

IN THE COURT OF COMMON PLEAS  
WAYNE COUNTY, OHIO

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

1988 JUL 12: PM 3 59  
CLERK OF COURT  
JUDGE  
COURT

CASE NO. 88 CI 205

Plaintiff,

vs.

VILLAGE OF DOYLESTOWN,

Defendant.

CONSENT ORDER

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 Doylestown (hereinafter "Doylestown") 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 Doylestown 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 Doylestown 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 October 1, 1990, 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 October 1, 1990, Defendant Doylestown is enjoined to meet the final effluent standards set forth in its NPDES permit No. 3PB00014\*CD and any renewals or modifications thereof. Doylestown is hereby enjoined to properly operate and maintain its wastewater treatment plant and any associated equipment and structures.

#### V. CONSTRUCTION SCHEDULE

5. Defendant Doylestown is enjoined and ordered to eliminate discharges from overflows and bypasses from its sanitary sewer system and to complete construction of the improvements to its wastewater treatment plant described in the

Municipal Compliance Plan submitted to Ohio EPA on November 28, 1986, and to attain compliance with the final effluent limitations of NPDES permit No. 3PB00014\*CD 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	Completed
(b) Submittal of Approvable Plans and Specifications to Ohio EPA	Completed
(c) Advertisement of Building Bids	October 3, 1988
(d) Execution of Building Contracts	December 1, 1988
(e) Initiation of Construction	January 3, 1989
(f) Completion of construction of sufficient wetstream treatment facilities to ensure compliance with final effluent limits and the elimination of bypasses and overflows.	May 1, 1990
(g) Attain compliance with final effluent limitations, and eliminate overflows and bypasses.	October 1, 1990

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 Doylestown shall pay to the State of Ohio a civil penalty of Six Thousand Dollars (\$6,000.00). 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 Doylestown fails to meet any of the requirements of this Consent Order set forth in Paragraph 4 and Subparagraphs 5(c), 5(d), 5(e), and 5(f), including any scheduled milestone requirement, 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 forty-five (45) - Five Hundred Dollars (\$500.00) per day. For each day of failure to meet a requirement, from forty-six (46) to ninety (90) days - One Thousand Dollars (\$1,000.00) per day. For each day of failure to meet a requirement, from ninety-one (91) to one hundred thirty-five (135) days- Two

Thousand Five Hundred Dollars (\$2,500.00). For each day of failure to meet a requirement, after one hundred thirty-five (135) days - Three Thousand Five Hundred Dollars (\$3,500.00) per day.

8. In the event that Defendant Doylestown fails to meet any of the requirements of this Consent Order set forth in Subparagraph 5(g), 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 forty-five (45) 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(g) continues more than ninety (90) days, Defendant shall be liable for an additional Two Thousand Dollars (\$2,000.00) per day of violation, i.e., Eight Thousand Dollars (\$8,000.00) per day of violation. In the event that failure to comply with the requirements of Subparagraph 5(g) continues more than One hundred thirty-five (135) days, Defendant shall be liable for an additional Two Thousand Dollars (\$2,000.00) 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 (45) days from the date of the failure to meet the requirement of the Consent Order, made payable to "Treasurer, State of Ohio".

VIII. POTENTIAL FORCE MAJEURE

10. In any action to enforce any of the provisions of this Consent Order Defendant Village of Doylestown may raise at that time the question of whether it is entitled to a defense that its conduct was caused by reasons beyond its control such as, by way of example and not limitation, act of God, unusually severe weather conditions, strikes, acts of war or civil disturbances, or orders of any regulatory agency. While Plaintiff does not agree that such a defense exists, it is, however, hereby agreed upon by the parties 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 that an enforcement action, if any, is commenced. Acceptance of this Consent Order without a force majeure clause does not constitute a waiver by Defendant of any rights or defenses it may have under applicable law.

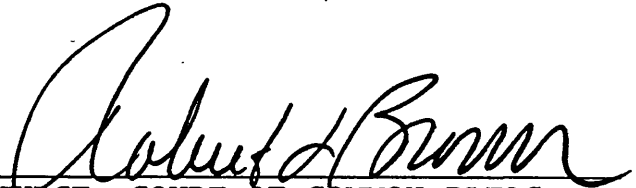
*Judge  
Brown*

IX. RETENTION OF JURISDICTION

11. 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.

X. COSTS

12. Defendant Doylestown is hereby ordered to pay the costs of this action.

  
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JUDGE, COURT OF COMMON PLEAS  
WAYNE COUNTY

**JOURNALIZED**

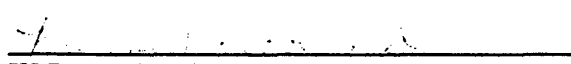
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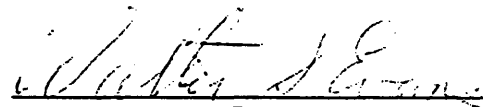
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WAYNE COUNTY, OHIO

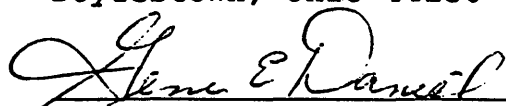
APPROVED:

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

BY:

  
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KAREN S. CLEVELAND  
Assistant Attorneys General  
30 East Broad Street  
Columbus, Ohio 43266-0410

  
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WALTER EVANS  
Solicitor, Village of  
Doylestown  
201 Church Street  
Doylestown, Ohio 44230

  
\_\_\_\_\_  
GENE DANIEL, MAYOR  
Village of Doylestown  
Authorized Representative  
of Village of Doylestown

2461E



INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning on the effective date of this modification and lasting until date that the improved wastewater treatment works are to attain operational level as specified in Item 1F in the Schedule of Compliance, the permittee is authorized to discharge in accordance with the following limitations and monitoring requirements from outfall: 3PB00014001. See PART II, OTHER REQUIREMENTS, of NPDES permit No. 3PB00014\*CD for locations of effluent sampling.

Reporting Code	UNITS	EFFLUENT CHARACTERISTIC PARAMETER	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
			Concentration Other Units (Specify)		Loading* kg/day		Meas. Freq.	Sample Type
			30 day	7 day	30 day	7 day		
00010	°C	Temperature	-	-	-	-	Daily	Max. Ind. Therm.
00310	mg/l	BOD <sub>5</sub>	60	90	73	110	2/Week	Composite
00530	mg/l	Suspended Solids	45	60	55	73	2/Week	Composite
00550	mg/l	Oil & Grease	-	-	-	-	1/Qtr.	Grab
00610	mg/l	Ammonia (N) (Summer Only)	-	-	-	-	1/Month	Composite
00627	mg/l	Kjeldahl TKN(N)	-	-	-	-	2/Week	Composite
31616	Count /100ml	Fecal Coliform (Summer Only)	-	-	-	-	2/Week	Grab
50050	MGD	Flow	-	-	-	-	Daily	Continuous
80082	mg/l	CBOD <sub>5</sub>	-	-	-	-	2/Week	Composite

2. 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.
3. 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. (Summer Only)
4. The Dissolved Oxygen (Reporting Code 00300) shall be monitored daily by grab sample.

\* The average effluent loading limitations are established using the following flow value: 0.323 MGD