

IN THE
COURT OF COMMON PLEAS
JEFFERSON COUNTY, OHIO

FILED
IN COMMON PLEAS COURT
JEFFERSON COUNTY, OHIO
OCT 10 1991
JOSEPH G. HAMROCK
CLERK

STATE OF OHIO, ex rel.
LEE FISHER,
ATTORNEY GENERAL OF OHIO,

CASE NO.

JUDGE

Plaintiff,

v.

WHEELING-PITTSBURGH STEEL
CORPORATION,

CONSENT ORDER

Defendant.

The Complaint in the above-captioned matter having been filed herein, and Plaintiff State of Ohio, by its Attorney General Lee Fisher and Defendant Wheeling-Pittsburgh Steel Corporation ("WPS") having consented to the entry of this Order,

NOW THEREFORE, without trial of any issue of fact or law, or admission of any violation, fact or law by Defendant WPS, 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 WPS pursuant to Chapter 3704. of the Ohio Revised Code ("O.R.C."). Venue is proper in this Court.

The State of Ohio
County of Jefferson SS
I, Joseph G. Hamrock, Clerk of Courts,
do hereby certify that the annexed writ
is a true and correct copy of the original
Joseph G. Hamrock

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, directors, successors in interest and any person acting in concert or privity with any of them. Defendant WPS shall provide a copy of this Consent Order to each contractor, consultant and/or subcontractor that it employs to perform work itemized herein.

III. SATISFACTION OF LAWSUIT

3. Plaintiff alleges in its Complaint that Defendant WPS committed violations of the requirements of O.R.C. Chapter 3704 at its Steubenville North and South Plants and its Martins Ferry Plant. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Defendant WPS for all claims under such laws alleged in the Complaint.

4. 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 date of entry of this Consent Order. Such relief may include, but is not limited to, any appropriate administrative, civil and/or criminal enforcement action that seeks injunctive, monetary and other relief against Defendant WPS.

IV. EFFECT UPON OTHER ACTIONS

5. Nothing in this Consent Order shall be construed to relieve Defendant WPS of the obligation to comply with applicable federal, state or local statutes, regulations or ordinances, or shall constitute a waiver or release of any right, remedy, defense or claim against Defendant WPS with regard to any person not a party to this Consent Order.

V. PERMANENT INJUNCTION

6. Except as otherwise provided in paragraphs 8, 9, 10, and 17, Defendant WPS is hereby enjoined and ordered to immediately comply with the applicable requirements of O.R.C. Chapter 3704 and the rules adopted thereunder and permits to install and operate, at the air contaminant sources at the Steubenville North and South Plants and the Martins Ferry Plant.

VI. COMPLIANCE SCHEDULES

A. Galvanizing Lines At The Martins Ferry Plant
(Source Nos. P901, P902 and P903).

7. Defendant WPS has installed a new baghouse to control emissions from the galvanizing lines at the Martins Ferry Plant. With the new baghouse in operation, Defendant WPS has demonstrated compliance with the requirements of Ohio Administrative Code (O.A.C.) Rules 3745-17-07 and 3745-17-11 by conducting particulate emission tests and method 9 opacity readings.

8. Defendant WPS is ordered and enjoined to operate these sources with the new baghouses and to comply with air pollution control requirements contained in O.A.C. Rules 3745-17-07 and 3745-17-11. If Defendant WPS is issued renewal permits to operate for Sources P901, P902, and P903, Defendant WPS is ordered and enjoined, as set forth in paragraph 6, to comply with the terms and conditions of these renewal permits.

B. Coke oven gas sources (Source Nos. B001 through B017, P006 through P008, P901 and P903 at the South Plant and B003 through B008, B051, P901, P902 and P008 at the North Plant and all other small sources at those facilities burning coke oven gas).

9. Defendant WPS is ordered and enjoined to bring sources B001 through B017, P006 through P008, P901, and P903 at the Steubenville South Plant and B003 through B008, B051, P901, P902 and P008 at the Steubenville North Plant and all other small sources at those facilities burning coke oven gas ("the coke oven gas sources") into compliance with the requirements of O.A.C. Rules 3745-18-47(C) and (G), by demonstrating that the coke oven gas burned at the sources described in this paragraph contain fifty grains (or less) of hydrogen sulfide (" H_2S ") per one hundred dry standard cubic ("dscf") feet of coke oven gas. For purposes of this Consent Order, "coke oven gas" has the same meaning as "by-product coke oven gas" as defined in O.A.C. Rule 3745-18-01(B)(1); and "small sources burning coke oven gas" are those combustors with less than one million BTU per hour heat input that are used for personnel comfort, freeze protection or thawing, ladle drying, blast furnace cast house emission control and runner and trough

drying, and periodic material heating. Defendant WPS is ordered and enjoined to install a new deacidifier at the coke oven gas desulfurization unit providing coke oven gas to these sources in accordance with the following schedule:

- (a) Initiate on-site construction by Completed
- (b) Complete on-site construction on or before October 31, 1991
- (c) Demonstrate compliance (by means of tests conducted in accordance with the test methods and procedures for H₂S specified in 40 CFR Part 60, Appendix A, reference method 15) with the 50 grains/100 dscf requirement of O.A.C. Rules 3745-18-47(C) and (G) on or before December 31, 1991

The compliance demonstration required under paragraph 9(c) will be conducted at the level of coke oven battery operations that are occurring at that time. Each time Defendant WPS puts into operation more coke ovens than were operating at the time of the compliance test in paragraph 9(c), then Defendant WPS shall conduct another compliance test as described in paragraph 9(c). However, a compliance test is not required where a compliance test has been done for that number or a greater number of coke ovens.

10. During the period from the date of entry of this Consent Order through December 31, 1991, Defendant WPS is ordered and enjoined to operate, using all reasonable efforts, including, but not limited to, good engineering practices and the manufacturers' and contractors' recommendations, the coke oven gas desulfurization unit to minimize the H₂S concentration in the coke

oven gas used as fuel in the sources described in paragraph 9.

11. After December 31, 1991, Defendant WPS is ordered and enjoined to comply with air pollution control requirements in O.A.C. Rules 3745-18-47(C) and (G) by ensuring that the coke oven gas burned at the sources described in paragraph 9 contains fifty grains (or less) of H₂S per one hundred dscf of coke oven gas as measured pursuant to paragraph 23 or 24. As set forth in paragraph 6, Defendant WPS is also ordered and enjoined to comply with all other terms and condition in the permits for these sources.

12. The coke oven gas produced at Defendant WPS' facility in Follansbee, West Virginia is burned in the sources described in paragraph 9. If scheduled maintenance of the desulfurization system equipment at the Follansbee facility requires such equipment to be shut down or taken off-line, Defendant WPS may request authorization to continue to burn coke oven gas in Ohio, produced during such non-operational period, by complying with the requirements of O.A.C. Rule 3745-15-06(A). Defendant may continue to burn in Ohio the coke oven gas produced during the period the desulfurization system equipment is shut down or off-line only by demonstrating, in addition to the other requirements of O.A.C. Rule 3745-15-06(A)(3), that none of the conditions identified in paragraph (C) of O.A.C. Rule 3745-15-06 will exist during the period the equipment is shut down or off-line. If Defendant WPS receives the Director's authorization to burn coke oven gas in Ohio during a non-operational period of desulfurization system equipment, Defendant is ordered and enjoined

to comply with the Director's authorization. To comply with subpart (A)(3)(a) of O.A.C. Rule 3745-15-06, Defendant WPS shall identify the Ohio sources which are scheduled to burn the coke oven gas produced during the non-operational periods of desulfurization system equipment.

13. Defendant WPS is ordered and enjoined to submit complete, approvable applications for permits to operate the air contaminant sources described in paragraph 9 above to the North Ohio Valley Air Authority (NOVAA) within 60 days of receiving notice from NOVAA that an application now pending must be revised or that no application is currently pending. If permits to operate are issued for the sources, Defendant WPS, as set forth in paragraph 6, is ordered and enjoined to comply with the terms and conditions of these permits.

C. Hot Metal Machine Scarfer at the Steubenville South Plant (Source No. P005)

14. Defendant WPS is not currently operating the hot metal machine scarfer, Source No. P005, at the Steubenville South Plant. Defendant WPS is ordered and enjoined to bring the hot metal machine scarfer into compliance with O.A.C. Rule 3745-17-11 and any other applicable air pollution control rules prior to resuming operation of this air contaminant source.

D. Permits to Operate

15. If the Ohio EPA or NOVAA notifies Defendant WPS in writing that any permit application submitted pursuant to this Consent Order is not complete, accurate and in full compliance with all relevant statutes and regulations, Defendant WPS shall

cure any deficiencies of which it receives written notice within thirty (30) days of receiving such notice. Defendant WPS may request additional time to cure any deficiencies on the basis that more time is necessary to provide the information requested. However, no additional time for the submission may be utilized by Defendant WPS without the prior written approval of Ohio EPA.

16. Nothing in this Consent Order shall interfere with or alter Defendant WPS's rights under O.R.C. Chapter 3745 to appeal, to adjudicate, or to object to an action or proposed action by the Director of Ohio EPA regarding a permit application or renewal. However, during the pendency of any such appeal, adjudication or objection and/or prior to Ohio EPA's action on a permit application or renewal, Defendant WPS shall continue to comply with all the provisions of this Consent Order. Additionally, nothing in the Consent Order shall be construed to restrict the authority of the Director, under O.R.C. Chapters 3745 and 3704, to take any actions relating to Permits to Operate for Defendant WPS's sources which may impose obligations different from those specified in the Consent Order. In the event that Ohio EPA imposes different obligations through the issuance of such permits which Ohio EPA determines are inconsistent with the obligations of the Consent Order, such obligations shall supercede the obligations in the Consent Order. However, pursuant to the permanent injunction set forth in paragraph 6, Defendant WPS is ordered and enjoined to comply with these different permit obligations.

E. Boilers At The Steubenville South Plant
(Source Nos. B005 through B012)

17. Defendant WPS is ordered and enjoined to bring its boilers at the Steubenville South Plant (Source Nos. B005 through B012) during the times these sources burn No. 6 oil into compliance with O.A.C. Rule 3745-17-07 by improving the boiler combustion controls and upgrading the combustion air piping and nozzles used to burn No. 6 oil in accordance with the following schedule:

- | | | |
|----|---|--------------------------|
| a. | Submit a final control plan to the Ohio EPA and NOVAA by | <u>Completed</u> |
| b. | Award contracts for the necessary equipment by | <u>Completed</u> |
| c. | Initiate construction of the boiler modifications by | <u>Completed</u> |
| d. | Complete construction of the boiler modifications on or before | <u>November 1, 1991</u> |
| e. | Achieve and demonstrate (by means of tests conducted in accordance with U.S. EPA Test Method "9") final compliance with O.A.C. Rule 3745-17-07 while burning No. 6 oil on or before | <u>December 31, 1991</u> |

18. After December 31, 1991, Defendant WPS is ordered and enjoined, as set forth in paragraph 6, to comply with O.A.C. Rule 3745-17-07 at sources B005 through B012 at the Steubenville South Plant.

19. If Defendant WPS is not able to improve the boiler combustion controls and upgrade the combustion air piping and nozzles used to burn No. 6 oil to achieve compliance with the

requirements of O.A.C. Rule 3745-17-07 by December 31, 1991, while burning No. 6 oil in Source Nos. B005 through B012, Defendant WPS is prohibited and enjoined from using No. 6 oil in such boiler after such date. This prohibition shall continue until Defendant WPS demonstrates to Ohio EPA, during a compliance test using No. 6 oil in which notification of intent to test is given to NOVAA, that the requirements of O.A.C. Rule 3745-17-07 can be achieved at such source during the burning of No. 6 oil.

F. Hot Metal Desulfurization Unit (Source No. P907) At The Steubenville South Plant

20. Defendant WPS is ordered and enjoined from desulfurizing hot metal except in compliance with its Permit to Install No. 17-498 for the hot metal desulfurization unit (P907), including use of the baghouse control system.

21. Defendant WPS is ordered and enjoined to submit an application for a permit to operate the hot metal desulfurization unit within sixty (60) days of receiving notice from NOVAA that the application now pending must be revised before a Permit to Operate can be issued, or that no application is currently pending.

VII. MONITORING, RECORDKEEPING, REPORTING AND NOTICE REQUIREMENTS

22. Defendant WPS is ordered and enjoined to install a continuous emission monitoring system, which will determine the concentration of H₂S in the coke oven gas produced in West Virginia and which is distributed to Ohio to be burned in the coke oven gas sources in accordance with the following schedule:

- a. Initiate on-site construction of a continuous emission monitoring system on or before March 30, 1992
- b. Complete on-site construction on or before May 11, 1992
- c. Demonstrate the accuracy and stability of the continuous emission monitoring system in accordance with performance specification 7, 40 CFR Part 60, Appendix B, using test method 15 in lieu of test method 11, on or before June 11, 1992

The continuous emission monitoring system shall record hourly averages of H₂S concentrations in units of grains per 100 dscf. These records shall be kept and be available for inspection by NOVAA or Ohio EPA, for a period of two years.

23. After June 11, 1992, Defendant WPS is ordered and enjoined to continuously operate the continuous emission monitoring system described in paragraph 22, and shall maintain the continuous emission monitoring system in accordance with 40 CFR Part 60, Appendix F. The written quality control plan as required under section 3 of Appendix F must be submitted within one hundred eighty (180) days of startup of the continuous emission monitoring system for Ohio EPA approval. Furthermore, Defendant WPS shall calculate two consecutive 12-hour averages (midnight to noon and noon to midnight) each day from the hourly average H₂S concentrations recorded by the continuous emission monitoring system pursuant to paragraph 22. These 12-hour averages shall be the basis of determining compliance with paragraph 11.

24. Prior to installation and operation of the continuous monitoring equipment on June 11, 1992 and commencing the week of October 21, 1991, on a three times per week basis, Defendant WPS is ordered and enjoined to analyze the coke oven gas sampled in West Virginia and which is distributed to Ohio to be burned in the coke oven gas sources to determine the concentration of H₂S as specified in Attachment A.

25. Defendant WPS shall submit quarterly excess emission reports to NOVAA regarding operation of the continuous emission monitoring system. These reports shall include all 12-hour periods above the applicable emission limitations. The report shall also include the date, magnitude (grains/100 dscf), reason (if known) and corrective action taken (if any) for each exceedance. Any continuous emission monitoring system downtime while the source was on-line shall be documented and included in the report along with any corrective action(s) taken. In addition, any coke oven gas desulfurization unit downtime shall be documented and included in the report along with any corrective action(s) taken. The quarterly reports shall be submitted by January 15, April 15, July 15, and October 15, and shall cover the previous calendar quarters.

26. On January 15, 1992, April 15, 1992 and July 15, 1992, the results of the H₂S analyses described in paragraph 24 above shall also be reported by Defendant WPS to NOVAA for the previous calendar quarter. The results shall be reported in terms of grains of H₂S per 100 dscf of coke oven gas.

27. Defendant WPS shall report to NOVAA, on a monthly basis, all heats for which the hot metal desulfurization control equipment was not employed at the Steubenville South Plant and the reason(s) control equipment was not used. The monthly reports shall be submitted by the 15th of each month and shall cover the previous calendar month.

28. Defendant WPS acknowledges that the Director may incorporate the applicable recordkeeping and reporting requirements for the coke oven gas sources set forth in paragraphs 25 and 26 above into permits issued for such sources.

29. If and when the Director of Ohio EPA incorporates the recordkeeping and reporting requirements set forth in paragraph 25 or 26 above into permits issued for the sources described in paragraph 22 above, on motion of either party and determination by the Court that such recordkeeping and reporting requirements have been fully incorporated into such permit or permits for a particular source, the recordkeeping and reporting requirements set forth in paragraphs 25 and/or 26 for the particular source shall terminate.

30. Defendant WPS shall give NOVAA thirty day prior notice, which complies with the requirements of OAC Rule 3745-15-04(A), of the compliance tests required by paragraphs 9(c), 17(e), 19 and 22(c). After notice, NOVAA and Defendant WPS may agree to conduct a compliance test on a date different from the date specified in the notice.

VIII. PAYMENT PURSUANT TO O.R.C. § 3704.06

31. Pursuant to O.R.C. § 3704.06(B), (C) and (D), Defendant WPS shall pay to the State of Ohio a civil penalty of One Million Two Hundred and Fifty Thousand Dollars (\$1,250,000.00) which shall be paid by delivering to counsel for Plaintiff certified checks totalling that amount, payable to the order of "Treasurer, State of Ohio", pursuant to the following schedule:

-A first payment of One Million Dollars (\$1,000,000.00) by November 1, 1991.

-A second payment of One Hundred and Twenty-Five Thousand Dollars (\$125,000.00) by October 1, 1992.

-A third payment of One Hundred and Twenty-Five Thousand Dollars (\$125,000.00) by October 1, 1993.

IX. STIPULATED PENALTIES

32. In the event that Defendant WPS fails to meet the deadlines set forth in paragraphs 9(b), 17(d), 22(a) or 22(b), Defendant WPS is liable for and shall immediately pay stipulated penalties in accordance with the following schedules:

a. For each day of each failure to meet a requirement, up to thirty (30) days -- one thousand dollars (\$1,000.00) per day.

b. For each day of each failure to meet a requirement, from thirty-one (31) to sixty (60) days -- three days thousand dollars (\$3,000.00) per day.

c. For each day of each failure to meet a requirement, over sixty (60) days -- six thousand dollars (\$6,000.00).

33. In the event Defendant WPS fails to meet the deadlines set forth in paragraphs 9(c), 17(e), or 22(c), Defendant

WPS is liable for and shall immediately pay a stipulated penalty in accordance with the following schedules:

- a. For each day of each failure to meet a requirement, up to thirty (30) days -- two thousand dollars (\$2,000.00) per day.
- b. For each day of each failure to meet a requirement, from thirty-one (31) to sixty (60) days -- four thousand dollars (\$4,000.00) per day.
- c. For each day of each failure to meet a requirement, over sixty (60) days -- eight thousand dollars (\$8,000.00).

34. In the event Defendant WPS violates the requirements of O.A.C. Rule 3745-17-07 at sources P901, P902, or P903 at the Martins Ferry Plant, Defendant WPS is liable for and shall immediately pay a stipulated penalty pursuant to the following schedule:

- a. \$500.00 for each day for the first five (5) days;
- b. \$1000.00 for each day for days six (6) through ten (10);
- c. \$1500.00 for each day over ten (10).

However, if no violation of O.A.C. 3745-17-07 occurs for three consecutive months and all stipulated penalties have been paid for any earlier violations, the schedule for the stipulated penalties would start over. In the event Defendant WPS violates the requirements of O.A.C. Rule 3745-17-11 at sources P901, P902, or P903 at the Martins Ferry plant, Defendant WPS is liable for and shall immediately pay a stipulated penalty of Twenty-five Hundred

Dollars (\$2500.00) for each day of each violation of O.A.C. Rule 3745-17-11.

35. In the event Defendant WPS fails to meet the requirements of paragraph 10, Defendant WPS is liable for and shall pay a stipulated penalty of One Thousand Dollars (\$1,000.00) for each day a requirement of paragraph 10 is not met.

36. After December 31, 1991, unless otherwise authorized by the Director of Ohio EPA, in the event that Defendant WPS violates the requirements of O.A.C. Rules 3745-18-47(C) or (G) by combusting coke oven gas at any of the coke oven gas sources containing more than fifty grains of H₂S per one hundred dscf of coke oven gas as measured pursuant to paragraph 23 or 24, Defendant WPS is liable for and shall immediately pay a stipulated penalty for each day on which coke oven gas was combusted in one or more Ohio sources, pursuant to the following schedule:

- (a) \$2,500.00 each day for the first five (5) days;
- (b) \$5,000.00 each day for days six (6) through ten (10);
- (c) \$7,500.00 each day for days eleven (11) through fifteen (15); and
- (d) \$10,000.00 each day over fifteen (15) days.

37. In the event Defendant WPS operates the hot metal machine scarfer, Source No. P005, at the Steubenville South Plant in violation of O.A.C. Rule 3745-17-11 or O.A.C. Rule 3745-35-02, Defendant WPS is liable for and shall immediately pay a stipulated penalty of One Thousand Dollars (\$1,000.00) for each day of each

violation of O.A.C. Rule 3745-17-11 and for each day of each violation of O.A.C. Rule 3745-35-02.

38. After December 31, 1991, in the event Defendant WPS violates the requirement of O.A.C. Rule 3745-17-07 at sources B005 through B012 at the Steubenville South Plant, Defendant WPS is liable for and shall immediately pay a stipulated penalty pursuant to the following schedule:

- a. \$500.00 for each day for the first five (5) days for each source;
- b. \$1000.00 for each day for days six (6) through ten (10) for each source;
- c. \$1500.00 for each day over ten (10) for each source.

However, if no violation of O.A.C. Rule 3745-17-07 occurs for three consecutive months and all stipulated penalties have been paid for any earlier violations, the schedule for the stipulated penalties would start over.

39. In the event Defendant WPS desulfurizes hot metal in violation of the requirements set forth in paragraph 20, Defendant WPS is liable for and shall immediately pay a stipulated penalty of One Thousand Dollars (\$1,000.00) for each day of violation.

40. In the event Defendant WPS fails to analyze coke oven gas as required by paragraph 23 or 24, Defendant WPS is liable for and shall immediately pay a stipulated penalty of Twenty-Five Hundred Dollars (\$2,500.00) for each violation.

41. In the event Defendant WPS fails to submit applications for permits to operate required by paragraphs 13 or

21. Defendant WPS is liable for and shall immediately pay a stipulated penalty in accordance with the schedule set forth in paragraph 32(a) through 32(c) above.

42. In the event Defendant WPS fails to comply with (1) any of the requirements in paragraphs 25, 26, or 27 of this Consent Order or (2) as included in any permit to operate the sources subject to this Consent Order, any reporting requirement for (a) its analyses of coke oven gas or (b) the heats for which the hot metal desulfurization control equipment was not employed at the Steubenville South Plant, Defendant WPS is liable for and shall immediately pay a stipulated penalty in accordance with the following schedule:

<u>No. of Occurrences</u>	<u>Penalty</u>
1-3	\$ 500
5-8	\$1,000
9-12	\$1,500
over 12	\$2,500

43. With respect to violations of the requirements set forth in paragraphs 32 through 42 which are due to malfunctions, Defendant WPS shall pay the stipulated penalties set forth in this paragraph only after Ohio EPA has completed a review of the malfunction incident and determined that payment of a stipulated penalty is required.

44. Any payment required to be made under the provisions of Paragraphs 32 through 42 of this Consent Order shall be made by delivering to Plaintiff's counsel or his successor a money order or money orders, a certified or cashiers check or checks, or a check or checks with a cover letter that certifies

that sufficient funds are available for the appropriate amounts, within 30 days from the end of the calendar month in which the failure(s) to meet the requirement of this Consent Order occurred, made payable to "Treasurer, State of Ohio".

X. POTENTIAL FORCE MAJEURE

45. In any action by the Plaintiff to enforce any of the provisions of this Consent Order, Defendant WPS may raise at that time the question of whether it is entitled to a defense that its conduct was caused by reasons entirely beyond its control such as, by way of example and not limitation, acts of God, strikes, acts of war or civil disturbances. While the Plaintiff does not agree that such a defense exists, it is, however, hereby agreed upon by Defendant WPS and the Plaintiff 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, if ever, that the proceeding to enforce this Consent Order is commenced by the Plaintiff. At that time, the burden of proving that any delay was or will be caused by circumstances beyond the control of Defendant WPS shall rest with Defendant WPS. Acceptance of this Consent Order without a force majeure clause does not constitute a waiver by Defendant WPS of any rights or defenses it may have under applicable law.

XI. TERMINATION OF STIPULATED PENALTIES

46. The provisions of this Consent Order set forth in Section IX, Paragraphs 32 through 42 requiring the payment of stipulated penalties may be terminated for any source after Defendant WPS has demonstrated compliance with the air pollution requirements set forth in paragraphs 9, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 30 applicable to each such source for a period of one (1) year after such source has been returned to full compliance with all applicable air pollution control requirements and Defendant WPS has paid all penalties required pursuant to this Consent Order. Termination of stipulated penalties shall be by Order of the Court, upon application by any party and a demonstration that the conditions set forth in this paragraph have been met.

47. No earlier than three years from the date of the Court's entry of this Consent Order, Defendant WPS may move the Court, pursuant to Rule 60(B) of the Ohio Rules of Civil Procedure, to terminate the permanent injunction provisions of paragraph 6 of this Consent Order if Defendant WPS can demonstrate that it has been in compliance with the obligations of this Consent Order for such a three year period. The Plaintiff takes no position as to such motion and reserves any rights it may have to oppose the motion, including the basis that three years is, in actuality, not an appropriate time period.

XII. RETENTION OF JURISDICTION

48. 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.

XIII. COSTS

49. Defendant WPS is hereby ordered to pay the costs of this action.

ENTERED THIS _____ DAY OF _____, 1991.

[Signature]

JUDGE, COURT OF COMMON PLEAS
JEFFERSON COUNTY, OHIO

Approved:

STATE OF OHIO, ex rel.
LEE FISHER
ATTORNEY GENERAL OF OHIO

WHEELING-PITTSBURGH STEEL
CORPORATION

[Signature: Timothy J. Kern]

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PAUL K. MORRISON
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Attorneys for Plaintiff
State of Ohio

The State of Ohio
County of Jefferson \$3
I, Joseph G. [unclear] Clerk of Courts,
do hereby certify that the annexed writ
is a true and correct copy of the original
JOSEPH G. [unclear] Clerk of Courts
By *[Signature: Lynn Chase]* Deputy

VORYS, SATER, SEYMOUR AND PEASE

By: *[Signature: John W. Hoberg]*

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Corporation

ATTACHMENT A

SAMPLING AND ANALYTICAL PROCEDURE
HYDROGEN SULFIDE IN COKE OVEN GAS

This sampling and analytical procedure will be used to determine the hydrogen sulfide content of coke oven gas distributed to users in West Virginia and Ohio.

This method uses gas chromatography with hot wire detection and quantification.

Sampling of the gas involves a train consisting of plastic tubing connecting the sampling cock of the coke oven gas source to the first of two standard impingers in series. These impingers are dry and are immersed in ice water. The purpose is to dry the gas. The discharge from the second impinger is connected to a gas collection bag or evacuated glass sampling bomb with septum.

The gas is under pressure so no pump is needed.

The flow of gas through the sampling train will be 7 ± 2 milliliters per second. Either four (4) three (3) liter, two (2) six (6) liter, or one twelve (12) liter gas collection bag(s) or evacuated glass sampling bomb(s) with septum will be collected. A rotameter connected to the inlet of the gas collection bag(s) or evacuated glass sampling bomb with septum will be used to monitor the flow.

The gas can be analyzed without dilution.

When the sampling is completed, the gas sampling bag(s) or evacuated glass sampling bomb(s) with septum will be closed, inlet first then outlet, disconnected from the sampling train and transported to the laboratory for analysis.

The chromatographic system will be standardized by injecting appropriate volumes (1 milliliter, normally) of calibration gas (approximately 100 grains of $H_2S/100$ CF). Injections will be repeated until two of three consecutive injections provide results that agree within 2 percent. These two results will be averaged and called the initial calibration value.

Following the initial calibration:

- a. If four (4) three (3) liter gas collection bags or evacuated glass sampling bombs with septum were collected, an aliquot of one (1) milliliter from the first gas collection bag or evacuated glass sampling bomb with septum will be injected

SAMPLING AND ANALYTICAL PROCEDURE
HYDROGEN SULFIDE IN COKE OVEN GAS
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into the chromatograph. Injection will be repeated from the gas collection bag or evacuated glass sampling bomb with septum until two of three consecutive injections provide results that agree within two (2) percent. The two results will be averaged and called the first gas collection bag or evacuated glass sampling bomb with septum value. This analysis procedure will be repeated for each of the gas collection bags or evacuated glass sampling bombs with septum resulting in four values. These four values will be averaged and the average will be called sample result value; or

- b. If two (2) six (6) liter gas collection bags or evacuated glass sampling bombs with septum were collected, an aliquot of one (1) milliliter from the first gas collection bag or evacuated glass sampling bomb with septum will be injected into the chromatograph. Injection will be repeated from the gas collection bag or evacuated glass sampling bomb with septum until two of three consecutive injections provide results that agree within two (2) percent. The two results will be averaged and called the first gas collection bag or evacuated glass sampling bomb with septum value. This analysis procedure will be repeated for each of the gas collection bags or evacuated glass sampling bombs with septum resulting in two values. These two values will be averaged and the average will be called sample result value; or
- c. If one (1) twelve (12) liter gas collection bag or evacuated glass sampling bomb with septum was collected, an aliquot of one (1) milliliter from the gas collection bag or evacuated glass sampling bomb with septum will be injected into the chromatograph. Injection will be repeated from the gas collection bag or evacuated glass sampling bomb with septum until two of three consecutive injections provide results that agree within two (2) percent. The two results will be averaged and called the sample result value.

The calibration will be repeated. If the average of the two post calibration injections differ from the initial calibration by more than 4 percent, the test will be voided and the analytical procedures repeated.

If the initial and post calibrations agree within 4 percent, the test is valid. The two calibrations will be averaged and that result, the sample result, the concentration of H_2S in the calibration gas and the volumes of gases injected will be used to calculate the concentration of H_2S in the sample.

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The result will be expressed in grains of hydrogen sulfide per 100 cubic feet of dry coke oven gas.

All chromatograms, details of sampling, standardization, analyses and calculations will be maintained for a period of two years.