authority upon request and in the event the rates charged thereunder shall be established and not subject to increase, the City shall be responsible for re-negotiating the rate chargeable so it is in conformity with the Authority rates, *or alternatively, pay any deficiency to the Authority.*

10. Real estate taxes will be adjusted as of date of takeover by the Regional Authority.


11. Upon the assumption of operation of the present treatment facilities of the City, as provided in Section 4 hereof, all contracts providing for sewage treatment by the City shall be null and void and all rights and

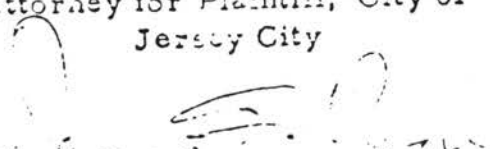
duties attendant thereto shall be at an end. Except, however, as to any contracts which may be held by municipalities who are presently making actual payments to the City; said contracts shall be assigned to the Authority only insofar as the obligation to make payments is concerned, and such payments shall thereafter be paid to the Authority, until a uniform rate is established for all members and customers. All other provisions of said contracts shall be null and void.

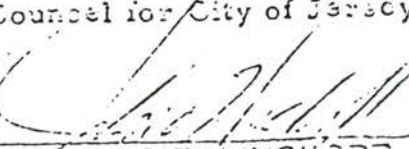
12. Any funds held in escrow by the respective municipalities and due to the City under contracts providing for payment of eight cents (8¢) per thousand gallons, ^{Not in dispute and not subject to conditions} said payments not being held in escrow for any other ^{For the payment thereof} reason than the submission of a bill by the City, shall be paid over to the City upon the execution of a formal agreement embodying this settlement.

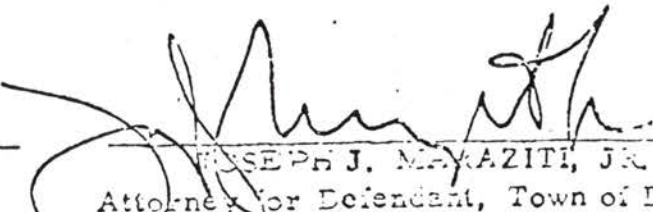
13. The City agrees to continue a daily let down of water from its Reservoir into the lower Rockaway River in accordance with the Court Order to which it voluntarily consented until such time as it deems conditions requiring seeking relief therefrom and the Court renders a judgment thereon.

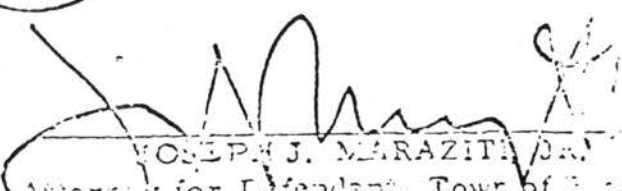
14. This stipulation is subject to approval and recommendation of this Court.

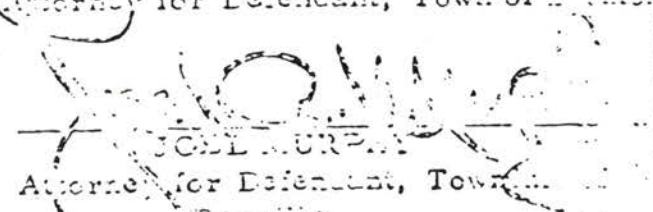

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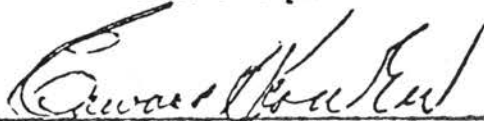
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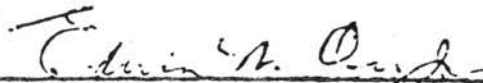
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ALLOCATION OF 4.5 MGD

Town of Boonton -----	0.503 MGD
Township of Boonton -----	0.043 MGD
Town of Dover -----	1.425 MGD
Township of Denville -----	0.717 MGD
Township of Randolph -----	0.216 MGD
Borough of Rockaway -----	0.534 MGD
Township of Rockaway -----	0.569 MGD
Borough of Victory Gardens -----	0.096 MGD
Borough of Wharton -----	0.397 MGD
	<hr/>
	4.500 MGD