

FILED
COMMON PLEAS COURT
DARKE COUNTY, OHIO

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ELSIE A. STENTZEL
CLERK

IN THE COURT OF COMMON PLEAS
DARKE COUNTY, OHIO

STATE OF OHIO,
ex rel. LEE FISHER
ATTORNEY GENERAL OF OHIO,

Plaintiff,

vs.

CITY OF GREENVILLE,

Defendant.

CASE NO. 52318

JUDGE _____

CONSENT ORDER

The Complaint in the above-captioned matter having been filed herein, and the Plaintiff, State of Ohio, by its Attorney General, Lee Fisher (hereinafter "Plaintiff") and Defendant City of Greenville (hereinafter "Greenville") having consented to the entry of this Order,

NOW THEREFORE, without trial of any issue of fact or law, and upon consent of the parties hereto, it is hereby **ORDERED, ADJUDGED** and **DECREED** 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 Greenville under Chapter 6111. of the Ohio Revised Code. Venue is proper in this Court.

II. PARTIES

2. The provisions of this Consent Order shall apply to and be binding upon the parties to this action, their agents, officers, employees, assigns, successors in interest and any person acting in concert or privity with any of them. Defendant Greenville shall provide a copy of this Consent Order to each general contractor it employs to perform work itemized herein, and each general contractor shall provide a copy of this Consent Order to each of its subcontractors for such work.

III. SATISFACTION OF LAWSUIT

3. Plaintiff alleges in its Complaint that Defendant Greenville has operated its wastewater treatment plant and sewer system in such a manner as to result in numerous violations of the NPDES permit issued to it by the Director of Ohio EPA and in violation 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 Greenville for all claims under such laws alleged in the Complaint. Nothing in this Order shall be construed to

limit the authority of the State of Ohio to seek relief for claims or conditions not alleged in the Complaint, including violations which occur after the filing of the Complaint.

IV. COMPLIANCE SCHEDULE

4. Defendant Greenville is hereby enjoined and ordered to immediately comply with the requirements of Chapter 6111. of the Ohio Revised Code and the terms and conditions of the rules and regulations adopted under that Chapter, as well as its currently effective NPDES permit No. 1PD00005*GD, and any renewals or modifications thereof, except that overflows and bypasses from siphon Q-3 shall be eliminated by November 17, 1991. After November 17, 1991, there shall be no overflows or bypasses from siphon Q-3.

V. CONSTRUCTION SCHEDULE: Q-3 SIPHON PROJECT

5. Defendant Greenville is enjoined and ordered to eliminate discharges from overflows and bypasses from its sanitary sewer system in accordance with the following schedule:

<u>TASK</u>	<u>COMPLETION DATE</u>
(a) Initiation of Project Design Work	Complete
(b) Submittal of Approvable Plans and Specifications to Ohio EPA	Complete
(c) Advertisement of Building Bids	Complete
(d) Execution of Building Contracts	Complete
(e) Initiation of Construction	July 1, 1991
(f) Completion of Construction so as to ensure the elimination of bypasses and overflows from siphon Q-3	November 17, 1991
(g) Elimination of overflows and bypasses from siphon Q-3	November 17, 1991

Within seven (7) days from each completion date listed above, Defendant Greenville shall submit a written report stating whether or not Defendant Greenville has performed the action set forth therein to Ohio EPA's Southwest District Office.

VI. CONSTRUCTION SCHEDULE - TREATMENT PLANT UPGRADE

6. Defendant Greenville is enjoined and ordered to complete construction of the improvements to its wastewater treatment plant so as to maintain compliance with the final effluent limitations of NPDES permit No. 1PD00005*GD, and any modifications or renewals thereof, in accordance with the following schedule:

<u>TASK</u>	<u>COMPLETION DATE</u>
(a) Initiation of Project Design Work	July 1, 1991
(b) Submittal of Approvable Plans and Specifications to Ohio EPA	May 1, 1992
(c) Advertisement of Building Bids	June 1, 1992
(d) Execution of Building Contracts	August 1, 1992
(e) Initiation of Construction	October 1, 1992
(f) Completion of Construction of sufficient wetstream treatment facilities so as to maintain compliance with final effluent limits	October 1, 1993

Within seven (7) days from each completion date listed above, Defendant Greenville shall submit a written report stating whether or not Defendant Greenville has performed the action set forth therein to Ohio EPA's Southwest District Office.

VII. EFFECT OF CONSENT ORDER

7. This Consent Order does not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing treatment works or sewer system. Approval for any such construction or modification 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.

VIII. CIVIL PENALTY

8. Defendant Greenville shall pay to the State of Ohio a civil penalty of ten thousand dollars (\$10,000.00). The penalty shall be paid by delivering to counsel for Plaintiff a certified check for that amount, payable to the order of "Treasurer, State of Ohio," within forty-five (45) days from the date of entry of this Consent Order.

IX. STIPULATED PENALTIES

9. In the event that Defendant Greenville fails to meet any of the requirements of this Consent Order set forth in paragraphs 5 or 6, including any scheduled milestone requirement, the Defendant shall immediately and automatically be liable for and shall pay stipulated penalties according to the following payment schedule. For each day of each failure to meet a requirement, up to thirty (30) days - two hundred fifty dollars (\$250.00) per day for each requirement not met. For each day of each failure to meet a requirement, from

thirty-one (31) to sixty (60) days - five hundred dollars (\$500.00) per day for each requirement not met. For each day of each failure to meet a requirement, from sixty-one (61) to ninety (90) days - one thousand dollars (\$1,000.00) per day for each requirement not met. For each day of each failure to meet a requirement, over ninety (90) days - two thousand five hundred dollars (\$2,500.00) per day for each requirement not met.

10. In the event that Defendant Greenville fails to meet any of the requirements of this Consent Order set forth in paragraph 4, the Defendant shall immediately and automatically be liable for and shall pay a stipulated penalty of one thousand five hundred dollars (\$1,500.00) per day for each requirement not met. The Defendant shall be liable for an additional stipulated penalty of one thousand five hundred dollars (\$1,500.00) per day for each requirement not met if the failure to comply continues for more than thirty (30) days, i.e., three thousand dollars (\$3,000.00) per day for each requirement not met. In the event that failure to comply continues more than sixty (60) days, Defendant shall be liable for an additional two thousand dollars (\$2,000.00) per day for each requirement not met, i.e., five thousand dollars (\$5,000.00) per day for each requirement not met.

11. Any payment required to be made under the provisions of paragraphs 9 or 10 of this Consent Order shall be made by

delivering to Plaintiff's counsel a certified check or checks for the appropriate amounts, within forty-five (45) days from the date of the failure to meet the requirement of the Consent Order, which check or checks should be made payable to "Treasurer, State of Ohio."

X. COMPLIANCE NOT DEPENDENT ON GRANTS OR LOANS

12. Performance of the terms of this Consent Order by Defendant Greenville is not conditioned on the receipt of any federal or state grant funds or loans. In addition, Defendant Greenville's performance is not excused by the failure to obtain or shortfall of any federal or state grant funds or loans, or by the processing of any applications for the same.

XI. POTENTIAL FORCE MAJEURE

13. In any action to enforce any of the provisions of this Consent Order, Defendant Greenville may raise at that time the question of whether it is entitled to a defense that its conduct was caused by reasons beyond its control such as, by way of example and not limitation, act of God, unusually severe weather conditions, strikes, acts of war or civil disturbances, or orders of any regulatory agency. While Plaintiff does not agree that such a defense exists, it is, however, hereby agreed upon by the parties 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. Acceptance of this Consent Order without a force majeure clause does not constitute a waiver by Defendant of any rights or defenses it may have under applicable law.


XII. RETENTION OF JURISDICTION

14. The Court will retain jurisdiction of this action for the purposes of overseeing that Defendant Greenville complies with this Consent Order and of making any order or decree which it deems appropriate to carry out this Consent Order.

XIII. COSTS

15. Defendant Greenville is hereby ordered to pay the costs of this action.

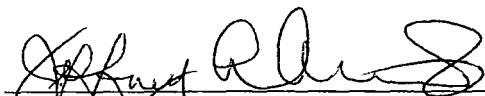
ENTERED THIS 27th DAY OF September, 1991.




JUDGE, DARKE COUNTY COURT OF
COMMON PLEAS

APPROVED:

STATE OF OHIO,
ex rel. LEE FISHER
ATTORNEY GENERAL OF OHIO



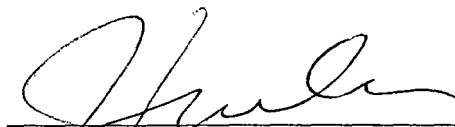
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Counsel for Defendant
City of Greenville

Counsel for Plaintiff
State of Ohio



Authorized Representative of
the City of Greenville

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DARKE COUNTY, OHIO

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IN THE COURT OF COMMON PLEAS ELSIE A. STENTZEL
DARKE COUNTY, OHIO CLERK

STATE OF OHIO, ex rel.	:	CASE NO. 52318
LEE FISHER	:	
ATTORNEY GENERAL OF OHIO,	:	JUDGE LEE A. BIXLER
	:	
Plaintiff,	:	<u>AMENDED CONSENT ORDER</u>
	:	
vs.	:	
	:	
CITY OF GREENVILLE,	:	
	:	
Defendant.	:	

The Complaint in the above-captioned matter having been filed on September 27, 1991, and the Plaintiff, State of Ohio, by its Attorney General, Lee Fisher (hereinafter "Plaintiff") and Defendant City of Greenville (hereinafter "Greenville") having consented to the entry of an Order on that same date, the parties now wish to Amend the Consent Order of September 27, 1991. The provisions of that Consent Order shall remain in effect except that paragraphs 4, 9 and 10 are amended as follows:

IV. COMPLIANCE SCHEDULE

4. Defendant Greenville is hereby enjoined and ordered to immediately comply with the requirements of Chapter 6111. of

the Ohio Revised Code and the terms and conditions of the rules and regulations adopted under that Chapter, as well as its currently effective NPDES permit No. 1PD00005*GD, and any renewals or modifications thereof, except that overflows and bypasses from siphon Q-3 shall be eliminated by November 17, 1991. After November 17, 1991, there shall be no overflows or bypasses from siphon Q-3. Between the effective date of this Amended Consent Order and October 1, 1993, Defendant is enjoined to comply with the interim effluent limitations set forth in Appendix "A" attached hereto. The interim effluent limits contained in Appendix "A" do not constitute an NPDES permit or a modification of any existing permit. After October 1, 1993, Defendant Greenville is enjoined to meet the final effluent limitations set forth in NPDES permit No. 1PD00005*GD and any renewals or modifications thereof. Defendant is further enjoined to complete the upgrades on its oxidation ditches as soon as practicable, but no later than October 1, 1993.

XI. STIPULATED PENALTIES

9. In the event that Defendant Greenville fails to meet any of the requirements of this Amended Consent Order set forth in paragraphs 5 or 6, including any scheduled milestone requirements, or violates any interim effluent limitation contained in Appendix "A", the Defendant shall immediately and

automatically be liable for and shall pay stipulated penalties according to the following payment schedule. For each day of each failure to meet a requirement, up to thirty (30) days - two hundred fifty dollars (\$250.00) per day for each requirement not met. For each day of each failure to meet a requirement, from thirty-one (31) to sixty (60) days - five hundred dollars (\$500.00) per day for each requirement not met. For each day of each failure to meet a requirement, from sixty-one (61) to ninety (90) days - one thousand dollars (\$1,000.00) per day for each requirement not met. For each day of each failure to meet a requirement, over ninety (90) days - two thousand five hundred dollars (\$2,500.00) per day for each requirement not met.

10. In the event that Defendant Greenville fails to meet any of the requirements of this Amended Consent Order set forth in paragraph 4, excluding the interim effluent limits contained in Appendix "A", the Defendant shall immediately and automatically be liable for and shall pay a stipulated penalty of one thousand five hundred dollars (\$1,500.00) per day for each requirement not met. The Defendant shall be liable for an additional stipulated penalty of one thousand five hundred dollars (\$1,500.00) per day for each requirement not met if the failure to comply continues for more than thirty (30) days, i.e., three thousand dollars (\$3,000.00) per day for each

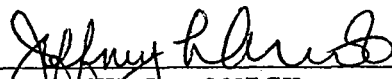
requirement not met. In the event that failure to comply continues more than sixty (60) days, Defendant shall be liable for an additional two thousand dollars (\$2,000.00) per day for each requirement not met, i.e., five thousand dollars (\$5,000.00) per day for each requirement not met.

ENTERED THIS _____ DAY OF _____, 1993

JUDGE, DARKE COUNTY
COURT OF COMMON PLEAS

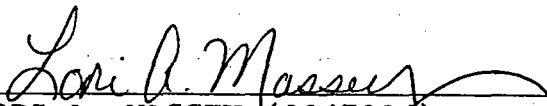
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Counsel for Plaintiff
State of Ohio



Authorized Representative of
the City of Greenville

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APPENDIX A

INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning on the effective date of these orders and lasting until October 1, 1993, the permittee is authorized to discharge in accordance with the following limitations and monitoring requirements from the following outfall: 1PD00005001

<u>EFFLUENT CHARACTERISTIC</u>			<u>DISCHARGE LIMITATIONS</u>				<u>MONITORING REQUIREMENTS</u>	
<u>REPORTING Code</u>	<u>UNITS</u>	<u>PAR</u>	<u>Concentration</u>		<u>Loading(*)</u>		<u>Meas. Freq.</u>	<u>Sample Type</u>
			<u>Other</u>	<u>Units (specify)</u>	<u>kg/day</u>	<u>kg/day</u>		
			<u>30 day</u>	<u>7 day</u>	<u>30 day</u>	<u>7 day</u>		
00010	°C	Temp.	-	-	-	-	Daily	Cont.
50050	MGD	FLOW	-	-	-	-	Daily	Cont.
00530	mg/l	TSS	30	45	398	597	3/wk	Comp.
00550	mg/l	Oil and Grease	Not to exceed 10 at any time				1/wk	Grab
00610	mg/l	Ammonia (N)	-	-	-	-	3/wk	Comp.
31616	Count /100 ml (summer)	Fecal Coliform	1000	2000	-	-	3/wk	Grab
80082	mg/l	CBOD ₅	25	40	332	531	3/wk	Comp.

2. The pH (Reporting Code 00400) shall not be less than 6.5 S.U. nor greater than 9.0 S.U. and shall be monitored daily by grab samples.

3. If the entity uses chlorine for effluent disinfection, the Chlorine Residual (Reporting Code 50060) shall be monitored daily by grab samples and shall not exceed 0.5 mg/l. (Summer Only)

4. The Dissolved Oxygen (Reporting Code 00300) shall be monitored daily by grab samples and shall not be less than 5.0 mg/l.

* The average effluent loading limitations are established using the following flow value: 3.5 MGD