

IN THE COURT OF COMMON PLEAS
WASHINGTON COUNTY, OHIO

STATE OF OHIO, ex rel.
WILLIAM J. BROWN
ATTORNEY GENERAL OF OHIO,

Plaintiff,

v.

SHELL OIL COMPANY,

Defendant.

Case No. 82-4-22

Judge Roland W. Biggs, II

CONSENT JUDGMENT

The Complaint having been filed on February 3, 1982 ;
and the Plaintiff and Defendant by their respective attorneys
having consented to the entry of this Consent Judgment;

Now Therefore, before the taking of any testimony, and
upon the pleadings, it is Ordered, Adjudged and Decreed as
follows:

1. This Court has jurisdiction of the subject matter of
the instant action and of the parties consenting hereto.
The Complaint states a cause of action under Ohio Revised
Code Section 3704.05(A) and (G) upon which relief may be
granted in accordance with Section 3704.06 of the Ohio Revised
Code.

2. The provisions of this Consent Judgment shall apply to
and be binding upon the parties to this action, their officers,
directors, agents, servants, employees, and successors, and all
persons, firms, corporations and other entities having know-
ledge of this Consent Judgment who are or will be acting in
concert or privity with any of the foregoing.

3. Defendant Shell Oil Company owns and operates, through a
division known as Shell Chemical Company, a chemical manufac-
turing plant located at 2982 Washington Boulevard, Belpre,
Ohio. At said chemical plant, Shell Oil Company owns and
operates two Riley-Stoker coal-fired boilers (referred to as
Ohio EPA Source Nos. B005 and B007), each having a capacity of

247 million British Thermal Units (BTU's) per hours.

4. This Consent Judgment only addressed issues relating to particulate emissions from Ohio EPA Source Nos. B005 and B007. The purpose of this Consent Judgment is to resolve all present claims and controversies concerning such particulate emissions without the time and expense of litigation and to avoid further litigation, during the effective period of this Consent Judgment, concerning such particulate emissions, under the conditions set forth in Paragraph 12 of this Consent Judgment.

5. Nothing in this Consent Judgment shall be construed as any admission by Defendant of any culpability or liability on the part of Defendant for any violation of Ohio Revised Code Section 3704.05(A) and (B), Ohio Administrative Code Rule 3745-17-10, or any other provision of Chapter 3704 of the Ohio Revised Code or Chapter 3745-17 of the Ohio Administrative Code.

6. The Defendant agrees and is hereby enjoined to implement the following compliance plan, in accordance with the compliance schedule set forth in Paragraph 7 of this Consent Judgment:

A. Defendant shall install a separate, additional electrostatic precipitator in series with the control equipment presently in place on each of the aforementioned sources (Ohio EPA Source Nos. B005 and B007).

B. Defendant shall replace the power supply to each of the electrostatic precipitators presently serving Ohio EPA Source Nos. B005 and B007 with a new solid state power supply.

C. Defendant shall replace the existing plate and wire vibrators (rappers) on the electrostatic precipitators presently serving Ohio EPA Source Nos. B005 and B007 with new variable cycle vibrators designed for high resistivity flyash.

D. Defendant shall increase the diameter of existing boiler stack by approximately 5 feet each to achieve the required 2.5 diameters of undisturbed flow path for emissions testing.

7. Defendant shall implement the compliance plan described in the preceding paragraph in accordance with the following compliance schedule:

A. Award contracts for emission control systems or process modifications; and issue any orders for the purchase of component parts to accomplish emission control or process modification by Achieved.

B. Initiate on-site construction or installation of emission control equipment or process change by March 31, 1982

C. Complete on-site construction or installation of emission control equipment, including any component parts to accomplish emission control, or process change by September 30, 1982

D. Achieve final compliance by December 31, 1982

8. Defendant shall conduct a particulate emissions test conforming to the applicable requirements of Ohio Administrative Code Rule 3745-17-03 for each of the aforementioned sources (CEPA Source Nos. B005 and B007) no later than October 30, 1982. No later than December 31, 1982, Defendants shall submit to the Ohio Environmental Protection Agency the results of any and all particulate emissions tests conducted for either of the aforementioned sources at any time after September 30, 1982. As applied to the aforementioned boilers, Ohio EPA Source Nos. B005 and B007, the current version of Ohio Administrative Code Rule 3745-17-10 allows particulate emissions of up to .124 pounds of particulate matter per million BTU actual heat input. For purposes of this Consent Judgment, Defendant will therefore be deemed to have demonstrated compliance with Ohio Administrative Code 3745-17-10

upon a showing (conforming to C.A.C. Rule 3745-17-03) that emissions from the aforementioned sources do not exceed .124 pounds per million BTU actual heat input while operating at or near their respective maximum capacities.

9. Not later than twenty (20) days after the end of each quarter, commencing with the October 1 to December 31 quarter of 1981, Defendant shall submit to the Ohio Environmental Protection Agency a written report describing the actual progress that the Defendant has made in achieving the milestones set forth in Paragraph 7 of this Consent Judgment. Said written report shall include a notification of any failure to attain any milestone by the applicable deadline set forth in Paragraph 7, supra, together with a statement of the reasons for such failure, an estimated date for achieving such milestone, and an assessment of the impact of such failure upon Defendant's ability to meet any remaining deadlines. Nothing in this paragraph shall be construed as providing a waiver of any remedies available to the Ohio Environmental Protection Agency in the event of Defendant's failure to meet any deadline set forth in the applicable schedule.

10. Commencing immediately and throughout the effective period of this Consent Judgment, Defendant shall, consistent with good operating practice and using the coal contracted for, operate its boilers so as to reduce to the maximum possible extent the emission of particulate matter from Ohio EPA Source Nos. B005 and B007.

11. If at any time prior to expiration of this Consent Judgment the Ohio Environmental Protection Agency issues to Defendant, for Ohio EPA Source No. B005 or Ohio EPA Source No. B007, any permit or variance with terms or conditions that are clearly inconsistent with any provisions of this Consent Judgment, then, to the extent necessary to eliminate such inconsistency, the terms or provisions of such permit or variance shall supersede the inconsistent provisions of this Consent Judgment.

12. In any subsequent proceedings to enforce the provisions of this Consent Judgment, Defendant shall not be held liable for failure to meet the compliance deadlines set forth in Paragraph 7, supra, if and to the extent that delays in meeting such compliance deadlines are caused by circumstances beyond the control of Defendant, its officers, agents or employees, including without limitation, inherent impossibility, acts of God, strikes, explosions, accidents, and abnormal or unusual delays due to suppliers, carriers or contractors, and to the extent that Defendant, its officers, agents and employees are unable to mitigate or compensate for such delays despite diligent efforts to do so. The burden of proving that any delay is caused by circumstances beyond the control of Defendant, its officers, agents or employees shall rest with Defendant.

13. Plaintiff hereby dismisses its claims for civil penalties based upon or resulting from particulate emissions, prior to the filing of the Complaint in this proceeding, from Ohio EPA Source Nos. B005 and B007.

14. As long as Defendant fully complies with the requirements of Paragraphs 6 through 10 of this Consent Judgment, and any alternative requirements applicable to Defendant by virtue of Paragraph 11 of this Consent Judgment, the Director of Environmental Protection shall not cause any legal proceedings to be instituted against Defendant for causing or allowing the emission during the effective period of this Consent Judgment, of particulate matter from Ohio EPA Source Nos. B005 or B007 in excess of .124 pounds of particulate matter per million BTU actual heat input.

15. The Court retains jurisdiction of this suit for the purpose of making any order or decree which it may at any time deem necessary to carry out or enforce this Consent Judgment; provided, that this Consent Judgment shall expire upon Defendant's receipt of a written acknowledgement from the Ohio Environmental Protection Agency that Defendant has satisfactorily demonstrated compliance,

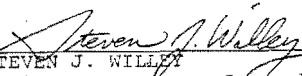
in accordance with Paragraphs 7(D) and 8 of this Consent Judgment, with Ohio Administrative Code Rule 3745-17-10, unless proceedings to carry out or enforce this Consent Judgment are pending at the time of such receipt, in which case this Consent Judgment shall not expire until the final termination of such proceedings.


15. This Consent Judgment is made in Ohio and shall be governed by Ohio law.

JUDGE, COURT OF COMMON PLEAS

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ATTORNEY GENERAL OF OHIO

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