

IN THE COURT OF COMMON PLEAS  
HIGHLAND COUNTY, OHIO

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

CASE NO. 88 CIV 190

JUDGE \_\_\_\_\_

Plaintiff,

**FILED**  
COMMON PLEAS COURT  
HIGHLAND COUNTY, OHIO

vs.

MAY 20 1988

CITY OF HILLSBORO,

Defendant.

*[Signature]*  
HIGHLAND COUNTY CLERK OF COURTS

CONSENT ORDER

The Complaint in the above-captioned matter having been filed herein, and the Plaintiff State of Ohio by its Attorney General Anthony J. Celebrezze, Jr. (hereinafter "Plaintiff") and Defendant City of Hillsboro ("Hillsboro") having consented to the entry of this Order,

NOW THEREFORE, without trial of any issue of fact or law, 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 under Chapter 6111 of the Ohio Revised Code, and venue is proper in this Court.

II. PARTIES

2. The provisions of this Consent Order shall apply and be binding upon the parties to this action, their agents,

C officers, employees, assigns, successors in interest and any person acting in concert or privity with any of them.

Defendant Hillsboro shall provide a copy of this Consent Order to each contractor it employs to perform work itemized herein, and each general contractor shall provide a copy of this Consent Order to each of its subcontractors for such work.

### III. SATISFACTION OF LAWSUIT

3. Plaintiff alleges in its Complaint that Defendant has operated its wastewater treatment plant and sewer system in such a manner as to result in numerous violations of the discharge limitations and monitoring requirements of the NPDES Permit issued to it by the Director of Ohio EPA and in violation of the water pollution laws of the State of Ohio. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Defendant for all claims under such laws alleged in the Complaint. Nothing in this Order shall be construed to limit the authority of the State of Ohio to seek relief for claims or conditions not alleged in the Complaint, including violations which occur after the filing of the Complaint.

### IV. COMPLIANCE SCHEDULE

4. Defendant Hillsboro is hereby enjoined and ordered to immediately comply with the requirements of Chapter 6111 of the Ohio Revised Code and the terms and conditions of the rules and

regulations adopted under that Chapter and its currently effective NPDES Permit except for the effluent limitations set forth in said permit. Between the effective date of this Consent Order and August 15, 1989, Defendant is enjoined to comply with the interim effluent limitations set forth in Appendix "A" attached hereto. The interim effluent limits contained in Appendix "A" do not constitute an NPDES permit or a modification of any existing permit. After August 15, 1989, Defendant Hillsboro is enjoined to meet the final effluent standards set forth in its NPDES permit No. 1PC00100 and any renewals or modifications thereof. Hillsboro is hereby enjoined to properly operate and maintain its wastewater treatment plant and any associated equipment and structures.

#### V. CONSTRUCTION SCHEDULE

5. Defendant Hillsboro is enjoined and ordered to eliminate discharges from overflows and bypasses from its sanitary sewer system and to complete construction of the improvements to its wastewater treatment plant described in the Facilities Plan submitted to Ohio EPA on July 15, 1987 and to attain compliance with the final effluent limitations of NPDES permit No. 1PC00100 and any modifications or renewals thereof in accordance with the following schedule:

TASKCOMPLETION DATE

- |  |                   |
|--|-------------------|
| (a) Initiation of Project Design Work  | Completed         |
| (b) Submittal of Approvable Plans and Specifications to Ohio EPA   | Completed         |
| (c) Advertisement of Building Bids   | Completed         |
| (d) Execution of Building Contracts  | June 1, 1988      |
| (e) Initiation of Construction   | June 1, 1988      |
| (f) Completion of construction of sufficient wetstream treatment facilities to ensure compliance with final effluent limits and the elimination of bypasses and overflows. | July 15, 1989     |
| (g) Attain compliance with final effluent limitations and eliminate overflows and bypasses.  | August 15, 1989   |
| (h) Completion of remaining construction of all wastewater treatment processes and facilities  | December 15, 1989 |

This Consent Order does not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing treatment works or sewer system. Approval for any such construction or modification shall be by permit issued by Ohio EPA or other such permits as may be required by applicable federal, state, or local laws, rules or regulations.

VI. CIVIL PENALTY

6. Defendant Hillsboro shall pay to the State of Ohio a civil penalty of thirty thousand dollars (\$30,000.00); this penalty shall be made in two equal payments. The first fifteen thousand dollar payment shall be made within ten days from the date of entry of this consent order. The second fifteen thousand dollar payment shall be made within one hundred and twenty days from the date of the entry of this consent order. The penalty shall be paid by delivering to counsel for Plaintiff certified checks payable to the order of "Treasurer, State of Ohio".

VII. STIPULATED PENALTIES

7. In the event that Defendant Hillsboro fails to meet any of the requirements of this Consent Order set forth in Paragraphs 4, 5 (d), 5 (e), 5 (f), and 5 (h), including any schedule milestone requirement, the Defendant shall immediately and automatically be liable for and shall pay a stipulated penalty according to the following payment schedule. For each day of failure to meet a requirement, up to thirty days - \$500.00 per day. For each day of failure to meet a requirement, from thirty-one to sixty days -\$1,000.00 per day. For each day of failure to meet a requirement, from sixty-one to ninety days- \$2,500.00. For each day of failure to meet a requirement, from ninety-one to one hundred twenty days - \$3,500.00 per day.

C 8. In the event that Defendant Hillsboro fails to meet any of the requirements of this Consent Order set forth in Subparagraph 5 (g), the Defendant shall immediately and automatically be liable for payment of a stipulated penalty of \$5,000.00 per day of violation of said requirement. The Defendant shall be liable for an additional stipulated penalty of one thousand dollars (\$ 1000.00) per day of violation if the failure to comply continues for more than thirty (30) days, i.e. six thousand dollars (\$6,000.00) per day of violation. In the event that failure to comply with the requirements of Subparagraph 5(g) continues more than sixty (60) days, Defendant shall be liable for an additional four thousand dollars \$(4,000.00) per day of violation, i.e., ten thousand dollars (\$10,000.00) per day of violation.

9. Any payment required to be made under the provisions of Paragraphs 7 or 8 of this Order shall be made by delivering to Plaintiff's counsel a certified check or checks for the appropriate amounts, within forty-five days from the date of the failure to meet the requirement of the Consent Order, made payable to "Treasurer, State of Ohio".

#### VIII. RETENTION OF JURISDICTION

10. The Court will retain jurisdiction of this action for the purpose of making any order or decree which it deems appropriate to carry out this Consent Order.

IX. COSTS

11. Defendant Hillsboro is hereby ordered to pay the costs of this action.

(S) DARRELL R Hottle  
JUDGE, COURT OF COMMON PLEAS  
Highland County

APPROVED:

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

BY:

Susan E. Ashbrook  
SUSAN E. ASHBROOK  
Assistant Attorney General  
30 East Broad Street  
Columbus, Ohio 43266-0410

Fred J. Beery  
FRED J. BEERY  
Law Director  
125 North High  
Hillsboro, Ohio 45133

Betty Bishop  
MAYOR BETTY BISHOP  
Authorized Representative  
of Hillsboro

1887E8-14

RESOLUTION NO. 88-II

INTRODUCED BY A COMMITTEE OF THE COUNCIL AS A WHOLE.

A RESOLUTION TO AUTHORIZE THE MAYOR OF THE CITY OF HILLSBORO, OHIO, TO ENTER INTO A CONSENT DECREE WITH THE OHIO ENVIRONMENTAL PROTECTION AGENCY BY AND THROUGH THE ENVIRONMENTAL ENFORCEMENT SECTION OF THE OHIO ATTORNEY GENERAL'S OFFICE AND TO DECLARE AN EMERGENCY

WHEREAS, the City of Hillsboro, Ohio, was cited for a failure to meet certain Ohio EPA requirements;

WHEREAS, the Safety and Service Director, Law Director and Woolpert's Consultants did meet with the Ohio EPA and the Ohio Attorney General in Columbus at which time the Attorney General set forth a Consent Decree with certain negotiable items and certain non-negotiable items;

WHEREAS, the City of Hillsboro did enter in to good faith negotiations with the State of Ohio and the State did agree to reduce the immediate fine imposed from \$34,600 within 45-days to a fine of \$30,000 payable one-half in ten days and one-half in 120-days, and all other terms of the Consent Decree to remain unchanged;

Whereas, a committee of the Council as a Whole was formed to consider the proposed decree at which time the Committee voted to recommend that this resolution be put to a vote of the Council at the regular meeting, now therefore,

BE IT RESOLVED by the Council of the City of Hillsboro, State of Ohio, that

SECTION ONE:

The Mayor is hereby authorized and directed to enter into the Consent Decree, attached hereto and made a part hereof as if the same was fully set forth herein, with the State of Ohio, and to execute a waiver of the service of summons and venue in this case, provided a complaint is filed concerning the matters set forth in the Decree.

SECTION TWO:

This RESOLUTION is hereby declared to be an emergency measure necessary for the preservation of the public health, safety and welfare and for the reason that the State of Ohio has directed that an agreement must be reached at the next regular meeting of Council in order to avoid additional fines and to avoid delays in obtaining State funds for the sewer project, therefore, this RESOLUTION shall become effective from and after passage by 2/3 of the members of Council and approval by the mayor.

Passed: May 2, 1988  
Date

Richard W. Zink  
President of Council

Attest Rebecca H. Creamer  
Clerk

MOTION TO SUSPEND THREE READING  
RULE: YEAS: 7, NAYS: 0

Approved: [Signature]  
Mayor

Date: May 3, 1988

This RESOLUTION was drafted by the City Law Director.

The undersigned Clerk of Council hereby certifies that this RESOLUTION is a true copy of the original kept by me as custodian of such records.



ATTACHMENT A

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS for Outfall 1PC00100001

1. <u>EFFLUENT CHARACTERISTIC</u>			<u>DISCHARGE LIMITATIONS</u>				<u>MONITORING REQUIREMENTS</u>	
			Concentration		Loading*		Meas. Freq.	Sample Type
Reporting Code	UNITS	PARAMETER	Other Units (Specify)	7 day	30 day	7 day		
50050	MGD	Flow	-	-	-	-	Daily	Continuous
00010	°C	Temperature	-	-	-	-	Daily	Max. Ind. Therm.
00530	mg/l	Suspended Solids	30	45	97	145	2/Week	Composite
80082	mg/l	CBOD <sub>5</sub>	25	40	81	129	2/Week	Composite
31616	Count /100ml	Fecal Coliform (Summer Only)	1000	2000	-	-	2/Week	Grab
00550	mg/l	Oil & Grease	-	-	-	-	1/Qtr.	Grab
00610	mg/l	Ammonia (N)	-	-	-	-	2/Week	Composite
00665	mg/l	Phos., Total	-	-	-	-	1/Week	Composite

2. The pH (Reporting Code 00400) shall not be less than 6.5 S.U. nor greater than 9.0 S.U. and shall be monitored daily by grab sample.
3. The Chlorine Residual (Reporting Code 50060) shall be maintained at a level not to exceed 0.5 mg/l and shall be monitored daily by grab sample. (Summer Only)
4. The Dissolved Oxygen (Reporting Code 00300) shall be monitored daily by grab sample.

\* The average effluent loading limitations are established using the following flow value: 0.85 MGD

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS for Outfall 1PC00100001

<u>1. EFFLUENT CHARACTERISTIC</u>			<u>DISCHARGE LIMITATIONS</u>				<u>MONITORING REQUIREMENTS</u>	
Reporting Code	UNITS	PARAMETER	Concentration		Loading*		Meas. Freq.	Sample Type
			Other	Units(Specify)	kg/day			
			30 day	7 day	30 day	7 day		
01027	ug/l	Cadmium	-	-	-	-	1/Qtr.	Composite
01032	ug/l	Chromium (Hex.)	-	-	-	-	1/Qtr.	Composite
01033	ug/l	Chromium (Tri.)	-	-	-	-	1/Qtr.	Composite
01042	ug/l	Copper	-	-	-	-	1/Qtr.	Composite
01051	ug/l	Lead	-	-	-	-	1/Qtr.	Composite
01067	ug/l	Nickel	-	-	-	-	1/Qtr.	Composite
01092	ug/l	Zinc	-	-	-	-	1/Qtr.	Composite

\* The average effluent loading limitations are established using the following flow value: N/A