

IN THE COURT OF COMMON PLEAS
ADAMS COUNTY, OHIO

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

Plaintiff,

v.

VILLAGE OF SEAMAN,

Defendant.

CASE NO. 89-CIV-02

JUDGE ELMER SPENCER

AMENDMENT TO CONSENT
ORDER

Boyd K. Black
CLERK

94 AUG 26 AM 10: 22

FILED
ADAMS COUNTY
CLERK OF COURTS

On December 27, 1990, the Court entered a Consent Order in the above-captioned matter. Subsequent to the entry of the Consent Order, Defendant Seaman has been in contempt because it violated certain of the requirements of the Consent Order. The Plaintiff State of Ohio by its Attorney General Lee Fisher (hereinafter "Plaintiff") and Defendant Village of Seaman (hereinafter "Defendant") have consented to the entry of this order, which amends the December 27, 1990 Consent 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:

EFFECT OF THIS ORDER

1. This order amends parts III, VI, and VII of the Consent Order entered in this matter on December 27, 1990. All others parts of that order continue in effect without change. Parts III, VI, and VII of the December 27, 1990 order are hereby modified as set forth in the subsequent parts or paragraphs of this order. The provisions set forth below supersede and replace Parts III, VI and VII of the December 27, 1990 order:

III. SATISFACTION OF LAWSUIT

3a. 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 Permits 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 the Consent Order constitutes full satisfaction of any civil liability by Defendant for all claims alleged in the Complaint, which occurred prior to the entry of the December 27, 1990 Consent Order.

3b. Compliance with the terms of this Consent Order, as amended, shall constitute full satisfaction of any civil liability by Defendant for all claims under such laws alleged in the Complaint, for all violations of such laws which occurred subsequent to the entry of the December 27, 1990 Consent Order through the date of entry of this Amendment to Consent Order, and for all violations of the December 27, 1990 Consent Order through the date of entry of the Amendment to Consent Order. Nothing in this Consent 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 Amendment to Consent Order.

VI. ADDITIONAL INJUNCTIVE RELIEF

6. Defendant is hereby enjoined to properly operate and maintain its wastewater treatment plant and any associated equipment and structures.

7. Defendant shall immediately comply and maintain compliance with all monitoring and reporting requirements under NPDES Permit No. OPA00098*BD, and any renewal or modification thereof.

8. Defendant is enjoined and ordered to complete construction/repair, or any other steps needed, and remove the source(s) of inflow to the Third Street sanitary sewer by August 31, 1994.

9. Defendant is enjoined to submit to Ohio EPA, by September 30, 1994, a report that details the nature, extent, and results of the work performed to date to eliminate sources of inflow and infiltration to Defendant's sewer system. The report submitted pursuant to this paragraph shall include, but is not limited to, the names and sections of the streets along which sewer repairs were made or replacement sections installed, the lengths of sewer involved, what kinds of damage caused the need for repair or replacement (e.g. crushed pipe, joint failure, cross connection, hammertap, etc.) , when the repair/replacement was completed (at least month and year), and how much inflow/infiltration was reduced.

10. Defendant is enjoined to submit to Ohio EPA, by January 15, 1995, an approvable plan to eliminate sources of inflow and infiltration to Defendant's sewer system and/or construct adequate improvements to the wastewater treatment plant, so that the wastewater treatment plant operates in consistent compliance with the NPDES permit, and any renewals or modifications thereof. The plan shall include a schedule for completion of the work to be performed, which shall be as expeditious as practicable. In developing and submitting this plan the Defendant shall not only base the plan on the information developed in the report referenced in paragraph 9 above, but shall also utilize the results of an evaluation of the impact of the flow reduction achieved on the performance of the wastewater treatment plant. This evaluation shall include additional sampling of the plant effluent for CBOD₅, total suspended solids, and ammonia during a series of rain events which cause peak flow conditions, (i.e. events over 1/2 inch of rainfall). If the results of the evaluation, and the report, result in the conclusion by the Village in the plan, that the Village has no remaining sewer improvements that can be performed to remove additional inflow and infiltration, and the Village cannot demonstrate that it is consistently meeting the effluent limitations in its NPDES permit,

and renewals or modifications thereof, the plan shall include a schedule for construction of additional wastewater treatment plant improvements as referenced above.

11. The Village is enjoined to implement the plan submitted pursuant to paragraph 10, as approved by Ohio EPA. The schedule of work to be performed, as approved by Ohio EPA, is hereby incorporated into this order.

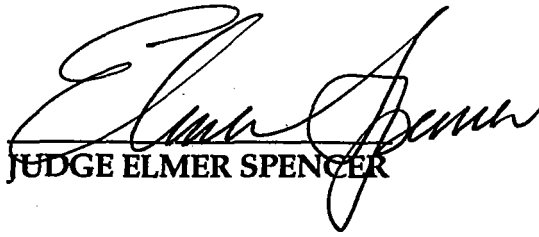
12. If Ohio EPA notifies the Village in writing of deficiencies in part or all of the report to be submitted pursuant to paragraph 9 or the plan and schedule to be submitted pursuant to paragraph 10, the Village shall submit to Ohio EPA, within thirty (30) days of such notice, a revised report, plan, or schedule addressing such deficiencies to Ohio EPA's satisfaction.

VII. CIVIL PENALTY

13. Defendant Seaman shall pay to the State of Ohio a civil penalty, pursuant to R.C. 6111.09 O.R.C., of one thousand dollars (\$1000.00). The penalty shall be paid in twelve installments by delivering the check for each installment, payable to the order of "Treasurer, State of Ohio", every month by the fifth of the month. The check for the first installment, in the amount of \$83.37, shall be submitted within forty-five (45) days from the date of entry of the Amendment to Consent Order. The remainder of the penalty shall be paid in eleven equal installments of \$83.33. Said checks shall be mailed to the following address:

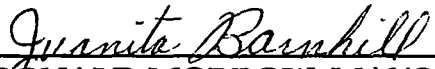
Ohio Attorney General's Office
30 E. Broad Street, 25th Floor
Environmental Enforcement Section
Columbus, Ohio 43215 - 3428

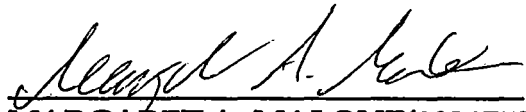
Attention: Administrative Assistant

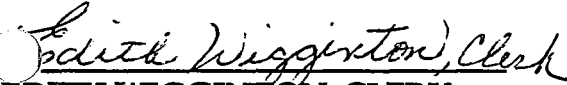

JUDGE ELMER SPENCER

APPROVED BY:

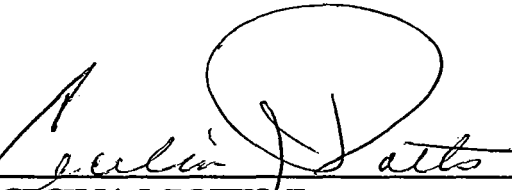
STATE OF OHIO, ex rel.
LEE FISHER
ATTORNEY GENERAL OF OHIO


~~DONALD MORROW, MAYOR~~
Village of Seaman
Juanita Barnhill
President of Council


MARGARET A. MALONE(0021770)
JAMES O. PAYNE, JR.(0008129)
Assistant Attorneys General
Environmental Enforcement Section
30 East Broad Street - 25th Floor
Columbus, Ohio 43215-3428
Telephone: (614) 466-2766


EDITH WIGGINTON, CLERK
Village of Seaman

Counsel for Plaintiff
State of Ohio


CECILIA J. POTTS, Esq.
221 South High Street
Box 474
Mt. Orab, Ohio 45154

Counsel for Defendant
Village of Seaman

RESOLUTION #1994-7

WHEREAS, the Village of Seaman is under a consent order in Case No. 89-CIV-02, Court of Common Pleas, Adams County, Ohio, court caption STATE OF OHIO, ex re. LEE FISHER, ATTORNEY GENERAL OF OHIO -vs- VILLAGE OF SEAMAN, and;

WHEREAS, the Attorney General's office has notified the Village of Seaman of certain alleged violations regarding the consent order, and;

WHEREAS, negotiations between the Attorney General's office and the Village of Seaman have resolved the violations, correction of the same and civil penalty issues, and;

WHEREAS, an amendment to the existing consent order has been prepared pursuant to the negotiations.

IT IS THEREFORE RESOLVED that:

1) The Council of the Village of Seaman hereby ratifies the negotiations made on behalf of the Village of Seaman and incorporated into the Amendment to Consent Order, and;

2) Hereby authorizes the president of the council and clerk of the Village of Seaman to sign the attached Amendment to Consent Order on behalf of the Village of Seaman.

Date:

August 15, 1994

Ronald M. Morrow
Mayor

Edith Wigginton
Clerk