



Lockland Plant, so long as such acquisition does not include or relate to the transfer or acquisition of stock or other indicia of ownership in Jefferson Smurfit, or any subsidiary or division of Jefferson Smurfit, including its Boxboard Mill Division.

### **III. SATISFACTION OF LAWSUIT**

3. Plaintiff alleges in its Complaint that Defendant has operated its air contaminant sources located at its Lockland Plant, located in Lockland, Ohio, in such a manner as to result in violations of R.C. Chapter 3704 and the rules promulgated thereunder. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability of Defendant for the violations of R.C. Chapter 3704 and regulations adopted thereunder alleged in the Complaint. This Order does not limit the authority of the State of Ohio to seek relief for any claim not alleged in the Complaint, including violations which occur after the filing of the Complaint. Nothing in this Consent Order shall release Defendant of its obligation to comply with applicable state or local statutes, rules, or ordinances.

### **IV. DEFINITIONS**

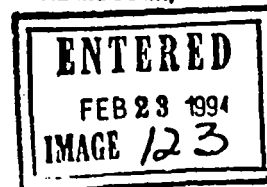
4. Unless otherwise stated, all terms used in these Orders shall have the same meaning as used in R.C. Chapter 3704 and the regulations adopted thereunder.

5. "Lockland Plant" means Jefferson Smurfit Corporation's Boxboard Mill Division recycled paperboard mill located at 401 South Cooper Avenue, Lockland, Hamilton County, Ohio.

6. "Source B001" and "Source B002" are Jefferson Smurfit's two coal-fired boilers located at the Lockland Plant, and identified by permit numbers 1431260057B001 and 1431260057B002, respectively.

### **V. INJUNCTION**

7. Defendant agrees to and is enjoined and ordered to comply with the requirements of R.C. Chapter 3704, rules adopted under that Chapter, and the terms and conditions specified in its currently effective permits, and any permit renewals or modifications. Specifically, Defendant is enjoined and ordered to operate its two air contaminant sources located at its Lockland Plant,



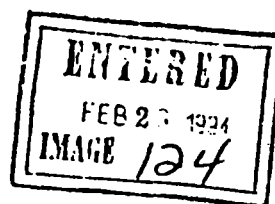
Source B001 and Source B002, until February 14, 1994 in compliance with Ohio Administrative Code ("O.A.C.") Rules 3745-17-07, 3745-17-10, and 3745-35-02(A), R.C. Section 3704.05(G), and the special terms and conditions specified in its currently effective permits, and any permit renewals or modifications.

8. After February 14, 1994, Defendant Jefferson Smurfit shall permanently cease to operate its two air contaminant sources, sources B001 and B002, located at its Lockland Plant, except Jefferson Smurfit may operate either source solely for the purpose of space heating its Lockland Plant. That is, after February 14, 1994, Jefferson Smurfit shall not operate its two air contaminant sources for purposes of production.

9. If Defendant Jefferson Smurfit transfers its permits for sources B001 and B002 to another party, then Jefferson Smurfit shall notify Ohio EPA in writing of any such transfer pursuant to O.A.C. Rule 3745-35-02(D)(3). The notification shall include the name of the transferee and the date the transfer occurred, and shall be due within seven (7) days of the transfer event.

10. Defendant Jefferson Smurfit shall give copies of this Consent Order and the accompanying Complaint to any permit transferee or anyone who buys or otherwise takes possession or control of the Lockland Plant prior to the final transfer of ownership or control of the Lockland Plant.

11. Pursuant to 40 C.F.R. Parts 60.7 and 60.13(h), Jefferson Smurfit shall submit a final report to the Hamilton County Department of Environmental Services, Air Quality Programs (HCDOES") documenting all instances of opacity values for Source B001 in excess of the 20 percent limitation in OAC Rule 3745-17-07(A)(1)(a). Jefferson Smurfit shall submit the quarterly excess emission report by March 1, 1994. The quarterly report shall address data obtained during the period from January 1, 1994 through February 14, 1994.



#### **VI. RIGHT OF ENTRY**

12. Jefferson Smurfit shall allow the State of Ohio, its agents and employees to enter into and onto the facility at any reasonable time, without a search warrant, to inspect the facility. Nothing in this Consent Order shall be construed to limit the State's statutory, rule or permit authority under R.C. Chapter 3704 and the rules adopted thereunder to conduct inspections or surveys, or to review facility records.

#### **VII. CIVIL PENALTIES**

13. Defendant shall pay the State of Ohio a civil penalty of one hundred and nine thousand dollars (\$109,000). Defendant shall pay said penalty by delivering to Matthew Sanders, Administrative Assistant, a certified or cashiers check in the amount stated made payable to "Treasurer, State of Ohio". Defendant shall deliver said check within thirty (30) days from the date of entry of this Consent Order.

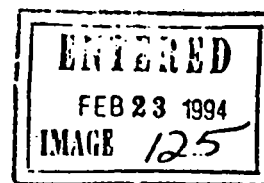
#### **VIII. ENFORCEMENT COSTS**

14. Defendant shall pay the enforcement costs of the Ohio Attorney General expended in pursuing the instant action, totaling thirteen thousand dollars (\$13,000), by delivering a certified or cashiers check in such an amount for payment into the State Treasury made payable to the order of "Treasurer, State of Ohio" to Matthew Sanders, Administrative Assistant, within thirty (30) days after entry of the instant Consent Order. Any check submitted in compliance with this Section shall be in addition to and separate from any check submitted pursuant to any other section of this Consent Order.

#### **IX. STIPULATED PENALTIES**

15. If Defendant fails to meet any of the requirements of this Consent Order set forth in paragraphs 13 and 14, Defendant shall be liable for payment of and shall pay a stipulated penalty according to the following payment schedule:

- a) For each day of each failure to meet a requirement, up to thirty (30) days, five hundred dollars (\$500.00) per day for each requirement not met.



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

16. Any payment required to be made under the provisions of paragraph 15 of this Order shall be made by delivering to Matthew Sanders, Administrative Assistant, a certified or cashiers check or checks for the appropriate amounts made payable to "Treasurer, State of Ohio", within thirty (30) days from the date of the failure to meet the requirements of the Consent Order.

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

17. This Court shall retain jurisdiction of this action for the purpose of enforcing this Consent Order.

#### **XI. MISCELLANEOUS**

18. This Order shall be effective upon the date of entry by the Court.

19. All documents submitted pursuant to paragraphs 13, 14, and 15 shall be submitted to:

Matthew Sanders, Administrative Assistant  
Environmental Enforcement  
30 East Broad Street, 25th Floor  
Columbus, Ohio 43266-0410

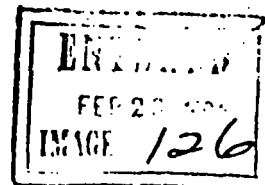
Payment shall be deemed made when postmarked.

20. All documents submitted pursuant to paragraph 9 and 11 shall be submitted to:

Hamilton County Department of Environmental Services,  
Air Quality Programs  
1632 Central Parkway  
Cincinnati, Ohio 45210

With prior approval of Ohio EPA, reports may be submitted by fax to be followed by hard copy.

21. Defendant shall pay all court costs in this action.




IT IS SO ORDERED.

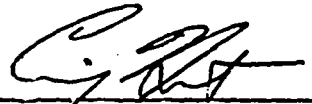
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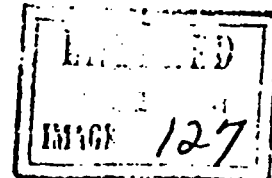
  
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JUDGE, COURT OF COMMON PLEAS

LEE FISHER  
ATTORNEY GENERAL OF OHIO

  
Jean R. Koolstra (0055226)  
Assistant Attorney General  
Environmental Enforcement  
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(614) 466-2766

Attorney for Plaintiff

  
\_\_\_\_\_  
Authorized Representative  
Jefferson Smurfit Corporation  
Craig A. Hunt  
Assistant Secretary  
8182 Maryland Avenue  
Clayton, MO 63105



STATE OF OHIO, COUNTY OF HAMILTON  
COURT OF COMMON PLEAS

THIS IS TO CERTIFY THAT THE FOREGOING  
IS A TRUE AND CORRECT COPY OF THE  
DOCUMENT ON FILE IN THIS OFFICE ENTERED

2-23-1994

WITNESS MY HAND AND SEAL OF SAID COURT  
THIS 3-8-1994

AMES CISSELL, CLERK OF COURTS  
BY Jing Jang Chun  
DEPUTY CLERK

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