

IN THE COURT OF COMMON PLEAS  
MUSKINGUM COUNTY, OHIO

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

Plaintiff,

vs.

VILLAGE OF DRESDEN

Defendant.

CASE NO. 88-526

JUDGE \_\_\_\_\_

CONSENT ORDER

1938 JUL 18 AM 11:20  
COMMON PLEAS COURT  
MUSKINGUM COUNTY, OHIO  
JOSEPH HILDEBRAND  
CLERK

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 Dresden (hereinafter "Dresden") 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 Dresden 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 Dresden 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 August 17, 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 August 17, 1990, Defendant Dresden is enjoined to meet the final effluent standards set forth in its NPDES permit No. OPB00012\*BD and any renewals or modifications thereof. Dresden is hereby enjoined to properly operate and maintain its wastewater treatment plant and any associated equipment and structures.

#### V. CONSTRUCTION SCHEDULE

5. Defendant Dresden 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 January 19, 1988 and to attain compliance with the final effluent limitations of NPDES Permit No. OPB00012\*BD, and any renewal or modification thereof, in accordance with the following schedule:

TASK

COMPLETION DATE

- |   |                   |
|---|-------------------|
| (a) Initiation of Project Design Work   | July 15, 1988     |
| (b) Submittal of Approvable Plans and Specifications to Ohio EPA              | February 16, 1989 |
| (c) Advertisement of Building Bids  | May 17, 1989      |
| (d) Execution of Building Contracts   | June 16, 1989     |
| (e) Initiation of Construction  | August 16, 1989   |
| (f) Completion of Construction and the Elimination of Bypasses and Overflows. | August 17, 1990   |
| (g) Attain Compliance with Final Effluent Limitations.                        | August 17, 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 Dresden shall pay to the State of Ohio a civil penalty of Four Thousand Dollars (\$4,000.00). 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 Dresden fails to meet any of the requirements of this Consent Order set forth in Paragraph 4 and Subparagraphs 5(a), 5(b), 5(c), 5(d), 5(e) and 5(f), including any schedule 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 thirty days - \$500.00 per day. For each day of failure to meet a requirement, from thirty-one to sixty days - \$1,000.00 per day. For each day of failure to meet a requirement, from sixty-one to ninety days - \$2,500.00. For each day of failure to meet a requirement, from ninety-one to one hundred twenty days - \$3,500.00 per day.

8. In the event that Defendant Dresden 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 thirty (30) 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 sixty (60) days,

Defendant shall be liable for an additional four thousand dollars \$(4,000.00) per day of violation, i.e., ten thousand dollars (\$10,000.00) per day of violation.

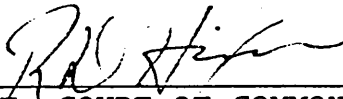
9. Any payment required to be made under the provisions of Paragraphs 7 or 8 of this Order shall be made by delivering to Plaintiff's counsel a certified check or checks for the appropriate amounts, within forty-five days from the date of the failure to meet the requirement of the Consent Order, made payable to "Treasurer, State of Ohio".

VIII. RETENTION OF JURISDICTION

10. 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.

IX. COSTS

11. Defendant Dresden is hereby ordered to pay the costs of this action.

  
\_\_\_\_\_  
JUDGE, COURT OF COMMON PLEAS

APPROVED:

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

BY:

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KAREN S. CLEVELAND  
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Steven E. Buck  
STEVEN E. BUCK  
Solicitor, Village of  
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45 North Fourth Street  
Zanesville, Ohio 43701

Norbert W. Kurtz  
Norbert Kurtz, Mayor  
Authorized Representative  
of Village of Dresden

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ADDITIONAL MONITORING REQUIREMENTS

1. Plant Bypass. The permittee shall monitor the treatment plant's bypass, when discharging, at Station OPB00012002 and report to the Ohio EPA in accordance with the following table. See PART II, OTHER REQUIREMENTS, of NPDES permit OPB00012\*BD for location of sampling.

<u>CHARACTERISTIC</u>		<u>MONITORING REQUIREMENTS</u>		
Reporting		Measurement		
Code	Units	Parameter	Frequency	Sample Type
80998	Number/Mo.	Occurrences	Daily	Continuous
80999	Hours	Duration	Daily	Estimate
00310	mg/l	BOD <sub>5</sub>	Once/day	Grab
00530	mg/l	Suspended Solids	Once/day	Grab
50050	MGD	Flow	Daily	Estimate
00045	Inches	Precipitation	Daily	24-Hour Total

Data for the Number of Occurrence(s) per day, the daily Duration and the total daily Flow may be estimated.

For days when there are no bypass discharges, data for parameters which require laboratory analyses should be reported as "AH" and an explanation of "No Discharge" entered in the "Additional Remarks" section. Also, on such days Zero should be reported for occurrences, duration, and flow.

2. This entity is authorized to discharge from the following plant bypass only when flows exceed the pumping capacity of the plant pump station. See Item 1, Plant Bypass, for monitoring and reporting requirements.

<u>Station Number</u>	<u>Description</u>
OPB00012002	Raw sewage overflow at diversion manhole

3. Plans for the elimination of bypass/overflow at station OPB00012002 are required as an integral part of the collection system and treatment plant improvements as direction by Order Number 1. of the Director's Final Findings and Orders of March 26, 1986.

Date Issued: March 26, 1986



EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS for Outfall OPB00012001

1. <u>EFFLUENT CHARACTERISTIC</u>			<u>DISCHARGE LIMITATIONS</u>				<u>MONITORING REQUIREMENTS</u>	
Reporting Code	UNITS	PARAMETER	Concentration		Loading*		Meas. Freq.	Sample Type
			Other Units (Specify)		kg/day			
			30 day	7 day	30 day	7 day		
50050	MGD	Flow	-	-	-	-	Daily	24-Hour Total
00010	°C	Temperature	-	-	-	-	Daily	Max. Ind. Therm.
00530	mg/l	Suspended Solids	170	245	102	147	1/Week	Composite
00310	mg/l	BOD <sub>5</sub>	155	170	93	102	1/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.

\* The average effluent loading limitations are established using the following flow value: 0.159 MGD - (maximum monthly average)

Date Issued: March 26, 1986