

IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO

STATE OF OHIO, ex rel. :  
WILLIAM J. BROWN, :  
Attorney General of Ohio, :  
 :  
Plaintiff, :  
 :  
v. : Case No. 78CV-03-969  
 :  
NATIONAL STEEL CORPORATION, :  
 :  
Defendant. :

CONSENT DECREE

The Complaint having been filed herein on March 7, 1978; under §§ 6111.03(L), 6111.07 and 6111.09 of the Ohio Revised Code, and the Plaintiff and the Defendant by their respective attorneys having consented, without trial or adjudication of any issue of fact or law herein, to the entry of this Consent Decree:

NOW, THEREFORE, before the taking of any testimony, upon the pleadings and upon consent of the parties hereto, it is Ordered, Adjudged and Decreed as follows:

I.

This Court has jurisdiction of the subject matter herein and of the parties consenting hereto. The Complaint states a claim upon which relief can be granted against the Defendant under §§ 6111.03(L), 6111.07 and 6111.09 of the Ohio Revised Code.

II.

The provisions of this Consent Decree shall apply to and be binding upon the parties to this action, their officers, directors, agents, servants, employees and successors; in

addition, the provisions of this Consent Decree shall apply to all persons, firms, corporations, and other entities having notice of this Consent Decree and who are, or will be, acting in concert and privity with the Defendant to this action or its officers, directors, agents, servants, employees and successors.

III.

The Defendant agrees and is hereby enjoined to segregate by appropriate construction the cooling water and storm sewer system from the waste water treatment system at its Weirton Steel Division facility in Steubenville, Ohio by April 1, 1979. Said segregation shall, by April 1, 1979, prevent the entry of cooling water and storm runoff waters into the waste water treatment system. While complying with this injunction, the Defendant shall comply with all requirements of Chapter 6111 of the Revised Code and the regulations thereunder relating to the construction or modification of any treatment works. This order in no way relieves the Defendant of its obligations under federal and state law with regard to any new outfall created as a result of the segregation of the sewer system from the waste water treatment system.

IV.

Defendant shall, not later than ten (10) days from the entry of this Decree, forward its check drawn to the order of the "Treasurer, State of Ohio" in the amount of \$44,300.00, said amount being a civil penalty under § 6111.09 of the Ohio Revised Code in satisfaction of any and all violations of final effluent limitations of NPDES Permit No. D 032 \* AD which are caused by an overflow of the existing treatment system up to April 1, 1979.

V.

If the Defendant fails to complete segregation of the sewer system from the waste water treatment system by April 1, 1979 the Defendant agrees that it shall pay a civil penalty, pursuant to O.R.C. § 6111.09, in the amount of six hundred fifty dollars (\$650.00) for each violation of an effluent limitation up to a maximum of one thousand, three hundred dollars (\$1,300.00) per day which occurs subsequent to April 1, 1979 and prior to the completion of the segregation of the systems. The Defendant shall pay such penalty within ten (10) days of notification by the Ohio EPA of the occurrence of any effluent violation. In payment of such penalty, the Defendant shall deliver to Plaintiff's counsel for payment into the state treasury a certified check for the appropriate amount payable to "Treasurer, State of Ohio". The payment of any penalty pursuant to this order shall in no way affect the Defendant's liability for contempt of court for failure to comply with any order of the court.

VI.

In any action to enforce any of the provisions of this Decree, the 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 an act of God or the public enemy, accidental fire or explosion, flood, or riot, sabotage, strike, slowdown, lockout or work stoppage, failure of supply of material, parts, or equipment and failure, delay or refusal of any designer, contractor, fabricator or supplier to design, construct, fabricate, deliver or install same in a timely manner. While it is not stipulated that such a defense exists, it is however, stipulated and agreed 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 the permit without a force majeure clause does not constitute a waiver by the Defendant of any rights or defenses it may have under applicable law.

VII.

The Court retains jurisdiction of this suit for the purpose of making any order or decree which it may deem at any time to be necessary to carry out this Judgment.

FRED J. SHOEMAKER  
Judge, Court of Common Pleas

Approved:

WILLIAM J. BROWN  
ATTORNEY GENERAL OF OHIO

By: Robert E. Olwell  
ROBERT E. OLWELL OLW-01

By: E. Dennis Muchnicki  
E. DENNIS MUCHNICKI MUC-02  
Assistant Attorneys General  
Environmental Law Section  
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NATIONAL STEEL CORPORATION

By: \_\_\_\_\_  
Authorized Representative

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2900 Grant Building  
Pittsburgh, Pennsylvania 15219

By: \_\_\_\_\_  
CHESTER R. BABST, III