

IN THE COURT OF COMMON PLEAS
RICHLAND COUNTY, OHIO

FILED
05 SEP 03 11:30 AM
CLERK OF COURT

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

CASE NO.

88-411-HC

JUDGE

Plaintiff,

vs.

VILLAGE OF SHILOH

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 Shiloh (hereinafter "Shiloh") 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 Shiloh 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 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 Shiloh 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 except for the effluent limitations set forth in said permit. Between the effective date of this Consent Order and December 1, 1991, 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 December 1, 1991, Defendant Shiloh is enjoined to meet the final effluent limitations contained in NPDES permit No. 2PB00017*CD or any renewal or modification thereof. Shiloh is hereby enjoined to properly operate and maintain its wastewater treatment plant and any associated equipment and structures.

V. CONSTRUCTION SCHEDULE

5. Defendant Shiloh is enjoined and ordered to complete construction of the improvements to its wastewater treatment plant described in the Municipal Compliance Plan as ultimately approved by Ohio EPA and to attain compliance with the final effluent limitations of NPDES permit No. 2PB00017*CD and any renewals or modifications thereof in accordance with the following schedule:

TASK

COMPLETION DATE

- (a) Submittal of Approvable Plans and Specifications to Ohio EPA November 1, 1989
- (b) Advertisement of Building Bids April 1, 1990
- (c) Execution of Building Contracts August 1, 1990
- (d) Initiation of Construction September 15, 1990
- (e) Completion of construction and treatment plant start-up September 1, 1991
- (f) Facility meeting final effluent limitations. December 1, 1991

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 Shiloh 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 Shiloh fails to meet any of the requirements of this Consent Order set forth in Paragraph 4, except for the requirement to comply with final effluent limitations, and Subparagraphs 5(a), 5(b), 5(c), 5(d), and 5(e), 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 eighty days - \$2,500.00. 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 Shiloh fails to meet any of the requirements of this Consent Order set forth in Subparagraph 5(f), 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 sixty (60) 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(f)

continues more than one hundred twenty (120) 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".

10. The payment of stipulated penalties under this Consent Order, or any further penalties ordered by this Court, shall be subordinate to annual repayment of the principal and interest requirements for the term of the financing required to implement the improvements. This provision for subordination applies only to payments from Shiloh's sewer revenue funds, and not to other funds or sources available to Shiloh to pay any penalties that may be due hereunder or ordered by this Court. This provision does not relieve the Village of its liability for the payment of stipulated penalties or any further penalties ordered by the Court, but only defers such payment until it can be made without violating the terms of subordination contained in this provision.

VIII. POTENTIAL FORCE MAJEURE

11. In any action to enforce any of the provisions of this Consent Order Defendant Shiloh may raise at that time the question 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 defense it may have under applicable law.

IX. RETENTION OF JURISDICTION

12. 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.

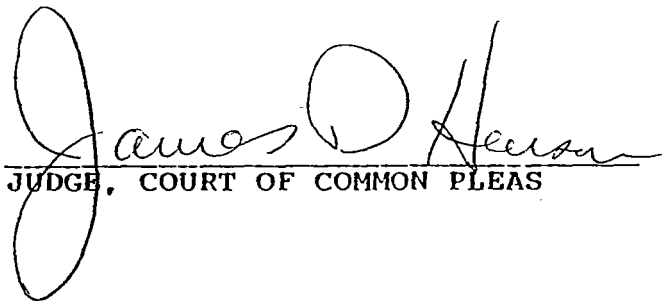
X. TERMINATION

13. This Consent Order shall terminate as to Section VII Paragraphs 7 through 10 after Shiloh has completed construction per paragraph 5 and achieved and maintained compliance with the

final effluent limitations contained in its NPDES permit or any renewal or modification thereof, for a period of one (1) year and has paid all penalties required pursuant to this Order. Termination of these provisions of the Consent Order shall be by Order of the Court, upon application of any party.

XI. COSTS


14. Defendant Shiloh is hereby ordered to pay the costs of this action.

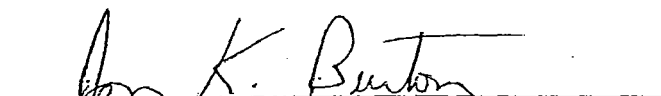

JUDGE, COURT OF COMMON PLEAS


APPROVED:

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

BY:


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


JON K. BURTON, Village Solicitor
Renwick, Welsh & Burton
Nine N. Mulberry Street
Mansfield, Ohio 44902


RICHARD REEDER, MAYOR
Authorized Representative
of Village of Shiloh

2058E

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS for Outfall 2PB00017001

EFFLUENT CHARACTERISTIC		DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
		Concentration		Loading*		Meas.	Sample
REPORTING Code	UNITS PARAMETER	Other Units (Specify)	7 day	30 day	7 day	Freq.	Type
50050	MGD Flow	-	-	-	-	Daily	Continuous
00010	°C Temperature	-	-	-	-	1/Week	Max. Ind. Therm.
00530	mg/l Suspended Solids	40	60	18.3	27.4	1/Week	Composite
00310	mg/l BOD ₅	25	40	11.4	18.2	1/Week	Composite
31616	Count Fecal Coliform /100ml (Summer only)	1000	2000	-	-	1/Week	Grab
00610	mg/l Ammonia (N)	-	-	-	-	1/Week	Grab

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 1/Week 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 1/Week by grab sample (Summer only).
- The Dissolved Oxygen (Reporting Code 00300) shall be monitored 1/Week by grab sample.

*.The average effluent loading limitations are established using the following flow value: 0.120 MGD

ADDITIONAL MONITORING REQUIREMENTS

1. The permittee is authorized to discharge from the following overflows and bypasses only during periods when the flow in the sewer system exceeds the capacity of the sewer system. See Attachment 2, Item 2, for monitoring and reporting requirements. Also see Part III, Item 11, of NPDES Permit No. 2PB00017*CD

<u>Station Number</u>	<u>Description</u>	<u>Receiving Stream</u>
2PB00017002	Lift Station overflow at Petit Street	West branch of the Huron River
2PB00017003	Sewer overflow on John Street	West branch of the Huron River

2. The permittee shall monitor the system's bypasses and overflows at Stations 2PB00017002 thru 2PB00017003 and report to the Ohio EPA in accordance with the following Table:

<u>CODE</u>	<u>CHARACTERISTIC</u>		<u>MONITORING REQUIREMENTS</u>	
	<u>REPORTING UNITS</u>	<u>PARAMETER</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
00051	Number/Mo.	Occurrences	When discharging	Estimate
00052	Hours	Duration	When discharging	Daily Est.
50050	Million Gallons	Volume	When discharging	Daily Est.

Monitoring data shall be obtained for each month when a discharge occurs. Samples should be collected during the first 30 minutes of discharge. The monthly monitoring report shall be attached to the normal monthly report form (EPA 4500).