

FILED  
CLERK OF COURT

2015 DEC 15 PM 2:45

WASHINGTON CO. OHIO

IN THE COURT OF COMMON PLEAS  
WASHINGTON COUNTY, OHIO

STATE OF OHIO, ex rel.	:	CASE NO. 14 OT 270
MICHAEL DEWINE,	:	
ATTORNEY GENERAL OF OHIO	:	JUDGE BURNWORTH
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
COBRA PIPELINE CO., LTD.	:	
	:	
Defendant.	:	

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CONSENT ORDER AND JUDGMENT ENTRY BETWEEN PLAINTIFF STATE OF OHIO AND DEFENDANT COBRA PIPELINE

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Plaintiff, the State of Ohio, through its Attorney General ("Plaintiff"/"the State") and at the written request of the Director of the Ohio Environmental Protection Agency ("the Director"), has filed a Complaint seeking injunctive relief and civil penalties against Defendant Cobra Pipeline for violations of R.C. Chapter 3704 and the rules adopted thereunder. The Parties have consented to the entry of this Order.

Therefore, without trial, admission, or determination of any issue of fact or law and with the consent of the Parties hereto, it is **ORDERED, ADJUDGED, AND DECREED:**

**I. DEFINITIONS**

1. As used in this Consent Order, the following terms are defined:
  - a. "Defendant" means Cobra Pipeline Co. Ltd.
  - b. "Director" means the Director of the Ohio Environmental Protection Agency ("Ohio EPA") or his designee.

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- c. "Parties" means Plaintiff, the State of Ohio, and Defendant, Cobra Pipeline Co., Ltd.
- d. "Person" means an individual, public or private corporation, business trust, estate, trust, partnership, association, federal government or any agency thereof, municipal corporation or any agency thereof, political subdivision or any agency thereof, public agency, interstate body created by compact, any other entity, and other officers, agents, employees, attorneys, and/or those in active concert or participation with any of them.
- e. "The Facility" shall mean Defendant Cobra Pipeline's compressor station located at Township Road 184, Warren Township, in Washington County, Ohio, with Ohio EPA Facility Identification No. 0684020025.
- f. "State" means Plaintiff, the State of Ohio, including the Director, Ohio Environmental Protection Agency, or the Ohio Attorney General on behalf of the State, or any State entity.
- g. "Order" refers to this Consent Order.

## II. JURISDICTION AND VENUE

2. The Court has jurisdiction over the Parties and the subject matter of this action under R.C. Chapter 3704. The Complaint states a claim upon which relief can be granted. Venue is proper in this Court. Defendant shall not challenge the Court's jurisdiction to enter or enforce this Consent Order.

## III. PARTIES BOUND

3. Defendant Cobra Pipeline Co., Ltd. is an Ohio corporation.

4. This Order shall apply to and be binding only upon Defendant, and, to the extent consistent with Civ. R. 65(D), on their agents, officers, employees, contractors, assigns, successors in interest, and those Persons acting in concert, privity, or participation with Defendant who receive actual or constructive notice of this Order whether by personal service, by public record filed in the county land record, or otherwise. Defendant shall provide a copy of this Order to any successor in interest and to each key employee, consultant, or contractor employed to perform work referenced herein or to operate the Facility.

5. This Order is in settlement and compromise of disputed claims and nothing in this Order shall be construed as an admission of any facts or liability.

6. If insolvency or bankruptcy occurs, Defendant must immediately pay any remaining amount as set forth by this Order.

#### **IV. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS**

7. Plaintiff alleges that Defendant is responsible for violations of Ohio's air pollution control laws under R.C. Chapter 3704. Defendant alleges it is not responsible for violations of air pollution control under R.C. Chapter 3704. Compliance with this Order shall constitute full satisfaction of any liability of Defendant to Plaintiff for the claims alleged in Plaintiff's Complaint.

8. Except as specifically provided herein, nothing in this Order, shall limit the authority of the State of Ohio to:

- a. Seek any legal or equitable relief or civil penalties from Defendant or any other appropriate Person for claims or violations not alleged in the Complaint;

- b. Seek any legal or equitable relief or civil penalties from Defendant or any other appropriate Person for claims or conditions that occur or exist after the entry of this Consent Order;
- c. Enforce this Consent Order through a contempt action or otherwise seek relief for violations of this Consent Order; or
- d. Take any action authorized by law against any appropriate person, including Defendant, to eliminate or mitigate conditions at the Facility that may threaten public health or welfare or the environment.

9. This Consent Order does not waive, abridge, settle, compromise, or otherwise impact any other claims in law or equity not the subject of this lawsuit that the State of Ohio, or other Persons, may have against Defendant.

10. Except for the signatories to the Consent Order, nothing in this Consent Order shall constitute or be construed as satisfaction of civil liability, a covenant not to sue, and/or a release regarding the claims alleged, against any Person not a signatory to this Consent Order for any liability such non-signatory(ies) may have arising out of matters alleged in the Complaint. Plaintiff also specifically reserves its right to sue any entity that is not a signatory to this Consent Order., with the exception of Cobra Pipeline, Inc's officers, owners, directors, and assigns for claims arising out of the Complaint.

11. Nothing in this Consent Order shall relieve Defendant of its obligations to comply with applicable federal, state, or local statutes, regulations, rules, or ordinances.

12. Defendant shall not assert and/or maintain, any defense or claim of waiver, *res judicata*, collateral estoppel, issue preclusion, claim splitting, or other defenses based on any contention

that Plaintiff's claims in any subsequent judicial or administrative proceeding could or should have been brought in this case.

#### V. PERMANENT INJUNCTION

13. Defendant is ordered and permanently enjoined to comply with all of Ohio's environmental laws and rules including, but not limited to, Revised Code Chapter 3704 and the rules promulgated thereunder.

#### VI. CIVIL PENALTY

14. Under R.C. 3704.06, Defendant is ordered and enjoined to pay a civil penalty of \$35,000 subject to the provisions set forth in Paragraphs 13 through 16. Payment of \$5,000 shall be made within thirty (30) days of entering this Consent Order. Thereafter, payments of \$5,000 shall be made every thirty days, until the balance of \$35,000 is paid in full.

15. Such payment shall be made by delivering to Scott Hainer, Paralegal, or his successor, Office of the Attorney General, 30 E. Broad St., 25<sup>th</sup> Floor, Columbus, Ohio 43215, a certified check or checks for the appropriate amount, payable to the order of "Treasurer, State of Ohio." The memorandum portion of the check, or some other prominent location on the transmittal letter or documentation, shall include a reference to "Washington County Common Pleas Case No. 14 OT 270."

16. If full payment is not paid as required in Paragraph 14 above, the remaining unpaid balance of the total civil penalty, plus applicable interest in R.C. 131.02(D), shall become immediately due and owing. Any delinquent payments shall accrue interest at the maximum statutory rate under R.C. 5703.47 calculated from the Effective Date of this Consent Order.

The State reserves the right to file a certificate of judgment lien against Defendant for the remaining unpaid balance of the total civil penalty, plus applicable interest per Paragraph 16

above, if the full payment is not paid according to the schedule in Paragraph 14 above. Defendant shall not be permitted to claim a force majeure as an excuse for any untimely payment or partial payment of an amount less than that specified in Paragraph 14.

#### **VII. COMPLIANCE NOT DEPENDENT ON GRANTS OR LOANS**

17. Performance of the terms of this Order by Defendant is not conditioned on the receipt of any private, Federal or State grants, loans, and/or funds. In addition, Defendant's performance is not excused by failing to obtain or any shortfall of any private, Federal or State grants, loans and/or funds or by the processing of any applications for the same.

#### **VIII. EFFECT OF CONSENT ORDER**

18. This Order does not constitute authorization or approval of the construction, installation, modification, or operation of any air contaminant source, source operation, or any building, structure, facility, facility component, operation, installation, disposal or storage site, other physical facility, or real or personal property that emits or may emit any air pollutant or air contaminant not previously approved by Ohio EPA, under the Clean Air Act, or by a permitting authority or its delegates. Approval for any such construction, installation, modification, or operation shall be by permit issued by Ohio EPA or other such permits as may be required by applicable federal, state, or local laws, rules or regulations.

#### **IX. MISCELLANEOUS**

19. Any acceptance by the State of Ohio of any payment, document, or other work due subsequent to the time that the obligation is due under this Order shall not relieve Defendant from the obligations created by this Order.

#### **X. RETENTION OF JURISDICTION**

20. This Court shall retain jurisdiction for the purpose of administering and enforcing this Order.

**XI. ENTRY OF CONSENT ORDER AND JUDGMENT BY CLERK**

21. Under Rule 58 of the Ohio Rules of Civil Procedure, upon signing this Order by the Court, the Clerk is directed to enter it upon the journal. Within 3 days of entering the judgment upon the journal, the Clerk is directed to serve upon all Parties notice of the judgment and its date of entry upon the journal in the manner prescribed by Civ.R. 5(B) and note the service in the appearance docket. The failure of the Clerk to serve notice does not affect the validity of this Order.

**XII. EFFECTIVE DATE**

22. This Consent Order shall be effective upon the date of its entry by the Court.

**XIII. COURT COSTS**

23. Defendant is ordered to pay all court costs of this action.


**XIV. AUTHORITY TO ENTER INTO THE CONSENT ORDER**

24. Each signatory represents and warrants he has been duly authorized to sign this document and is fully authorized to agree to its terms and conditions, and, in the case of a Person signing on behalf of a corporate entity, may so legally bind the corporate entity to all terms and conditions in this document.

**IT IS SO ORDERED.**

12 - 15 - 15  
DATE

DEC 15 2015

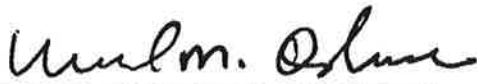
  
\_\_\_\_\_  
**JUDGE BURNWORTH**  
Washington County Court of Common Pleas

THE CLERK IS DIRECTED TO SERVE ALL  
INTERESTED PARTIES AND ATTORNEYS A  
COPY OF THIS FINAL APPEALABLE JUDGMENT

**JM** 2655

**APPROVED AND AGREED TO BY:**

COBRA PIPELINE CO., LTD.



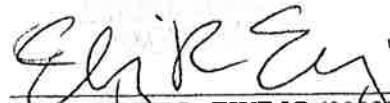
*Authorized Representative of Defendant  
Cobra Pipeline Co., Ltd.*



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