

94CV 0538

IN THE COURT OF COMMON PLEAS  
PORTAGE, OHIO

STATE OF OHIO, ex rel.  
LEE FISHER  
ATTORNEY GENERAL OF OHIO  
30 EAST BROAD STREET  
COLUMBUS, OH 43266-0410

Plaintiff,

vs.

VILLAGE OF HIRAM  
P.O. BOX 65  
HIRAM, OHIO 44234

Defendant.

CASE NO.

JUDGE JUDGE JOSEPH KAINRAD

CONSENT ORDER

**FILED**  
COURT OF COMMON PLEAS

JUL 28 1994

DELORES REED, Clerk  
PORTAGE COUNTY, OHIO

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 Hiram (hereinafter "Hiram") 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 Hiram 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 Hiram 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 Hiram is enjoined to meet the final effluent standards set forth in its NPDES permit No.3PB00020\*DD and any renewals or modifications thereof.

6. Defendant Hiram 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 Hiram 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.3PB00020\*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	September 28, 1992 *
(b) Submittal of Approval Plans and Specifications to Ohio EPA	March 31, 1993 *
(c) Advertisement of Bids	August 9, 1993 *
(d) Execution of Contracts	November 10, 1993 *
(e) Initiation of Construction	November 30, 1993 *
(f) Completion of construction of sufficient wetstream treatment facilities to ensure compliance with final effluent limits and the elimination of bypasses and overflows	May 23, 1995
(g) Attain and maintain compliance with final effluent limitations; all overflows and bypasses eliminated	June 30, 1995

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

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\* Task completed

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 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 Hiram shall pay to the State of Ohio a civil penalty of Eight Thousand five-hundred dollars (\$8500.00). The penalty shall be paid by delivering to counsel for Plaintiff a certified check for that amount, payable to the order of "Treasurer, State of Ohio" within (45) days from the date of entry of this Consent Order.

#### VII. STIPULATED PENALTIES

11. In the event that Defendant Hiram 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 Hiram 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 Thousand Five Hundred Dollars (\$2,500.00) per day of each violation if the failure to comply continues for

more than thirty(30) days, i.e. Five Thousand Dollars (\$5,000.00) per day of each 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

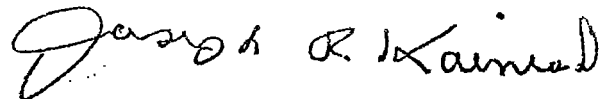
14. Performance of the terms of this Consent Order by Hiram is not conditioned on the receipt of any Federal or State grant funds or loans. In addition, Hiram's performance is not excused by the failure to obtain or shortfall of any Federal or State grant funds or loans, or by the processing of any applications 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 Hiram is hereby ordered to pay the costs of this action.



JUDGE, COURT OF COMMON  
PLEAS OF PORTAGE COUNTY



APPROVED:

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

BY:

Margaret A. Malone (0021770)  
Robert M. Fowler (0025123)  
Assistant Attorneys General  
30 East Broad St.  
Columbus, Ohio 43266-0410  
(614) 466-2766

Gary Pierce Esq.  
Village Solicitor, Hiram  
215 W. Garfield Rd  
Aurora, Oh 44202

Authorized Representative  
of the Village of Hiram

