

IN THE COURT OF COMMON PLEAS
NOBLE COUNTY, OHIO

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

Plaintiff,

vs.

VILLAGE OF CALDWELL

Defendant.

CASE NO.

88/84/14

JUDGE _____

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 Village of Caldwell (hereinafter "Caldwell") 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, officers, employees, assigns, successors in interest and any person acting in concert or privity with any of them. Defendant Caldwell 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 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 Caldwell 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 Caldwell 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 NPDES Permit No. OPB00005*BD, and any renewals or modifications thereof, except for the effluent limitations set forth in said permit. Between the effective date of this Consent Order and October 31, 1990, 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 October 31, 1990, Defendant Caldwell is enjoined to meet the final effluent standards set forth in its NPDES Permit No. OPB00005*BD and any renewals or modifications thereof. Caldwell is hereby enjoined to properly operate and maintain its wastewater treatment plant and any associated equipment and structures.

V. CONSTRUCTION SCHEDULE

5. Defendant Caldwell is enjoined and ordered to complete construction of the improvements to its wastewater treatment plant as described in the approved Municipal Compliance Plan to be submitted to Ohio EPA by July 1, 1988, and to attain compliance with the final effluent limitations of NPDES permit No. OPB00005*BD in accordance with the following schedule:

TASKCOMPLETION DATE

- | | |
|--|--------------------|
| (a) Initiation of Project Design Work | August 1, 1988 |
| (b) Submittal of Approvable Plans and Specifications to Ohio EPA | December 16, 1988 |
| (c) Advertisement of Building Bids | March 1, 1989 |
| (d) Execution of Building Contracts | June 15, 1989 |
| (e) Initiation of Construction | June 19, 1989 |
| (f) Completion of construction of sufficient wetstream treatment facilities to ensure compliance with final effluent limits. | September 15, 1990 |
| (g) Attain compliance with final effluent limitations. | October 31, 1990 |

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 Caldwell shall pay to the State of Ohio a civil penalty of four thousand dollars (\$4,000.00). 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 days from the date of entry of this Consent Order.

VII. STIPULATED PENALTIES

7. In the event that Defendant Caldwell fails to meet any of the requirements of this Consent Order set forth in Paragraph 4 and Subparagraphs 5(a), 5(b), 5(c), 5(d), 5(e) and 5(f), 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.

8. In the event that Defendant Caldwell 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.

APPENDIX A

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS for Outfall OPB00005001

1. EFFLUENT CHARACTERISTIC			DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
Reporting Code	UNITS	PARAMETER	Concentration		Loading*		Meas. Freq.	Sample Type
			Other Units (Specify)		kg/day			
			30 day	7 day	30 day	7 day		
50050	MGD	Flow	-	-	-	-	Daily	24 Hour Total
00010	°C	Temperature	-	-			Daily	Max. Ind. Therm.
00530	mg/l	Suspended Solids	17	25	17.4	25.6	1/Week	Composite
80082	mg/l	CBOD ₅	17	25	17.4	25.6	1/Week	Composite
00610	mg/l	Ammonia (N)	-	-	-	-	1/Week	Composite

- 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.
- The Dissolved Oxygen (Reporting Code 00300) shall be maintained at a level of not less than 5.0 mg/l and shall be monitored daily by grab sample.

* The average effluent loading limitations are established using the following flow value: 0.270 MGD

Date Issued: May 15, 1986

Appendix A (cont.)

1. The permittee is authorized to discharge from the following overflows and bypasses only during wet weather periods when the flow in the sewer system exceeds the capacity of the sewer system. See next page, Item 2 for monitoring and reporting requirements. Also see PART III, Item 11 of NPDES permit No. 03B00005*BD.

<u>Station Number</u>	<u>Description</u>	<u>Receiving Stream</u>
OPB00005003	Special Structure overflow ahead of wastewater treatment plant	West Fork Duck Creek
OPB00005004	6-1A South end of Lewis St./back of 537 Main St/U.M. Church	West Fork Duck Creek
OPB00005005	13-B West end of Locust St. near creek	West Fork Duck Creek
OPB00005006	21-A East end of Main St.	West Fork Duck Creek
OPB00005007	23-A East end of North St.	West Fork Duck Creek
OPB00005008	25-1A East end of Belford St. near creek	West Fork Duck Creek
OPB00005009	28-1A South side of 808 Cumberland St.	West Fork Duck Creek
OPB00005010	33-A Frazier St. back of high school near creek	West Fork Duck Creek
OPB00005011	34-A North end of Lewis St.	West Fork Duck Creek
OPB00005012	41-A Fairground St. at west side of railroad track	West Fork Duck Creek
OPB00005013	42-A West side of RR track between Fairground St. & Belford St.	West Fork Duck Creek
OPB00005014	43-A West side of RR track on Belford St.	West Fork Duck Creek
OPB00005015	43-B West side of RR track on Belford St.	West Fork Duck Creek
OPB00005016	44-A West side of RR track between Belford St. & Spruce St.	West Fork Duck Creek
OPB00005017	46-A Corner of Railroad St. and Belford St.	West Fork Duck Creek
OPB00005018	47-A Southeast corner of Moore door factory on Miller St.	West Fork Duck Creek
OPB00005019	47-B Southeast corner of Moore door factory on Miller St.	West Fork Duck Creek
OPB00005020	51-1A State Rt. 78 at SW corner of Food Center-Olive St.	West Fork Duck Creek
OPB00005021	52-A South side of Food Center on St. Rt. 78-Olive St.	West Fork Duck Creek
OPB00005022	76-A West side of Main St. in front of 1016 Main St.	West Fork Duck Creek
OPB00005023	77-1A Miller St. between Main St. & North St. at 401 Miller St.	West Fork Duck Creek
OPB00005024	77-A Miller St. between Main St. & North St. at Murphy Residence	West Fork Duck Creek

The collection system must be operated and maintained to transport the maximum quantity of pollutants to treatment within existing design constraints.

After each precipitation event all the regulators and overflows must be observed to determine if they are functioning properly and cleared of debris.

Date Issued: May 15, 1986

Appendix A (cont.)

2. The permittee shall monitor the systems bypasses and overflows at Stations OPB00005003 through OPB00005024 and report to the Ohio EPA in accordance with the following Table:

<u>CHARACTERISTIC</u>		<u>MONITORING REQUIREMENTS</u>		
Reporting Code	Units	Parameter	Measurement Frequency	Sample Type
80998	Number/Day	Occurrences	Daily when discharging	Estimate
80999	Hours	Duration	Daily when discharging	Daily Est.
00310	mg/l	BOD ₅	1/month	Grab
00530	mg/l	Suspended Solids	1/Month	Grab
50050	Million Gallons	Volume	Daily when discharging	Daily Est.
00045	Inches	Precipitation	Daily	24 Hour Total

The permittee shall set up a rotating schedule to sample at least five (5) stations during each overflow event. Samples should be collected during the first 30 minutes of discharge.

For days when there are no bypass discharges, data for parameters which require laboratory analyses should be reported as "AH" and an explanation of "No Discharge" entered in the "Additional Remarks" section. Also, on such days Zero should be reported for occurrences, duration, and flow.

Monitoring data shall be submitted for each month when discharge occurs. The monthly monitoring report shall be attached to the normal monthly report form (EPA-4500).

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