

IN THE COURT OF COMMON PLEAS  
JEFFERSON COUNTY, OHIO

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

Plaintiff,

v.

WHEELING PITTSBURGH STEEL  
CORPORATION

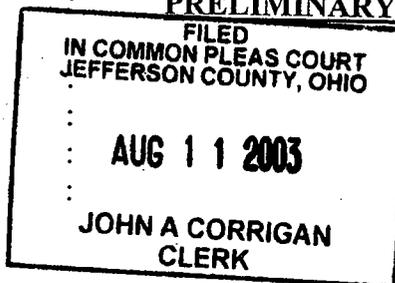
Defendant.

CASE NO. 03 CV 340 ✓

JUDGE

*Joseph J. Buzzone Jr.*

CONSENT ORDER FOR  
PRELIMINARY INJUNCTION



WHEREAS, the Plaintiff State of Ohio by its Attorney General Jim Petro (hereinafter "Plaintiff" or "State of Ohio") has filed its Complaint in the above-captioned case against Defendant, Wheeling Pittsburgh Steel Corporation pursuant to Ohio Revised Code (hereinafter "RC") Chapters 6111, the regulations promulgated there under and other laws;

WHEREAS, the State of Ohio's Complaint seeks, among other things, remedies to investigate and abate alleged pollution at Wheeling Pittsburgh Steel Corporation for the Steubenville plant (North) located at South Third Street, Steubenville, Ohio, the South Plant located at McLister Avenue, Mingo Junction, Ohio, the Martins Ferry Plant located at 1001 Main Street, Martins Ferry, Ohio and the Yorkville Plant located at 219 Public Road, Yorkville, Ohio;

WHEREAS, Wheeling Pittsburgh Steel, has agreed to enter into this Consent Order for Preliminary Injunction (hereinafter "COPI") with the State of Ohio;

NOW, THEREFORE, without adjudication or admission of any issue of fact or law, and upon consent of the Parties hereto, it is hereby ORDERED 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 the Ohio Revised Code, and venue is proper in this Court for the purposes and duration of this COPI.

**II. PARTIES**

2. The provisions of this COPI shall apply to and be binding upon the Defendant, its assigns, successors in interest and any person acting in concert or privity with any of them.

3. No change in ownership or status of Defendant, including but not limited to any transfer of assets of real or personal property, shall in any way alter Defendant's obligations under this COPI. Defendant shall provide a copy of this COPI to any subsequent owner(s) or successor(s) prior to the transfer of the corporation's ownership rights.

4. Defendant shall provide a copy of this COPI to each general contractor, subcontractor, laboratory, consultant, agent, employee and person hired by or who will provide work or services on behalf of Defendant related to this COPI.

**III. PRELIMINARY INJUNCTION**

5. Defendant is hereby enjoined and immediately ordered to comply with the requirements of R.C. Chapter 6111 and the rules adopted there under, and the terms and conditions of its currently effective NPDES Permit and any renewals or modifications

thereof. Defendant shall properly operate and maintain its WWTPs, sewer systems and any associated equipment and structures.

#### **A. MARTINS FERRY PLANT**

6. No later than November 3, 2003, Defendant will conduct sampling of the accessible manholes on the sewer collection system of Outfalls 002, 003, 004 and 005 at Defendant's Martins Ferry Plant to determine the level of metals in the sediment.

7. No later than January 1, 2004, Defendant will provide to Ohio EPA the sampling results from the sampling required in the previous paragraph. Defendant will include with this submittal a detailed list of all sewers at the Martins Ferry Plant requiring cleaning and a schedule for such cleaning to be completed.

8. No later than August 1, 2004, Defendant will have completed the cleaning of the sewers at the Martins Ferry Plant.

9. No later than October 1, 2004, Defendant will complete sampling of the storm water discharge at Outfalls 002, 003, 004 and 005 at the Martins Ferry Plant to determine the level of metals, and submit results of the same to Ohio EPA.

10. No later than September 1, 2004, Defendant will submit to Ohio EPA a revised Storm Water Pollution Prevention Plan (SWP3) for the Martins Ferry Plant, which establishes best management practices (BMPs) for the identification and reduction of sources causing pollution in the Defendant's storm water. This SWP3 will also include routine operation and maintenance schedules to prevent or minimize contamination of storm water.

11. Defendant will implement the SWP3 plan at the Martins Ferry Plant immediately after submittal to Ohio EPA.

12. No later than December 1, 2003, Defendant will submit to Ohio EPA an approvable permit to install application and detailed plans for the installation of a 24-hour flow monitoring and composite sampling collection device downstream of the overflow weir. This monitoring and composite sampling station will provide for flow and water quality monitoring of all discharges tributary to the Martins Ferry Plant outfall 001.

13. No later than November 1, 2004, Defendant will have completed the installation of this new monitoring and sampling station at the Martins Ferry Plant. After installation, this new monitoring and sampling station will be designated outfall OIC00020001 (outfall 001). All NPDES permit requirements for sampling at outfall 001 will hereafter occur at this new monitoring and sampling location. The former location for outfall 001 will hereafter be designated outfall 601.

14. No later than November 1, 2004, Defendant will install process control equipment that will shut down the galvanizing line production during high intensity rainfall events, as necessary, to minimize the potential for overflowing the weir.

15. No later than November 2, 2004, Defendant will flow monitor and composite sample outfall 601 during all overflow events for a 24-hour period commencing at the time the production shut down occurs.

16. Nothing in this COPI shall be construed to authorize any overflow discharge that consists of Best Available Technology ("BAT") regulated process waste streams.

17. Beginning no later than August 1, 2003 and continuing to August 1, 2005, Defendant shall have the oil in the sump at the Martins Ferry waste water treatment plant skimmed off by a chemical waste company on a quarterly basis. After, August 1, 2005 Defendant will submit the results of the skimming operation to Ohio EPA with a proposal on the future frequency that the oil in the sump will be skimmed off. After, Ohio EPA approves the new schedule for the skimming, this schedule will be fully incorporated into this decree as if fully written herein. Defendant will maintain records that this process has occurred and these records will be available for Ohio EPA inspection at the Martins Ferry Plant.

#### **B. YORKVILLE PLANT**

18. No later than August 1, 2004, Defendant will complete the following Phase II treatment plant modifications at the Yorkville plant in accordance with Defendant's approved PTI No 06-6459 issued May 9, 2001:

- a. installation of Programmable Logic Controller (PLC) control and automation with an intranet alarm and data logging system;
- b. installation of the oil retention baffles on the clarifiers; and
- c. modification of the existing equalization tank to prevent oil from entering the wastewater treatment plant;

19. No later than August 1, 2004, Defendant will replace at the Yorkville plant the existing PLC and install an intranet alarm and data logging system for the Oil Water Separator treatment system. This work will be done in accordance with Defendant's approved PTI No.06-6460 issued May 9, 2001.

20. No later than August 1, 2004, Defendant will eliminate all industrial waste that enters Outfall 001 at the Yorkville plant.

21. No later than August 1, 2004, Defendant will install air-style oil coolers at the locations listed on Attachment A to this decree and incorporated herein.

22. No later than August 1, 2004, Defendant will install remote (intranet) monitoring of flows and operational status of samplers on Outfalls 001, 002, 003 at the Yorkville Plant.

23. No later than August 1, 2004, Defendant will relocate the lab and demolish the existing building at the Yorkville Plant. Additionally, Defendant will plug the existing sewer line.

24. No later than August 1, 2004, Defendant will install monitoring equipment at the Yorkville Plant Pickler Lift Station. This equipment will provide to the waste treatment operators information on the pH, conductivity, sump level and pump status at the Pickler Lift Station.

25. No later than August 1, 2005, Defendant will complete the following Phase II treatment plant modifications at the Yorkville plant in accordance with Defendant's approved PTI No.06-6459:

- a. replace or totally recondition one vacuum filter;
- b. modifications to the lime silo pump;
- c. installation of new instrumentation;
- d. installation of service platforms; and
- e. installation of smoke detection and fire alarm system.

26. No later than August 1, 2005, Defendant will complete the following Oil Water Separator system improvements at the Yorkville plant in accordance with Defendant's approved PTI No.06-6460:

- a. modify the west aeration tank (API) to oil retention and treatment tanks;
- b. convert two filters to oil storage for disposal tanks;
- c. eliminate Velco (oil reclaimer) and remediate area;
- d. upgrade pumps on Dissolved Air Flotation (DAF)
- e. relocate waste oil tank to diked area;
- f. dike oil water separator system;
- g. install a waste oil truck loading station; and
- h. install oil skimming device on the east API.

27. No later than August 1, 2005, Defendant will install holding tanks for the metered discharge at the Yorkville Plant wastewater treatment system in accordance with an approved permit to install.

28. No later than August 1, 2005, Defendant will install sealed manhole covers in areas of Yorkville Plant that have the potential for oil spills. A detailed list of the sealed manholes covers to be installed is set forth in Attachment A to this decree and incorporated herein.

29. No later than August 1, 2005, Defendant will eliminate and permanently plug sewers throughout the Yorkville plant. The specific areas are detailed in Attachment A to this decree and incorporated herein.

30. No later than August 1, 2005, Defendant will replace 11 Mill oil cooler with a refrigerant system at the Yorkville Plant.

31. No later than August 1, 2005, Defendant will install oil leak detection devices in oil coolers that cannot be replaced with air/oil systems at the Yorkville Plant. A detailed list of these particular areas will be provided to Ohio EPA by August 15, 2005.

32. No later than August 1, 2005, Defendant will repair or replace the kerosene oil dike at the Yorkville Plant.

33. No later than September 1, 2004, Defendant will submit to Ohio EPA a revised Storm Water Pollution Prevention Plan (SWP3) for the Yorkville Plant, which establishes best management practices (BMPs) for the identification and reduction of sources causing pollution in the Defendant's storm water. This SWP3 will also include routine operation and maintenance schedules to prevent or minimize contamination of storm water.

34. Defendant will implement the SWP3 plan at the Yorkville Plant immediately after submittal to Ohio EPA.

35. No later than August 1, 2004, Defendant will submit an approvable permit to install application and detail plans providing improvements to achieve compliance with the water quality standard for fecal coliform as a result of the discharge at outfall 604 at the Yorkville Plant.

36. Within 6 months after approval of the permit to install by Ohio EPA, Defendant will install the equipment set forth in the approved permit to install.

37. Within 36 months after approval of the permit to install, Defendant will achieve compliance with water quality standards for fecal coliform as a result of the discharge at outfall 604 at the Yorkville Plant.

#### **C. NORTH PLANT**

38. No later than September 1, 2004, Defendant will submit to Ohio EPA a revised Storm Water Pollution Prevention Plan (SWP3) for the North Plant, which establishes best management practices (BMPs) for the identification and reduction of sources causing pollution in the Defendant's storm water. This SWP3 will also include routine operation and maintenance schedules to prevent or minimize contamination of storm water.

39. Defendant will implement the SWP3 plan at the North Plant immediately after submittal to Ohio EPA.

#### **D. SOUTH PLANT**

40. No later than September 1, 2004, Defendant will submit to Ohio EPA a revised Storm Water Pollution Prevention Plan (SWP3) for the South Plant, which establishes best management practices (BMPs) for the identification and reduction of sources causing pollution in the Defendant's storm water. This SWP3 will also include routine operation and maintenance schedules to prevent or minimize contamination of storm water.

41. Defendant will implement the SWP3 plan at the South Plant immediately after submittal to Ohio EPA.

42. No later than December 1, 2003, Defendant will have contracted with a consultant to undertake a study to characterize the discharge from the slag quench area that is entering waters of the state.

43. No later than December 1, 2004, Defendant's consultant will have completed the above-described study and have submitted a detailed report to Ohio EPA. This study will include but not be limited to an analysis of the levels of sulfide, total suspended solids (TSS), total dissolved solids (TDS), zinc, and pH in the discharge to waters of the state. This report will also identify and explain several plans of action to be taken by Defendant or its agent responsible for slag processing (currently Olympic Mill Services) to achieve the applicable water quality standards in the waters of the state.

#### **IV. DOCUMENT SUBMITTAL**

44. Unless otherwise provided in this COPI, all documents required to be submitted pursuant to this COPI shall be sent to the following address:

Ohio Environmental Protection Agency  
Southeast District Office  
2195 Front Street  
Logan, Ohio 43138

ATTN: Abbot Stevenson(or her successor)  
Division of Surface Water (for the Martins Ferry Plant)  
Randy Spencer (or his successor)  
Division of Surface Water (for the remaining plants.)

## **V. RESERVATION OF RIGHTS**

45. The State of Ohio reserves the right to seek further relief from this or any other Court, including, but not limited to, further preliminary and/or permanent injunctive relief and civil penalties. This COPI in no way waives any defenses which Defendant may have as to such further relief.

46. The State of Ohio expressly reserves, and this COPI shall be without prejudice to any claims, demands, rights or causes of action, judicial or administrative, the State of Ohio may have or which may in the future accrue against Defendant or others, regardless of whether such claim, demand, right or cause of action was asserted in the Complaint. This COPI in no way waives any defenses which Defendant may have as to such claims, demands, rights or causes of action.

47. Nothing herein shall limit the authority of the State of Ohio to undertake any action against any entity, including Defendant, to eliminate or control conditions, which may present a threat to the public health, safety, welfare or environment, and to seek cost reimbursement for any such action. This COPI in no way waives any defenses which Defendant may have as to such claims, demands, rights or causes of action.

48. Nothing herein shall be construed to relieve Defendant of its obligation to comply with applicable federal, state or local statutes, regulations or ordinances, including, but not limited to, permit requirements.

## **VI. MODIFICATION**

49. No modification shall be made to this COPI without the written agreement of the Parties and the Court.

**VII. RETENTION OF JURISDICTION**

50. The Court shall retain jurisdiction of this action for the purpose of administering and enforcing Defendant's compliance with this COPI.

**VIII. TERMINATION**

51. This COPI shall terminate upon Order of this Court, or upon Joint Motion of the Parties that all activities required or contemplated under this COPI have been completed. Nothing herein shall preclude Ohio EPA from seeking further investigatory work in connection with implementation of a remedy or to address an imminent threat of harm to the public health or the environment. This Section, as well as the Section of this COPI on Reservation of Rights, shall survive this termination provision.

**IX. COSTS**

52. Defendants shall pay the costs of this action.

**X. SIGNATORIES**

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

IT IS SO ORDERED:

ENTERED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2003.

JUDGE, JEFFERSON COUNTY  
COURT OF COMMON PLEAS

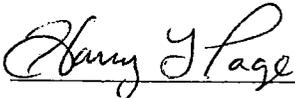
APPROVED:

WHEELING PITTSBURGH  
STEEL CORPORATION

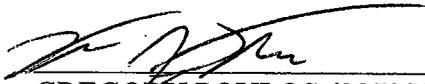
STATE OF OHIO,  
*ex rel.* JIM PETRO  
ATTORNEY GENERAL

BY:

BY:



HARRY L. PAGE, VICE PRESIDENT  
ENGINEERING, TECHNOLOGY  
& METALLURGY



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Attorney for Defendant

# Attachment A

## WPSC – Yorkville Plant Elimination of Potential Sources of Oil/Contaminants to Outfall Discharges (Settlement of Ohio EPA Bankruptcy Claims Consent Order)

### 1. Oil Coolers to be replaced with Air Coolers (Paragraph 21)

#11 Temper Mill (2)  
Continuous Annealing (1)  
Pickler (2)

### 2. Install sealed manhole covers (37) on the following manholes (Paragraph 28)

Outfall 001 System    Outfall 002 System    Outfall 003 System

2A-3	1B-3	1C
2A-4	2B	1C-2
2A-5	3B-1	3C
2A-7	3B-2	4C-3
2A-8	4B	4C-4
2A-9	4B-14	6C-2
2A-10	4B-15	6C-5
3A-3	4B-16	8C-3
3A-7	4B-22	10C-3
3A-9	4B-24	10C-5
3A-10		10C-8
3A-16		10C-9
3A-17		10C-010
3A-19		

### 3. Install permanent plug in the following sewer segments (Paragraph 29)

Pickle Line 15" sewer segment near manhole 4B-13  
Paint Storage/Laborers Building 18" sewer segment near manhole 2B  
Litho Building near manhole 1A  
Tandem Mill Precipitator 24" sewer segment near 1C