

IN THE COURT OF COMMON PLEAS
CHAMPAIGN COUNTY, OHIO

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

FILED
JUN 24 1988
JUDGE

88 CIV 74

Plaintiff,

vs.

VILLAGE OF MECHANICSBURG,
OHIO

Dianne Coder

CHAMPAIGN COUNTY, OHIO
CLERK OF COURTS
CONSENT ORDER

Defendant.

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 Mechanicsburg, Ohio (hereinafter "Mechanicsburg") 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 Mechanicsburg 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 Mechanicsburg 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 1PB00037*AD, 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 July 29, 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 July 29, 1990, Defendant Mechanicsburg is enjoined to meet the final effluent standards set forth in Appendix B and NPDES Permit 1PB00037*BD and any renewals or modifications of the NPDES permit. Mechanicsburg is hereby enjoined to properly operate and maintain its wastewater treatment plant and any associated equipment and structures.

V. CONSTRUCTION SCHEDULE

5. Defendant Mechanicsburg 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 general plan/Municipal Compliance Plan as approved by Ohio EPA and to attain compliance with the final effluent limitations set forth in Appendix B and NPDES permit No. 1PB00037*BD and any modifications or renewals of its NPDES permit in accordance with the following schedule:

TASK

COMPLETION DATE

- | | |
|--|--------------------|
| (a) Submittal of Approvable General Plan/
Municipal Compliance Plan to Ohio EPA | September 30, 1988 |
| (b) Initiation of Project Design Work | December 1, 1988 |
| (c) Submittal of Approvable Plans and
Specifications to Ohio EPA | February 28, 1989 |
| (d) Advertisement of Building Bids | May 31, 1989 |
| (e) Execution of Building Contracts | July 28, 1989 |
| (f) Initiation of Construction | August 31, 1989 |
| (g) Completion of construction of
treatment facilities to ensure
compliance with
final effluent limits and the
elimination of bypasses and
overflows. | May 31, 1990 |
| (h) Attain compliance with final effluent
limitations, and eliminate overflows
and bypasses. | July 29, 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 Mechanicsburg shall pay to the State of Ohio a civil penalty of Three Thousand Seven Hundred Dollars (\$3,700.00). 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 Mechanicsburg fails to meet any of the requirements of this Consent Order set forth in Paragraphs 4, 5 (a), 5 (b), 5 (c), 5 (d), 5 (e), 5 (f) and 5 (g), 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 - \$250.00 per day. For each day of failure to meet a requirement, from thirty-one to sixty days - \$500.00 per day. For each day of failure to meet a requirement, from sixty-one to ninety days - \$1,000.00. For each day of failure to meet a requirement, from ninety-one to one hundred twenty days - \$2,000.00 per day. For each day of failure to meet a requirement from one hundred twenty-one to one hundred fifty days, \$3,500.00 per day.

8. In the event that Defendant Mechanicsburg 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 \$2,500.00 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 (\$3,500.00) per day of violation. In the event that failure to comply with the requirements of Subparagraph 5(h) continues more than sixty-one (61) to ninety (90) days, Defendant shall be liable for an additional three thousand five hundred dollars \$(3,500.00) per day of violation, i.e., seven thousand dollars (\$7,000.00) per day of violation. In the event that failure to comply with the requirements of subparagraph 5(h) continues beyond ninety (90) days Defendant shall be liable for an additional three thousand dollars (\$3,000.00) per day of violation, i.e. ten thousand dollars (\$10,000.00).

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 Mechanicsburg 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 Mechanicsburg is hereby ordered to pay the costs of this action.

JUDGE, COURT OF COMMON PLEAS

APPENDIX A

INTERIM EFFLUENT LIMITATIONS AND MONITORING
REQUIREMENTS FOR OUTFALL 1PB00037001

1. See PART II, OTHER REQUIREMENTS, of NPDES Permit for locations of effluent sampling.

<u>EFFLUENT CHARACTERISTIC</u>		<u>DISCHARGE LIMITATIONS</u>				<u>MONITORING REQUIREMENTS</u>	
Reporting Code	PARAMETER	Other Units	Concentration (Specify)	Loading*		Meas. Freq.	Sample Type
UNITS		30 day	7 day	30 day	7 day		
00010	°C Temperature	-	-	-	-	Daily	Continuous
50050	mgd Flow	-	-	-	-	Daily	Maximum Indicator Themometer
00530	mg/l Suspended Solids	45	68	39.24	59.29	2/Wk	Composite
80082	mg/l CBOD ₅	45	68	39.24	59.29	2/Wk	Composite
00550	mg/l Oil & Grease	-	-	-	-	1/Quarter	Grab
00610	mg/l Ammonia (N)-	-	-	-	-	1 Month	Composite
31616	Count Fecal Coliform /100 ml (Summer Only)	1000	2000	-	-	2/Wk	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. 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 monitored daily by grab sample.

* The following effluent loading limitations are established using the following flow value: .23 MGD

** See Part II, OTHER REQUIREMENTS

APPENDIX B

FINAL EFFLUENT LIMITATIONS
AND MONITORING REQUIREMENTS

1. During the period beginning on July 29, 1990, and lasting until NPDES Permit 1PB00037*BD is renewed, modified or expires, the permittee is authorized to discharge in accordance with the following limitations and monitoring requirements from outfall: 1PB00037001. See PART II, of NPDES permit OTHER REQUIREMENTS, for locations of effluent sampling.

Reporting Code	UNITS PARAMETER	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
		Other	Concentration (Specify)		Loading*		Meas. Freq.
		30 day	7 day	30 day	7 day		
000010	°C Temperature	-	-	-	-	daily	Maximum Indicator Thermometer
00530	mg/l Suspended Solids	15	20	13.1	17.4	2/Wk	Composite
00550	mg/l Oil & Grease	-	-	-	-	1 Quarter	Grab
00610	mg/l Ammonia (N)						
	(Summer)	1.7	2.6	1.5	2.3	1 Month	Composite
	(Winter)	3.0	4.5	2.6	3.9	1 Month	Composite
31616	Count Fecal Coliform /100 ml (Summer Only)	1000	2000	-	-	2/Wk	Grab
50050	MGD Flow	-	-	-	-	daily	Continuous
80082	mg/l CBOD ₅						
	(Summer)	10	15	8.7	13.1	2/Wk	Composite
	(Winter)	15	23	13.1	20.0	2/Wk	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 6.0 mg/l and shall be monitored daily by grab sample.

* The average effluent loading limitations are established using the following flow value: 0.23 MGD


** See Part II, Item G

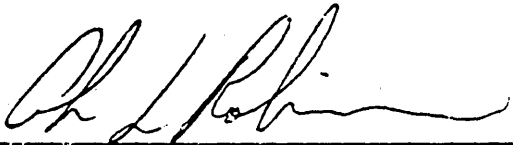
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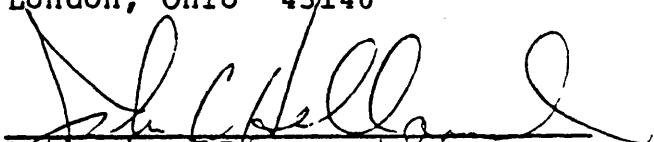
APPROVED:

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

BY:


MARGARET A. MALONE
Assistant Attorneys General
30 East Broad Street
Columbus, Ohio 43266-0410


Alice L. Robinson, Esq.
25 South Main Street
Suite 202
London, Ohio 43140


Authorized Representative
of Village of Mechanicsburg,
Ohio

2137E

Ordinance No. 88-8

Passed June 6 1988

ORDINANCE NO. 88-8

AN ORDINANCE DESIGNATING JOHN HOLLAND, MAYOR OF THE VILLAGE OF MECHANICSBURG AS THE PROPER PARTY TO ENTER INTO A CONSENT DECREE IN THE CASE OF STATE OF OHIO VS. THE VILLAGE OF MECHANICSBURG FILED IN THE CHAMPAIGN COUNTY COURT OF COMMON PLEAS AND DECLARING AN EMERGENCY

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF MECHANICSBURG, THREE-FOURTHS OF THE MEMBERS CONCURRING:

Section I.

That John Holland, Mayor of the Village of Mechanicsburg, is hereby designated as the proper party to sign a Consent Decree on behalf of the Village of Mechanicsburg, in the case of State of Ohio vs. The Village of Mechanicsburg, filed in the Champaign County Court of Common Pleas.

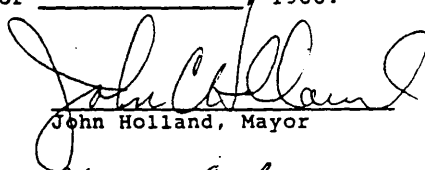
Section II.

That said Consent Decree shall call for a penalty to be paid by the said Village of Mechanicsburg to the State of Ohio in the amount of Three Thousand Seven Hundred Dollars (\$3,700.00) together with a Schedule of Completion dates and penalties for non-compliance, in the event that compliance dates are not met by said Village.

Section III.

This ordinance is hereby declared an emergency ordinance for the reason that said Consent Decree must be entered into immediately in order to complete the construction of the Village of Mechanicsburg's Waste-Water Treatment Plant, which is necessary for the health and safety of the residents of said Village, and as such this ordinance shall become effective immediately upon its passage.

PASSED this 6th day of June 1988.


John Holland, Mayor

ATTEST: 
Mary Culp, Clerk

CERTIFICATION OF PUBLICATION

I, Mary R. Culp, Clerk of the Village does hereby certify that a SUMMARY of this ordinance #88-8 has been published two times in THE TELEGRAM on June 15 and June 22, 1988.

Signed  Clerk