

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO, ex rel.
BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO,

Plaintiff,

MAHONING VALLEY SANITARY
DISTRICT,

Defendant.

CASE NO. 96-CV-2216

JUDGE McRae

CONSENT ORDER

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TRUMBULL COUNTY
COURT
CLERK
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The Complaint in the above-captioned matter having been filed herein, and the Plaintiff State of Ohio by its Attorney General Betty D. Montgomery (hereinafter referred to as "Plaintiff") and Defendant Mahoning Valley Sanitary District (hereinafter referred to as "Defendant") 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 6109 of the Ohio Revised Code and the rules promulgated under those chapters. Venue is proper in this Court.

II. PARTIES

2. All terms and provisions of this Consent Order shall apply to and be binding upon Defendant in accordance with, and in the same manner as provided in Ohio Civil Rule 65(D).

III. SATISFACTION OF LAWSUIT

3. Plaintiff alleges in its Complaint that Defendant has owned and/or operated its public drinking water plant in such a manner as to result in violations of Ohio Revised Code Chapter 6109 by failing to comply with the requirements for filtration and disinfection of surface water sources set forth in Ohio Administrative Code (hereinafter referred to as "OAC") Sections 3745-81-71 through 3745-81-75 . Plaintiff alleges that Defendant violated OAC Section 3745-81-72 by failing to provide sufficient disinfection treatment of its drinking water when the actual contact time (CT) value during the maximum hourly flow rate did not meet or exceed the required minimum CT value set forth in OAC 3745-81-72. 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 Consent 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. PERMANENT INJUNCTION

4. Defendant is hereby enjoined and ordered to immediately comply with the requirements of Chapters 6109 of the Ohio Revised Code and the terms and conditions of the rules adopted under that Chapter. Defendant is immediately enjoined and ordered to properly operate and maintain the new Clearwell in order to provide sufficient disinfection treatment of its drinking water. Similarly, nothing in this Consent Order shall be construed so as to limit the authority of the State of Ohio to undertake any action against any person, including Defendant, to eliminate or mitigate conditions which may present a threat to the public health, welfare or the environment.

V. CIVIL PENALTY

5. It is hereby ordered that the Defendant shall pay to the State of Ohio a civil penalty of Thirty Thousand and 00/100 dollars (30,000.00). The penalty shall be paid by a certified check for that amount, payable to the order of "Treasurer, State of Ohio", which check shall be delivered by mail, or otherwise, to Mathew Sanders, Administrative Assistant, or his successor, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428, within forty-five (45) days from the date of entry of this Consent Order.

VI. STIPULATED PENALTIES

6. In the event that Defendant fails to meet any of the requirements of this

Consent Order as set forth in Paragraph 4, the Defendant shall immediately and automatically be liable for and shall pay a stipulated penalty according to the following payment schedule:

- (a) For each day of each failure to meet a requirement, up to thirty (30) days - Five Hundred Dollars (\$500.00) per day for each requirement not met.
- (b) For each day of each failure to meet a requirement, from thirty-one (31) to sixty (60) days - One Thousand Dollars (\$1,000.00) per day for each requirement not met.
- (c) For each day of each failure to meet a requirement, from sixty-one (61) to ninety (90) days - Two Thousand Dollars (\$2,000.00) per day for each requirement not met.
- (d) For each day of each failure to meet a requirement, over ninety days (90) days - Three Thousand Dollars (\$3,000.00) per day for each requirement not met.

7. Any payment required to be made under the provisions of Paragraph 6 of this Order shall be made by delivering to Plaintiff's counsel, in the manner provided for in paragraph 5 of this Consent Order, in the appropriate amounts, within thirty (30)

days from the date of the failure to meet the requirement of the Consent Order, made payable to the order of "Treasurer, State of Ohio".

VII. RETENTION OF JURISDICTION

8. The Court will retain jurisdiction of this action for the purpose of enforcing compliance with this Consent Order against Defendant.

VIII. COSTS

9. Defendant is hereby ordered to pay the court costs of this action.

IX. ENTRY OF CONSENT ORDER AND FINAL JUDGEMENT BY CLERK

10. Pursuant to Rule 58 of the Ohio Rules of Civil Procedure, upon signing of this Consent Order by the Court, the clerk is hereby directed to enter it upon the journal. Within three (3) days of entering the judgment upon the journal, the clerk is hereby directed to serve upon the parties notice of the judgment and its date of entry upon the journal in the manner prescribed by Rule 5(B) of the Ohio Rules of Civil Procedure and note the service in the appearance docket.

IT IS SO ORDERED

DATE

12-16-11

W. Wyatt M. Kay

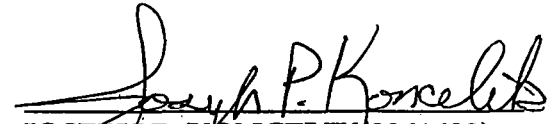
JUDGE, COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO


APPROVED:


STATE OF OHIO, ex rel.
BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO

MAHONING VALLEY SANITARY
DISTRICT

BY:


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