

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

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

Plaintiff,

v.

OHIO STEEL INDUSTRIES
2575 Ferris Road
Columbus, Ohio 43224

Defendant.

CASE NO. 94CVH-02-1006

JUDGE CAIN

CONSENT ORDER

TERMINATION NO. 12
BY _____

The Complaint in the above-captioned matter having been filed herein, and Plaintiff State of Ohio by its Attorney General Lee Fisher (hereinafter Plaintiff") and Defendant Ohio Steel Industries (hereinafter "Defendant") 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:

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I. JURISDICTION AND VENUE

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

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FRANKLIN COUNTY, OHIO

thereunder. Venue is proper in this Court.

II. PERSONS BOUND BY THE ORDER

2. All terms and provisions of this Consent Order shall apply to and be binding upon Defendant and its assigns, successors in interest, agents, representatives, servants, employees, officers, directors, subsidiaries or divisions, and/or all persons, firms, or corporations who are or will be acting in active concert or participation with the Defendant.

III. SATISFACTION OF LAWSUIT

3. Plaintiff alleges in its Complaint that Defendant has discharged industrial waste, sewage and other wastes in such a manner as to result in violations of the water pollution laws of the State of Ohio. Defendant denies the violations of law and substantive facts alleged in the Complaint. Defendant has agreed to the terms of this consent order for the purpose of avoiding further litigation and the terms of this consent order shall not constitute an admission as to any violation of the law alleged in the complaint. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Defendant for the claims under such laws as alleged in the Complaint against Defendant.

Nothing in this Consent Order shall be construed so as 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. 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 which may present a threat to the public health, welfare or the environment.

IV. PERMANENT INJUNCTION

4. Defendant is hereby immediately and permanently enjoined and ordered to comply with all applicable provisions contained in Chapter 6111 of the Ohio Revised Code and the rules promulgated thereunder. Defendant is also permanently enjoined and ordered to refrain from further discharge or placement of industrial wastewater from its facility, which is located at 2527 Ferris Road, Franklin County, Ohio, to a location where the wastewater may cause pollution of any waters of the State, except pursuant to a valid and unexpired permit authorized by Sections 6111.03 or 6111.04 of the Ohio Revised Code or pursuant to an indirect discharge permit issued by the City of Columbus.

V. DISCHARGE TO COLUMBUS SEWER SYSTEM

5. Defendant shall discharge all industrial wastewater to the City of Columbus publicly owned treatment works consistent with applicable permits, the City sewer use ordinance and, shall prevent further discharge of industrial wastewater to waters of the State.

VI. PRETREATMENT

6. Defendant shall comply with any applicable pretreatment program requirements for discharges to the City of Columbus publicly owned treatment works, including but not limited to the requirements given in Rules 3745-3-04, 3745-

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3-06 and 3745-3-12 of the Ohio Administrative Code and pursuant to any permit issued by the City of Columbus under the pretreatment program.

VII. VOLUMETRIC MONITORING

7. Defendant shall continue to operate the water meters installed on all water lines associated with manufacturing and assembly processes and shall, at a minimum, take monthly readings of the meters and maintain records of such readings at Defendant's facility. Defendant shall make the records available to the Ohio EPA and the City of Columbus upon request. Defendant shall maintain records at least three (3) years from the date the records are generated.

VIII. PAYMENT PURSUANT TO R.C. 6111.09

8. It is hereby ordered that Defendant shall pay to the State of Ohio, pursuant to R.C. 6111.09, One Hundred Twenty Five Thousand Dollars (\$125,000.00). This payment shall be paid by certified check for that amount, made payable to "Treasurer, State of Ohio, which check shall be delivered by mail, or otherwise, to Matt Sanders, Administrative Assistant, or his successor, at the Ohio Attorney General's Office, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428, within forty-five (45) days of the Court's Entry of this Consent Order.

IX. STIPULATED PENALTIES

9. In the event that Defendant fails to meet any of the requirements of this Consent Order set forth in Paragraph four (4) and seven (7), Defendant shall immediately and automatically be liable for and shall pay a stipulated penalty for

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COLUMBIAN COURT
FRANKLIN COUNTY, OHIO

each violation according to the following payment schedule: (a) for each day of each failure to meet each requirement, up to thirty (30) days -- Two Hundred Fifty Dollars (\$250.00) per each day for each requirement not met; (b) for each day of each failure to meet each requirement, from thirty-one (31) to sixty (60) days-- Five Hundred Dollars (\$500.00) per day for each requirement not met; (c) for each day of each failure to meet each requirement, from sixty-one (61) to ninety (90) days -- One Thousand Dollars (\$1,000.00) per each day for each requirement not met; (d) for each day of each failure to meet each requirement, from ninety (90) to one hundred twenty (120) days--Two Thousand Five Hundred Dollars (\$2,500.00) per each day for each requirement not met; (e) for each day of each failure to meet each requirement, over one hundred twenty (120) days -- Three Thousand Five Hundred Dollars (\$3,500.00) per each day for each requirement not met.

10. In the event Defendant violates Paragraph five (5) by discharging any industrial waste into any waters of the state, Defendant shall immediately and automatically be liable for and shall pay a stipulated penalty according to the following payment schedule: (a) for each day of each failure to comply, up to sixty (60) days -- Five Thousand Dollars (\$5,000.00) per day for each violation; (b) for each day of each failure to comply, from sixty-one (61) to two hundred forty (240) days -- Ten Thousand Dollars (\$10,000.00) per day of each violation.

11. In the event Defendant violates any provision of Paragraph six (6) or violates paragraph five (5) in any way other than that mentioned in paragraph ten (10), Defendant shall immediately and automatically be liable for and shall pay a

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stipulated penalty according to the following payment schedule: (a) for each day of each violation of each pretreatment standard, up to thirty (30) days -- Five Hundred Dollars (\$500.00) per each day for each violation; (b) for each day of each violation of each pretreatment standard, from thirty-one (31) to sixty (60) days -- One Thousand Dollars (\$1,000.00) per each day for each violation; (c) for each day of each violation of each pretreatment standard, from sixty-one (61) to ninety (90) days -- Two Thousand Dollars (\$2,000.00) per each day for each violation; (d) for each day of each violation of each pretreatment standard, from ninety (90) to one hundred twenty (120) days -- Four Thousand Dollars (\$4,000.00) per each day for each violation; (e) for each day of each violation of each pretreatment standard, over one hundred twenty (120) days -- Eight Thousand Dollars (\$8,000.00) per each day for each violation.

12. Any payment required to be made under the provisions of Paragraphs nine (9) through eleven (11) of this Consent Order shall be made by delivering to Matt Sanders, Administrative Assistant, or his successor, at the Ohio Attorney General's Office, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428, 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, made payable to the order of "Treasurer, State of Ohio".

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X. TERMINATION OF STIPULATED PENALTY PROVISIONS

13. The stipulated penalty provisions contained in Section IX shall terminate on a date not earlier than forty-eight (48) months from the date of the court's approval of this consent order, provided Defendant is able to demonstrate to the satisfaction of the State that it has been in total compliance with all terms of this consent order during the aforementioned forty-eight (48) month period. Should Defendant not demonstrate that it has been in total compliance with the consent order for this forty-eight (48) month period, it must demonstrate to the State that it is in total compliance with all terms of this consent order for some other consecutive forty-eight (48) month period occurring entirely after the entry of this consent order in order to terminate the stipulated penalty provisions of this consent order. Once Defendant feels that total compliance with all terms of this consent order has been maintained for a forty-eight (48) month period, Defendant may notify the Ohio EPA of its alleged total compliance over such forty-eight (48) month period and request that the Ohio EPA evaluate and respond, in writing, within sixty (60) days of said notice to Defendant's assertion of total compliance. If within sixty (60) days of said notice the Ohio EPA fails to respond in writing to or disagrees with Defendant's assertion of total compliance, Defendant may move the court to terminate the stipulated penalty provisions contained in Section IX of this consent order. Provided the court finds that Defendant has maintained total compliance with all terms of this consent order for a consecutive forty-eight (48) month period,

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the court may order the termination of the stipulated penalty provisions contained in Section IX.

14. Defendant is hereby permanently enjoined and ordered to deliver any notice or submission to the Ohio EPA required by paragraph 13 of this consent order to each of the following addresses:

- a. Ohio EPA
Central District Office
3232 Alum Creek Drive
Columbus, Ohio 43207-3461
Attn: Larry Korecko or his successor
- b. Ohio EPA
Division of Water Pollution Control
P.O. Box 1049
1800 Watermark Drive
Columbus, Ohio 43266-0149
Attn: James Mehl, or his successor

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15. Any notice or submission to Defendant required by paragraph 13 of this consent order shall be delivered to:

William A. Hays
President
Ohio Steel Industries
2575 Ferris Road
Columbus, Ohio 43224

XI. ATTORNEY GENERAL'S ENFORCEMENT COSTS

16. For Plaintiff's Attorney General's enforcement costs in investigating and prosecuting this case, Defendant shall reimburse the Attorney General's Office in the amount of Ten Thousand Dollars (\$10,000.00). This reimbursement shall be paid by delivering a certified check for that amount payable to the order of

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"Treasurer, State of Ohio" within seven (7) days of Court's entry of this Consent Order in the manner provided for in paragraph twelve (12).

XII. RETENTION OF JURISDICTION

17. The court will retain jurisdiction of this action for the purpose of enforcing this Consent Order.

XIII. COURT COSTS

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



JUDGE, COURT OF COMMON PLEAS,
FRANKLIN COUNTY, OHIO

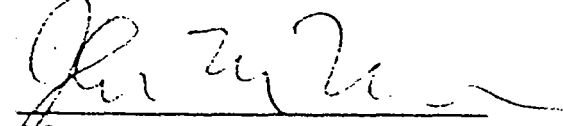
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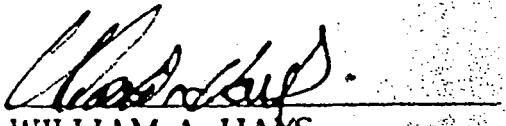
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○ Approved:

LEE FISHER
ATTORNEY GENERAL OF OHIO

OHIO STEEL INDUSTRIES, INC.

BY: 

BY: 

JOHN K. McMANUS (0037140)
SUSAN C. KROEGER (0059311)
Assistant Attorneys General
Environmental Enforcement
Section, 25th Floor
30 East Broad Street
Columbus, Ohio 43266-0410

WILLIAM A. HAYS
President
Ohio Steel Industries
2575 Ferris Road
Columbus, Ohio 43224

Approved as to form:

BY: 

CHARLES H. WATERMAN III
JAMES J. HUGHES, III
Bricker & Eckler
100 S. Third Street
Columbus, Ohio 43215-4291

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