

IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

STATE OF OHIO, *ex rel.*
JIM PETRO
ATTORNEY GENERAL
30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3400

Plaintiff,

v.

OPUS NORTH CORPORATION
9200 Worthington Road, Ste. 100
Westerville, OH 43082

Defendant.

Case No.

Judge

FILED BUTLER CO.
COURT CLERK
197 05 2106
CINDY CARPENTER
CLERK OF COURTS

CONSENT ORDER

The Plaintiff State of Ohio, by and through its Attorney General (hereinafter "Plaintiff" or "State of Ohio") and Defendant, Opus North Corporation ("Defendant" or "Opus North") hereby consent to the entry of this Consent Order in order to resolve the allegations in this matter and pursuant to Chapter 6111 of the Ohio Revised Code (hereinafter "R.C.").

NOW THEREFORE, without trial or admission of any issue of law or of fact, and upon the 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 pursuant to R.C. Chapter 6111. The Complaint states a claim upon which relief can be granted against the Defendant and venue is proper in this Court.

II. PARTIES

2. The provisions of this Consent Order shall apply and be binding upon the Plaintiff and Defendant, their agents, officers, employees, assigns, successors in interest and any person acting in concert or privity with any of them.

III. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS

3. The Complaint alleges that Defendant has violated the General National Pollutant Discharge Elimination System Permit for Construction Activities and R.C. Chapter 6111. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Defendant for all claims of violations alleged in the Complaint, including the claims for injunctive relief and civil penalties.

4. Nothing in this Consent Order shall be construed so as to limit the authority of the State of Ohio to seek relief against other appropriate persons for claims or conditions alleged in the Complaint. Nothing in this Consent Order shall be construed so as to limit the authority of the State of Ohio to seek relief against Defendant or other appropriate persons for claims or conditions not alleged in the Complaint, including violations, which occur after the filing of the Complaint. Nor shall anything in this Consent Order limit the right of Defendant to any defenses that it may have for such claims. 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.

IV. PERMANENT INJUNCTION

5. Defendant is hereby permanently enjoined and ordered to immediately comply with the requirements of R.C. Chapter 6111 and the rules adopted thereunder.

V. CIVIL PENALTY

6. Within thirty (30) days of the effective date of this Consent Order, it is hereby ordered that Defendant shall pay to the State of Ohio a civil penalty of Twenty Seven Thousand Dollars (\$27,000.00). The civil penalty payment shall be paid by delivering a certified check for the appropriate amount, made payable to "Treasurer, State of Ohio," to J. Mark Lemmon, or his successor, at the Ohio Attorney General's Office, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400.

VI. MISCELLANEOUS

7. Nothing in this Consent Order shall affect Defendant's obligation to comply with all applicable federal, state or local law, regulation, rule or ordinance. Defendant shall obtain any and all federal, state, or local permits necessary to comply with this Consent Order.

8. Defendant shall inform the Ohio EPA of any change of its business addresses or telephone numbers.

VII. RETENTION OF JURISDICTION

9. The Court will retain jurisdiction of this action for the purpose of administering or enforcing Defendant's compliance with this Consent Order.

VIII. COSTS

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

IX. TERMINATION

11. Notwithstanding the provisions set forth in this Consent Order, Defendant reserves the right to file a Motion for Relief from Judgment pursuant to Rule 60 of the Ohio Rules of Civil Procedure. Plaintiff reserves the right to oppose said motion.

**X. ORDER AND ENTRY OF CONSENT
FINAL JUDGMENT BY CLERK**

12. The parties agree and acknowledge that final approval by the Plaintiff and Defendant, and entry of this Consent Order is subject to the requirement of 40 C.F.R. 123.27 (d)(iii), which provides for notice of the lodging of this Consent Order, opportunity for public comment, and the consideration of any public comment. The Plaintiff and Defendant reserve the right to withdraw consent to this Consent Order based on comments received during the public comment period. Defendant shall pay the cost of publishing the public notice within thirty (30) days of receipt of a bill or notice from Ohio EPA.

13. Upon the 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 all 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.

XI. SIGNATORIES

14. The undersigned is a representative of Defendant and understands the terms and conditions of this consent order and certifies that he or she is fully authorized to enter into the terms and conditions of this consent order and to execute and legally bind the Defendant to this document.

IT IS SO ORDERED:

JUDGE, BUTLER COUNTY
COURT OF COMMON PLEAS

Date

Approved,

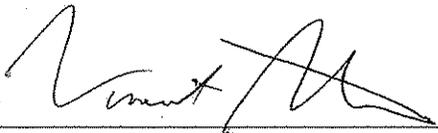
JIM PETRO
ATTORNEY GENERAL

By:



TODD K. DEBOE (0072034)
TERI J. FINFROCK (0037903)
Assistant Attorneys General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, OH 43215-3428
Telephone: (614) 466-2766
Facsimile: (614) 644-1926/752-2441
Email: tdeboe@ag.state.oh.us

Attorneys for Plaintiff, State of Ohio

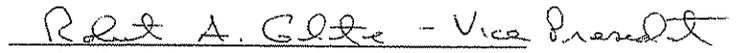


Vincent Atriano
Squire, Sanders and Dempsey
1300 Huntington Center
41 South High Street
Columbus, OH 43215
Telephone: (614) 365-2783
Facsimile: (614) 365-2499
E-Mail: vatriano@ssd.com

Attorney for Defendant, Opus North Corporation

Opus North Corporation

By:


Authorized Representative of Opus
North Corporation