IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

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

CASE NO.

JUDGE McKAY

Plaintiff,

vs.

KRAFT FOODS GLOBAL, INC.

Defendant.

CONSENT ORDER

The Complaint in the above-captioned matter having been filed herein, and Plaintiff State of Ohio by its Attorney General Jim Petro (hereinafter referred to as "Plaintiff") and Defendant Kraft Foods Global, Inc. (hereinafter referred to as "Defendant") having consented to the terms of this Order, hereby agree to the entry of this Consent Order to resolve the allegations set forth in the Complaint. Defendant denies the violations of law alleged in the Complaint.

NOW THEREFORE, without trial of any issue of fact or law, without any admission of fact or law by Defendant, and upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

I. JURISDICTION AND VENUE

1. The Court has both personal and subject matter jurisdiction over the Parties. The Complaint states a claim upon which relief can be granted against Defendant under Chapter 6111

of the Ohio Revised Code (hereinafter referred to as R.C.) and the rules promulgated under that chapter. Venue is proper in this Court.

II. PARTIES

2. The provisions of this Consent Order shall apply and be binding upon the Plaintiff State of Ohio and Defendant, Defendant's agents, officers, employees, assigns, successors in interest and any person acting in concert or privity with any of them. Defendant shall provide a copy of this Consent Order to each contractor and consultant it employs to perform the work itemized herein. Defendant shall require each general contractor to provide a copy of this Consent Order to each subcontractor for such work.

III. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS

3. Plaintiff has alleged that Defendant has operated its wastewater treatment plant at its facility in Farmdale, Ohio, in such a manner as to result in violations of the requirements 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, its officers, agents and employees, 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 or other persons to any defenses they 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 that may present a threat to the public health, welfare or the environment.

IV. PERMANENT INJUNCTION

5. Defendant is permanently enjoined and ordered to immediately comply with all applicable provisions of its National Pollutant Discharge Elimination System (NPDES) permit 31H00052*CD or any renewals thereof and R.C. Chapter 611 and the rules promulgated under that chapter.

6. No later than midnight, August 31, 2005, Defendant shall achieve compliance with the final effluent limitations set forth in its NPDES permit 31H00052*CD for outfall 31H00052001. In the event Defendant elects to achieve compliance with such limitations by ceasing to discharge from outfall 31H00052001, then Defendant will decommission the existing wastewater treatment plant in accordance with applicable law and regulations. The provisions of this paragraph do not bar Defendant from selling or otherwise transferring the Farmdale facility (and the wastewater treatment plant) to a third party; and such third party shall not be precluded from operating the wastewater treatment plant, provided, however, that this Consent Order does not authorize a third party to discharge from the Farmdale facility without a valid NPDES permit or otherwise not in compliance with law.

V. CIVIL PENALTY & SUPPLEMENTAL ENVIRONMENTAL PROJECT

7. In the furtherance of the mutual objectives of the State of Ohio and Defendant in improving the waters of the State and the environment, Defendant will provide $50,000.00 to be utilized by Trumbull County Sanitary Engineer's office for the installation of public sewers to serve currently unsewered areas of Kinsman Township, Trumbull County, Ohio. Defendant will

$50,000 into a separate bank account and this money will only be disbursed to either the Trumbull County Sanitary Engineer's Office or to Ohio EPA.

In order for the Trumbull County Sanitary Engineer's office to be eligible for this money it must submit to Ohio EPA (in care of Chief of the Division of Surface Water, Lazarus Government Center, 122 South Front Street, P.O. Box 1049, Columbus, Ohio 43216-1049) for written approval a written proposal demonstrating that the money will be used for the installation of public sewers to serve currently unsewered areas of Kinsman Township, Trumbull County,

After Ohio EPA has determined that the proposal meets these requirements Ohio EPA will inform in writing the Trumbull County Sanitary Engineer's Office so that the Trumbull County Sanitary Engineer's Office can forward the written approval and request release of the funds from Defendant. Trumbull County Sanitary Engineer's Office will have 1 year from the date of entry of this consent decree to receive approval from Ohio EPA and to request the release of the funds. If one year after the entry of this consent decree, Trumbull County Sanitary Engineer's Office has failed to submit and obtain written approval from Ohio EPA, Defendant will pay the $50,000 to the Ohio EPA. Payment shall be paid by check for the appropriate amount, made payable to "Treasurer, State of Ohio", which check shall be delivered by mail, or otherwise, to Amy Laws, or her successor, at the Ohio Attorney General's Office, Environmental

Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428. Within in 30 days of the entry of this consent decree, Defendant will provide a copy of this consent decree to the Trumbull County Sanitary Engineer's Office.

VI. STIPULATED PENALTIES

8. In the event that Defendant fails to meet any of the final effluent limitations in its NPDES permit, Defendant shall pay a stipulated penalty for each violation according to the following payment schedule: (a) for each day of each violation, up to thirty (30) days --Four Hundred Dollars ($400.00) per each day for each violation; (b) for each day of each violation from thirty-one (31) to sixty (60) days -- Six Hundred Dollars ($600.00) per each day for each violation; (c) for each day of each violation over sixty-one (61) days Eight Hundred Dollars ($800.00) per each day for each violation.

9. Any payment required to be made under the provisions of Section VI of this Consent Order shall be made by delivering to Amy Laws, or her successor, at the address set forth in Section V within forty-five (45) days from the date of the failure to meet the specified requirement of the Consent Order, a check or checks for the appropriate amount(s), made payable to the order of "Treasurer, State of Ohio". Defendant shall also state in writing the specific requirement of the Consent Order which was not complied with, and the date(s) of non-compliance. The payment of stipulated penalties by Defendant and the acceptance of such stipulated penalties by the Plaintiff for specific violations pursuant to Section VI shall not be construed to limit Plaintiff's authority to seek additional relief or to otherwise seek judicial enforcement of this Consent Order.

VII. RETENTION OF JURISDICTION

10. The Court will retain jurisdiction of this action for the purpose of enforcing and administering Defendant's compliance with this Consent Order. The Court will retain jurisdiction for the purpose of interpretation of this Consent Order should any disagreement arise between the parties. Defendant may request termination of this Consent Order upon the sale or other transfer of the facility to a third person, or subsequent to the date that Defendant permanently ceases discharge from the Farmdale facility. Plaintiff reserves its right to object to termination of this Consent Order.

VIII. COMPLIANCE NOT DEPENDENT ON GRANTS OR LOANS

11 Performance of the terms of this Consent Order by Defendant is not conditioned on the receipt of any Federal or State grant or loan funds. In addition, Defendant's performance is not excused by the failure to obtain or the shortfall of any Federal or State grant or loan funds, or by the processing of any applications for the same.

IX. POTENTIAL FORCE MAJEURE

12. If any event occurs which causes or may cause a delay of any requirements of this Consent Order, Defendant shall notify the Ohio EPA in writing within (10) days of the event, describing in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by Defendant to prevent or minimize the delay and the timetable by which measures will be implemented. Defendant will adopt all reasonable measures to avoid or minimize any such delay.

13. In any action by the State of Ohio to enforce any of the provisions of this Consent Order, Defendant may raise that it is entitled to a defense that its conduct was caused by reasons beyond its control such as, by way of example and not limitations, acts of God, strikes, acts of war or civil disturbances. While the State of Ohio does not agree that such a defense exists, it is, however, hereby agreed upon by Defendant and the State of Ohio 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 by the State of Ohio. At that time the burden of proving that any delay was or will be caused by circumstances beyond the control of Defendant shall rest with Defendant. Unanticipated or increased costs associated with the implementation of any action required by this Consent Order, or changed financial circumstances shall not constitute circumstances beyond the control of Defendant, or serve as a basis for an extension of time under this Consent Order. Failure by Defendant to comply with the notice requirements of this Section shall render this Section void and of no force and effect as to the particular incident involved but shall not constitute a waiver of Defendant's right to request an extension of its obligations under this Consent Order based on such incident. An extension of one date based on a particular incident does not mean that Defendant qualifies for an extension of a subsequent date or dates. Defendant must make an individual showing of proof regarding each incremental step or other requirement for which an extension is sought.

X. COURT COSTS

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

XI. ENTRY OF CONSENT ORDER AND FINAL JUDGMENT BY CLERK

15. 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)(2)(iii), which provides for notice of the lodging of this Consent Order, opportunity for public comment, and 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 days of receipt of a bill or notice from Ohio EPA.

16. 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.

IT IS SO ORDERED:

1/3/05
DATE

JUDGE, COURT OF COMMON PLEAS, TRUMBULL COUNTY, OHIO

APPROVED:

JIM PETRO
ATTORNEY GENERAL

BY: _____
STEPHEN P. SAMUELS (0007979)
Schottenstein Zox & Dunn, LPA

BY: _____
TERRJO FINFROCK (0037903)
Assistant Attorney General

1/3/05
Copies sent:
T Finfrock
S Samuels

TO THE CLERK OF COURTS: YOU ARE ORDERED TO SERVE COPIES OF THIS JUDGMENT ON ALL COUNSEL OF RECORD OR UPON THE PARTIES WHO ARE UNREPRESENTED FORTHWITH BY ORDINARY MAIL

JUDGE

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Attorney for Plaintiff
State of Ohio

BY: _____
Authorized Representative of
Defendant Kraft Foods Global, Inc.