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SEP 15 1988
Environmental Enforcement Section

IN THE COURT OF COMMON PLEAS
ROSS COUNTY, OHIO

SEP 15 3 24 PM '88

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

CASE NO. '88 CI 252
JUDGE WOLFE

Plaintiff,

vs.

VILLAGE OF ██████████

Defendant.

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 Clarksburg (hereinafter "Clarksburg") 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 Clarksburg 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 Clarksburg 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 Clarksburg 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.

OPA00001*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 September 1, 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 September 1, 1990, Defendant Clarksburg is enjoined to meet the final effluent standards set forth in its NPDES permit No. OPA00001*BD and any renewals or modifications thereof. Clarksburg is hereby enjoined to properly operate and maintain its wastewater treatment plant and any associated equipment and structures.

V. CONSTRUCTION SCHEDULE

5. Defendant Clarksburg 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 described in the Municipal Compliance Plan submitted to Ohio EPA on April 14, 1988 and to attain compliance with the final effluent limitations of NPDES permit No. OPA00001*BD in accordance with the following schedule:

TASK

COMPLETION DATE

- (a) Completion of flow and Strength Monitoring as contained in Task 1 on page 5 of 6 of the General plan January 1, 1989
- (b) Initiation of Project Design Work May 1, 1989
- (c) Submittal of Approvable Plans and Specifications to Ohio EPA September 1, 1989
- (d) Advertisement of Building Bids November 1, 1989
- (e) Execution of Building Contracts December 15, 1989
- (f) Initiation of Construction January 15, 1990
- (g) Completion of construction of sufficient wetstream treatment facilities to ensure compliance with final effluent limits and elimination of inflow surces. July 1, 1990
- (h) Attain compliance with final effluent limitations. September 1, 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 Clarksburg 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 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), 5(f) and 5(g), including any scheduled 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 forty-five days- \$500.00 per day. For each day of failure to meet a requirement, from forty-six to ninety days- \$1,000.00 per day. For each day of failure to meet a requirement, from ninety-one to one hundred thirty-five days- \$2,000.00 per day. For each day of failure to meet a requirement, from one hundred thirty-six to one hundred eighty days- \$3,000.00 per day. For each day of failure to meet a requirement, over one hundred eighty days- \$3,500.00 per day.

8. In the event that Defendant Clarksburg fails to meet any of the requirements of this Consent Order set forth in Subparagraph 5 (h), 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 forty-five (45) 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(h) continues more than ninety (90) days, Defendant shall be liable for an additional two thousand dollars (\$2,000.00) per day of violation, i.e., eight thousand dollars (\$8,000.00) per day of violation. In the event that failure to comply with the requirements of Subparagraph 5(h) continues more than one hundred eighty (180) days, Defendant shall be liable for an additional two thousand dollars (\$2,000.00) 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 Clarksburg 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

distrubances, 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 Clarksburg is hereby ordered to pay the costs of this action.

MARK W. MUSY 9/16/88

JUDGE, COURT OF COMMON PLEAS
ROSS COUNTY

APPROVED:

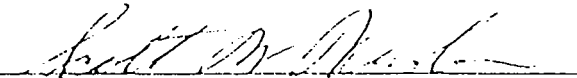
STATE OF OHIO, ex rel.
ANTHONY J. CELEBREZZE, JR.
ATTORNEY GENERAL OF OHIO

THE STATE OF OHIO	CLERK OF THE
ROSS COUNTY, OH	COURT OF COMMON PLEAS
HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE ORIGINAL <u>Consent order</u>	
NOW ON FILE IN MY OFFICE	
WITNESS MY HAND AND SEAL OF SAID COURT	
THIS	23 DAY
	March 1989
JOYCE F. [unclear]	
By <u>Barbara L. Celburn</u> Deputy	

BY:



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



SCOTT W. NUSBAUM
Solicitor/Village of Clarksburg
The Foulke Block
20 South Paint Street
Chillicothe, Ohio 45601



CHARLES C. SMITH, MAYOR
Authorized Representative
of the Village of Clarksburg

2090E

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS for Outfall OPA00001001

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	Continuous
00010	°C Temperature	-	-	-	-	Daily	Max. Ind. Therm.
00530	mg/l Suspended Solids	35	45	7.95	10.2	1/Week	Composite
00310	mg/l BOD ₅	35	45	7.95	10.2	1/Week	Composite
31616	Count Fecal Coliform /100ml (Summer Only)	1000	2000	-	-	1/Week	Grab
00610	mg/l Ammonia (N)	-	-	-	-	1/Month	Grab
80082	mg/l CBOD ₅	-	-	-	-	1/Week	Composite

- The pH (Reporting Code 00400) (average) 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 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)
- The Dissolved Oxygen (Reporting Code 00300) shall not be 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: 0.06 MGD

Date Issued: June 6, 1986
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3463P

Form EPA 4456