

I. JURISDICTION AND VENUE

1. The Court has jurisdiction over both the parties and the subject matter of this action pursuant to R.C. Chapter 6111. The Complaint states a claim upon which relief can be granted against Defendant under R.C. Chapter 6111. Venue is proper in this Court.

II. PERSONS BOUND

2. The provisions of this Consent Order shall apply to and be binding upon Defendant, as well as Defendant's agents, officers, employees, assigns, successors in interest and others bound by Rule 65(D) of the Ohio Rules of Civil Procedure who are acting in concert and/or privity with Defendant. Defendant shall provide a copy of this Consent Order to each general contractor and/or consultant they employ to perform work itemized herein and each general contractor shall provide a copy of this Consent Order to each of their subcontractors for such work.

III. SATISFACTION OF LAWSUIT

3. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Defendant for all claims alleged against them in the State's Complaint.

IV. RESERVATION OF RIGHTS

4. Nothing in this Consent Order, including the imposition of stipulated civil penalties for violations of this Consent Order, shall limit the authority of the State of Ohio to:

- (a) Seek any legal or equitable relief from Defendant or any other appropriate person for claims or conditions not alleged in the Complaint, including violations that occur after the filing of the Complaint;
- (b) Seek any legal or equitable relief from Defendant or any other appropriate person for claims or conditions alleged in the Complaint that occur or exist on the date of or after the entry of this Consent Order, to the extent that those claims or conditions are not addressed by this Consent Order;

- (c) Enforce this Consent Order through a contempt action or otherwise seek relief for violations of this Consent Order;
- (d) Take any action authorized by law against any appropriate person, including Defendant, to eliminate or mitigate conditions at the Site that may present a threat to the public health or welfare, or the environment in derogation of applicable laws and regulations, for which Ohio EPA has the authority to enforce; and/or,
- (e) Bring any legal or equitable action against any appropriate person other than Defendant for any violation of applicable laws. For the purposes of this Consent Order, and in particular the provisions of this paragraph, the term “person” includes: an individual, corporation, business trust, estate, trust, partnership, association, municipal corporation, interstate body created by compact, and other officers, agents, employees, attorneys, and/or those in active concert or participation with any of them.

V. INJUNCTION AND COMPLIANCE

5. Defendant is permanently enjoined and ordered to comply immediately with all applicable provisions of R.C. Chapter 6111 and the rules promulgated and permits issued under that chapter, except as otherwise provided in this Consent Order.

6. Defendant is enjoined and ordered to complete any upgrades to the waste water treatment works (“WWTW”) necessary to fully comply with the terms and conditions of National Pollutant Discharge Elimination System (“NPDES”) permit No. 3PR00457 in accordance with the following schedule:

- a) Within **30 days** of the entry of this Consent Order, contract with a professional engineer for submittal of a Permit To Install (PTI) application for necessary plant improvements;
- b) Within **14 days** of contracting with a professional engineer, Defendant shall notify Ohio EPA;
- c) Within **90 days** of the entry of this Consent Order, complete necessary general maintenance. General maintenance activities include, but are not limited to, the following: replacement and/or repair of aeration tank

diffusers, return sludge pipeline, fittings, and bracket, dosing pump electrical control box, dosing pump, sand filter bed walls and distribution box, as well as any other replacements and/or repairs that are not a change to the original design;

- d) Within **14 days** of general maintenance commencement, Defendant shall notify Ohio EPA;
- e) Within **14 days** of general maintenance completion, Defendant shall notify Ohio EPA;
- f) Within **150 days** of the entry of this Consent Order, submit an approvable PTI application and detail plans for the necessary plant improvements;
- g) Within **30 days** of receipt of notification of comments or deficiencies from Ohio EPA on the PTI application, Defendant shall provide Ohio EPA a revised application and detailed plans addressing the comments or deficiencies;
- h) Within **240 days** of the entry of this Consent Order, complete construction of any approved WWTW improvements in accordance with the approved PTI and complete any general maintenance repairs;
- i) Within **14 days** of construction commencement, Defendant shall notify Ohio EPA;
- j) Within **14 days** of construction completion, Defendant shall notify Ohio EPA.

VI. CIVIL PENALTY

7. Defendant Rickard agrees to pay a civil penalty totaling **thirteen-thousand five-hundred dollars (\$13,500)** to the State of Ohio in installments according to the following schedule:

- a) By no later than thirty (30) days following the entry of this Consent Order, Defendant shall pay the first installment of **five thousand dollars (\$5,000)**.
- b) By no later than one hundred and twenty (120) days following the entry of this Consent Order, Defendant shall pay the second installment of **forty five hundred dollars (\$4,500)**.

- c) By no later than one hundred and eighty (180) days following the entry of this Consent Order, Defendant shall pay a final installment of **four thousand dollars (\$4,000)**.

8. Penalty payment shall be made by a certified check for the amount as stated above, payable to the order of "Treasurer, State of Ohio" and delivered to Scott Hainer, Ohio Attorney General's Office, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400.

9. If Defendant fails to make the scheduled payments as set forth in Paragraph 7 above, full payment, as well as interest as set forth in R.C. 5703.47 accruing from the date of entry of this Consent Order, shall become due and owing immediately.

10. It is expressly understood and agreed that upon the entry of the CO the State shall be entitled to file a Judgment Lien in the amount of thirteen thousand five hundred dollars (\$13,500) to secure payment of any unpaid civil penalty balance set forth in Paragraph 7.

VII. REPORTING REQUIREMENT

11. Documents or reports with the regard to the waste water treatment system that are required to be submitted to Ohio EPA pursuant to this Consent Order shall be sent to: Ohio Environmental Protection Agency, Northeast District Office, Division of Surface Water, ATTN: Allison Cychk, at 2110 East Aurora Road, Twinsburg, Ohio 44087.

VIII. STIPULATED PENALTIES

12. In the event that Defendant fails to meet the requirements of this Consent Order set forth in Paragraphs 5 and 6, above, Defendant shall immediately and automatically be liable for and shall pay a stipulated penalty of two hundred fifty dollars (\$250.00) per day for each requirement not met for the first sixty (60) days of noncompliance. Defendant shall be liable for an additional

stipulated penalty of five hundred dollars (\$500.00) per day for each requirement not met if the failure to comply continues for more than sixty (60) days but less than one hundred twenty (120) days. In the event Defendant fails to comply for one hundred twenty (120) days or more, Defendant shall be liable for an additional one thousand dollars (\$1,000.00) per day for each requirement not met.

13. Notwithstanding the foregoing, Plaintiff reserves the right to pursue any other action to enforce all terms of this Consent Order, including, but not limited to, filing charges in contempt with this Court.

14. Any payment required to be made under the provisions of Paragraph 12 of this Consent Order shall be made by delivering a certified check or checks, made payable to "Treasurer, State of Ohio," for the appropriate amount(s), within forty-five (45) days from the date of the failure to meet the requirement of the Consent Order, by mail, or otherwise, to Scott Hainer, Ohio Attorney General's Office, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio, 43215.

IX. COMPLIANCE NOT DEPENDENT ON GRANTS OR LOANS

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

X. MODIFICATION

16. No modification shall be made to this Consent Order without either the written agreement of the parties and/or approval of the Court.

XI. MISCELLANEOUS

17. The Court shall retain jurisdiction of this action for the purposes of administering and enforcing compliance with the Consent Order.

18. Nothing in this Consent Order shall affect Defendant's obligation to comply with all applicable federal, State or local laws, regulations, rules or ordinances.

19. Any acceptance by the State of Ohio of any payment, document or other work due hereunder subsequent to the time that the obligation is due under this Consent Order shall not relieve Defendant from the obligations created by this Consent Order.

20. Defendant shall inform the Ohio EPA of any change or cessation of the business that is the subject of this action.

XII. COSTS

21. Defendant shall pay the court costs of this action.

XIII. CONTINUING JURISDICTION

22. This Court shall retain jurisdiction over this action for the purpose of enforcing and administering Defendant's compliance with this Consent Order.

XIV. ENTRY OF CONSENT ORDER AND FINAL JUDGMENT BY CLERK

23. The parties agree and acknowledge that final approval by Plaintiff and Defendant and entry of this Consent Order is subject to the requirements of 40 C.F.R. 123(d)(1)(iii), which provides for notice of the lodging of the Consent Order, opportunity for public comment, and the consideration of any public comments. Both Plaintiff and Defendant reserve the right to withdraw this Consent Order based on comments received during the public comment period.

24. Pursuant to Rule 58 of the Ohio Rules of Civil Procedure, upon the signing of this Consent Order by the Court, the clerk is hereby directed to enter it upon the journal. Within three days of entering the judgment upon the journal, the clerk is hereby directed to serve upon the parties a notice of the judgment and its date of entry upon the journal in the manner prescribed by Rule 5(B) of the Ohio Rules of Civil Procedure and note the service in the appearance docket.

IT IS SO ORDERED.

DATE

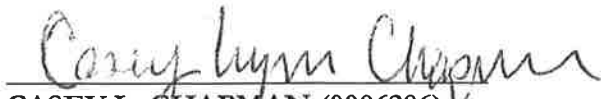
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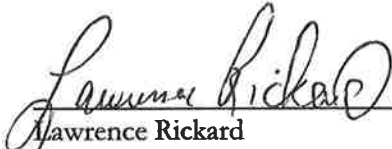
APPROVED BY:

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