

80

IN THE COURT OF COMMON PLEAS
MIAMI COUNTY, OHIO

STATE OF OHIO, EX REL.
WILLIAM J. BROWN,
ATTORNEY GENERAL OF OHIO,

Plaintiff,

vs.

Case No. 79-~~3~~¹⁶²

Judge R. K. Wilson

THE CITY OF PIQUA, OHIO,
ET AL.,

Defendants.

STIPULATION, CONSENT DECREE AND JUDGMENT

This matter was instituted by plaintiff, the Attorney General of the State of Ohio (the "State") at the request of the Director of the Ohio Environmental Protection Agency (the "OEPA"), through the filing of a complaint on June 6, 1979, alleging violations of Section 3704.03 and 3704.05, Revised Code and the Ohio Administrative Code Sections 3745-35-02, 3745-17-07, 3745-17-10 and 3745-15-07. The City of Piqua operates a municipal power plant which emits "air contaminants" into the ambient air beyond allowable limits and without first having obtained an operating permit from the Director of Ohio EPA. Such "air contaminants" contain particulate matter and are of a density that violates Chapter 3704, Revised Code.

The plaintiff and defendant by their respective attorneys have appeared and hereby consent to the jurisdiction of this Court and to the entry of this Judgment, without trial or adjudication of any issue of fact or law.

NOW, THEREFORE, before the taking of any testimony and without adjudication of issues of fact or law, and upon the consent of the parties hereto, it is hereby,

ORDERED, ADJUDGED AND DECREED as follows:

FILED
MIAMI COUNTY
COMMON PLEAS COURT
JAN A. BOETTGER
CLERK OF COURTS
1980 APR 14 AM 8:45

GP

I.

JURISDICTION

This Court has jurisdiction over the subject matter of this action and over the parties to it. The Complaint states a claim upon which relief may be granted under Chapter 3704, Revised Code.

II.

SCOPE OF FINAL JUDGMENT

This final judgment covers, and shall apply to the Piqua Municipal Power Plant operated in violation of Chapter 3704, Revised Code by the City of Piqua through the Mayor, City Manager and Commissioners of the City of Piqua as identified in the Complaint. To the extent permitted by law, the provisions of this Decree are intended to apply to all persons, firms, corporations, and other entities having notice of this Decree and who are, or will be, acting in concert and privity with the defendants to this action.

III.

PROVISIONS OF JUDGMENT

1. In connection with the emission of "air contaminants" from the Piqua Municipal Power Plant, the City of Piqua shall install an Emissions Control System (Exhibit 1) for coal-fired steam generating Boilers Nos. 4 (OEPA Premise 08/55/10/0041, B001), 5 (OEPA Premise 08/55/10/0041, B002), and 6 (OEPA Premise 08/55/10/0041, B003). Said Emission Control System shall consist of one baghouse for each boiler for a total of three baghouses.

2. In connection with the installation of the Emission Control System, the City of Piqua shall comply with the schedule of construction and installation attached hereto as Exhibit 2 and incorporated by reference herein and shall complete said construction and installation and testing no later than July 31, 1981.

3. The City of Piqua shall file monthly progress reports with the Regional Air Pollution Control Agency (RAPCA), 451 West Third Street, Dayton, Ohio, 45422, on or before the 5th of each month beginning April, 1980, through July, 1981. These reports shall state in detail the efforts which were made toward final compliance during the previous month and the compliance efforts to occur during the ensuing month.

4. The City of Piqua shall conduct emission tests on boilers 4, 5, and 6 to verify compliance. One test, which is comprised of four runs, shall be conducted on each boiler. A typical soot blowing operation shall be conducted during three runs per test. These tests shall be conducted no later than July 1, 1981 and in accordance with EPA Performance Test Methods 1-5 as referenced in the Federal Register of August 18, 1977. Such testing shall be planned, scheduled and implemented so as to provide prior written notification to the Ohio Environmental Protection Agency. Such notification shall be made thirty (30) days in advance and shall specify the source operating parameters, the proposed test procedures and the time, date, place and person(s) conducting such tests. The test results shall be reported to RAPCA within thirty (30) days after the test.

5. The City of Piqua shall apply for an Operating Permit pursuant to Section 3704.03(G), Revised Code upon successful completion of the stack test.

6. The City of Piqua shall comply with the applicable air pollution control statutes of Chapter 3704, Revised Code, being Section 3704.03, Section 3704.05(A) and (G) and regulations adopted there under including OAC 3745-17-07 and OAC 3745-17-10. In accordance with OAC 3745-17-10, the allowable particulate matter emission limitations from boilers no. 4, 5, and 6 is .10 pounds/million btu. Visible emissions shall not exceed those limits specified in OAC 3745-17-07 and emission monitoring shall be maintained at all times.

7. The City of Piqua shall undertake diligently to at all times maintain in good working order and operate pursuant to manufacturer's specifications all Emission Control Systems installed for Boilers No. 4, 5, and 6, at the Piqua Municipal Power Plant so as to reduce the emission of air contaminants to the lowest possible emission rate.

8. During construction of the Emission Control System, the City of Piqua shall comply with the following interim emission limitations: a) the ash content of coal shall be equal to or less than 12.09% by weight or the properly enacted and approved standard promulgated by local health board resolution; b) the heat content of coal shall be equal to or greater than 11,875 btu/pound or the properly enacted and approved standard promulgated by local health board resolution; c) all boilers shall be operated within the rules of good engineering practice. The City of Piqua may schedule and operate the loading of units boiler nos. 4, 5 and 6 in such fashion so as to generate no more emissions than were generated during the calendar year of 1979.

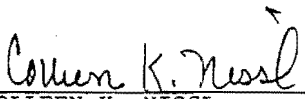
9. The entry of this Judgment bars any further action under the Ohio Revised Code arising out of any violation of Chapter 3704, Revised Code up to and including the date of entry of this Judgment.

10. The City of Piqua shall hereby be permanently enjoined from causing, allow or permitting the emission of air contaminants from the Piqua Municipal Power Plant in excess of the limits provided in this Decree, and are permanently enjoined from operating boiler no. 1 (OEPA Premise 08/55/10/0041 B001), boiler no. 2 (OEPA Premise 08/55/10/0041 B005) and boiler no. 3 (OEPA Premise 08/55/ 10/0041 B006) without first obtaining a permit to operate, from Ohio EPA.

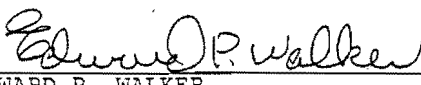
11. Each party shall bear its own costs of this action.

BY CONSENT:

WILLIAM J. BROWN
ATTORNEY GENERAL




COLLEEN K. NISSL
ASSISTANT ATTORNEY GENERAL

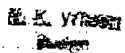


EDWARD P. WALKER
ASSISTANT ATTORNEY GENERAL

ATTORNEYS FOR PLAINTIFF



STEPHEN KLEIN
LAW DIRECTOR
CITY OF PIQUA



R. K. WILSON, JUDGE
MIAMI COUNTY COURT
OF COMMON PLEAS

EXHIBIT I

EXHIBIT I CONSISTS OF THE FOLLOWING:

1. Resolution N. C-6632
2. Ordinance No. 3-80
3. First Mortgage Electric System Revenue Bonds

EXHIBIT II

EXHIBIT II CONSISTS OF THE FOLLOWING DOCUMENTS:

1. Systech Project Schedule