

Fay D. Dupuis  
(D-082)(0020782)  
Attorney for Defendants

IN THE COURT OF COMMON PLEAS  
HAMILTON COUNTY, OHIO

COM'RS MIN.  
VOL. 245  
MAR 11 1992  
IMAGE 3204

COPY  
*[Signature]*

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

CASE NO.  
49202450

Plaintiff,

JUDGE

v.

HAMILTON COUNTY BOARD OF  
COMMISSIONERS,  
138 East Court Street, Room 603  
Cincinnati, Ohio 45202,

CONSENT DECREE

and

THE CITY OF CINCINNATI,  
801 Plum Street  
Cincinnati, Ohio 45202,

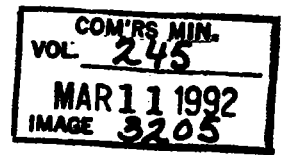
Defendants.

ENTERED  
MAR 6 1992  
IMAGE

WHEREAS, the Hamilton County Board of Commissioners (County) established a county sewer district pursuant to Chapter 6117 of the ORC and named it the Metropolitan Sewer District (MSD);

WHEREAS, the County acts as principal of MSD;

WHEREAS, pursuant to a 1968 agreement, the City of Cincinnati (City) acts as the agent for the County [the City and MSD hereinafter are collectively referred to as City (MSD)] and is responsible for the operation and management of MSD on behalf of the County;



Whereas, the City (MSD) operates wastewater treatment facilities located at 1600 Gest Street, 225 Wilmer Avenue, 6125 River Road, and 9273 Old Remington Road, Cincinnati, Ohio;

Whereas, the County currently holds NPDES permit numbers 1PM00001\*GD (OH0025461), 1PL00000\*ID (OH0025453), 1PK00006\*FD (OH0025470), and 1PK00005\*DD (OH0025488) (hereinafter collectively "NPDES permits") for the aforementioned discharges and these permits require compliance with the terms and conditions by the effective date of the permits;

Whereas, the County has approved pretreatment program developed by the City (MSD) and the pretreatment program was approved by the Director on May 26, 1986;

Whereas, the County's NPDES permits incorporate the pretreatment program as a term and condition of the permits and require the County to implement and enforce the approved pretreatment program;

Whereas, the City (MSD) is responsible for implementing and enforcing the County's approved pretreatment program;

Whereas, the State, through its Ohio Environmental Protection Agency (Ohio EPA), has alleged that the City (MSD) had not demonstrated adequate implementation of the approved pretreatment program;

Whereas, the Complaint in the above-captioned matter has been filed herein, and the Plaintiff State of Ohio, by its Attorney General Lee Fisher, (hereinafter "Plaintiff") and Defendants

County, MSD, and City (hereinafter collectively "Defendants") have consented to the entry of this Decree;

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 Defendants 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. The City of Cincinnati is joined as a party to this action only in its capacity as Managing Agent for Hamilton County in the operation of MSD.

III. SATISFACTION OF LAWSUIT

3. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Defendants for all claims 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 which are inconsistent with the terms of the

compliance schedule contained herein. Nothing in this Order shall be construed or interpreted as an admission of liability on the part of Defendants of or for the violations alleged in the Complaint.

IV. COMPLIANCE SCHEDULE

4. "Shall" in this Section IV. means "enjoined and ordered."
5. Defendants shall immediately comply with all pretreatment requirements of the NPDES permits.
6. Defendants shall immediately implement the enforcement response plan of the approved pretreatment program for all instances of industrial user noncompliance.
7. As soon as possible, but no later than 180 days after the effective date of this Decree, Defendants shall issue effective and enforceable compliance orders with compliance schedules containing milestone dates, or initiate judicial enforcement action, for all industrial users in Significant Noncompliance (SNC), as defined in Rule 3745-3-03(C)(2)(g)(i-viii) of the Ohio Administrative Code, with MSD wastewater discharge permit limits during 1991. Defendants shall enforce these compliance schedules and adequately escalate enforcement action as necessary to assure that the industrial users are brought into compliance with all applicable federal, state and local pretreatment standards and requirements within the shortest possible

period of time. This Paragraph of the Consent Decree shall apply to all industrial users in SNC except those for which Ohio EPA or the U. S. Environmental Protection Agency has initiated enforcement action.

8. Beginning 30 days after the effective date of this Decree and continuing until the actions described in Paragraph 7 have been completed, Defendants shall submit reports on a monthly basis describing the progress achieved in completing Paragraph 7. Defendants shall provide copies of signed compliance orders or evidence of referral for judicial action as a part of these reports. These reports shall be submitted to the Ohio EPA, Central Office Pretreatment Unit, 1800 WaterMark Drive, P. O. Box 1049, Columbus, Ohio 43266-0149.

V. CIVIL PENALTY

9. The County and the City (MSD) are enjoined and ordered to pay One Hundred Seventy Thousand Dollars (\$170,000) in settlement of the claims for civil penalties alleged in the Complaint pursuant to Ohio Revised Code Chapter 6111. This payment shall be made to "Treasurer, State of Ohio" for the full amount within thirty (30) days after the effective date of this Decree to the Fiscal Administrator, General Accounting Section of the Ohio EPA.

VI. MISCELLANEOUS

10. The Court shall retain jurisdiction for purposes of enforcing this Decree.
11. The County and the City (MSD) shall pay the court costs, if any, of this action.

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JUDGE, COURT OF COMMON PLEAS

APPROVED:

LEE FISHER  
ATTORNEY GENERAL OF OHIO

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RICHARD A. CASTELLINI, ~~Acting Director~~  
Metropolitan Sewer District  
Deputy City Manager