

IN THE COURT OF COMMON PLEAS
ASHTABULA COUNTY, OHIO

STATE OF OHIO, ex rel.	:	CASE NO. <u>87829</u>
LEE FISHER	:	
ATTORNEY GENERAL OF OHIO	:	JUDGE <u>VETTEL</u>
	:	
Plaintiff,	:	
	:	
vs .	:	
	:	
VILLAGE OF JEFFERSON	:	<u>AMENDED CONSENT ORDER</u>
	:	
Defendants. :	:	

On October 7, 1988, Plaintiff State of Ohio ("State") filed a complaint against Defendant Village of Jefferson ("Village of Jefferson") for violations of Ohio's water pollution control laws and the regulations adopted thereunder. On October 7, 1988, the State and Village of Jefferson also filed a Consent Order with this court which Judge Vettel approved and signed on that same date.

Since October 7, 1988, Defendant has violated the 1988 Consent Order by violating the final effluent limitations of NPDES Permit No. 3PC00021*BD which governs the discharge from the Village of Jefferson's wastewater treatment facility located on 225 North Elm Street Extension, Jefferson, Ashtabula County, Ohio.

The parties have agreed to file this Amended Consent Order to resolve the Defendant's contempt of the 1988 Consent Order. The requirements and provisions of the Amended Consent Order supercede and replace the requirements of the Consent Order previously entered in this matter on October 7, 1988.

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. RELATION TO 1988 CONSENT ORDER

1. This Amended Consent Order supercedes and replaces the Consent Order entered in this matter on October 7, 1988.

II. JURISDICTION AND VENUE

2. 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 Village of Jefferson under Chapter 6111 of the Ohio Revised Code, and venue is proper in this Court.

III. PARTIES

3. The provisions of this Amended 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 the parties. Defendant Village of Jefferson shall provide a copy of this Amended Consent Order to each contractor it employs to perform work required by this Amended Consent Order, and each general contractor shall provide a copy of this Amended Consent Order to each of its subcontractors for such work.

IV. SATISFACTION OF LAWSUIT

4. Plaintiff alleges in its Complaint that Defendant Village of Jefferson has operated its wastewater treatment plant in violation of discharge limitations and monitoring requirements of its NPDES Permit and 1988 Consent Order, and in violation of the State of Ohio water pollution control laws. Compliance with the terms of this Amended Consent Order shall constitute full satisfaction of any civil liability by Defendant for all claims under such laws as alleged in the Complaint. In addition,

compliance with the terms of this Amended Consent Order shall serve as full satisfaction of any liability by Defendant for violation of the requirements of the Consent Order entered in this matter on October 7, 1988 which have occurred prior to the entry of this Amended Consent Order. 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 or addressed by this Amended Consent Order, including violations which occur after the filing of this Amended Consent Order.

V. PERMANENT INJUNCTION

5. Except as otherwise expressly provided by paragraphs 6 and 7, Defendant Village of Jefferson is permanently enjoined and ordered to operate and maintain its publicly owned treatment plant ("POTW") in full compliance with R.C. Chapter 6111, the regulations adopted under that Chapter, the terms and conditions of its currently effective NPDES permit, and the terms and conditions of any permit renewals or modifications thereof.

VI. COMPLIANCE SCHEDULE

6. Between the effective date of this Consent Order and March 1, 1996, Defendant Village of Jefferson is enjoined and ordered to comply with the interim effluent limitations set forth in Attachment A attached hereto. The interim effluent limitations contained in Attachment A do not constitute an NPDES permit or a modification of any existing permit. After March 1, 1996, Defendant Village of Jefferson is enjoined and ordered to meet all the final effluent limitations set forth in its NPDES permit and any renewal or modifications thereof.

Defendant Village of Jefferson is hereby enjoined and ordered to properly operate and maintain its wastewater treatment plant and any associated equipment and structures.

7. Defendant Village of Jefferson is enjoined and ordered to comply with the following schedule and eliminate any bypasses and overflows from its wastewater treatment plant and its sewer system:

<u>TASK</u>	<u>COMPLETION DATE</u>
(a) Initiate study to investigate and identify sources of infiltration/inflow ("I/I") in its sewer collection system.	immediately
(b). Investigate alternatives and submit detailed plans to Ohio EPA NEDO for improvements to its sludge handling facilities.	March 31, 1994
(c). Initiate construction of sludge handling improvements.	July 1, 1994
(d). Submit a report to Ohio EPA NEDO outlining results of study and recommendations based on those results.	Nov. 1, 1994
(e). Complete construction of sludge handling improvements.	March 31, 1995
(f). Complete correction of identifiable sources of infiltration and inflow in its sewer collection system.	Dec. 31, 1995
(g). Complete construction of any other improvements necessary to achieve compliance with the terms and conditions of its effective permit, and the terms and conditions of any permit renewals or modifications thereof.	Dec. 31, 1995
(h). Eliminate bypasses or overflows, or both, and achieve compliance with final effluent limitations contained in its effective permit, and any permit renewals or modifications thereof.	March 1, 1996

8. Defendant Village of Jefferson is enjoined and ordered to submit to Ohio EPA NEDO, within seven days of each completion date listed in Paragraph 7 of this

Amended Consent Order, a written report stating whether Defendant has performed the action set forth therein.

9. This Amended Consent Order does not constitute authorization or approval of the construction of any physical structure of 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

10. Defendant Village of Jefferson shall pay to the State of Ohio a civil penalty of fifteen thousand dollars (\$15,000.00). The penalty shall be paid by delivering to Matthew Sanders, Administrative Assistant, or his successor, Environmental Enforcement , 30 East Broad Street, 25th Floor, Columbus, Ohio 43266-0140 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 Amended Consent Order.

VIII. STIPULATED PENALTIES

11. If Defendant Village of Jefferson fails to meet any of the interim effluent limitations set forth in its current permit and any renewals or modifications thereof in accordance with paragraph 6, Defendant shall be liable for payment and shall pay a stipulated penalty according to the following payment schedule:

- a. For each day of failure to meet each final effluent limitation, up to thirty (30) days, two hundred fifty dollars (\$250.00) per day for each requirement not met.

- b. For each day of failure to meet each final effluent limitation, from thirty-one (31) to sixty (60) days, five hundred (\$500.00) per day for each requirement not met.
- c. For each day of failure to meet each final effluent limitation, from sixty-one (61) to ninety (90) days, seven hundred fifty dollars (\$750.00) per day for each requirement not met.
- d. For each day of failure to meet each final effluent limitation, over ninety days, one thousand dollars (\$1,000.00) per day for each requirement not met.

12. If Defendant Village of Jefferson fails to meet any of the final effluent limitations set forth in its current permit and any renewals or modifications thereof in accordance with paragraph 7(h), Defendant shall be liable for payment and shall pay a stipulated penalty according to the following payment schedule:

- a. For each day of failure to meet each final effluent limitation, up to thirty (30) days, two hundred fifty dollars (\$750.00) per day for each requirement not met.
- b. For each day of failure to meet each final effluent limitation, from thirty-one (31) to sixty (60) days, five hundred (\$1,000.00) per day for each requirement not met.
- c. For each day of failure to meet each final effluent limitation, from sixty-one (61) to ninety (90) days, seven hundred fifty dollars (\$1,500.00) per day for each requirement not met.
- d. For each day of failure to meet each final effluent limitation, over ninety days, one thousand dollars (\$2,000.00) per day for each requirement not met.

13. For purposes of this Amended Consent Order, each seven day final effluent limitation violation shall constitute seven separate violations, and each thirty day final effluent limitation shall constitute thirty separate violations.

14. If Defendant Village of Jefferson fails to meet any of the requirements set forth in paragraphs 5, 7 excluding paragraph 7(h), 10, and 16 of this Consent Order, Defendant shall be liable for payment and shall pay a stipulated penalty according to the following payment schedule:

- a. 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.
- b. For each day of failure to meet a requirement, from thirty-one (31) to sixty (60) days, one thousand dollars (\$1,000.00) per day for each requirement not met.
- c. 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.
- d. For each day of failure to meet a requirement, over ninety days, five thousand dollars (\$5,000.00) per day for each requirement not met.

15. Any payment required to be made under the provisions of Paragraphs 11, 12, or 14 of this Order shall be made by delivering to Matthew Sanders, Administrative Assistant or his successor, Environmental Enforcement, Attorney General's Office, 30 E. 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. ENFORCEMENT COSTS

16. Defendant Village of Jefferson shall pay the enforcement costs of relator Ohio Attorney General expended in pursuing the instant action, totaling two thousand five hundred dollars (\$2,500.00) by delivering a check in such an amount for payment

into the State Treasury made payable to the order of "Treasurer, State of Ohio" to Matthew Sanders, Administrative Assistant, or his successor, Environmental Enforcement, 25th Floor, 30 East Broad Street, Columbus, Ohio 43216, within thirty (30) days after the entry of the instant Consent Order. Any check submitted in compliance with this Section IX shall be in addition to and separate from any check submitted pursuant to any other Section of this Consent Order.

X. COMPLIANCE NOT DEPENDENT ON GRANTS OR LOANS

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

XI. MISCELLANEOUS

18. This Order shall be effective upon the date of entry by the Court.

19. All documents, plans, studies or other specifications required by this Consent Order shall be submitted to:


Ohio EPA
Northeast District Office
2110 East Aurora Road
Twinsburg, Ohio 44087
ATTN: DSW Enforcement Group Leader

20. Defendant Village of Jefferson shall, within thirty days of receipt, respond in writing to Ohio EPA to all comments made by Ohio EPA in response to documents submitted by Defendant.

21. Nothing in this Order shall release Defendant of its obligation to comply with applicable Federal, State or local statutes, rules or ordinances, including the requirement of obtaining any and all permits necessary for the construction or upgrade of its wastewater facilities.

22. This Court shall retain jurisdiction of this action for the purpose of making any order or decree which it deems appropriate to carry out this Consent Order.

23. Defendant Village of Jefferson shall pay all court costs of this action.

 **Judge Ronald W. Vettel**

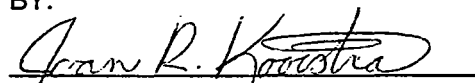
JUDGE, COURT OF COMMON PLEAS

DATE

APPROVED:


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

BY:



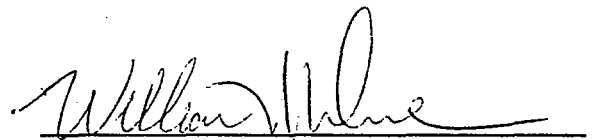
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WILLIAM McCUNE
Mayor and Authorized Representative,
Village of Jefferson



JUDITH SELZER
Clerk, Village of Jefferson

ATTACHMENT A

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS FOR OUTFALL 3PC00021001:

1. See Part II, OTHER REQUIREMENTS of NPDES permit No. 3PC00021, for locations of effluent sampling.

<u>EFFLUENT CHARACTERISTIC</u>			<u>DISCHARGE LIMITATIONS</u>				<u>MONITORING REQUIREMENTS</u>		
Reporting Code	Units	Parameter	Concentration Specified Units		Loading kg/day		Meas. Freq.	Sample Type	
			30 day	7 day	30 day	7 day			
00010	°C	Water Temperature	-	-	-	-	Daily	Max. Ind. Therm.	
00530	mg/l	Total Suspended Solids	30	45	-	-	2/Week	Composite	
00550	mg/l	Oil and Grease, Total	Not to exceed 10 at any time				1/Qtr.	Grab	
00610	mg/l	Nitrogen, Ammonia (NH ₃)	(Summer)	1.5	2.3	5.7	8.7	2/Week	Composite
			(Winter)	10	15	37.9	56.9	2/Week	Composite
00665	mg/l	Phosphorus, Total (P)	1.5	2.3	-	-	2/Week	Composite	
31616	#/100ml	Fecal Coliform (Summer Only)	2500	5000	-	-	2/Week	Grab	
50050	MGD	Flow Rate	-	-	-	-	Daily	Continuous	
80082	mg/l	CBOD ₅	(Summer)	15	23	56.9	87.2	2/Week	Composite
			(Winter)	25	40	94.8	151.6	2/Week	Composite

2. 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 Daily by Grab sample.
3. If the entity uses chlorine for disinfection, 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 maintained at a level of not less than 5.0 mg/l and shall be monitored Daily by Grab sample.

* The average effluent loading limitations are established using the following flow value: 1.0 MGD.

** See Part II, Item H of NPDES permit No. 3PC00021.

ATTACHMENT A (CONT.)

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS FOR OUTFALL 3PC00021001 (CONT.):

1 See Part II, OTHER REQUIREMENTS of NPDES permit No. 3PC00021, for locations of effluent sampling.

<u>EFFLUENT CHARACTERISTIC</u>			<u>DISCHARGE LIMITATIONS</u>				<u>MONITORING REQUIREMENTS</u>	
Reporting Code	Units	Parameter	Concentration Specified Units		Loading kg/day		Meas. Freq.	Sample Type
			30 day	7 day	30 day	7 day		
00625	mg/l	Nitrogen, Total Kjeldahl	-	-	-	-	1/Month	Composite
01027	µg/l	Cadmium, Total (Cd)	-	-	-	-	1/Qtr.	Composite
01034	µg/l	Chromium, Total (Cr)	-	-	-	-	1/Qtr.	Composite
01042	µg/l	Copper, Total (Cu)	-	-	-	-	1/Qtr.	Composite
01051	µg/l	Lead, Total (Pb)	-	-	-	-	1/Qtr.	Composite
01067	µg/l	Nickel, Total (Ni)	-	-	-	-	1/Qtr.	Composite
01092	µg/l	Zinc, Total (Zn)	-	-	-	-	1/Qtr.	Composite
32730	µg/l	Phenolic 4AAP, Total	-	-	-	-	1/Qtr.	Composite
71900	µg/l	Mercury, Total (Hg)	-	-	-	-	1/Qtr.	Composite

* The average effluent loading limitations are established using the following flow value: 1.0 MGD.

**IN THE COURT OF COMMON PLEAS
ASHTABULA COUNTY, OHIO**

**STATE OF OHIO, ex rel.
BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO**

Plaintiff,

vs .

VILLAGE OF JEFFERSON

Defendant.

Case No.. 87829
Judge Vettel

FIRST MODIFICATION TO
AMENDED CONSENT ORDER

CAROL A. HEAD
 COMMON PLEAS COURT
 ASHTABULA COUNTY, OH.
 FILED
 APR 14 8 40 AM '95

On April 15, 1994, the State of Ohio and the Village of Jefferson filed with this Court an amended consent order which Judge Vettel approved and signed. (Copy of the Amended Consent Order attached). The April 1994 Amended Consent Order resolved the Village of Jefferson's contempt of a 1988 Consent Order. The Village of Jefferson, however, has failed to meet certain milestones set forth in the compliance schedule of the amended consent order. Thus, the parties agree to the following changes to the amended consent order:

1. change the completion date of paragraph 7(c) from July 1, 1994 to April 3, 1995;
2. change the completion date of paragraph 7(e) from March 31, 1995 to December 31, 1995;
3. change paragraph 7(f) to "Complete correction of identifiable sources of infiltration and inflow in its sewer collection system, as identified in Sanitary Sewer System Smoke Testing Reports dated October 1991 and October 1994."

In addition, the parties have agreed that different monitoring requirements should apply to the Village of Jefferson. Thus, the parties modify the April 1994 Amended Consent Order by changing Attachment A of the Amended Consent Order. All

previous terms and conditions of the April 1994 Amended Consent Order remain in effect, except that the new Attachment A appended to this document replaces the old Attachment A and the compliance schedule is modified as noted above.

DATE

Ronald W. Vettel
JUDGE, COURT OF COMMON PLEAS PJ

APPROVED:

STATE OF OHIO, ex rel.
BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO

BY:

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Village of Jefferson

Judith A. Selzer
JUDITH SELZER
Clerk, Village of Jefferson

Jerome A. Lemire
JEROME A. LEMIRE (0009691)
838 State Route 46 North
Jefferson, Ohio 44047
(216) 576-9177

Counsel for Village of Jefferson

The State of Ohio,
Ashtabula County, ss.

I, hereby certify that the foregoing is
a true copy of the instrument on file in
my office.

ATTEST: Carol A. Mead
Clerk of Courts
Ashtabula County, Ohio

BY: Yvonne Smith
Deputy Clerk

Attachment A

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS for outfall 3PC00021001.

See Part II, OTHER REQUIREMENTS of NPDES Permit No. 3PC00021 for locations of effluent sampling.

EFFLUENT CHARACTERISTIC			DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
Reporting Code	Units	Parameter	Concentration Specified Units		Loading(*) kg/day		Meas. Freq.	Sample Type
			30 day	7 day	30 day	7 day		
00010	°C	Water Temperature	-	-	-	-	Daily	Max. Ind. Therm.
00530	mg/l	Total Suspended Solids	30	45	-	-	2/Week	Composite
00556	mg/l	Oil and Grease	Not to exceed 10 at any time				1/Month	Grab
00610	mg/l	Nitrogen, Ammonia (NH ₃) (Summer) (Winter)	1.5	2.3	5.7	8.7	2/Week	Composite
			10	15	37.9	56.7	2/Week	Composite
00665	mg/l	Phosphorus, Total (P)	1.5	2.3	-	-	1/Month	Composite
31616	#/100ml	Fecal Coliform (Summer Only)	2500	5000	-	-	2/Week	Grab
50050	MGD	Flow Rate	-	-	-	-	Daily	Continuous
80082	mg/l	CBOD ₅ (Summer) (Winter)	15	23	56.9	87.2	2/Week	Composite
			25	40	94.8	151.6	2/Week	Composite

2. The pH (Reporting Codes 00402 (minimum) and 00401 (maximum)) shall not be less than 6.5 S.U. nor greater than 9.0 S.U. and shall be monitored daily and reported grab.
 3. If the entity uses chlorine for disinfection, 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 maintained at a level of not less than 5.0 mg/l and shall be monitored daily by grab sample.
- * The average effluent loading limitations are established using the following flow value: 1.0 MGD.

3000
3000

Attachment A (Continued)

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS for outfall 3PC00021100
(continued).

See Part II, **OTHER REQUIREMENTS** of NPDES Permit No. 3PC00021, for locations of effluent sampling.

<u>EFFLUENT CHARACTERISTIC</u>			<u>DISCHARGE LIMITATIONS</u>				<u>MONITORING REQUIREMENTS</u>	
Reporting Code	Units	Parameter	Concentration Specified Units		Loading kg/day		Meas.	Sample Freq. Type
			30 day	Daily Max.	30 day	Daily Max.		
00630	mg/l	Nitrogen, Nitrite + Nitrate	-	-	-	-	1/Month	Composite
01074	µg/l	Nickel, Total Recoverable	-	-	-	-	1/Quarter	Composite
01094	µg/l	Zinc, Total Recoverable	-	-	-	-	1/Quarter	Composite
01113	µg/l	Cadmium, Total Recoverable	-	-	-	-	1/Quarter	Composite
01114	µg/l	Lead, Total Recoverable	-	-	-	-	1/Quarter	Composite
01118	µg/l	Chromium, Total Recoverable	-	-	-	-	1/Quarter	Composite
01119	µg/l	Copper, Total Recoverable	-	-	-	-	1/Quarter	Composite
01220	µg/l	Chromium, Dissolved Hexavalent	-	-	-	-	1/Quarter	Grab
99992	µg/l	Mercury, Total Recoverable	-	-	-	-	1/Quarter	Composite