

IN THE COURT OF COMMON PLEAS  
HURON COUNTY, OHIO

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

CASE NO. CVH-91-340

JUDGE \_\_\_\_\_

Plaintiff,

vs.

VILLAGE OF NEW LONDON,  
Defendant.

CONSENT ORDER

CLARK HUNTER  
CLERK  
91 MAY 14 PM 2:33  
HURON COUNTY  
COMMON PLEAS COURT  
FILED

The Complaint in the above-captioned matter having been filed herein, and the Plaintiff State of Ohio by its Attorney General Anthony J. Celebrezze, Jr. (hereinafter "Plaintiff") and Defendant Village of New London (hereinafter "Defendant New London") 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 New London 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 New London 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 New London 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 Permits 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 New London 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.

VI. COMPLIANCE SCHEDULE

4. Defendant New London 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 May 30, 1993, Defendant New London 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 modification of any existing permit. After May 30, 1993, Defendant, New London is enjoined to meet the final effluent standards set forth in its NPDES permit No. 2PB00058\*BD and any renewals or modifications thereof. Defendant New London is hereby enjoined to properly operate and maintain its wastewater treatment plant and any associated equipment and structures.

V. CONSTRUCTION SCHEDULE

5. Defendant New London is enjoined and ordered to eliminate discharges from overflows and bypasses from this sanitary sewer system and to complete construction of the improvements to its wastewater treatment plant described in the Municipal Compliance Plant submitted to Ohio EPA on April

30, 1990, as approved by Ohio EPA, and to attain compliance with the final effluent limitations of NPDES permit No. 2PB00058\*BD 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	Completed
(b) Submittal of Approvable Plans and Specifications to Ohio EPA	Completed
(c) Advertisement of Building Bids	May 30, 1991
(d) Execution of Building Contracts	August 30, 1991
(e) Initiation of Constructions	September 30, 1991
(f) Completion of construction of sufficient wetstream treatment facilities to ensure compliance with final effluent limits and the elimination of bypasses and overflows, except as allowed in Permit	March 30, 1993
(g) Attain compliance with final effluent limitations, and eliminate overflows and bypasses, except as allowed in Permit	May 30, 1993

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

This 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.

#### VI. CIVIL PENALTY

6. Defendant New London shall pay to the State of Ohio, a civil penalty of twenty-six thousand dollars (\$26,000.00). The penalty shall be paid by delivering to counsel for Plaintiff, or his successor, by certified check payable to the order of Treasurer State of Ohio as follows: \$8,000.00 within 45 days; \$8,000.00 within 180 days; and \$10,000.00 within 1 year, from the date of entry of this Consent Order.

#### VII. STIPULATED PENALTIES

7. In the event that Defendant New London 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) and 5 (f) including any scheduled milestone requirement, Defendant New London 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 (3) days - Three Hundred Dollars (\$300.00) 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.

8. In the event that Defendant New London fails to meet any of the requirements of this Consent Order set forth in Subparagraph 5(g), the Defendant New London shall immediately and automatically be liable for payment of a stipulated penalty of \$5,000.00 per day of each violation of said requirement. Defendant New London 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(g) continues more than sixty (60) days, Defendant New London 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.

9. Any payment required to be made under the provisions of Paragraphs 7 or 8 of this Order shall be made by delivering to Plaintiff's counsel (or the successor) 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 AND/OR LOANS

10. Performance of the terms of this Consent Order by Defendant New London is not conditioned on the receipt of any Federal or State grant funds. In addition, Defendant New London's performance is not excused by the failure to obtain or shortfall of any Federal or State grant and/or loan funds, or by the processing of any applications for the same.

VIII. RETENTION OF JURISDICTION

11. 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

12. Defendant New London is hereby ordered to pay the costs of this action.

XI. POTENTIAL FORCE MAJEURE

13. In any action to enforce any of the provisions of this Consent Order Defendant may raise at that time the question of whether it is entitled to a defense that its conduct was caused by reasons beyond its control such as, by way of example and not limitation, act of God, unusually severe weather conditions, strikes, acts of war or civil disturbances, or orders of any regulatory agency. While Plaintiff does not agree that such a

defense exists, it is, however, hereby agreed upon by the parties that it is premature at this time to raise and adjudicate the existence of such a defense and that the appropriate point at which to adjudicate the existence of such a defense is at the time that an enforcement action, if any, is commenced. Acceptance of this Consent Order without a force majeure clause does not constitute a waiver by Defendant of any rights or defenses it may have under applicable law.

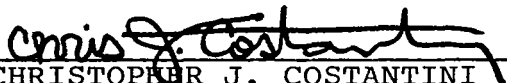
ORIGINAL SIGNED BY  
PHILLIP M. WHITE JR., JUDGE


APPROVED:

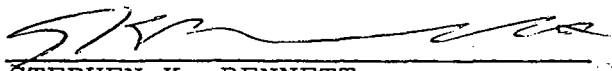
JUDGE, COURT OF COMMON PLEAS  
HURON COUNTY, OHIO

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

BY:

  
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VILLAGE OF NEW LONDON  
GERALD FOWDEN, MAYOR

  
STEPHEN K. BENNETT  
Village Solicitor,  
Village of New London  
136 West Main Street  
New London, Ohio 44851  
(419) 929-8352



INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. The permittee is authorized to discharge in accordance with the following limitations and monitoring requirements from the following outfall: 2PB00058001. See PART II of OEPA NPDES No. 2PB0058\*CD, "OTHER REQUIREMENTS", for locations of effluent sampling. See also Part II, Items L, M and N of that permit.

Reporting Code	EFFLUENT CHARACTERISTIC UNITS PARAMETER		DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
			Concentration		Loading*		Meas. Freq.	Sample Type
			Other Units (Specify)		kg/day			
		30 day	7 day	30 day	7 day			
00010	°C	Temperature	-	-	-	-	Daily	Max. Ind. Therm.
00310	mg/l	BOD <sub>5</sub>						
		(Summer)	25	38	44	66	2/Week	Composite
		(Winter)	30	45	53	79	2/Week	Composite
00530	mg/l	Suspended Solids	30	45	53	79	2/Week	Composite
00550	mg/l	Oil & Grease	Not to exceed 10 at any time				1/Qtr.	Grab
00610	mg/l	Ammonia (N)						
		(Summer)	7.0	11.0	13.0	19.0	1/Month	Composite
		(Winter)	-	-	-	-	1/Month	Composite
00665	mg/l	Phos., Total	-	-	-	-	1/Month	Composite
31616	Count /100ml	Fecal Coliform (Summer Only)	1000	2000	-	-	2/Week	Grab
50050	MGD	Flow	-	-	-	-	Daily	Continuous
80082	mg/l	CBOD <sub>5</sub>	-	-	-	-	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: 0.46 MGD