

FILED
HARDIN COUNTY
COMMON PLEAS COURT
IN THE COURT OF COMMON PLEAS
HARDIN COUNTY, OHIO
93 MAR 11 AM 11:17

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

Plaintiff,

vs.

HARDIN COUNTY BOARD
OF COMMISSIONERS

Defendant.

TEDDY DODDS
CLERK

(197)
CASE NO. 92-CV-97

JUDGE DAVID C. FAULKNER

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 Hardin County Board of Commissioners (hereinafter "Hardin County" or "Hardin") 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 Hardin County under Chapter 6111 of the Ohio Revised Code. 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 Hardin County shall provide a copy of this Consent Order to each general 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 Hardin County 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 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 Hardin County for all claims under such laws alleged in the Complaint. 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 Complaint.

IV. CONSTRUCTION SCHEDULE

4. Defendant is hereby enjoined and ordered to complete all improvements to its Reed Road Wastewater Treatment Plant necessary to attain compliance with the final effluent limitations of NPDES Permit No. 2PG00004*BD and any modifications or renewals thereof by June 1, 1993. Such improvements shall include but are not limited to those listed below and shall be completed in accordance with the following schedule:

<u>TASK</u>	<u>COMPLETION DATE</u>
(a) Submittal of written explanation of improvements	_____
(b) Make necessary improvements to the aeration tank including increasing the number of air header drops from one to three spaced evenly across the length of the tank; installation of new diffusers; installation of an upturned elbow or baffle in the tank	Completed
(c) Clean each hopper and return sludge line and inspect for obstructions	Completed
(d) Secure in a level position return sludge lines and skimmer lines	Completed

- (e) Inspect, clean and maintain tertiary sandfilters and determine whether filters need to be replaced May 1, 1993
- (f) Add seed sludge from the Root Addition Treatment Plant (approximately 3,000 gallons) Completed
- (g) Repair retaining walls to prevent effluent from spilling June 1, 1993
- (h) Attain compliance with final effluent limitations July 1, 1993

V. COMPLIANCE SCHEDULE

5. Defendant Hardin County 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 thereunder and to comply with its currently effective NPDES permit and renewals, modifications thereof, except the final effluent limitations set forth in said permit. Between the effective date of this Consent Order and July 1, 1993, Defendant is enjoined to comply with interim effluent limitations as set forth in Appendix "A" attached hereto.

6. After July 1, 1993, Defendant Hardin County is enjoined to attain and maintain compliance with the final effluent standards set forth in its NPDES permit No. 2PG000004*BD and any renewals or modifications thereof. Defendant Hardin County is hereby permanently enjoined to

properly operate and maintain its wastewater treatment plant and any associated equipment and structures.

VI. EFFECT OF CONSENT ORDER

7. 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.

VII. CIVIL PENALTY

8. Defendant Hardin County shall pay to the State of Ohio a civil penalty of Eleven Thousand Five Hundred Dollars (\$11,500.00). The penalty shall be paid by delivering to Janis Miller 30 East Broad Street, 25th Floor, Columbus Ohio 43266-0410 a certified check for that amount, payable to the order of "Treasurer, State of Ohio" within forty-five (45) days from the date of entry of this Consent Order.

VIII. STIPULATED PENALTIES

9. In the event that Defendant Hardin County fails to meet any of the requirements of this Consent Order set forth in Sections IV and V, the Defendant shall immediately and automatically be liable for and shall pay a stipulated penalty according to the following payment schedule.

10. In the event that Hardin County fails to meet the requirements of Section IV of this Consent Order, Hardin County shall pay a stipulated penalty of \$250 for each day of violation. Hardin County shall be liable for an additional stipulated penalty of \$250 for each day of each violation that persists beyond 60 days for a total of \$500 per day for each day of each violation for days 61 through 120. In the event that failure to meet the requirements of Section IV of the Consent Order continues beyond 120 days, Hardin County shall be liable for an additional stipulated penalty of \$500 for a total of \$1,000 per day for each day of each violation for days 121 through 180. In the event that failure to meet the requirements of Section IV of this Consent Order continues beyond 180 days, Hardin County shall be liable for an additional stipulated penalty of \$500 for a total of \$1,500 per day for each day of each violation for days 181 and beyond.

11. In the event that Hardin County fails to meet any of the daily effluent limitations (interim or final) of its NPDES permit, as set forth in Section V of this Consent Order, Hardin County shall pay a stipulated penalty of \$250 for each day of each daily effluent limitation violation. Hardin County shall be liable for an additional stipulated penalty of \$250 per day of violation if the failure continues for more than 60 days, for a total stipulated penalty of \$500 per day for each day of each of each violation for days 61 through 120. In the event

that failure to meet a daily effluent limitation of its NPDES permit (interim or final) continues beyond 120 days, Hardin County shall be liable for an additional stipulated penalty of \$500 for a total of \$1,000 per day for each day of each violation for days 121 through 180. In the event that failure to meet a daily effluent limitation of its NPDES permit (interim or final) continues beyond 180 days, Hardin County shall be liable for an additional stipulated penalty of \$500 for a total of \$1,500 per day for each day of each violation that continues beyond 180 days.

12. For the purpose of calculating stipulated penalties under the provisions of this paragraph of this Consent Order, each seven day period of violation of a specific seven day average effluent limitation (interim or final) shall be calculated as a single violation. In the event that Hardin County fails to meet any of its seven day average effluent limitations of its NPDES permit, (interim or final) as set forth in Section V of this Consent Order, Hardin County shall be liable for payment of a stipulated penalty of \$1,000 for each seven day period during which each failure occurs; if the failure to meet the same seven day average effluent limitation (interim or final) continues for a second seven day period, Hardin shall be liable for payment of a stipulated penalty of \$1,500 for each second seven day period of each violation; if the failure to meet the same seven day average effluent

limitation (interim or final) continues for a third seven day period, Hardin County shall be liable for payment of a stipulated penalty of \$2,000 for each third seven day period of each violation; if the failure to meet the same seven day average effluent limitation (interim or final) continues for a fourth seven period, Hardin County shall be liable for payment of a stipulated penalty of \$2,500 for each fourth seven day period of each violation and each subsequent seven day period of each violation thereafter.

13. For the purpose of calculating stipulated penalties under the provisions of this paragraph of this Order, each 30 day period of violation of a specific 30 day average effluent limitation shall be calculated as a single violation. In the event that Hardin fails to meet any of the 30 day average interim or final effluent limitations as set forth in Section V of this Consent Order, Hardin shall be liable for payment of stipulated penalty of \$1,500 for each 30 day period during which each failure occurs; if the failure to meet the same 30 day average effluent limitation continues for a second 30 day period, Hardin shall be liable for the payment of a stipulated penalty of \$2,500 for each second 30 day period of each violation; if the failure to meet the same 30 day average effluent limitation continues for a third 30 day period, Hardin shall be liable for the payment of a stipulated penalty of \$3,500 for each third 30 day period of each violation; if the

failure to meet the same 30 day average effluent limitation continues for a fourth 30 day period, Hardin County shall be liable for the payment of a stipulated penalty of \$4,500 for each fourth 30 day period of each violation and each subsequent 30 day period of each violation thereafter.

14. Any payment required to be made under the provisions of Paragraphs 10, 11, 12 or 13 of this Consent Order shall be made by delivering to Janis Miller 30 East Broad Street, 25th Floor, Columbus, Ohio 43266-0410 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 OR LOANS

15. Performance of the terms of this Consent Order by Defendant Hardin County is not conditioned on the receipt of any federal or state grant funds or loans. In addition, Defendant Hardin County'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

16. 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. COSTS

17. Defendant Hardin County is hereby ordered to pay the costs of this action.

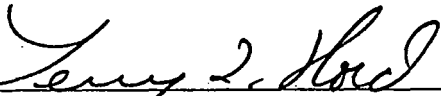
ENTERED THIS _____ DAY OF _____, 1993.

JUDGE, HARDIN COUNTY COURT OF
COMMON PLEAS

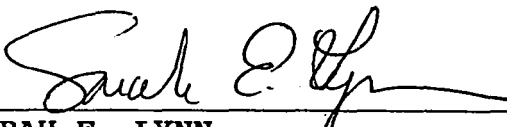
APPROVED:

HARDIN COUNTY BOARD
OF COMMISSIONERS

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

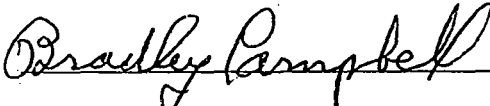


TERRY L. HORD
Hardin County Prosecutor
County Courthouse
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Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43266-0410
Telephone: (614) 466-2766

Counsel for Plaintiff
State of Ohio







The Hardin County Board
Of Commissioners

3162E/1.10

ATTACHMENT A

During the period beginning on the effective date of this consent order, and lasting until the date that the improved wastewater treatment plant is to attain compliance with the final effluent limits as specified in the schedule of compliance, the permittee is authorized to discharge in accordance with the following limitations and monitoring requirements from outfall 001.

Reporting Code	Units	Parameter	30 day limit	Monitoring Frequency	Sample Type
00010	C	Temperature	---	1/month	grab
50050	GPD	Flow	---	1/month	24hr total
00083	No	Color, Severity	---	2/week	Estimate
01330	No	Odor, Severity	---	2/week	Estimate
01350	No	Turbidity, Severity	---	2/week	Estimate
00530	mg/l	Suspended Solids	50	1/month	Grab
00610	mg/l	Ammonia	---	1/Qtr.	Grab
31616	Count. /100 ml	Fecal Coliform (summer only)	---	1/month	Grab
80082	mg/l	CBOD	20	1/month	Grab

The pH (Reporting Code 00400) shall not be less than 6.5 S.U. nor greater than 9.0 S.U. and shall be monitored 1/month by grab sample.

If the entity uses chlorine for disinfection, the Chlorine Residual (Reporting Code 50060) shall be monitored 1/month by grab sample.

The Dissolved Oxygen (Reporting Code 00300) shall be maintained at a level of not less than 5.0 mg/l and shall be monitored 1/month by grab sample.