

IN THE COURT OF COMMON PLEAS
CLERMONT COUNTY, OHIO

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

Plaintiff,

vs.

VILLAGE OF NEW RICHMOND

Defendant.

CASE NO. 94CV0657

JUDGE

CONSENT ORDER

SEP 29 11:53

FIL 50

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 Village of New Richmond(hereinafter "New Richmond") 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 under Chapter 6111 of the Ohio Revised Code, and venue is proper in this Court.

II. PARTIES

2. The provisions of this Consent Order shall apply 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 New Richmond shall provide a copy of this Consent Order to each contractor it employs to perform work itemized herein, and each general contractor shall provide a copy of this Consent Order to each of its sub contractors for such work.

III. SATISFACTION OF LAWSUIT

3. Plaintiff alleges in its Complaint that Defendant has operated its wastewater treatment plant and sewer system in such a manner as to result in numerous violations of the discharge limitations and monitoring requirements of the NPDES Permit issued to it by the Director of Environmental Protection 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 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 New Richmond 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 and its currently effective NPDES Permit, and any renewals or modifications thereof, except for the final effluent limitations set forth in said permit.

5. Between the effective date of this Consent Order and date set forth at Task (g) infra, 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 Task (g), Defendant New Richmond is enjoined to meet the final effluent standards set forth in its NPDES permit NO.1PB00022*DD and any renewals or modifications thereof.

6. Defendant New Richmond is hereby Enjoined and Ordered to properly operate and maintain its wastewater treatment plant and any associated equipment and structures.

V. CONSTRUCTION SCHEDULE

7. Defendant New Richmond is enjoined and ordered to eliminate discharges from overflows and bypasses from its sanitary sewer system and to complete construction of the improvement to its wastewater treatment plant, and to attain compliance with the final effluent limitations of NPDES permit NO.1PB00022*DD 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	January 14, 1994 *
(b) Submittal of Approval Plans and Specifications to Ohio EPA	June 20, 1994 *
(c) Advertisement of Bids	October 20, 1994
(d) Execution of Contracts	November 30, 1994
(e) Initiation of Construction	January 2, 1995
(f) Completion of construction of sufficient wetstream treatment facilities to ensure compliance with final effluent limits and the elimination of bypasses and overflows	June 1, 1996
(g) Attain and maintain compliance with final effluent limitations; all overflows and bypasses eliminated	August 1, 1996

8. Within seven days from each completion date listed above, New Richmond shall submit a written report stating whether or not New Richmond has performed the action set forth therein to Ohio EPA's Northeast District Office.

9. This Consent Order does to constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing treatment works or sewer

* Task completed

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.

VI. CIVIL PENALTY

10. Defendant New Richmond shall pay to the State of Ohio a civil penalty of Eighteen-thousand dollars (\$18,000.00). This amount shall be paid in three (3) installments of six-thousand dollars (\$6,000.00) per installment. Each installment shall be paid at thirty day (30) intervals by delivering to counsel for Plaintiff a certified check for six-thousand dollars (\$6,000.00) payable to the order of "Treasurer, State of Ohio". The first installment shall be paid within forty-five (45) days from the date of entry of this Consent Order.

VII. STIPULATED PENALTIES

11. In the event that Defendant New Richmond fails to meet any of the requirements of this Consent Order set forth in Paragraphs 4, 5, 7(a), 7(b), 7(c), 7(d), 7(e) and 7(f) including any scheduled milestone requirement, the Defendant shall immediately and automatically, be liable for and shall pay a stipulated penalty according to the following payment schedule. For each day of failure to meet a requirement, up to thirty (30) days - Five Hundred Dollars (\$500.00) per day for each requirement not met. For each day of failure to meet a requirement, from thirty-one (31) to sixty days (60) - One Thousand Dollars (\$1,000.00) per day for each requirement not met. For each day of failure to meet a requirement, from sixty-one (61) to ninety (90) days - Two Thousand Five Hundred Dollars (\$2,500.00) per day for each requirement not met. For each day of failure to meet a requirement, over ninety days (90) days - Three Thousand Five Hundred Dollars (\$3,500.00) per day for each requirement not met.

12. In the event that Defendant New Richmond fails to meet any of the requirements of this Consent Order set forth in Subparagraph 7(g), the Defendant shall immediately and automatically be liable for payment of a stipulated penalty of \$2,500.00 per day of each violation of said requirement. The Defendant shall be liable for an additional stipulated penalty of Two

violation. In the event that failure to comply with the requirements of Subparagraph 7(g) continues ore than sixty (60) days, Defendant shall be liable for an additional Five Thousand Dollars (\$5,000.00) per day of each violation i.e., Ten Thousand Dollars (\$10,000.00) per day of each violation.

13. Any payment required to be made under the provisions of Paragraphs 11 or 12 of this 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, made payable to "Treasurer, State of Ohio".

VIII. COMPLIANCE NOT DEPENDENT ON GRANTS OR LOANS


14. Performance of the terms of this Consent Order by New Richmond is not conditioned on the receipt of any Federal or State grant funds or loans. In addition, New Richmond'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.

IX. RETENTION OF JURISDICTION

15. The Court will retain jurisdiction of this action for the purpose of making any order or decree which it deems appropriate to carry out this Consent Order.

X. COSTS

16. Defendant New Richmond is hereby ordered to pay the costs of this action.

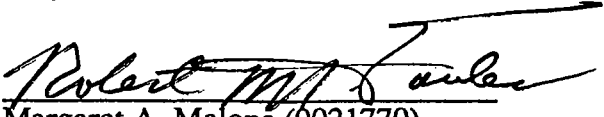


JUDGE, COURT OF COMMON
PLEAS OF CLERMONT COUNTY

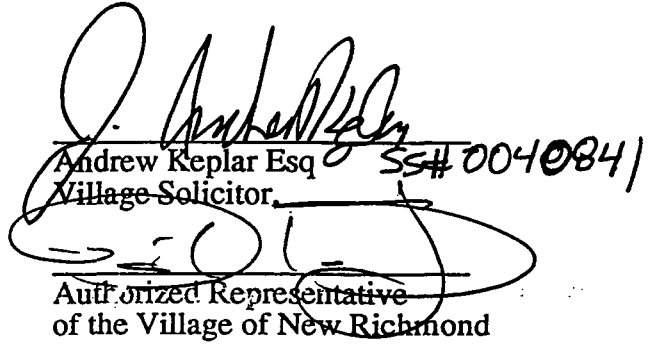
APPROVED:

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

BY:



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Assistant Attorneys General
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Andrew Keplar Esq. SS# 0040841
Village Solicitor.
Authorized Representative
of the Village of New Richmond

VILLAGE OF NEW RICHMOND, OHIO

RESOLUTION NUMBER 1994-8.A

INTRODUCED BY: McKisley 94CV0657

A resolution to supersede resolution 1994-8.

WHEREAS, the Village of New Richmond has received notification from the Ohio Environmental Protection Agency regarding non-compliance of Chapter 6111 of the Ohio Revised Code and the Rules adopted thereunder;

WHEREAS, the Village is desirous of being in compliance with Chapter 6111 of the Ohio Revised Code and the rules adopted thereunder;

WHEREAS, the Village shall construct a waste treatment plant expansion to enable the Village to be in compliance with the aforementioned chapter of the Ohio Revised Code;

WHEREAS, the Village has reviewed the following documents prepared by the Ohio Attorney General, copies of which are attached hereto and incorporated herein by reference:

- 1. complaint for injunctive relief and civil penalty and all documents affixed thereto
- 2. the waiver of service of summons
- 3. the consent order and all documents affixed thereto.

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF NEW RICHMOND, STATE OF OHIO:

The council of the Village of New Richmond, three-fourths of its members concurring, hereby authorize the Village Solicitor and the Mayor to execute in their respective capacities the waiver of service of summons and the Consent Decree hereto attached.

Passed September 13, 1994.

ATTEST:

Donna Hammons
Donna Hammons, Clerk
Village of New Richmond

Betty Hinson
Mayor Betty Hinson
Village of New Richmond