

**IN THE COURT OF COMMON PLEAS
JEFFERSON COUNTY, OHIO**

FILED
IN COMMON PLEAS COURT
JEFFERSON COUNTY, OHIO
SEP 16 2004
JOHN A. CORRIGAN
CLERK

**STATE OF OHIO, ex rel.
JIM PETRO
ATTORNEY GENERAL OF OHIO,**

CASE NO. 97-CV-383

JUDGE JOSEPH J. BRUZZESSE, JR.

Plaintiff,

v.

CITY OF STEUBENVILLE,

AMENDED CONSENT ORDER

Defendant.

Whereas, the Complaint in the above-captioned matter having been filed on May 27, 1998, the Plaintiff State of Ohio by its Attorney General (hereinafter "Plaintiff") and Defendant City of Steubenville (hereinafter "Steubenville") having consented to the entry of an Order by the Court on May 27, 1998. The State alleges that violations of the May 27, 1998 Consent Order have occurred. In order to resolve these alleged violations, the Defendant City of Steubenville shall comply with the terms of this Amended Consent Order, and shall pay the stipulated civil penalty contained in this Amended Consent Order. Nothing in this Amended Consent Order releases the Defendant City of Steubenville from any of its obligations under the Consent Order filed on May 27, 1998.

NOW THEREFORE, without trial of any issue of fact or law, and upon consent of the parties to this Amended Consent Order, it is hereby ORDERED, ADJUDGED AND DECREED that the Consent Order signed by the Court on May 27, 1998 shall be amended as follows:

VII. NPDES PERMIT – SCHEDULE FOR COMPLIANCE

16. Defendant is enjoined and immediately ordered to attain compliance with the terms and conditions of its NPDES Permit not later than the dates set forth in the following schedule:

- (p) By January 1, 2005, Defendant shall complete cleaning of north interceptor as identified in Defendant's plan to implement the minimum control measures for Defendant's Combined Sewer System. Within 30 days of completion of cleaning of this interceptor, Defendant shall notify in writing the Ohio EPA Southeast District Office of the completion, along with providing Ohio EPA an assessment of the effectiveness of the cleaning on the interceptor's capacity and integrity.
- (q) By January 1, 2007, Defendant shall complete construction of its Capital Improvement Project to replace the Permars Run Trunk Sewer. This project will result in the elimination of multiple separate sanitary sewer overflows ("SSO"), including two SSOs in the lower sections of the Permars Run Trunk Sewer identified by Defendant in 2002, and will provide dry weather relief from the newly identified combined sewer overflow ("CSO"), No. OPD00014019 found by the Defendant in 2002. Defendant shall submit to Ohio EPA approvable permit applications and plans for the project by June 30, 2005. Within 30 days of completion of the project, Defendant shall notify Ohio EPA Southeast District Office of the completion.
- (r) (i) Defendant shall develop a Sewer System Overflow Long-Term Control Plan ("LTCP"), in accordance with the requirements and schedules of deliverables set forth below and in accordance with U.S. EPA's 1994 Combined Sewer Overflow Policy. The goal of the LTCP is to minimize and eliminate discharges from the collection system and insure that discharges from combined sewer overflows shall not cause or significantly contribute to violations of water quality standards or impairment of designated uses. If the contents of the LTCP are subject to review under OAC 3745-1-05 (antidegradation), the plan will be public noticed as required in OAC Section C of 3745-1-05. The plan shall address, as a minimum, the following:

(A). The Defendant shall characterize its collection system and overflows using the tools of monitoring and modeling. A monitoring and modeling program will be implemented that provides adequate data to characterize and model the collection system and overflows; supports development and implementation of the

minimum control measures; supports development and implementation of a long-term control plan; and allows the effectiveness of control measures to be evaluated.

(B). The Defendant shall identify Combined Sewer Overflow(CSO) discharges to Bathing Waters [OAC 3745-1-07(B)(4)], and all surface waters within 500 yards of an existing public water supply intake and designate these discharges as the highest priority for elimination, relocation or treatment. Combined Sewer Overflows to these waters shall be eliminated or relocated whenever physically and economically achievable, except when this would cause unacceptable water quality impacts elsewhere in the system. If elimination or relocation is not possible, then treatment must be provided that will result in attainment of water quality standards and designated uses.

(C). The Defendant shall identify CSO discharges to waters, including small, accessible urban streams, where there is a high probability for contact recreation, and develop controls to ensure that these waters attain the applicable water quality standards for bacteria. The potential for human health impacts, public input on the recreational value of the streams, and financial considerations should be used to prioritize controls for these streams.

The Defendant shall develop and implement a significant notification program that informs the public of the possible health and environmental impacts associated with CSOs, and advises against contact recreation when elevated bacteria levels may endanger public health.

The Defendant should contact Ohio EPA and the Ohio River Valley Water Sanitation Commission (“ORSANCO”) to discuss water quality standard revisions they believe would be appropriate based on community recreational use evaluations.

(D). The LTCP shall include a system-wide analysis of both the collection system and treatment plant. The LTCP shall evaluate specific control technologies/projects designed to eliminate and minimize overflow events from the collection system. The evaluation of each alternative shall include:

- costs;
- benefits such as reduction in overflow events, volume, and pollutant load;
- impact on user rates;
- affordability; and
- construction and implementation schedules.

In developing this analysis, the U.S. EPA's "Financial Analysis Guidance for CSO's" and "Guidance Coordinating CSO Long-Term Planning with Water Quality Standards Reviews" shall be used as tools. The LTCP must include:

1. evaluation of control measures that eliminates overflows from both the combined and separately sewer areas; minimize discharges from the combined sewer system and that, at a minimum, attains an average of four untreated overflow events per year or less from the combined sewer system. Alternative levels of control, for example, based on number of overflow events or percent capture, may also be evaluated. For example, the LTCP could evaluate controls necessary to achieve four to seven and eight to twelve untreated overflow events per year;

2. evaluation of control measures to convey additional flow to the treatment plant:

- a. for full treatment, as well as
- b. to route peak flows around biological treatment at the treatment plant to provide physical/chemical treatment and/or storage prior to discharge;

3. identification of combined sewer areas and separate sewer areas with excessive infiltration and inflow ("I/I") and consideration of ways to reduce storm water flow into combined sewers and the main interceptor sewers tributary to the treatment plant. Steps to consider include removing I/I sources into separate sewers; diverting storm water away from the combined system (e.g., by constructing new storm sewers, retention basins; removing inflow, such as roof drains) as well as methods to store and retain storm water (e.g.; using catch basin flow restriction, storm water retention basins);

4. identification of areas served by existing separate sanitary sewers and areas where future development will occur and evaluation of steps necessary to provide full treatment to these flows and to eliminate the discharge of sewage from separately sewer areas into the combined sewer area, especially areas tributary to an overflow point or plant bypass. The evaluation shall consider at a minimum using express sewers to route sanitary flows around combined sewer areas to the treatment plant for full treatment;

5. Selection of an array of control measures, with construction and implementation schedules that eliminates overflows from the separately sewer areas; eliminates or minimizes discharges from the combined sewer system and that, at a minimum, attains four overflow events per year or less from the combined sewer system and assures attainment of water quality standards for the receiving streams and that meets the criteria set forth above.

(ii). The Defendant shall develop and submit to the Ohio EPA Southeast District Office for approval by January 1, 2007, four copies of the LTCP. In addition, Defendant shall develop and submit to the Ohio EPA Southeast District Office for approval within 18 months from the entry of this amended Consent Order, the flow characterization and modeling report required in Paragraph 16 (r)(i)(A) above. Defendant shall notify the Ohio EPA of the name of any consultants retained by Defendant to develop the LTCP when Defendant enters into any contract for such services.

(iii) As part of its Implementation Schedule submitted pursuant to Paragraph 16 (r)(i)(D)(5) above, Defendant shall propose to Ohio EPA, for review and approval, at least five milestones for which stipulated penalties shall apply, pursuant to Paragraph 27, if the milestones are not achieved in accordance with the approved Implementation Schedule for the LTCP. The milestones proposed by Defendant shall relate to and be consistent with the proposed Implementation Schedule and shall be based on objective criteria such that Defendant and Ohio EPA shall each be capable of, on the associated milestone date, determining with certainty whether Defendant has completed that milestone. The final milestone shall be the submission of a Post Construction Monitoring Program Report.

(iv) Upon approval by Ohio EPA of the LTCP, the approved LTCP shall be incorporated into and made an enforceable part of this Consent Order, and Defendant shall implement the approved LTCP in accordance with the schedule included in the approved LTCP.

(v) Implementation of its approved LTCP shall not relieve Defendant of its obligation to comply with the requirements of its Permit, including, but not limited to, general water quality and technology-based effluent limitations.

VIII. SLUDGE HANDLING FACILITIES – SCHEDULE FOR COMPLIANCE

17. Defendant, through its contractor, submitted a permit to install (“PTI”) application for a mobile belt filter press, which was approved by Ohio EPA on November 27, 2001. Defendant shall complete installation of the infrastructure necessary for the operation of the mobile belt filter press by June 1, 2005.

XIII. CIVIL PENALTY

25. (a). It is hereby ordered that Defendant shall pay to the State of Ohio a stipulated penalty of \$10,000 covering violations of this consent order from May 27, 1998 till the entry of this Amended Consent Order by the Court. This stipulated penalty payment shall be paid by certified check for the appropriate amount, made payable to "Treasurer State of Ohio," which check shall be delivered by mail or otherwise, to Amy Laws, Paralegal, or her successor, at the Ohio Attorney General's Office, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400, within thirty days of the entry of this Amended Consent Order by the Court.

COURT COSTS

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

XX. ENTRY OF CONSENT ORDER AND FINAL JUDGEMENT BY CLERK

32. The parties agree and acknowledge that final approval by the Plaintiff and Defendant, City of Steubenville and entry of this Amended Consent Order is subject to the requirement of 40 C.F.R. §123(d)(2)(iii), which provides for notice of the lodging of this Amended Consent Order, opportunity for public comment, and the consideration of any public comment. Both the State and Defendant City of Steubenville reserve the right to withdraw this Amended Consent Order based on comments received during the public comment period.

33. Pursuant to Rule 58 of the Ohio Rules of Civil Procedure, upon signing of this Amended 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.

09-16-04
DATE

Joseph J. Buzzese Jr
JUDGE, COURT OF COMMON PLEAS
JEFFERSON COUNTY

APPROVED:

JIM PETRO
ATTORNEY GENERAL OF OHIO

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8/11/2004
DATE

Bruce Williams
Authorized Representative for the
City of Steubenville