

IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

STATE OF OHIO, ex rel.,
BETTY D. MONTGOMERY,
ATTORNEY GENERAL OF OHIO
30 East Broad Street
Columbus, OH 43215

CV95 12 2003

CASE NO.

JUDGE *CREHAN*

FILED In Common Pleas Court
BUTLER COUNTY, OHIO

DEC 27 1995

Plaintiffs,

vs.

T MARK BADEN
CLERK

AK STEEL CORPORATION
1801 Crawford Street
Middletown, OH 45043-0001

Defendant.

CONSENT ORDER

The Complaint in the above-captioned matter having been filed herein, and Plaintiff State of Ohio, by its Attorney General Betty D. Montgomery and Defendant AK Steel Corporation ("AK Steel") having consented to the entry of this Order,

NOW THEREFORE, without trial of any issue of fact or law, or admission by Defendant AK Steel of any violation alleged in the Complaint, and upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED, AND DECREED as follows:

I. JURISDICTION AND VENUE

1. 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 Defendant AK Steel pursuant to Chapter 3704 of the Ohio Revised Code ("O.R.C.").

Venue is proper in this Court.

II. PARTIES

2. The provisions of this Consent Order shall apply to and be binding upon the parties to this action, their agents, officers, employees, assigns, directors, successors in interest and any person acting in concert or privity with any of them.

III. SATISFACTION OF LAWSUIT

3. Plaintiff alleges in its Complaint that Defendant AK Steel has committed violations of the requirements of O.R.C. Chapter 3704 and the regulations promulgated thereunder at its Number 1 and Number 2 Blast Furnaces (OEPA Source Numbers P901 and P902), located at AK Steel's former iron production facility on Augspurger Road in New Miami, Ohio and at its Still coke oven battery (OEPA Source Number B919) at AK Steel's steel production facility located at 1801 Crawford Street, Middletown, Ohio (hereinafter "the Facilities"). Both Facilities are located in Butler County. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Defendant AK Steel for those violations:

- (a) expressly alleged in the Complaint; and
- (b) any other violations of the regulatory requirements identified in paragraphs 11, 15, 19, 23, 27, 31, 35, 39, and 44 of the Complaint which occurred prior to the date of this Consent Order.

4. Nothing in this Order shall be construed to limit the authority of the State of Ohio to seek relief for violations not alleged in the Complaint, including

violations which occur after the date of entry of this Consent Order. Such relief may include, but is not limited to, any appropriate administrative, civil and/or criminal enforcement action that seeks injunctive, monetary and other relief against Defendant AK Steel. Defendant AK Steel waives no rights by consenting to the entry of this Order with respect to defending against allegations of violations other than those violations referenced in subparagraphs 3(a) and 3(b) and paragraph 11 of this Consent Order.

IV. PERMANENT INJUNCTION

5. Defendant AK Steel has ceased operation of its Number 1 and Number 2 Blast Furnaces (Ohio EPA Source Nos. P901 and P902) at its New Miami facility. In the event Defendant AK Steel wishes to restart and operate these two Blast Furnaces on a date subsequent to the entry of this Consent Order, AK Steel agrees to refrain and is permanently enjoined from restarting and resuming operation of these Blast Furnaces without applying for and obtaining permits to install, if required, and the necessary permits to operate from the Ohio EPA. Further, Defendant AK Steel agrees and is enjoined to conduct any future operation of these Blast Furnaces, should such future operation occur, in compliance with O.A.C. Rules 3745-17-07 and 3745-17-08 and the terms and conditions of any permits to install or permits to operate issued in accordance with OAC Chapters 3745-31 and 3745-35.

6. Subject to the provisions of paragraph 9 of this Consent Order, Defendant AK Steel is also permanently enjoined to operate its Still coke oven

battery at its Number 3 coke plant (OEPA Source Number B919), located at AK Steel's steel production facility at 1801 Crawford Street in Middletown, Ohio, in compliance with O.A.C. Rules 3745-17-07 and 3745-17-08 and the terms and conditions of any Title V permit or permit to operate issued in accordance with OAC Chapter 3745-77 or OAC Chapter 3745-35; provided, however, that in the event that any emission sources or air pollution control equipment related to Source B919 breaks down in such a manner as to cause the emission of air contaminants in violation of any applicable law, AK Steel is hereby ordered to comply with the malfunction reporting provisions set forth in OAC Rule 3745-15-06(B).

7. Subject to the provisions of paragraph 9 of this Consent Order, Defendant AK Steel shall perform visible emission readings of the charging operations, off-take piping, charging hole lids, and oven doors at its Still coke oven battery (Ohio EPA Source No. B919), located at AK Steel's steel production facility at 1801 Crawford Street in Middletown, Ohio, in order to monitor compliance with the requirements contained in O.A.C. Rule 3745-17-07(B). These visible emission readings shall be performed in accordance with the procedures contained in O.A.C. Rule 3745-17-03(B)(2), with the exception that these readings may be performed by non-certified smoke readers. The readings shall be performed randomly, twice per week (Monday through Saturday) for charging operations and for off-take piping, charging hole lids, and oven doors. The readings shall be recorded on forms which have been approved by the Director and the Hamilton County Department of Environmental Services, Air Quality Programs. Each set of visible emission

readings for charging operations shall include a minimum of six consecutive charges. The visible emission readings shall be maintained for a period of not less than two years and shall be made available immediately upon request to the Director, or any authorized representative of the Director, during normal business hours.

8. Subject to the provisions of paragraph 9 of this Consent Order, on a quarterly basis, AK Steel shall submit to the Hamilton County Department of Environmental Services, Air Quality Programs, ("DESAQP") a summary of the results of the visible emission readings performed for the Still coke oven battery (Ohio EPA Source No. B919) located at AK Steel's production facility at 1801 Crawford Street in Middletown, Ohio. In addition to including a summary of any malfunction reporting which AK Steel has made to DESAQP pursuant to OAC Rule 3745-15-06(B) during the quarter, the reports shall also include an explanation, if available, of any exceedances of the standards in O.A.C. Rule 3745-17-07(B). These quarterly reports shall be submitted within thirty (30) days of the end of each previous calendar quarter.

9. Defendant AK Steel has stated to U.S. EPA that it will cease operation of the Still coke oven battery at its Number 3 coke plant (OEPA Source Number B919), located at AK Steel's steel production facility at 1801 Crawford Street in Middletown, Ohio, by December 31, 1995. In the event Defendant AK Steel wishes to restart and operate this coke oven battery on a date subsequent to the entry of this Consent Order, AK Steel agrees to refrain and is permanently enjoined from

restarting and resuming operation of the battery without applying for and obtaining the necessary permits to install and permits to operate from the Ohio EPA. Further, Defendant AK Steel agrees and is enjoined to conduct any future operation of the battery, should such future operation occur, in compliance with O.A.C. Rules 3745-17-07 and 3745-17-08 and the terms and conditions of any permits to install or permits to operate issued in accordance with OAC Chapters 3745-31 and 3745-35. Finally, once Defendant has ceased operation of the battery, paragraphs 6, 7, and 8 of this Order shall no longer be applicable.

V. CIVIL PENALTY

10. Pursuant to O.R.C. §3704.06(B), (C) and (D), Defendant AK Steel is assessed a civil penalty of Three Hundred Fifty-One Thousand Dollars (\$351,000.00). Of this assessment, Defendant shall pay to the State of Ohio a civil penalty payment of One Hundred Thousand Dollars (\$100,000.00). Such penalty shall be paid by delivering a certified check in that amount, payable to the order of "Treasurer, State of Ohio", to Matthew Sanders, Administrative Assistant, Environmental Enforcement Section, Office of the Ohio Attorney General, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428. Payment shall be made by no later than thirty (30) days after entry of this Order. Payment of the remaining Two Hundred and Fifty-One Thousand Dollars is suspended as long as Defendant complies with paragraphs 11(a) and 11(b) of this Order; provided, however, that in the event said Defendant fails to comply with paragraph 11(a), then Defendant shall pay Two Hundred and Thirty-One Thousand Dollars (\$231,000.00) to the State in the manner

described above. Similarly, in the event Defendant fails to comply with paragraph 11(b) of this Consent Order, then Defendant shall pay Twenty Thousand Dollars (\$20,000.00) to the State in the manner described above.

VI. SUPPLEMENTAL ENVIRONMENTAL PROJECTS

11. Defendant AK Steel agrees and is hereby ordered to complete the following supplemental environmentally beneficial projects:

- (a). Without modifying or altering in any way the effectiveness and applicability of OAC Rule 3745-17-08(A)(3)(b) except as provided specifically herein, Defendant shall install, operate, and maintain a flame suppression control system to reduce fugitive emissions from the casthouse of the No. 3 Blast Furnace. The technical specifications of the flame suppression control system shall be in accordance with AK Steel's Flame Suppression System Design Drawing Nos. 591580-86, or as otherwise agreed to by both parties to this action. The flame suppression control system shall be designed and operated to limit visible fugitive emissions from the roof monitors and other openings of the casthouse, and shall utilize natural gas as its primary fuel. The flame suppression control system shall be equipped with gas monitoring and recording equipment to assure that, when operational, the system is operating at design levels to assure maximum reduction of fugitive emissions from the casthouse. Gas flow records, in the form of recording charts, shall identify the time of day and flow rate of gas. Additionally, AK Steel shall keep a log of the start and end times of each tapping operation and of each use of the flame suppression system. All such logs and records shall be kept for Ohio EPA inspection for a period of two years. Finally, AK Steel shall keep the runner covers in place except when such covers are undergoing maintenance. This flame suppression control system shall be installed and fully operational by no later than eight (8) months after entry of this Consent Order.

- (b). By thirty (30) days after entry of this Consent Order, Defendant shall deliver a certified check in the amount of Twenty

Thousand Dollars (\$20,000), payable to the order of "Treasurer of Hamilton County, Ohio," to Ali Khodadad, Hamilton County Department of Environmental Services, Air Quality Programs. 1632 Central Parkway, Cincinnati, Ohio 45210. Such payment shall be utilized by the Hamilton County Department of Environmental Services, Air Quality Programs ("DESAQP"), only to purchase and install a meteorological monitoring tower near Defendant's Middletown facility. It shall be the sole responsibility of DESAQP to locate and secure an appropriate monitoring site and construct and operate the monitoring tower thereon.

VII. STIPULATED PENALTIES

12. In the event that Defendant AK Steel fails to meet the requirements and/or deadlines set forth in paragraphs 5, 6, 7, 8, and/or 9, of this Consent Order, Defendant AK Steel is liable for and shall immediately pay stipulated penalties in accordance with the following schedules:

- a. For each day of each failure to meet a requirement or a deadline, up to thirty (30) days -- Five Hundred Dollars (\$500) per day.
- b. For each day of each failure to meet a requirement or a deadline, from thirty-one (31) to sixty (60) days -- Fifteen Hundred Dollars (\$1,500) per day.
- c. For each day of each failure to meet a requirement or a deadline, over sixty (60) days -- Three Thousand Dollars (\$3,000) per day.

Such penalties shall be paid by delivering certified checks totalling those amounts, payable to the order of "Treasurer, State of Ohio", to Matthew Sanders, Administrative Assistant, Environmental Enforcement Section, Office of the Ohio Attorney General, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428.

VIII. RETENTION OF JURISDICTION

13. The Court will retain jurisdiction of this action for the purpose of enforcing this Consent Order and resolving any disputes hereunder. However, in the event that Defendant AK Steel fully complies with the injunctions set forth in paragraphs 5, 6, 7, 8, and 9 for a period of fifteen (15) months from the date of entry of this Order, and if Defendant has complied with all other requirements of the Order, Defendant may move for a termination of such injunctions. Any such termination of the injunctions shall occur only by order of this Court, upon application by Defendant, and only after a demonstration (or agreement by both parties) that the conditions set forth in this paragraph have been met.

IX. POTENTIAL FORCE MAJEURE

14. In any action to enforce any of the provisions of this Consent Order, Defendant may raise at that time the question of whether it is entitled to a defense that its conduct was caused by reasons beyond its control such as, by way of example and not limitation, Acts of God, unusually severe weather conditions, strikes, acts of war or civil disturbances, or conflicting orders of any regulatory agencies or courts. While Plaintiff does not agree that such a defense exists, it is, however, hereby agreed upon by the parties that it is premature at this time to raise and adjudicate the existence of such a defense and that the appropriate point at which to adjudicate the existence of such a defense is at the time that an enforcement action, if any, is commenced. Acceptance of this Consent Order without a force majeure clause does not constitute a waiver by Defendant by any rights or defenses it may have under


applicable law or equity.

X. COSTS

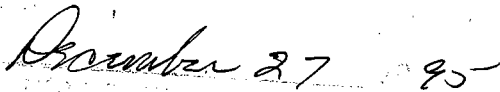
15. Defendant AK Steel is hereby ordered to pay the costs of this action.

IT IS SO ORDERED:

ENTERED THIS 27 DAY OF December, 1995




JUDGE, COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO



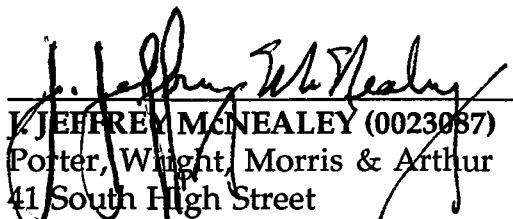
Victoria Robinson

APPROVED:

AK STEEL CORPORATION

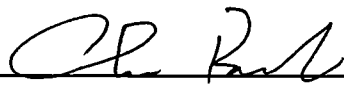
BY: 
AK Steel Corporation
1801 Crawford Street
Middletown, Ohio 45043-0001

Authorized Representative for
Defendant AK Steel Corporation


JEFFREY M. NEALEY (0023087)
Porter, Wright, Morris & Arthur
41 South High Street
Columbus, Ohio 43215
(614) 227-2074

Attorney for Defendant
AK Steel Corporation

**BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO**


CHRISTOPHER KORLESKI (0039770)
Assistant Attorney General
Environmental Enforcement Section
30 East Broad Street - 25th Floor
Columbus, Ohio 43215-3428
(614) 466-2766

Attorney for Plaintiff State of Ohio

III. SATISFACTION OF LAWSUIT

3. Compliance with the terms of this Order shall constitute full satisfaction of any civil liability of AK Steel for the claims alleged in the State's Complaint. This Order shall not be construed to limit the authority of the State to seek relief for claims or conditions not specifically alleged in the Complaint, including, but not limited to, claims brought under Chapters 3734, 3704, 6111, and 3750 of the Ohio Revised Code after the filing of this Complaint.

IV. INJUNCTION

4. AK Steel is hereby enjoined to comply with the requirements of Chapter 3750. of the Ohio Revised Code, specifically including the reporting requirements contained in O.R.C. Section 3750.06.

V. CIVIL PENALTY

5. Within seven (7) days of the entry of this Order, AK Steel shall pay a civil penalty of Six Thousand Five Hundred (\$6,500.00) pursuant to ORC 3750.20. Payment shall be made by delivering a certified check or money order to E. Dennis Muchnicki, Attorney General's Office, Environment Enforcement Section. The check or money order shall be made payable to "Treasurer, State of Ohio". Pursuant to ORC Section 3750.20, the check shall be deposited in the emergency planning and community right-to-know fund.

VI. COSTS

6. AK Steel is hereby ordered to pay the court costs of this action.

VII. TERMINATION


7. Nine (9) months from the date of this order, AK Steel may, by motion timely served upon the plaintiff, petition this Court to terminate this order, including the injunction contained in Paragraph 4 above. At least fourteen (14) days prior to petitioning this Court, AK Steel shall notify plaintiff's counsel of AK Steel's intent to petition this Court to terminate this order. The Plaintiff specifically reserves its right to oppose AK Steel's motion upon the grounds, including, that AK Steel has not achieved continuous compliance with the provisions of this

Consent Order and all of the requirements of Chapter 3750 of the Revised Code. Unless such an objection is made by the Plaintiff, the Court shall grant AK's motion.

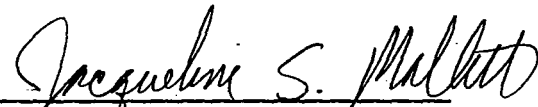
ENTERED THIS _____ DAY OF _____, 1995.

JUDGE

BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO


J. JEFFREY McNEALEY (0023087)
Porter, Wright, Morris & Arthur
41 South High Street
Columbus, Ohio 43215-6194
(614) 227-2074

Counsel for Defendant
AK Steel Corporation


JACQUELINE S. MALLET (0059891)
Assistant Attorney General
Environmental Enforcement Section
30 E. Broad Street, 25th Floor
Columbus, Ohio 43215-3428
(614) 466-2766

Counsel for the State Emergency
Response Commission



AUTHORIZED REPRESENTATIVE of
AK Steel Corporation