

IN THE COURT OF COMMON PLEAS
LAWRENCE COUNTY, OHIO

NOV 10 2 44 PM '84

STATE OF OHIO, ex rel
LEE FISHER
ATTORNEY GENERAL

Plaintiff,

vs.

CITY OF IRONTON

Defendant.

Case No. _____

JUDGE 940 C 865

CONSENT ORDER

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 City of Ironton (hereinafter "Ironton" or "Defendant") having consented to the entry of this Order;

Whereas, this Consent Order is designed to correct Ironton's violations of Its National Pollutant Discharge Elimination Systems ("NPDES") permit, especially the Ironton's failure to perform required upgrades by July 1, 1988 and April 30, 1989:

Whereas, the penalty contained herein is a result of these violations, and has been substantially reduced to reflect the cooperation demonstrated by Ironton's present administration to address and correct these violations.

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 to 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 Ironton 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 plant and sewer system in such a manner as to result in numerous violations of the discharge limitations, monitoring requirements as well as terms and conditions of the NPDES Permit 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 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 Ironton is hereby Ordered and Enjoined 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, including but not limited to the final effluent limitations contained within said permit, and any renewals or modifications thereof, except for

○ terms and conditions 6 through 9, Part I.C., of NPDES Permit no. OPD00007*ED.

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

V. CONSTRUCTION SCHEDULE

5. Defendant Ironton is enjoined and ordered to eliminate discharges from overflows and bypasses from its sanitary sewer system and to obtain compliance with terms and conditions 6 through 9 of Part I. C. of NPDES Permit No. OPD00007*ED in accordance with the following schedule.

| <u>TASK</u> | <u>COMPLETION DATE</u> |
|--|------------------------|
| (a) Submit a comprehensive plan to the Ohio EPA for review and approval, for the removal of inflow sources into the separate sanitary sewer system located in the North Ironton area | <u>Complete</u> |
| (b) Begin implementation of the recommendations of the approved plan reference in 5(a) above. | <u>Complete</u> |

(c) Eliminate all bypasses and overflows from the separate sanitary sewer system located in the North Ironton area.

Complete

(d) Submit a comprehensive plan to the Ohio EPA for review and approval, for the removal of inflow sources into the combined sewer system located in the South Ironton area.

June 15, 1994

(e) Begin implementation of the recommendations of the approved plan reference in 5(d) above.

July 15, 1994

(f) Eliminate all sources of inflow identified in the approved plan referenced in 5(d) above.

September 1, 1996

(g) Eliminate all dry weather overflows from the combined sewer system located in the South Ironton area.

September 1, 1996

Defendant is hereby ordered and enjoined to submit monthly status reports to Joann Montgomery, or her successor, Southeast District Office of the Ohio EPA by the 15th of each month, starting with the first month after the filing of this Order and continuing until the tasks identified in sub-paragraphs 5(a) through (g) have been completed.

○ Within seven days from each completion date listed above, Defendant Ironton shall submit a written report stating whether or not Ironton has performed the action set forth therein to Joann Montgomery, or her successor, Ohio EPA Southeast District Office.

6. 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.

○ 7. As of the date of entry of this Consent Order, Defendant Ironton is ordered and enjoined to eliminate overflows and bypasses from its separate sanitary sewer system located in the North Ironton Area.

8. After September 1, 1996, Defendant Ironton is ordered and enjoined to eliminate overflows and bypasses from its combined sewer system during dry weather conditions.

9. Defendant Ironton is permanently ordered and enjoined to monitor all overflow and bypass points in its entire sewer system and report to Ohio EPA in accordance with Part II, term and condition J of NPDES Permit No. OPD00007*ED. Ironton is ordered and enjoined to

maintain this monitoring and reporting, even if NPDES Permit No. OPD00007*ED is no longer effective.

VI. CIVIL PENALTY

10. Pursuant to R.C. §6111.09, Defendant Ironton shall pay to the State of Ohio a civil penalty of five thousand dollars (\$5,000.00). The penalty shall be paid by delivering a certified check for that amount, payable to the order of "Treasurer, State of Ohio" to Matt Sanders, Acting Administrative Assistant, 30 East Broad Street, 25th Floor, Columbus, Ohio 43266-0410, within forty-five (45) days from the date of entry of this Consent Order.

VII. STIPULATED PENALTIES

11. In the event that Defendant Ironton fails to meet any of the scheduled milestone requirements of this Consent Order set forth in Paragraphs 5(a.) through 5(g), 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 - Two Hundred and Fifty Dollars (\$250.00) per day for each requirement not met. For each day of failure to

meet a requirement, from thirty-one (31) to sixty days (60) - Five Hundred Dollars (\$500.00) per day for each requirement not met. For each day of failure to meet a requirement, from sixty-one (61) to ninety (90) days - One Thousand Dollars (\$1,000.00) per day for each requirement not met. For each day of failure to meet a requirement, over ninety days (90) days - One Thousand Five Hundred Dollars (\$1,500.00) per day for each requirement not met.

12. In the event that Defendant Ironton fails to meet any of the requirements of this Consent Order set forth in Paragraph 4 after September 1, 1996, including any final effluent limitation contained within its currently effective NPDES permit, or any modification thereof, 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 - Two Hundred and Fifty Dollars (\$250.00) per day for each requirement not met. For each day of failure to meet a requirement, from thirty-one (31) to sixty (60) days - Five Hundred Dollars (\$500.00) per day for each requirement not met. For each day of failure to meet a requirement, from sixty-one (61) to ninety (90) days - One Thousand Dollars (\$1,000.00) per day for each requirement not met. For each day of failure to meet a

○ requirement, over ninety (90) days - One Thousand Five Dollars (\$1,500.00) per day for each requirement not met.

13. In the event that Defendant Ironton violates the requirements of this Consent Order set forth in Paragraph 7, by the occurrence of an overflow or bypass event from its separate sanitary sewer system, the Defendant shall, immediately and automatically, be liable for and shall pay a stipulated penalty according to the following payment schedule. For each overflow and/or bypass event up to three events - Two Hundred and Fifty Dollars (\$250.00) per event. For each overflow and/or bypass event, from four (4) to six (6) events - Five Hundred Dollars (\$500.00) per event. For each overflow and/or bypass event, from seven (7) to nine (9) events - One Thousand Dollars (\$1,000.00) per event. For each overflow and/or bypass event, over nine (9) events - One Thousand Five Dollars (\$1,500.00) per event. For purposes of this paragraph only, any overflows or bypasses occurring for a period of time up to twenty-four (24) consecutive hours shall only be considered a single event. Overflows or bypasses occurring at more than one outfall shall be considered separate events.

14. In the event that Defendant Ironton violates the requirements of this Consent Order set forth in Paragraph 8, by the occurrence of an overflow or bypass event from its combined sewer system during dry

weather conditions after September 1, 1995, the Defendant shall, immediately and automatically, be liable for and shall pay a stipulated penalty according to the following payment schedule. For each overflow and/or bypass event up to three events - Two Hundred and Fifty Dollars (\$250.00) per event. For each overflow and/or bypass event, from four (4) to six (6) events - Five Hundred Dollars (\$500.00) per event. For each overflow and/or bypass event, from seven (7) to nine (9) events - One Thousand Dollars (\$1,000.00) per event. For each overflow and/or bypass event, over nine (9) events - One Thousand Five Dollars (\$1,500.00) per event. For purposes of this paragraph only, any overflows or bypasses occurring for a period of time up to twenty-four (24) consecutive hours shall only be considered a single event. Overflows or bypasses occurring at more than one outfall shall be considered separate events.

15. Any payment required to be made under the provisions of Paragraphs 11 through 14 of this Order shall be made by delivering a certified check or checks for the appropriate amounts to Matt Sanders, Acting Administrative Assistant, 30 East Broad Street, 25th Floor, Columbus, Ohio 43266-0410, 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. TERMINATION OF STIPULATED PENALTIES

16. The provisions of this Consent Order, set forth in Section VII, above, requiring payment of stipulated penalties, shall terminate if Ironton has: (1) completed all necessary construction to its wastewater treatment plant and sewer system as was necessary to eliminate any and all sewer system overflows and treatment plant bypasses; (2) eliminated any and all sewer system overflows and treatment plant bypasses; (3) achieved and maintained compliance with the final effluent limitations contained in its currently effective NPDES permit or any renewals or modifications thereof, for any and all discharges from its wastewater treatment plant, for a period of one (1) year, commencing after September 1, 1994; (4) has conducted all required monitoring and sent all required monitoring reports to the Ohio EPA for a period of one (1) year, commencing after September 1, 1994; and (5) has paid all penalties, both civil and stipulated, required to be paid pursuant to this Amended Consent Order. Termination of these stipulated penalties shall only be effected by Order of Court, upon application by any party and a demonstration that the five (5) conditions set forth in this paragraph have been met.

IX. COMPLIANCE NOT DEPENDENT ON GRANTS OR LOANS

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

X. RETENTION OF JURISDICTION

18. 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.

XI. TERMINATION

19. No earlier than five (5) years from the date of entry of this Consent Order, Ironton may move the Court, pursuant to Rule 60(B) of the Ohio Rules of Civil Procedure, to terminate this Consent Order if Ironton can demonstrate that it has been in compliance with the obligations of this Consent Order for such a five (5) year period. The Plaintiff takes no position at this time as to such motion and reserves any rights it may have to oppose the motion including the basis that five (5) years is, in

○ actuality, not an appropriate time period.

XII. COSTS

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

JUDGE, COURT OF COMMON PLEAS

APPROVED:

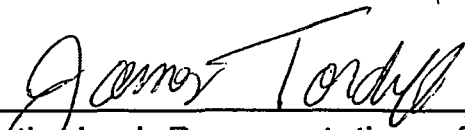
STATE OF OHIO, ex rel.
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Authorized Representative of
the City of Ironton