

IN THE COURT OF COMMON PLEAS  
ADAMS COUNTY, OHIO

STATE OF OHIO, ex rel.  
ANTHONY J. CELEBREZZE, JR.  
ATTORNEY GENERAL OF OHIO

Plaintiff,

vs.

VILLAGE OF SEAMAN

Defendant.

: CASE NO. 89-CIV-02  
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: JUDGE ELMER SPENCER  
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: CONSENT ORDER  
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*W. Spencer Rankin*

The Complaint in the above-captioned matter having been filed herein, and the Plaintiff State of Ohio by its Attorney General Anthony J. Celebrezze, Jr. (hereinafter "Plaintiff") and Defendant Village of Seaman (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:

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 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 subcontractors for such work.

### III. SATISFACTION OF LAWSUIT

3. Plaintiff alleges in its Complaint that Defendant has operated its wastewater treatment plants 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 this Consent Order shall constitute full satisfaction of any civil liability by Defendant for all claims 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 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 Permits, and any renewals or modifications

thereof, except for the final effluent limitations set forth in said permits. Between the effective date of this Consent Order and September 30, 1992, Defendant is enjoined to comply with the interim effluent limitations and monitoring requirements 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. On and after September 30, 1992, Defendant is enjoined to meet the final effluent standards set forth in NPDES permit No. OPA00098\*BD and any renewals or modifications thereof.

**V. CONSTRUCTION SCHEDULE**

5. Defendant is enjoined and ordered to eliminate discharges from overflows and bypasses from its sanitary sewer system and to complete construction of the improvements to its wastewater treatment plant and sewer system described in the Village's approved General Plan/Facilities Plan, and to attain compliance with the final effluent limitations of NPDES permit No. OPA00098\*BD and any modifications or renewals thereof.

Defendant shall comply with the following schedule:

<u>TASK</u>	<u>COMPLETION DATE</u>
(a) Initiation of Project Design Work	<u>October 1, 1990</u>
(b) Submittal of Approvable Plans and Specifications to Ohio EPA	<u>January 31, 1991</u>
(c) Advertisement of Building Bids	<u>April 30, 1991</u>
(d) Execution of Building Contracts	<u>June 30, 1991</u>
(e) Initiation of Construction	<u>June 30, 1991</u>

(f) Completion of construction of sufficient wetstream treatment facilities to ensure compliance with final effluent limits and the elimination of bypasses and overflows.

July 31, 1992

(g) Attain compliance with final effluent limitations, and eliminate overflows and bypasses.

September 30, 1992

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

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.

#### VI. INTERIM MEASURES

6. Defendant is hereby enjoined to properly operate and maintain its existing 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.

8. Within thirty (30) days of entry of this Consent Order Defendant shall accomplish the following measures:

- a. remove solids from the sludge drying beds and dispose of such solids in accordance with the document entitled "Ohio EPA Land Application of Sludge Manual" of August, 1985;
- b. remove solids from the spiragester at a rate consistent with their digestion and either dewater such solids on the sludge drying beds, after completion of the work described in subparagraph a above, or dispose of such solids in accordance with the document entitled "Ohio EPA Land Application of Sludge Manual" of August, 1985;
- c. provide documentation that the Village has retained the services of or will operate under the supervision of a certified Class I wastewater treatment plant operator.

9. On and after thirty (30) days from entry of this Consent Decree, Defendant shall maintain the barscreen, spiragester, trickling filter, settling tank, and sludge drying beds in a clean condition and, from May 1 through October 31 annually, maintain operation of the tablet chlorination system. The wastewater treatment plant shall remain under the supervision of a Class I wastewater treatment plant operator.

10. a. Within thirty (30) days of filing of the Consent Order, the Village shall submit an approvable plan to eliminate sources of inflow and infiltration set forth in the Village's Smoke Testing Investigation Report of August, 1987. The plan shall identify with particularity the identified sources of inflow and infiltration and shall describe with particularity how each such source will be eliminated as expeditiously as

practicable. The plan shall include a schedule of the work described therein.

- b. If Ohio EPA notifies the Village in writing of deficiencies in part or all of the plan, the Village shall submit to Ohio EPA within thirty (30) days a revised plan addressing such deficiencies to Ohio EPA's satisfaction.
  - c. The Village shall implement the plan as approved by Ohio EPA.
11. a. Within thirty (30) days of filing of the Consent Order, the Village shall submit an approvable plan to improve the operation of the trickling filter to ensure an even distribution across the surface media of the trickling filters. The plan shall include a schedule of the work described therein.
- b. If Ohio EPA notifies the Village in writing of deficiencies in part or all of the plan, the Village shall submit to Ohio EPA within thirty (30) days a revised plan addressing such deficiencies to Ohio EPA's satisfaction.
  - c. The Village shall implement the plan as approved by Ohio EPA.

12. Within thirty (30) days of entry of this Consent Decree, Defendant shall submit to the Ohio EPA, Southeast District office a sludge management plan acceptable to the Ohio EPA as meeting the criteria of the document entitled "Ohio EPA Land Application of Sludge Manual" of August, 1985. The sludge management plan shall also include a site inspection request and soil test results for an approvable land application site for disposal of sludge. On and after thirty (30) days from entry of this Consent Order, Defendant shall comply with such plan.

#### VII. CIVIL PENALTY

13. Defendant shall pay to the State of Ohio a civil penalty pursuant to R.C. Section 6111.09 of four thousand five hundred dollars (\$4,500.00). The penalty shall be paid by delivering to counsel for Plaintiff a certified check for \$1,500.00, payable to the order of "Treasurer, State of Ohio," by December 31, 1990, and a certified check for \$1,500.00, payable to the order of "Treasurer, State of Ohio, by May 1, 1991, and a certified check for \$1500.00 made payable to the order of "Treasurer, State of Ohio", May 1, 1992.

#### VIII. STIPULATED PENALTIES

14. In the event that Defendant fails to meet any of the requirements of this Consent Order set forth in Paragraphs 4, 5 (a), 5 (b), 5 (c), 5(d), 5 (e) and 5 (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 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 day of failure to meet a requirement, from sixty-one (61) to ninety (90) days - two thousand five hundred dollars (\$2,500.00). For each day of failure to meet a requirement, over ninety days (90) days - three thousand five hundred dollars (\$3,500.00) per day.

15. In the event that Defendant fails to meet any of the requirements of this Consent Order set forth in Subparagraph 5(g), the Defendant shall immediately and automatically be liable for payment of a stipulated penalty of five thousand dollars (\$5,000.00) per day of violation of said requirement. The Defendant shall be liable for an additional stipulated penalty of one thousand dollars (\$1,000.00) per day of violation if the failure to comply continues for more than thirty (30) days, i.e. six thousand dollars (\$6,000.00) per day of violation. In the event that failure to comply with the requirements of Subparagraph 5(g) continues more than sixty (60) days, Defendant shall be liable for an additional four thousand dollars (\$4,000.00) per day of violation, i.e., ten thousand dollars (\$10,000.00) per day of violation.



16. Any payment required to be made under the provisions of Paragraphs 14 or 15 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".

**IX. COMPLIANCE NOT DEPENDENT ON GRANTS**

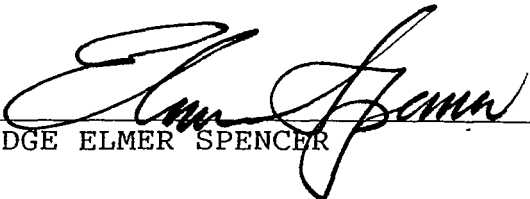
17. Performance of the terms of this Consent Order by the Village is not conditioned on the receipt of any Federal or State grant funds. In addition, the Village's performance is not excused by the failure to obtain or shortfall of any Federal or State grant funds, or by the processing of any applications for the same.

**X. RETENTION OF JURISDICTION**

18. The Court will retain jurisdiction of this action for the purpose of overseeing compliance with this Consent Order.

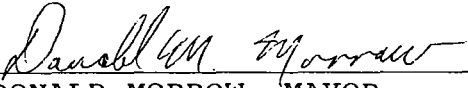
**XI. COSTS**

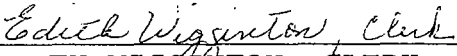
19. Defendant is hereby ordered to pay the costs of this action.

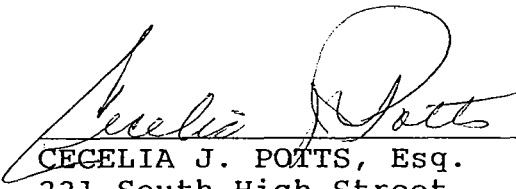
  
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JUDGE ELMER SPENCER

APPROVED BY:

STATE OF OHIO, ex rel.  
ANTHONY J. CELEBREZZE, JR.  
ATTORNEY GENERAL OF OHIO

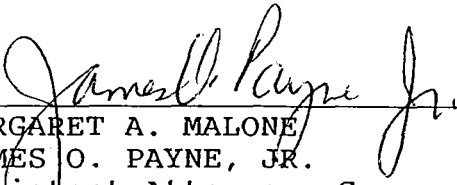
  
DONALD MORROW, MAYOR  
Village of Seaman

  
EDITH WIGGINTON, CLERK  
Village of Seaman

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

Counsel for Defendant  
Village of Seaman

kmh  
0966E/1-10

  
MARGARET A. MALONE  
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Assistant Attorneys General  
Environmental Enforcement Section  
30 East Broad Street - 25th Floor  
Columbus, Ohio 43266-0410  
Telephone: (614) 466-2766  
  
Counsel for Plaintiff  
State of Ohio

ATTACHMENT A

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS FOR  
OUTFALL OPA00098001

Reporting Code	UNITS	PARAMETER	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
			Other Units	Concentration (Specify)	Loading* (kg/day)		Meas. Freq.	Sample Type
			30 day	7 day	30 day	7 day		
00010	°C	Temperature	-	-	-	-	Daily	Max. Ind. Therm.
00310	mg/l	BOD <sub>5</sub>	-	-	-	-	1/wk	Composite
00530	mg/l	Suspended Solids	50	65	-	-	1/wk	Composite
31616	Count /100ml	Fecal Coliform (Summer Only)	1000	2000	-	-	1/wk	Grab
80082	mg/l	CBOD <sub>5</sub>	110	150	-	-	1/wk	Composite
00610	mg/l	Ammonia(N)	-	-	-	-	1/mth	Grab
50050	MGD	Flow	-	-	-	-	Daily	Continuous

2. The pH (Reporting Code 00400 (average)) shall not be less than 6.5 S.U nor greater than 9.0 S.U. and shall be monitored daily by grab sample.
3. The Chlorine Residual (Reporting Code 50060) shall be maintained at a level not to exceed 0.5 mg/l and shall be monitored daily by grab sample. (Summer only)
4. The Dissolved Oxygen (Reporting Code 00300) shall be monitored daily by grab sample.

\* The average effluent loading limitations are established using the following flow value: N/A

ATTACHMENT A

ADDITIONAL MONITORING REQUIREMENTS

1. Bypass(es). The permittee shall monitor the systems bypasses and overflows at Stations OPA00098002 through OPA00098003 and report to the Ohio EPA in accordance with the following Table:

<u>CHARACTERISTIC</u> Reporting Code UNITS	Parameter	<u>MONITORING REQUIREMENTS</u> Measurement Frequency	Sample Type
00051 Number/Mo.	Occurences	When discharging	Estimate
00052 Hours	Duration	When discharging	Daily Est.
00310 mg/l	BOD <sub>5</sub>	1/month	Grab
00530 mg/l	Suspended Solids	1/month	Grab
50050 Million Gallons	Volume	When discharging	Daily Est.

Monitoring data shall be submitted for each month when discharge occurs. Samples should be collected during the first 30 minutes of discharge. The monthly monitoring report shall be attached to the normal monthly report form (EPA-4500).

2. The permittee is authorized to discharge from the following overflows and bypasses only during wet weather periods when the flow in the sewer system exceeds the capacity of the sewer system. See Item 1 above for monitoring and reporting requirements. Also see monitoring requirements at Part III, Item 11 of the permit.

<u>Stations Number</u>	<u>Description</u>	<u>Receiving Stream</u>
OPA00098002	Plant bypass at effluent manhole	Tributary of W. Fork of Ohio Brush Creek
OPA00098003	Second Manhole above lift station	Gregg Run

Plans for bypasses and overflow elimination are required as an integral part of wastewater treatment system improvements.

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

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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 CBOD<sub>5</sub>, 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.

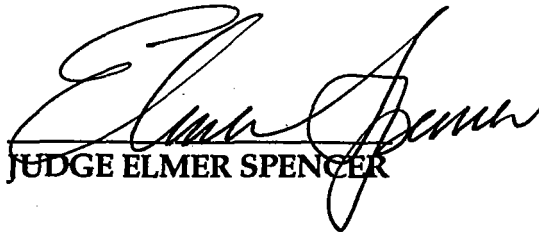
#### **VII. CIVIL PENALTY**

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

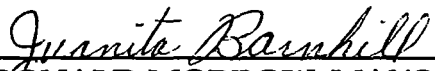
Attention: Administrative Assistant

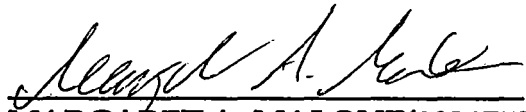


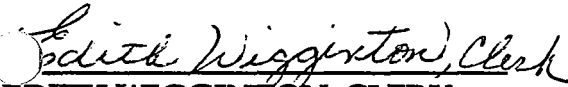
  
JUDGE ELMER SPENCER

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