

IN THE COURT OF COMMON PLEAS
WASHINGTON COUNTY, OHIO

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FILED
CLERK OF COURTS
WASHINGTON COUNTY, OHIO

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

CASE NO. 89-01-254
JUDGE SUSAN E. BOYER

Plaintiff,

vs.

VILLAGE OF LOWELL

CONSENT ORDER

Defendant.

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 Lowell (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.

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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 Village of Lowell 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 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 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 Village of Lowell 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. Between the effective date of this Consent Order and September 30, 1992 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 September 30, 1992, Defendant Village of Lowell is enjoined to meet the final effluent standards set forth in its NPDES permit No. OPB00022*CD and any renewals or modifications thereof. Village of Lowell is hereby enjoined to properly operate and maintain its wastewater treatment plant and any associated equipment and structures.

V. SCHEDULE FOR COMPLETING IMPROVEMENTS TO WASTEWATER FACILITY

5. Defendant Village of Lowell is enjoined and ordered to eliminate discharges from overflows and bypasses from its sanitary sewer system and to complete construction of any and all improvements to its wastewater treatment plant and sanitary

sewer system as needed to attain compliance with the final effluent limitations of NPDES permit No. OPB00022*CD and any modifications or renewals thereof in accordance with the following schedule:

<u>TASK</u>	<u>COMPLETION DATE</u>
(a) Submit a Sewer System Evaluation Survey to determine sources of clean water entering the sanitary sewer system	Completed
(b) Submit an approvable facilities plan	July 1, 1991
(c) Submit an approvable PTI application and detailed plans and specifications to Ohio EPA	October 1, 1991
(d) Wastewater treatment plant under the full time responsible charge of a licensed, certified Class II operator	December 1, 1991
(e) Advertise building bids	February 1, 1992
(f) Execution of building contracts	April 1, 1992
(g) Initiation of construction	May 1, 1992
(h) Completion of construction	November 1, 1992
(i) Attain compliance with final effluent limitations, and eliminate overflows and bypasses	December 1, 1992

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

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C 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.

VI. CIVIL PENALTY

8. Defendant Village of Lowell shall pay to the State of Ohio a civil penalty of five thousand dollars (\$5,000.00). 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 forty-five (45) days from the date of entry of this Consent Order.

VII. STIPULATED PENALTIES

9. In the event that Defendant Village of Lowell 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), 5 (f), 5 (g), and 5 (h) 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 each 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 each 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 each 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 each 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.

10. In the event that Defendant Village of Lowell fails to meet any of the requirements of this Consent Order as set forth in Subparagraph 5(i), the Defendant shall immediately and automatically be liable for payment of a stipulated penalty of \$5,000.00 per day of each violation of said requirement. The Defendant shall be liable for an additional stipulated penalty of One Thousand Dollars (\$1,000.00) per day of each violation if the failure to comply continues for more than thirty (30) days, i.e. Six Thousand Dollars (\$6,000.00) per day of each violation. In the event that failure to comply with the requirements of Subparagraph 5(i) continues more than sixty (60) days, Defendant shall be liable for an additional Four Thousand Dollars (\$4,000.00) per day of each violation, i.e., Ten Thousand Dollars (\$10,000.00) per day of each violation.

11. Any payment required to be made under the provisions of Paragraphs 9 or 10 of this Order shall be made by delivering

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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 OR LOANS

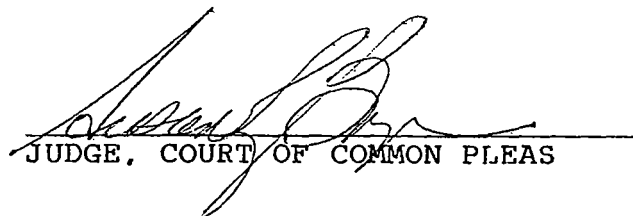
12. Performance of the terms of this Consent Order by Village of Lowell is not conditioned on the receipt of any Federal or State grant or loan funds. In addition, the Village of Lowell's performance is not excused by the failure to obtain or a shortfall of any Federal or State grant or loan funds, or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

VIII. RETENTION OF JURISDICTION

13. 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

14. Defendant Village of Lowell is hereby ordered to pay the costs of this action.



JUDGE, COURT OF COMMON PLEAS

NOTICE TO CLERKS OFFICE: FINAL APPEALABLE ORDER

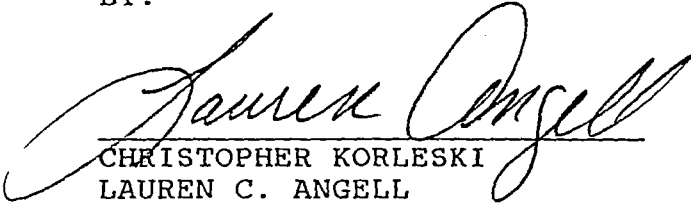
This is a final appealable order. For each party who is not in default, serve notice to the attorney for each party and to each party who represents him or her self by personal delivery or by regular mail service with a certificate of mailing making notation of same upon the case docket.

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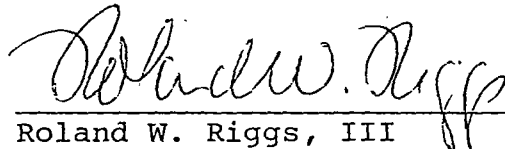
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APPROVED:

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

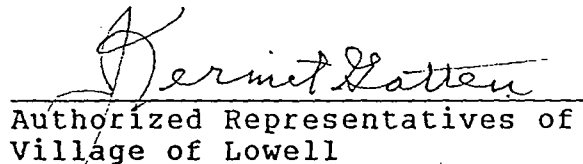
BY:



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Authorized Representatives of
Village of Lowell

7919E

ATTACHMENT A

PART I, A. - INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning on the effective date of this permit and lasting until date that the improved wastewater treatment works are to attain operational level as specified in Item e, Part IC in the Schedule of Compliance, the permittee is authorized to discharge in accordance with the following limitations and monitoring requirements from outfall: OPB00022001. See PART II, OTHER REQUIREMENTS, for locations of effluent sampling.

<u>EFFLUENT CHARACTERISTIC</u>		<u>DISCHARGE LIMITATIONS</u>				<u>MONITORING REQUIREMENTS</u>	
Reporting Code	UNITS PARAMETER	Concentration		Loading*		Meas. Freq.	Sample Type
		Other Units (Specify)		kg/day			
		30 day	7 day	30 day	7 day		
00010	°C Temperature		**				
00310	mg/l BOD ₅		**				
00530	mg/l Suspended Solids		**				
00610	mg/l Ammonia (N)		**				
31616	Count Fecal Coliform /100ml (Summer Only)		**				
50050	MGD Flow		**				
82	mg/l CBOD ₅		**				

2. pH (Reporting Code 00400).**
3. Chlorine Residual (Reporting Code 50060).**
4. Dissolved Oxygen (Reporting Code 00300).**

** Maintain existing conditions.