

IN THE COURT OF COMMON PLEAS
CLERMONT COUNTY, OHIO

FILED
1989 MAY 30 PM 1:39
Clerk of Courts
CLERMONT COUNTY

STATE OF OHIO, ex rel :
ANTHONY J. CELEBREZZE, JR. :
ATTORNEY GENERAL OF OHIO :
 :
Plaintiff, :
 :
vs. :
 :
HILLTOP ENTERPRISES, et al., : CONSENT ORDER
 :
Defendant. :

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 Defendants Hilltop Enterprises, William Schnicke, Marilyn Schnicke and Robert Crable (hereinafter "Defendants"), 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 Defendants 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, officers, employees, assigns, successors in interest and any person acting in concert or privity with any of them. Defendants shall provide a copy of this Consent Order to each contractor they employ 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 Defendants have operated their wastewater treatment facility in violation of the water pollution laws of the State of Ohio, and that Defendants have failed to comply with Director's Final Findings and Orders issued March 21, 1988 requiring Defendants to operate their wastewater treatment facility in accordance with Ohio law. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Defendants 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. INTERIM COMPLIANCE MEASURES

4. Between the effective date of this Consent Order and March 1, 1990, Defendants are enjoined to comply with the interim effluent limitations set forth in Appendix "A" attached hereto. The interim effluent limitations contained in Attachment "A" do not constitute an NPDES permit or a modification of any existing permit.

5. After March 1, 1990, Defendants are enjoined to meet the final effluent limits set forth in Appendix "B" attached hereto until such time as an NPDES permit is issued for Defendants' wastewater treatment facility. The limitations set forth in Appendix "B" do not constitute an NPDES permit or a modification of any existing permit.

V. COMPLIANCE SCHEDULE

6. Upon issuance of an NPDES permit for Defendants' wastewater treatment facility, but no earlier than March 1, 1990, Defendants are enjoined to meet the final effluent standards set forth in such NPDES permit and any modifications or renewals thereof, and are enjoined to comply with all requirements of Chapter 6111 of the Ohio Revised Code and the terms and conditions of the rules and regulations adopted under that Chapter.

7. Defendants are at all times enjoined to properly operate and maintain their wastewater treatment plant and any associated equipment and structures.

VI. CONSTRUCTION SCHEDULE

8. Defendants are enjoined and ordered to complete construction of improvements to their wastewater treatment plant to meet the final effluent limits set forth in Appendix "B" attached hereto and any final limits imposed by an NPDES permit issued to Defendants governing discharges from the wastewater treatment plant. Said improvements shall be constructed in accordance with the following schedule:

<u>TASK</u>	<u>COMPLETION DATE</u>
(a) Submittal of approvable plans and specifications to Ohio EPA	June 1, 1989
(b) Initiation of Construction	August 1, 1989
(c) Completion of construction of sufficient wetstream treatment facilities to ensure compliance with final effluent limits.	December 1, 1989
(d) Attain compliance with final effluent limitations.	March 1, 1990

9. Within seven days from each completion date listed above, Defendants shall submit a written report to Ohio EPA's Southwest District Office stating whether or not Defendants have performed the action set forth therein.

10. 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.

VII. CIVIL PENALTY

11. Defendants shall pay to the State of Ohio a civil penalty of Twenty Thousand Dollars (\$20,000.00). The penalty shall be paid by delivering to counsel for Plaintiff a certified check for that amount, payable to the order of "Treasurer, State of Ohio" within forty-five (45) days from the date of entry of this Consent Order.

VIII. STIPULATED PENALTIES

12. In the event that Defendants fail to meet any of the requirements of this Consent Order set forth in Paragraphs 4, 5, 6, 7, 8(a), 8(b) and 8(c), including any scheduled milestone requirement, Defendants shall immediately and automatically be liable for and shall pay a stipulated penalty according to the following payment schedule:

- a. For each day of failure to meet a requirement, up to thirty (30) days - Five Hundred Dollars (\$500.00) per day for each requirement not met.
- b. For each day of failure to meet a requirement, from thirty-one (31) to sixty days (60) - One Thousand Dollars (\$1,000.00) per day for each requirement not met.
- c. For each day of failure to meet a requirement, from sixty-one (61) to ninety (90) days - Two Thousand Five Hundred Dollars (\$2,500.00) per day for each requirement not met.

- d. For each day of failure to meet a requirement, over ninety days (90) days - Three Thousand Five Hundred Dollars (\$3,500.00) per day for each requirement not met.

13. In the event that Defendants fail to meet any of the requirements of this Consent Order set forth in Subparagraph 8(d), Defendants shall immediately and automatically be liable for payment of a stipulated penalty of \$5,000.00 per day of each violation of said requirement. Defendants shall be liable for an additional stipulated penalty of One Thousand Dollars (\$1,000.00) per day of each violation if the failure to comply continues for more than thirty (30) days, i.e. Six Thousand Dollars (\$6,000.00) per day of each violation. In the event that failure to comply with the requirements of Subparagraph 8(d) continues more than sixty (60) days, Defendants shall be liable for an additional Four Thousand Dollars (\$4,000.00) per day of each violation, i.e., Ten Thousand Dollars (\$10,000.00) per day of each violation.


14. Any payment required to be made under the provisions of Paragraphs 12 or 13 of this Order shall be made by delivering to Plaintiff's counsel a certified check or checks for the appropriate amounts, within forty-five (45) days from the date of the failure to meet the requirement of the Consent Order, made payable to "Treasurer, State of Ohio".

IX. RETENTION OF JURISDICTION

15. 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.

X. COSTS

16. Defendants are hereby ordered to pay the costs of this action.



JUDGE, COURT OF COMMON PLEAS


APPROVED:

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


HILLTOP ENTERPRISES

BY:

BY:



JAMES O. PAYNE, JR.
CHRISTOPHER A. WALKER
Assistant Attorneys General
30 East Broad Street
Columbus, Ohio 43266-0410




Authorized Representative
of Hilltop Enterprises



WILLIAM SCHNICKE



MARILYN SCHNICKE



ROBERT CRABLE

6110E

APPENDIX "A"

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS for Outfall 1PC00004001.

1. <u>EFFLUENT CHARACTERISTIC</u>		<u>DISCHARGE LIMITATIONS</u>				<u>MONITORING REQUIREMENTS</u>	
		Concentration mg/l		Loading* kg/day		Meas. Freq.	Sample Type
Reporting Code	UNITS PARAMETER	30 day	7 day	30 day	7 day		
50050 MGD	Flow	-	-	-	-	Daily	Continuous
00010 °C	Temperature	-	-	-	-	Daily	Grab
00530 mg/l	Suspended Solids	30	45	8.5	12.8	1/week	Composite
31616 Count /100ml (Summer Only)	Fecal Coliform	1000	2000	-	-	1/month	Grab
80082 mg/l	CBOD ₅	25	40	7.1	11.4	1/week	Composite
00610 mg/l	Ammonia (N)	-	-	-	-	2/month	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 once per week by grab sample.
3. The Chlorine Residual (Reporting Code 50060) shall be maintained at a level not greater than 0.5 mg/l and shall be monitored once per week by grab sample during summer months only.
4. The Dissolved Oxygen (Reporting Code 00300) shall be maintained at a level not less than 5.0 mg/l and shall be monitored once per week by grab sample.

* The average effluent loading limitations are established using the following flow value: 0.075 MGD

APPENDIX "B"

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS for Outfall 1PC00004001.

1. EFFLUENT CHARACTERISTIC		DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS		
Reporting Code	UNITS	PARAMETER	Concentration mg/l		Loading* kg/day		Meas. Freq.	Sample Type
			30 day	7 day	30 day	7 day		
50050	MGD	Flow	-	-	-	-	Daily	Continuous
00010	°C	Temperature	-	-	-	-	Daily	Grab
00530	mg/l	Suspended Solids	12	18	3.4	5.1	1/week	Composite
31616	Count /100ml	Fecal Coliform (Summer Only)	1000	2000	-	-	1/month	Grab
80082	mg/l	CBOD ₅	10	15	2.8	4.3	1/week	Composite
00610	mg/l	Ammonia (N)						
		(Summer)	2.0	3.5	0.57	0.85	2/month	Composite
		(Winter)	5.0	7.5	1.42	2.13	2/month	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 once per week by grab sample.
3. The Chlorine Residual (Reporting Code 50060) shall be maintained at a level not greater than 0.5 mg/l and shall be monitored once per week by grab sample during summer months only.
4. The Dissolved Oxygen (Reporting Code 00300) shall be maintained at a level not less than 5.0 mg/l and shall be monitored once per week by grab sample.

* The average effluent loading limitations are established using the following flow value: 0.075 MGD