

Whereas, by agreement of the parties and this Court, the Consent Order was modified on July 24, 2003 to permit an extension of time until December 31, 2003 for the expenditure of the remaining funds of the "Community Sewer Improvement Fund" in furtherance of the fund's purposes, and

Whereas, by agreement of the parties and this Court, the Consent Order was modified on December 29, 2003 to permit an extension of time until August 31, 2004 for the expenditure of the remaining funds of the "Community Sewer Improvement Fund" in furtherance of the fund's purposes, and

Whereas Plaintiff and Defendant hereby agree that the following modifications should be made to the Consent Order,

NOW THEREFORE, without trial or admission of any issue of law or of fact, and upon the consent of the parties, it is hereby **ORDERED, ADJUDGED** and **DECREED** that:

A. Paragraph 7 of the Consent Order is hereby amended so as to add the following subsection (d) to subparagraph 7.3:

d. If, in the future, EORWA assumes operations and maintenance and/or ownership of the municipal sewers, EORWA will assume the responsibilities of performing the requirements of Subparagraphs a., b., c. ii., c. iii. and c. iv. above.

B. Subparagraph 7.10 of Paragraph 7 is hereby amended to read as follows:

7.10 EORWA shall also initiate a "wet weather stress test" study to determine how to best operate the treatment plant to maximize removal of pollutants during wet weather.

- a. By no later than June 1, 2008, EORWA shall complete the "wet weather stress test" and submit the results of the study to Ohio EPA.
- b. EORWA shall complete and implement all of the recommendations within the study in accordance with the terms, conditions, and schedule contained in its Ohio-EPA approved Long Term Control Plan.

C. Subparagraph 7.12 of Paragraph 7 is hereby amended to read as follows:

7.12 Defendant is ordered and enjoined to place and maintain the operation of its wastewater collection and treatment system under the responsible charge of a certified class IV wastewater treatment plant operator in accordance with Ohio Administrative Code (hereinafter "OAC") Rule 3745-7-02 and its NPDES Permit No. OPQ00000, and any modifications or renewals thereof. A class IV technical supervisor may be employed until August 31, 2006, after which time Defendants must comply with the certified operator requirements of OAC 3745-7-02. The responsibilities of the technical supervisor employed until August 31, 2006, shall be set forth in a plan authorized by the Director of the Ohio EPA, showing the time, methods, and procedures to be followed. The technical supervisor shall spend a minimum of eight (8) hours per week at the wastewater treatment plant and inspecting the collection system, unless changed by mutual agreement of the parties.

D. Paragraph 12 is hereby amended to read as follows:

12. In addition to the civil penalty set forth in Section VII, Paragraph 13 of this Consent Order, and in furtherance of the mutual objectives of the State of Ohio and Defendant in improving the environment and reducing the impact to water of the State of Ohio, Defendant agrees to and is hereby ordered to establish a Supplemental Environmental Project fund (this fund shall be named and referred to as the "Community Sewer Improvement Fund") in the amount of Five Hundred Thirty-Nine Thousand, Nine Hundred Eighty-Three dollars and Seventy-Three cents (\$539,983.73), within Ninety (90) days after the entry of this Consent Order. The Community Sewer Improvement Fund shall be administered by Defendant for the benefit of the communities served by the Defendant's waste water treatment facility. The purpose of the Community Sewer Improvement Fund is to provide funding for essential sanitary sewer projects in the municipalities served by Defendant's waste water treatment facility. The Community Sewer Improvement Fund monies shall be spent on or before August 31, 2019. Any monies left in the Community Sewer Improvement Fund after August 31, 2019 shall be paid to the State of Ohio by certified check for the appropriate amount, made payable to "Treasurer, State of Ohio", which check shall be delivered by certified mail to Amy Laws, Paralegal, or her successor, at the Ohio Attorney General's Office, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428, and shall be deposited into the R.C. 6111.09 fund of the Ohio EPA.

In resolution of the Verified Complaint submitted to Ohio EPA pursuant to R.C. 3745.08 and received by Ohio EPA on October 16, 2000, relating to two unauthorized discharges of sludge to waters of the State in violation of R.C. 6111.04, Defendant agrees to and is hereby ordered to deposit, on or before October 31, 2004, an additional amount

of Five Thousand Dollars (\$5,000) into the Community Sewer Improvement Fund as described above. Defendant shall provide notice to Ohio EPA of the deposit of this amount into the Fund.

E. Paragraph 13 is hereby amended to read as follows:

13. To receive funding from the Community Sewer Improvement Fund for a project, a municipality shall submit a detailed project description and plans to EORWA and Ohio EPA. EORWA and Ohio EPA shall review the plans and proposal for technical adequacy and determine whether the project qualifies as an essential project. Provided both Defendant and Ohio EPA concur on the technical adequacy of the project, essential nature of the project, and amount of funding to be granted, the funds from the Community Sewer Improvement Fund may be disbursed to the municipality. If the Defendant and Ohio EPA cannot agree on the project being proposed, either party may request the Court resolve the conflict. Defendant shall be responsible for preparing contracts detailing the conditions of granting funds to the municipality.

E. Paragraph 24 is hereby amended to read as follows:

24. The parties agree and acknowledge that final approval by the Plaintiff and Defendant, EORWA and entry of this Consent Order is subject to the requirement of 40 C.F.R. 123.27 (d)(2)(iii), which provides for notice of the lodging of this Consent Order, opportunity for public comment, and the consideration of any public comment. Both the

State and Defendant, EORWA reserve the right to withdraw this Consent Order based on comments received during the public comment period.

IT IS SO ORDERED:

ENTERED THIS DAY OF 2004.

JOHN M SOLOVAN II

JUDGE JOHN M. SOLOVAN II
BELMONT COUNTY
COURT OF COMMON PLEAS

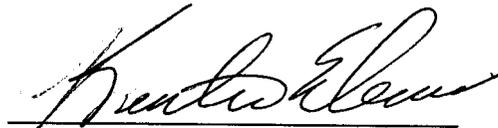
APPROVED:

JIM PETRO
ATTORNEY GENERAL

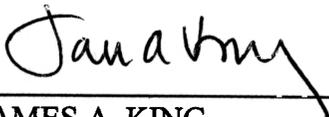


*Authorized Representative of Defendant
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