

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

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CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA,

Plaintiff,

v.

JONES & LAUGHLIN STEEL CORPORATION,

Defendant.

Civil Action No. C70-1167

DECREE

The Complaint having been filed herein on December 18, 1970 and with plaintiff and defendant by their respective attorneys having consented, without trial or adjudication of any issue of fact or law herein, to the entry of this Decree and without this Decree constituting any evidence or admission by any party hereto with respect to any issue of fact or law herein:

NOW, THEREFORE, before the taking of any testimony, upon the pleadings and without adjudication of any issue of fact or law herein and upon consent of the parties hereto, it is Ordered, Adjudged and Decreed as follows:

I

This Court has jurisdiction of the subject matter herein and of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against the defendant under Section 13 of the Rivers and Harbors Act of 1899 (33 U.S.C. §407).

II

Jones & Laughlin Steel Corporation shall comply with the abatement schedule and all other provisions of the Stipulation signed by the parties on December 16, 1971, and filed with this Court.

III

Unless one of the parties, after giving ten-days written notice to the other party, files a petition to continue this Decree, the Decree and the jurisdiction of this Court over this matter shall terminate two years after the latest effective date of the final discharge requirements. While the Court retains jurisdiction over this matter, either of the parties to this Decree may apply to this Court at any time for any further orders and directions which may be necessary or appropriate, including but not limited to, sanctions for violations of either the Stipulation or this Decree. However, the Stipulation may, at any time and without the necessity of any action by this Court, be amended as often as agreed to by the parties thereto by filing the amendment with this Court.

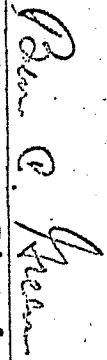
IV

The provisions of this Decree shall apply to Jones & Laughlin Steel Corporation, its officers, directors, agents, servants, employees, successors and assigns, and all persons, firms and corporations acting under, through or for it; in

addition, the provisions of this Decree shall apply to all persons, firms and corporations having actual notice of such order by personal service or otherwise who are in active concert or privity with Jones & Laughlin Steel Corporation, its officers, directors, agents, servants, employees, successors or assigns, or all persons, firms and corporations acting under, through or for it.

DATED: Cleveland, Ohio

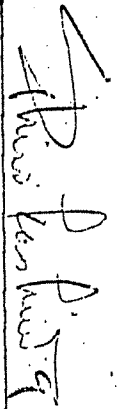
December 16, 1971

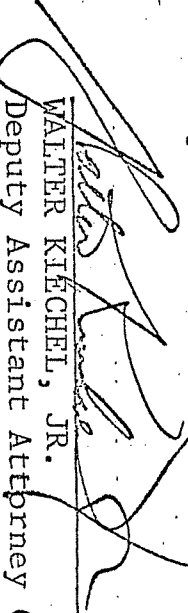

United States District Judge


APPROVED AND CONSENTED TO:

UNITED STATES OF AMERICA, Plaintiff

BY:


SHIRO KASHIMA
Assistant Attorney General
Department of Justice


WALTER KIECHEL, JR.
Deputy Assistant Attorney General
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JONES & LAUGHLIN STEEL CORPORATION, Defendant

BY:

Edward C. Ford

EDWARD C. FORD
General Counsel and Secretary

V. P. Gottschall

V. P. GOTTSCHALL
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JONES & LAUGHLIN STEEL CORPORATION,

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STIPULATION

WHEREAS, notwithstanding a significant program of water quality improvement of more than ten years duration, the Cleveland Works of Jones & Laughlin Steel Corporation was, in 1969, according to test work performed by the Federal Government, discharging into the Guyahoga River as much as 116,000 pounds of total suspended solids, 13,000 pounds of grease and oil, 30 pounds of phenols, and 1,000 pounds of cyanides per day, maximum flows of water from the plant being at that time 1.9 million gallons per day from the sinter plant outfall (89-R-CR), 42.1 million gallons per day from the blast furnace outfalls (87-R-CR and 90-R-CR), 21.3 million gallons per day from the blooming mill and electric furnace outfall (91-R-CR) and 10.3 million gallons per day from the basic oxygen furnace, hot strip mill and cold rolling mill outfalls (96-R-CR and 97-R-CR); and

WHEREAS, after a 180-day notice pursuant to Section 10(c)(5) of the Federal Water Pollution Control Act (33 U.S.C.

\$1151 et seq.) was issued on August 30, 1969, a meeting with the Company was held on October 8, 1969, at which: the cooperation of the Company with local, state and federal environmental programs was noted; new parameters for suspended solids, oil, phenols and cyanides were established; and a timetable for meeting these parameters was agreed upon; and

WHEREAS, a sampling evaluation by the Federal Government in October 1970 indicated that progress had been made but that further abatement action was necessary; and

WHEREAS, this suit was filed to enjoin the waste discharges of the Company into the Cuyahoga River; and

WHEREAS, the Company has undertaken process alterations which are now under construction and which will result in the Company meeting the following interim percentage reductions from discharge levels as determined by the Federal Government in 1969: 76% of the suspended solids, 65% of grease and oil, and 95% of cyanides; and

WHEREAS, the Company has proposed a further, comprehensive treatment program which is intended to eliminate substantially all of the waste discharges to the river, by July 1, 1975, by the employment of the best treatment system that is feasible for the Cleveland Works; and

WHEREAS, the Company is willing to continue its program of waste discharge reduction to aid in the general cleanup of the Cuyahoga River; and

WHEREAS, the parties recognize the complexity of the technical and environmental problems involved in this case and the desirability of focusing all energies on solving rather than litigating these problems.

NOW, THEREFORE, it is hereby stipulated between the parties as follows:

I

As used in this Stipulation:

(A) "Administrator" shall mean the Administrator of the Environmental Protection Agency, or the top administrator or executive of that Agency's successor agency or department, or his authorized representative.

(B) "Chromium" shall mean hexavalent chromium as determined by Method 211 (11) D, page 429, Standard Methods for the Examination of Water and Wastewaters, 13th Edition, 1971, American Public Health Association, New York, New York 10019 (hereinafter "Standard Methods").

(C) "Cleveland Works" shall mean the steelworks of Jones & Laughlin Steel Corporation in the City of Cleveland, at 3341 Jennings Road, consisting of the land, buildings and the equipment for ironmaking, steelmaking, steel processing and accessory operations.

(D) "Company" shall mean Jones & Laughlin Steel Corporation.

(E) "Concentration" shall mean the weight of any given material present in a unit volume of liquid.

(F) "Cyanides" shall mean all of the CN groups in the cyanide compounds as determined by Method 207, page 397, Standard Methods.

(G) "Decree" shall mean the decree as signed, which refers to and controls the implementation of this Stipulation.

(H) "Discharge" shall mean any flow of liquid from the Cleveland Works into the navigable waters of the United States or tributaries of such waters, except as the Company can demonstrate that such flow is created or altered as a result of war, riot, sabotage, act of God or other cause beyond the reasonable control and without the fault of the Company.

(I) "Diversion" shall mean any volitional act by the Company which results in a discharge passing through an outfall different from the outfall through which it would have passed absent such volitional act.

(J) "Intake" shall mean either everything pumped into the Cleveland Works from one or more locations in the Cuyahoga River, or if sense requires, the location at which a Company pump draws from the Cuyahoga River.

(K) "Lead", "Zinc", "Copper", "Nickel" and "Cadmium" shall mean these elements as determined by Method 129, page 211, Standard Methods.

(L) "Monthly average" shall mean the arithmetic average of at least four concentration or net daily loading measurements made during any 30-day period; the calculation of this arithmetic average shall be based upon all measurements that fall within two standard deviations of the mean of all measurements.

(M) "Net Concentration" shall mean the difference between the concentration of a given material in a sample taken from an outfall and the concentration of that material in a sample taken at the intake and/or other source which supplies water to the facilities which use the outfall.

(N) "Net daily loading" shall mean the total amount of a given material passing through an outfall in a 24-hour day, calculated as concentration in the discharge multiplied by the average flow rate of the discharge minus the concentration in the intake and/or other source

from which the water in question enters the Cleveland Works multiplied by the average flow rate of intake water to the systems served by the outfall through which the effluent flows. For the purposes of the calculation in this definition:

- (1) a sample that is taken to determine net concentration shall always be either
 - (a) a 24-hour composite sample made up of at least 6 increments taken at regular intervals throughout the 24 hours, or (b) for the purposes of sampling for, but not limited to, grease and oil, an average of at least 6 individual samples taken at regular intervals throughout a 24-hour period;
 - (2) the volume of one of the six increments in a "24-hour composite sample" shall be related to the volume of each of the other increments in the sample as the flow of the sampled stream when that increment was obtained is related to the flow of the stream when each of the other increments at the point and time each increment or individual sample is taken.

(0) "Oil and Grease" shall mean hexane extractable matter as determined

by the procedures described beginning on page 217 of EPA Methods for Chemical Analysis of Water and Wastes, 1971, Environmental Protection Agency, Water Quality Office, Analytical Control Laboratory, Cincinnati, Ohio.

(P) "Outfall" shall mean any structure, pipe, flume or ditch which carries a discharge.

(Q) "Phenols" shall mean hydroxy derivatives of benzene and its condensed nuclei as determined by Method 222 C, page 504, Standard Methods.

(R) "Total Suspended Solids" shall mean total suspended matter as determined by Method 224 C, page 537, Standard Methods.

II

The Company shall not make or permit any discharge from the following areas of its Cleveland Works to the Cuyahoga River, Lake Erie, or any tributaries thereof except through the following outfalls as designated on the United States Environmental Protection Agency drawing J & L-1, a copy of which is attached hereto:

- (A) from the Sinter Plant, through outfall 89-R-CR;

(B) from the Blooming Mill and Electric Furnace, through outfall 91-R-CR;

(C) from the Blast Furnace, through outfalls 87-R-CR and 90-R-CR;

(D) from the Basic Oxygen Furnace and Hot Strip Mill, through outfall 96-R-CR; and

(E) from the Finishing Mill, through outfall 97-R-CR;

provided, however, that the Company may make or permit a diversion from any designated outfall if the Company notifies the Administrator within 24 hours, excluding weekends and holidays, of any significant diversion and if the augmented discharge does not exceed any discharge limitations of this Stipulation.

III

As of and after the date the Decree becomes effective, the Company shall not make or permit any discharge from outfall 89-R-CR which contains a net daily loading of more than that which would result at a flow of 1.9 million gallons per day from a net concentration of 35 mg/l of total suspended solids.

IV

As of and after the date the Decree becomes effective, the Company shall not make or permit any discharge from outfall 91-R-CR which contains a net daily loading of more than that which would result at a flow of 21.3 million

gallons per day from a net concentration of (a) 100 mg/l of total suspended solids or (b) 20 mg/l of grease and oil. However, the average net daily loading for any 30-day period shall not be more than that which would result at a flow of 21.3 million gallons per day from a net concentration of (a) 65 mg/l of total suspended solids or (b) 10 mg/l of grease and oil; in calculating the average net daily loading for any 30-day period, at least four net daily loading measurements shall be used.

V

As of and after the date the Decree becomes effective, the Company shall not make or permit any discharge from outfall 96-R-CR which has a PH below 6.5 or above 9.0.

VI

Commencing January 30, 1972, the Company shall not make or permit any total discharge from outfalls 87-R-CR and 90-R-CR which contains a net daily loading of more than that which would result at a flow of 42.1 million gallons per day from a net concentration of (a) 35 mg/l of total suspended solids, (b) 5 mg/l of grease and oil, or (c) .1 mg/l of phenols; in addition, commencing January 30, 1972, the Company shall not at any time make or permit any discharge from either of these outfalls which contains a net concentration of more than 15 mg/l of grease and oil.

VII

Commencing January 30, 1972, the Company shall not make or permit any total discharge from outfalls 87-R-CR and 90-R-CR which contains a monthly average net daily loading of more than that which would result at a flow of 42.1 million gallons per day from a net concentration of 0.15 mg/l of cyanides; in addition, commencing January 30, 1972, the Company shall not make or permit discharges from either of these outfalls which contains a monthly average net concentration of more than 0.2 mg/l of cyanides.

VIII

Commencing January 30, 1972, the Company shall not make or permit any total discharge from outfalls 87-R-CR and 90-R-CR which contains a net daily loading of more than that which would result at a flow of 42.1 million gallons per day from a net concentration of (a) 0.03 mg/l of chromium, (b) 0.03 mg/l of lead, (c) 0.06 mg/l of nickel, (d) 0.06 mg/l of copper, (e) 0.006 mg/l of cadmium, or (f) 1.7 mg/l of zinc; in addition, commencing January 30, 1972, the Company shall not at any time make or permit any discharge from either of these outfalls which contains a net concentration exceeding 0.05 mg/l of chromium, 0.05 mg/l of lead, 1.0 mg/l of nickel, 1.0 mg/l of copper, 0.01 mg/l of cadmium, or 5.0 mg/l of zinc.

IX

Commencing August 31, 1972, the Company shall not make or permit any total discharge from outfalls 96-R-CR and

97-R-CR, which contains a net daily loading of more than that which would result at a flow of 10.3 million gallons per day from a net concentration of (a) 35 mg/l of total suspended solids or (b) 5 mg/l of grease and oil; in addition, commencing August 31, 1972, the Company shall not at any time make or permit any discharge from either of these outfalls which contains a net concentration of more than 15 mg/l of grease and oil or a pH below 6.5 or above 9.0.

X

Commencing August 31, 1972, the Company shall not make or permit any total discharge from outfalls 96-R-CR and 97-R-CR which contains a net daily loading of more than that which would result at a flow of 10.3 million gallons per day from a net concentration of (a) 0.05 mg/l of chromium, (b) 0.05 mg/l of lead, (c) 0.06 mg/l of nickel, (d) 0.06 mg/l of copper, (e) 0.6 mg/l of zinc, and (f) 0.01 mg/l of cadmium; in addition, commencing August 31, 1972, the Company shall not make or permit any discharge from either of these outfalls which contains a net concentration of more than 0.05 mg/l of chromium, 0.05 mg/l of lead, 1.0 mg/l of nickel, 1.0 mg/l of copper, 5.0 mg/l of zinc, or 0.01 mg/l of cadmium.

XI

By December 31, 1971, the Company will in good faith submit to the Administrator preliminary plans for the maximum feasible recycling of waters within the Cleveland

Works, including treatment of all blowdown streams, with the objective being the minimization of the discharge from the Cleveland Works of all suspended solids, grease and oil, heavy metals, phenols, cyanides and acid through the implementation of the best feasible treatment available for the Cleveland Works. These preliminary plans shall contain estimates of the attainable minimum discharge of these materials from the proposed recirculation and treatment system and shall also contain a schedule for the complete installation and satisfactory operation of these facilities on or before June 30, 1975. This schedule shall include interim priorities which shall be directed toward minimizing discharges from, initially, outfalls 87-R-CR and 90-R-CR, then outfall 91-R-CR, and finally outfalls 96-R-CR and 97-R-CR.

XIII

Upon submission of the preliminary plans by the Company in accordance with paragraph XI of this Stipulation, the Administrator shall, within 60 days, analyze the plans. The analysis by the Administrator shall be directed toward determining whether the plans submitted by the Company reflect what can be achieved by the best treatment system that is feasible for the Cleveland Works and whether the interim dates are acceptable. If the Administrator determines that the plans reflect the best feasible treatment available for the Cleveland Works and that the interim dates are acceptable, the estimates

of attainable minimum discharges shall become final discharge requirements for discharges from the Cleveland Works, effective no later than July 1, 1975. The accepted interim dates for each of the three areas shall be the dates upon which the final effluent requirements become effective for the discharges from the respective areas.

If the Administrator determines that the plans do not reflect the best feasible treatment, he shall indicate his reasons therefor and make a counterproposal containing at least his counterestimates of the attainable minimum discharge of materials. However, if the Administrator has not submitted his counterproposal within 60 days of the submission of the plans, the estimates of the Company shall become final discharge requirements for the Cleveland Works, effective no later than July 1, 1975. Unless the Company, within 30 days of being notified of the counterproposal, petitions the Court for a hearing, the discharge requirements contained in the counterproposal shall become final, effective no later than July 1, 1975. If a hearing is requested, the parties specifically agree that the issue before the Court is to be the final discharge requirements attainable by the best feasible treatment available for the Cleveland Works, and further agree that the Court-determined requirements shall become effective no later than July 1, 1975.

If the Administrator determines that the interim dates are not acceptable, he must submit to the Company,

within 60 days after the submission specified in paragraph XI hereof, interim dates which are acceptable to him, including an explanation thereof, or the interim dates proposed by the Company shall be deemed to have been accepted. The dates submitted by the Administrator will become operative unless the Company, within 30 days after receipt of the interim dates proposed by the Administrator, petitions this Court for a hearing. If a hearing is requested, both parties shall have the right to submit all relevant evidence, and the Court will then set the interim dates to be no later than July 1, 1975.

XIII

After the adoption of the final discharge requirements and interim dates in accordance with paragraph XII of this Stipulation, the Company shall submit to the Administrator, by either a date specified in the preliminary plans or a subsequent date which is mutually agreed upon, final plans for the proposed recirculation and treatment systems.

XIV

Commencing July 1, 1975 or on any of the interim dates adopted in accordance with paragraph XII of this Stipulation, the Company shall not make or permit any discharge from Cleveland Works which contains a net daily loading exceeding final discharge requirements in effect and adopted in accordance with paragraph XII of this Stipulation. However, in the event of an occurrence beyond the reasonable control and without the

fault of the Company, the dates upon which the final discharge requirements are to become effective, and any of the dates mentioned in paragraphs VI-X of this Stipulation upon which interim discharge requirements are to become effective, shall be extended by filing with this Court an amendment to this Stipulation which specifies the revised dates and the reason for the extensions.

XV

The Company agrees to provide the Administrator with schematic flow diagrams showing all present water sources, general uses of water, waste treatment, and discharges at the Cleveland Works and to inform the Administrator of any significant change in the water system within 24 hours, excluding weekends and holidays, after such change is made.

XVI

This Stipulation shall in no way relieve the Company of its obligation to comply with any other local, State or Federal law in any way related to the substance of this Stipulation.

XVII

In the event that any federal law or regulation supersedes any existing law or regulation by promulgating effluent standards or discharge requirements which are applicable to the Cuyahoga River and which are less stringent than those specified in this Stipulation, the discharge requirements in

this Stipulation shall be deemed to be amended to specify such greater quantities of discharges.

XVIII

Except with regard to actions based on discharges of total suspended solids, grease and oil, phenols, cyanides, acids and heavy metals, the Decree and this Stipulation shall be without prejudice to any right of plaintiff in future proceedings to maintain any civil action against the Company for any discharge of refuse matter made by or from the Cleveland Works during the period when the Decree and this Stipulation are in effect.

XIX

Neither the Decree nor this Stipulation are the permit for discharge of refuse matter required by Section 13 of the Rivers and Harbors Act of 1899 (33 U.S.C. §407), nor shall they in any way affect the obligation of the Company, if any, to secure a permit from the Corps of Engineers under that Section, nor shall they be interpreted, in any way, to affect or waive any of the conditions or requirements that may be validly imposed by the Corps of Engineers as conditions for the issuance of such a permit.

XX

Commencing February 15, 1972, the Company shall, by the 15th of each month, submit to the Administrator a report of sampling and analysis of the discharges from each of the outfalls specified in paragraph II of this Stipulation. Included

in this report shall be estimates of the net daily loading for each of three working days of each week of (1) suspended solids discharged from outfall 89-R-CR, (2) suspended solids and grease and oil discharged from outfalls 91-R-CR, 96-R-CR and 97-R-CR, and (3) suspended solids, grease and oil, phenols and cyanides discharged from outfalls 87-R-CR and 90-R-CR; in addition, this report shall set forth the sampling data and the average flow data relied upon by the Company in estimating each of the net daily loadings reported. Each sample used shall be a 24-hour composite sample consisting of a minimum of 12 equally spaced grab samples. The report shall be signed by the individual who is named by the Works Manager to be responsible for the preparation and accuracy of the report.

XXI

All information or data submitted by the Company to the Administrator pursuant to this Stipulation shall be available to the public unless the Company specifically identifies certain information or data as privileged or confidential and is able to demonstrate to the satisfaction of the Administrator that the disclosure of such information or data to the general public would divulge methods or processes entitled to protection as trade secrets or commercial or financial information and adversely affect the interests of the Company. Whenever the Company has specifically identified certain information or data as entitled to protection and the Administrator disagrees, the

Administrator must give the Company ten days notice before making such information or data public. The Company upon receipt of such notice may then petition the Court for relief.

XXII

For the purpose of insuring compliance with this Stipulation, duly authorized employees and agents of the United States Government shall be permitted to enter the Cleveland Works to measure or cause to be measured any concentration and rate of flow of any discharge or intake at the Cleveland Works, provided that such employees and agents present themselves at gates or proper entry places, show suitable identification and do not interfere with the orderly operation of the Cleveland Works.

APPROVED AND STIPULATED TO

this December , 1971:

UNITED STATES OF AMERICA, Plaintiffs

BY:

SHIRO KASHIMA
Assistant Attorney General
Department of Justice

WALTER KIROHLL, JR.
Deputy Assistant Attorney General
Department of Justice

FREDERICK M. COLLMAN
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Northern District of Ohio

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JONES & LAUGHLIN STEEL CORPORATION, Defendant

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EDWARD C. FORD
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