

IN THE COURT OF COMMON PLEAS
KNOX COUNTY, OHIO

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

Plaintiff,

vs.

VILLAGE OF ██████████
Defendant.

CASE NO. 89IN100277

JUDGE _____

CONSENT ORDER

89 OCT 13 AM 10:10
TERESA A. HENNINGER
CLERK OF COURTS
KNOX COUNTY COMMON PLEAS

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 Centerburg (hereinafter "Centerburg") 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 Centerburg 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 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 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 Defendant 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 Centerburg 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 its currently effective NPDES Permit, and any renewals or modifications thereof, except for the final effluent limitations set forth in said permit. Between the effective date of this Consent Order and October 31, 1989, 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, 1989, Defendant Centerburg is enjoined to meet the final effluent standards set forth in its NPDES permit No. 4PB00103*DD and any renewals or modifications thereof. Centerburg is hereby enjoined to properly operate and maintain its wastewater treatment plant and any associated equipment and structures.

V. CONSTRUCTION SCHEDULE

5. Defendant Centerburg is enjoined and ordered to complete construction of the improvements to its wastewater treatment plant described in the Municipal Compliance Plan as submitted to Ohio EPA on June 18, 1987, and to attain

compliance with the final effluent limitations of NPDES permit No. 4PB00103*DD 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	Complete
(b) Submittal of Approvable Plans and Specifications to Ohio EPA	Complete
(c) Advertisement of Building Bids	Complete
(d) Execution of Building Contracts	Complete
(e) Initiation of Construction	Complete
(f) Completion of construction of sufficient wetstream treatment facilities to ensure compliance with final effluent limits.	July 31, 1989
(g) Attain compliance with final effluent limitations.	October 31, 1989

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 Centerburg shall pay to the State of Ohio a civil penalty of Two Thousand Seven Hundred Dollars

(C) (\$2,700.00). 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 Centerburg fails to meet any of the requirements of this Consent Order set forth in Paragraph 4 and Subparagraph 5(f) 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, after ninety days - \$3,500.00 per day.

8. In the event that Defendant Centerburg 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 (\$ 1,000.00) 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. POTENTIAL FORCE MAJEURE

10. In any action to enforce any of the provisions of this Consent Order Defendant Centerburg 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, by way of example and not limitation, act of God, unusually severe weather conditions, strikes, acts of war or civil disturbances, or orders of any regulatory agency. While Plaintiff does not agree that such a defense exists, it is, however, hereby agreed

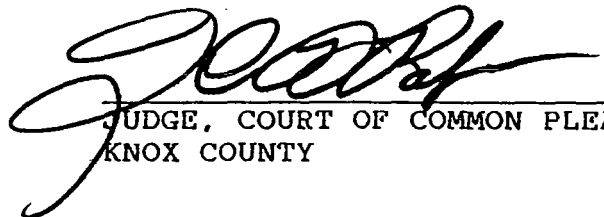
upon by the parties that it is premature at this time to raise and adjudicate the existence of such a defense and that the appropriate point at which to adjudicate the existence of such a defense is at the time that an enforcement action, if any, is commenced. Acceptance of this Consent Order without a force majeure clause does not constitute a waiver by Defendant of any rights or defenses it may have under applicable law.

IX. RETENTION OF JURISDICTION

11. 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

12. Defendant Centerburg is hereby ordered to pay the costs of this action.

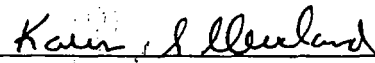


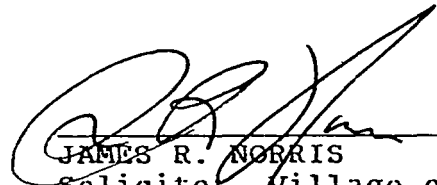
JUDGE, COURT OF COMMON PLEAS
KNOX COUNTY

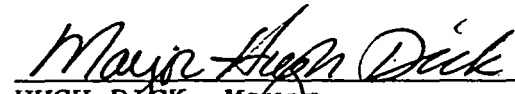
APPROVED:

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

BY:


KAREN S. CLEVELAND
Assistant Attorney General
30 East Broad Street
Columbus, Ohio 43266-0410


JAMES R. NORRIS
Solicitor, Village of
Centerburg
6 East Main Street
Centerburg, Ohio 43011


HUGH DICK, Mayor
of Village of Centerburg
Authorized Representative

2929E/47

APPENDIX A

- INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning on the effective date of permit No. 4PB00103*DD and lasting until date that the improved wastewater treatment works are to attain operational level as specified in Item 1h in the Schedule of Compliance, the permittee is authorized to discharge in accordance with the following limitations and monitoring requirements from outfall: 4PB00103001. See PART II, OTHER REQUIREMENTS of NPDES permit No. 4PB 00103*DD for location of effluent sampling.

<u>EFFLUENT CHARACTERISTIC</u>		<u>DISCHARGE LIMITATIONS</u>				<u>MONITORING REQUIREMENTS</u>	
Reporting Code	UNITS, PARAMETER	Concentration		Loading*		Meas. Freq.	Sample Type
		Other Units (Specify)		kg/day			
		30 day	7 day	30 day	7 day		
00010	%C Temperature	-	-	-	-	Daily	Max. Ind. Therm.
00310	mg/l BOD ₅	16	24	12.1	18.2	1/Week	Composite
00530	mg/l Suspended Solids	16	24	12.1	18.2	1/Week	Composite
00610	mg/l Ammonia (N) (Summer Only)	-	-	-	-	1/Month	Composite
31616	Count Fecal Coliform /100ml (Summer Only)	1000	2000	-	-	1/Week	Grab
50050	MGD Flow	-	-	-	-	Daily	Continuous
80082	mg/l CBOD ₅	-	-	-	-	1/Week	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 daily by grab sample.
3. If the entity uses chlorine for disinfection, the Chlorine Residual (Reporting Code 50060) shall be maintained at a level not to exceed 0.5 mg/l and shall be monitored daily by grab sample. (Summer Only)
4. 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: 0.2 MGD

FILED
KNOX COUNTY
COURT OF COMMON PLEAS

90 MAY -9 AM 8:51

IN THE COMMON PLEAS COURT OF KNOX COUNTY, OHIO

TERESA DEMILLER
CLERK OF COURTS

OHIO ATTORNEY GENERAL

PLAINTIFF

-VS-

CASE NO. 89IN100277

VILLAGE OF CENTERBURG,

DEFENDANT


JOURNAL ENTRY

This cause was reviewed by the Court and at the time of review it remained listed as an active case on the docket of this court.

A review of the record reveals that at the time the complaint was filed there was a consent entry and the matter should have been completed at that time.

The Court, of course, retains jurisdiction over the matters raised by the complaint herein in accordance with the consent entry.

The Clerk of this Court is directed to close this file and finish the case and to assess the costs against the Defendant, Village of Centerburg and see that they are paid without hesitation or delay.


Thomas D. Badger JUDGE

CLOSE CODE C

cc: Karen S. Cleveland
James R. Norris

C

KNOX COUNTY COMMON PLEAS COURT, MOUNT VERNON, OHIO 43050