

COURT OF COMMON PLEAS
STARK COUNTY, OHIO.

STATE OF OHIO, ex rel. : CASE NO.
ANTHONY J. CELEBREZZE, JR. :
ATTORNEY GENERAL OF OHIO, : JUDGE.

Plaintiff,

THE VILLAGE OF BREWST

ORDER

Defendant.

The Complaint in the above-captioned matter having been filed herein, and Plaintiff State of Ohio by its Attorney General Anthony J. Celebrezze, Jr. and Defendant The Village of Brewster, Ohio (hereinafter referred to as "Brewster") 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 Brewster 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,

person acting in concert or privity with any of them.
Defendant Brewster 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 Brewster 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 Environmental Protection and in violation of the water pollution control 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 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 Brewster 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 adopted under that Chapter and its currently effective NPDES

the final effluent limitations set forth in said permit. Between the effective date of this Consent Order and January 31, 1992, Defendant is enjoined to comply with the interim limitations set forth in Attachment A attached hereto. The interim effluent limits contained in Attachment "A" do not constitute an NPDES permit or a modification of any existing permit. After January 31, 1992, Defendant is enjoined to meet the final effluent standards set forth in its NPDES permit No. 3PB00006*CD and any renewals or modifications thereof. Defendant is hereby enjoined to properly operate and maintain its wastewater treatment plant and any associated equipment and structures.

V. CONSTRUCTION SCHEDULE

5. Defendant Brewster 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, and to attain compliance with the final effluent limitations of NPDES permit No. 3PB00006*CD and any modifications or renewals thereof in accordance with the following schedule:

<u>TASK</u>	<u>COMPLETION DATE</u>
(a) Initiation of Project Design Work.	June 30, 1990
(b) Submittal of Approvable Plans and Specifications to Ohio EPA.	December 31, 1990

- (d) Execution of Building Contracts. April 30, 1991
- (e) Initiation of Construction. May 31, 1991
- (f) Completion of construction of sufficient wetstream treatment facilities to ensure compliance with final effluent limits and the elimination of bypasses and overflows. December 31, 1991
- (g) Attain compliance with final effluent limitations, and eliminate overflows and bypasses. January 31, 1992

VI. REPORTING REQUIREMENT

6. Within seven (7) days from the completion date of each milestone listed above, Defendant Brewster shall submit a written report stating whether it has performed the action set forth therein to Ohio EPA's Northeast District Office, Division of Water Pollution Control at 2110 East Aurora Road, Twinsburg, Ohio 44087, and Ohio EPA's Central Office, Division of Water Pollution Control/Enforcement Section at 1800 WaterMark Drive, Columbus, Ohio 43266-0149.

VII. COMPLIANCE NOT DEPENDENT ON GRANTS

7. Performance of the terms of this Consent Order by Defendant Brewster not conditioned on the receipt of any Federal or State grant funds. In addition, Defendant's performance is not excused by the failure to obtain or shortfall of any Federal or State grant funds or by the processing of any applications for the same.

8. 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.

IX. CIVIL PENALTY

9. Defendant Brewster shall pay to the State of Ohio a civil penalty of five thousand dollars (\$5,000.00). 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.

X. STIPULATED PENALTIES

10. In the event that Defendant Brewster fails to meet any of the requirements of this Consent Order set forth in Paragraph 4 and Subparagraphs 5(a) through 5(f) including any scheduled milestone requirement, Defendant 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;

- 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;
- 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)
- 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.

11. In the event that Defendant Brewster fails to meet any of the requirements of this Consent Order set forth in Subparagraph 5(g), Defendant shall immediately and automatically be liable for payment of 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 thousand dollars (\$5,000.00) per day;
- b. For each day of failure to meet a requirement, from thirty-one (31) to sixty (60) days--six thousand dollars (\$6,000.00) per day;
- c. For each day of failure to meet a requirement, over sixty days--ten thousand dollars (\$10,000.00) per day.

12. Any payment required to be made under the provisions of Paragraphs 10 or 11 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".

XI. TERMINATION OF STIPULATED PENALTIES

13. The provisions of this Consent Order set forth in Section X, Paragraphs 10, 11 and 12 requiring the payment of stipulated penalties may be terminated upon a showing by Defendant Brewster that Defendant has achieved and maintained compliance with the final effluent limitations contained in its NPDES permits and any modifications or renewals thereof for a period of one (1) year after the attainment of compliance as specified in milestone 5(g) of the Construction Schedule and payment of all penalties required pursuant to this Consent Order.

14. Termination of the stipulated penalties section shall be by Order of the Court upon application by any party and a demonstration that the conditions set forth in this section have been met.

XII. 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.

XIII. COSTS


16. Defendant Brewster is hereby ordered to pay the costs of this action.

JUDGE, COURT OF COMMON PLEAS

12-19-90

DATE

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



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