

IN THE COURT OF COMMON PLEAS.  
LORAIN COUNTY, OHIO

LORAIN COUNTY  
AUG 25 10 58 AM '88  
CLERK OF COURT

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

CASE NO. 88CV101049  
JUDGE Adrian F. Betleski

Plaintiff,

vs.

VILLAGE OF WELLINGTON,

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 Wellington (hereinafter "Wellington") 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 Wellington 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 Wellington 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 November 1, 1988, 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 November 1, 1988, Defendant Wellington is enjoined to meet the final effluent standards set forth in its NPDES permit No. 3PC00014\*BD and any renewals or modifications thereof. Wellington is hereby enjoined to properly operate and maintain its wastewater treatment plant and any associated equipment and structures.

#### V. CONSTRUCTION SCHEDULE

5. Defendant Wellington is enjoined and ordered to complete construction of the improvements to its wastewater treatment plant described in the Municipal Compliance Plan as approved by Ohio EPA and to attain compliance with the final

effluent limitations of NPDES permit No. 3PC00014\*BD 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) Initiation of Construction of Trickling Filter Improvements	Complete
(d) Completion of construction of Trickling Filter Improvements	September 1, 1988
(e) Attain compliance with final effluent limitations.	November 1, 1988

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 Wellington shall pay to the State of Ohio a civil penalty of two thousand dollars (\$2,000). 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 Wellington fails to meet any of the requirements of this Consent Order set forth in Paragraph 4 and Subparagraph 5(d), 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 Wellington fails to meet any of the requirements of this Consent Order set forth in Subparagraph 5(e), 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(e) 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.

IX. COSTS

11. Defendant Wellington is hereby ordered to pay the costs of this action.

  
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JUDGE, COURT OF COMMON PLEAS  
LORAIN COUNTY

APPROVED:

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

BY:

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Roland Handley  
ROLAND HANDLEY, Mayor  
Authorized Representative  
of Village of Wellington

2929E

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS for Outfall 3PC00014001

1. <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)	30 day	7 day	30 day		
50050	MGD	Flow	-	-	-	-	Daily	Continuous
00010	°C	Temperature	-	-	-	-	Daily	Max. Ind. Therm.
00530	mg/l	Suspended Solids	30	45	85.27	127.9	2/Week	Composite
00310	mg/l	BOD <sub>5</sub>	30	45	85.27	127.9	2/Week	Composite
31616	Count /100ml	Fecal Coliform	1000	2000	-	-	1/Month	Grab
00610	mg/l	Ammonia (N)	-	-	-	-	1/Month	Composite
00665	mg/l	Phos., Total	-	-	-	-	1/Month	Composite
00550	mg/l	Oil & Grease	-	-	-	-	1/Month	Grab

- 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.
- The Dissolved Oxygen (Reporting Code 00300) shall be maintained at a level 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: 0.75 MGD

Date Issued: September 7, 1984