

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF LIVINGSTON

LAKELAND PROPERTY OWNERS ASSOCIATION,
a Michigan unincorporated voluntary association,
and TOWNSHIP OF HAMBURG, a Michigan
body corporate, jointly and severally,

Civil Action No. 70-1453-CE
HON. DANIEL A. BURRESS

Plaintiffs,

AND

PORTAGE, BASE, AND WHITEWOOD OWNERS
ASSOCIATION, INC., a Michigan non-profit
corporation, formerly known as PORTAGE AND
BASE LAKE ASSOCIATION, INC., a Michigan
non-profit corporation,

Intervening Plaintiff,

v

TOWNSHIP OF NORTHFIELD, a Michigan
body corporate,

Defendant,

AND

TOWNSHIP OF GREEN OAK, a Michigan
body corporate,

Intervening Defendant.

TRUE COPY
MARGARET M. DUNLEAVY
LIVINGSTON COUNTY CLERK

Lakeland Property Owners Assoc.
A Michigan Unincorporated
Voluntary Association
In Pro Per

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Portage, Base and Whitewood
Owners Association, Inc.
In Pro Per

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AMENDED CONSENT JUDGMENT

THIS CONSENT JUDGMENT made this ____ day of April 2002, by and between TOWNSHIP OF HAMBURG, a general law township, whose address is 10405 Merrill Road, Post Office Box 157, Hamburg, Michigan, 48139 ("HAMBURG"), TOWNSHIP OF NORTHFIELD, a general law township, whose address is 75 Barker Road, Post Office Box 576, Whitmore Lake, Michigan 48189 ("NORTHFIELD"), and TOWNSHIP OF GREEN OAK, a general law township, whose address is 10001 Silver Lake Road, Brighton, Michigan 48116 ("GREEN OAK").

WITNESSETH:

WHEREAS, NORTHFIELD, GREEN OAK and HAMBURG own and operate wastewater treatment works (hereinafter "plants"), the NORTHFIELD and GREEN OAK plants being located in Green Oak Township in the County of Livingston, and the HAMBURG plant being located in Hamburg Township, County of Livingston, State of Michigan; and

WHEREAS, NORTHFIELD, GREEN OAK and HAMBURG are desirous of settling pending litigation between them in the case of "Lakeland Property Owners, et. al. and Hamburg Township vs. Northfield Township and Green Oak Township," Case No. 70-1453-CE in the Livingston County Circuit Court, and creating a mechanism to ensure monitoring of the plants, cooperation among the respective Townships and speedy resolution of disputes which arise as a result of the operation of the plants, their effects upon the respective townships, and overall environmental protection; and

WHEREAS, Act Number 200 of Public Acts of 1957, as amended, (MCLA 123.631 to 123.637) provides for the creation by 2 or more municipalities of an intermunicipal committee for the purpose of studying area problems; and

WHEREAS, NORTHFIELD, GREEN OAK and HAMBURG are desirous of creating such a intermunicipal committee to avoid further litigation regarding wastewater disposal services in each township, and

WHEREAS, NORTHFIELD, GREEN OAK and HAMBURG agree that the resolution of wastewater disposal service and environmental issues in a swift, effective, and conclusive manner is of paramount concern in each township; and

WHEREAS, NORTHFIELD, GREEN OAK and HAMBURG are desirous of entering into an agreement whereby future disputes regarding sewage disposal services and watershed protection in each township that may arise would be transmitted to and reviewed by the intermunicipal committee for orderly resolution of the matter; and

WHEREAS, NORTHFIELD, GREEN OAK and HAMBURG agree that because of the proximity of the respective plants to each township and the environmentally sensitive nature of the service area, it is in the best interests of NORTHFIELD, GREEN OAK and HAMBURG to create such an intermunicipal committee to review issues and make recommendations regarding sewage disposal services and related environmental issues in each township; and

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. **GRANT OF EXPANSION OF NORTHFIELD'S WASTEWATER TREATMENT PLANT**

In further consideration of the mutual promises herein, HAMBURG and GREEN OAK agree that the existing NORTHFIELD wastewater treatment plant can be immediately expanded and operated, in accordance with MDEQ Permit No. M10023710, issued November 14, 1997, at 2.25 million gallons per day (mgd) by duplicating the current technology utilized at NORTHFIELD's wastewater treatment plant which would also include the construction of an equalization basin, as more particularly defined in Exhibit A. The design and construction as set forth in Exhibit A are approved by the parties and are not subject to the review provisions of the Consent Judgment.

CREATION OF INTERMUNICIPAL SEWER COMMITTEE (ISC)

- A. The governing bodies of NORTHFIELD, GREEN OAK and HAMBURG shall, by resolution in each respective body, establish and organize an intermunicipal committee, to be known as the Intermunicipal Sewer Committee ("ISC").
- B. The ISC shall consist of six (6) members, two (2) from each township NORTHFIELD, GREEN OAK and HAMBURG. Each township board shall appoint two (2) committee members ("appointee") within 60 days of the execution of this Consent Judgment and thereafter every two (2) years at each township's first regularly scheduled township board meeting of the year. No appointee shall be a member of any member township's board of trustees. It is mutually understood that given the technical nature of issues that will be facing the ISC in the future, it is prudent that the ISC be made up of individuals familiar with environmental issues. In the event an ISC committee member resigns, his or her appointing township board shall appoint a new representative within 45 days of said resignation. The new appointee shall fill the vacancy for the unexpired term. The board of each member township may remove any or all of its appointed representatives at any time if it is deemed by a majority of members of the township board that such removal is in the best interest of the township. Resignations and/or removal of appointments shall not inhibit the actions of the ISC and the ISC shall be empowered to perform as if the appointee were never appointed and the ISC were fully staffed. Each appointee shall qualify by taking the constitutional oath of office and filing it with the appropriate clerk of the municipality. The volunteer ISC members shall serve without compensation from ISC funds. The respective member townships, at their option, may compensate

their representatives consistent with compensation policies for other citizen boards of the respective municipality.

- C. The ISC shall meet at least quarterly and at such other times and places as shall be determined by the ISC or as compelled by member township requests for review of disagreements. The ISC shall maintain minutes of its meetings and hold them open for review.
- D. The ISC may establish By-Laws and Procedures not inconsistent with this Consent Judgment and subject to the approval of the member townships' legislative bodies.

3. **PURPOSE OF INTERMUNICIPAL SEWER COMMITTEE (ISC)**

The ISC shall study currently existing, publicly owned treatment plants located within HAMBURG, NORTHFIELD and GREEN OAK and shall study wastewater effluent to formulate written recommendations for the best available technology that is practical, economically feasible and effective for each community's treatment plant.

4. **DUTIES AND POWERS OF INTERMUNICIPAL SEWER COMMITTEE (ISC)**

- A. The ISC shall have general authority to monitor the member townships' existing sewage plants and make recommendations thereto. The existing sewage treatment plants shall mean (i) the Northfield Township Waste Water Treatment Plant on Lemman Road in Green Oak Township, (ii) the Hidden Lake Waste Water Treatment Plant located on Silver Lake Road in Green Oak Township, and (iii) the Hamburg Township Waste Water Treatment Plant located on M-36 in Hamburg Township.
- B. The ISC shall monitor the member townships' existing sewage plants for compliance with effluent levels to be established by the Michigan Department of Environmental Quality and for best efforts to achieve effluent goals recommended

by the experts described in paragraph 4(F) below. In addition, the ISC shall monitor the member townships for sewage plant spills. The ISC shall compile and report these statistics to the member townships quarterly.

- C. The ISC shall review any proposed wastewater treatment plant expansions or modifications except as set forth herein.
- D. The ISC shall in the first year of this Consent Judgment commission a Wastewater Treatment Plant Technology Study and commence a Watershed Study in accordance with the criteria described in Exhibits B and C.
- E. The ISC shall review any studies performed at the direction of this ISC.
- F. Each member of the ISC shall appoint an expert to conduct the studies set forth in paragraph 4(D) and serve the ISC. The ISC may employ any other personnel deemed necessary to coordinate and conduct all types of surveys and studies relating to the watershed issues and make individual or joint written recommendations as to the best available and economically feasible technological solution to such issues. However, in the event a dispute proceeds to Arbitration pursuant to Paragraph 6 of this Agreement, the disputing parties shall each select one expert. The two selected experts shall select a third expert. Time deadlines for the selection of experts for the purposes of Arbitration shall be determined by the Arbitration panel.
- G. The ISC shall adopt, by resolution of a majority of its full membership, any expert recommendation for submission to each member township's governing body.
- H. The ISC may publicize its purposes, objectives and findings, and may distribute reports thereon.
- I. The ISC shall make an annual report of its activities to each member township's governing body.

- J. Unless otherwise specified in this agreement, the ISC shall act upon a majority vote of all of its members at any regular or special meeting.

5. **FUNDING OF INTERMUNICIPAL SEWER COMMITTEE (ISC)**

For the purpose of providing funds to meet the expenses of the ISC, the member townships' governing bodies shall, by resolution, authorize the allocation of municipal funds for such purpose. Each member township shall make a minimum contribution of fifteen thousand dollars (\$15,000.00) per annum commencing with entry of this Consent Judgment and thereafter on the anniversary thereof, ending five (5) years hence. Additional funding shall be based on the recommendation of the ISC and approved by a majority vote of each member township's board of trustees, with each member township bearing 33.34% proportion of the total additional funds approved. Funding of the ISC shall not be subject to Arbitration. Each Township shall establish a fund within their respective budgets to be monitored by the Treasurer for each Township. The ISC shall submit proportionate costs to each Township quarterly for payment.

- A. The ISC may accept gifts and grants from the federal government, state government and local governments, also from private individuals, foundations or agencies, if the grants are made for furtherance of the objectives for which the committee is established. Any funds received by the ISC shall be divided by 33.34% and deposited into each Township's ISC fund.
- B. The ISC shall maintain records relative to its operation and hold them open for review.

6. **PROCEDURE OF BINDING ARBITRATION**

In the event that a recommendation of the ISC is not unanimous, the dissenting township's governing body may demand that the dispute be submitted to binding arbitration by a three-person arbitration panel. Such dispute and any other claims or disputes regarding

wastewater treatment or watershed protection shall be subject to binding arbitration in accordance with the following procedures:

- A. The aggrieved township may give notice of its intent to arbitrate any environmental dispute within thirty (30) days of any recommendation or action giving rise to the claim or dispute.
- B. The disputing parties shall each have fifteen (15) days from the date of the notice described in paragraph 6(A) to select and name one arbitrator to the arbitration panel. The two selected arbitrators shall have fifteen (15) days to name the third arbitrator.
- C. Arbitrators cannot be appointed from the legislative bodies of the member townships' governing bodies. The arbitration panel shall determine the procedure for arbitration other than the timeline set forth herein.
- D. The arbitration panel shall report its findings on the claim or dispute to each member legislative body within sixty (60) days of being constituted or such other reasonable time period as the arbitrators deem appropriate and issue a binding decision regarding the grievance.
- E. HAMBURG, NORTHFIELD and GREEN OAK each agrees to consider itself bound and to be bound by any decision made by the arbitrators pursuant to this agreement. The parties further agree that the binding decision is in lieu of any and all statutory or common law remedies and there shall be no review or appeal, e.g. judicial, administrative, or otherwise.
- F. The Arbitrators shall have discretion to award costs and fees upon a finding that any parties' objections were improvidently made.
- G. The parties agree that a judgment of the Livingston County Circuit Court may be rendered upon the arbitration award made pursuant to this Consent Judgment.

7. **TERM**

The term of this Consent Judgment shall commence on the date hereto and terminate five (5) years hence. HAMBURG, NORTHFIELD, and GREEN OAK agree that this Consent Judgment may be extended if mutually agreeable terms are agreed upon by HAMBURG, NORTHFIELD, and GREEN OAK at the time of the expiration of this Consent Judgment.

8. **TERMINATION**

Termination of this Consent Judgment shall be by Petition for Termination to the Livingston County Circuit Court for good cause shown.

9. **BOUND BY THIS CONSENT JUDGMENT**

Each party agrees to adopt ordinances effectuating this Consent Judgment and binding them to all rules, processes and conditions of this Consent Judgment to the same extent that the other parties to this Consent Judgment are so bound.

10. **DEFAULT**

The parties pledge their full faith and credit for all duties set forth in this Consent Judgment.

11. **FAILURE OF PERFORMANCE**

No failure or delay in the performance of the executed Consent Judgment by the parties shall be deemed to be a breach thereof when such failure or delay is occasioned by or due to any Act of God, strikes or lockouts, wars, riots, epidemics, or other similar cause, whether of the kind herein enumerated or otherwise not in the control of the party claiming suspension.

12. **NON-ASSIGNABILITY**

It is hereby agreed that this Consent Judgment shall be binding upon all successor governmental units which may assume jurisdiction over all or part of the areas now governed by the parties.

13. **SEVERABILITY**

Should any provision of this Consent Judgment be found by a court of law to be unconstitutional it shall be severed from the Consent Judgment and the remaining provisions shall remain in full force and effect.

14. **CONFLICTS WITH OTHER JUDGMENTS**

NORTHFIELD, GREEN OAK and HAMBURG all acknowledge that the Hidden Lake Waste Water Treatment Plant is subject to the terms and conditions of a certain Judgment and Amended Judgment in the case of "Beck Development, et. al. vs. Green Oak Township, et. al.," Case Number 95-14297-CH in the Livingston County Circuit Court. NORTHFIELD, GREEN OAK and HAMBURG agree that, in case of conflict between this Consent Judgment and the terms and conditions of the Judgments in Case No. 95-14297-CH, the terms and conditions of the Judgments in Case No. 95-14297-CH shall control and nothing in this Consent Judgment shall be interpreted or construed to negate or modify in any way the terms and conditions of the Judgments in Case No. 95-14297-CK.

IN WITNESS WHEREOF, the parties have set their hands and seals the day and year first above written.


HON. DANIEL A. BURRESS

DANIEL A. BURRESS
CIRCUIT COURT JUDGE

5/23/02


**APPROVED AS TO FORM
AND CONTENT:**

HOOPER, HATHAWAY, PRICE,
BEUCHE & WALLACE
Attorneys for Plaintiff
Township of Hamburg

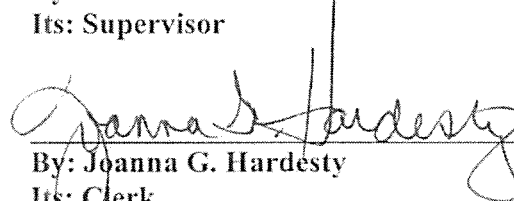


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HAMBURG TOWNSHIP
a general law township



By: Howard Dillman
Its: Supervisor



By: Joanna G. Hardesty
Its: Clerk

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Green Oak Township



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GREEN OAK TOWNSHIP
a general law township



By: Mark St. Charles
Its: Supervisor



By: Michael Sedlak
Its: Clerk

LAW OFFICE OF PAUL E. BURNS
Attorneys for Defendant
Northfield Township

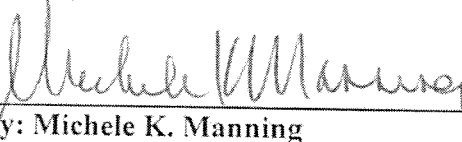


PAUL E. BURNS (P31596)
133 West Grand River
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NORTHFIELD TOWNSHIP
a general law township



By: Mike McFarland
Its: Supervisor



By: Michele K. Manning
Its: Clerk

EXHIBIT A

EQUALIZATION BASIN

These improvements would include the construction of a concrete basin to dampen the peak flow entering the WWTP. Related appurtenances would include: flow metering, aeration/mixing equipment, revisions to the grit/screening facilities, related electrical/instrumentation work, piping modifications and necessary site improvements.

WWTP EXPANSION TO 2.25 MGD

These improvements would duplicate existing treatment technology at the WWTP including the addition of: flow splitting structures, primary settling tank(s), aeration tank(s)/equipment, final settling tank(s), RAS pumping facilities, aeration blowers/piping, tertiary filter(s), sludge storage, digester improvements, standby power improvements, electrical/instrumentation and necessary site improvements.

REFERENCE TO PLANS AND SPECIFICATIONS

This Exhibit A references and incorporates by such reference the plans, documents, drawings, concepts and specifications ("the current Design and Construction Plans") provided by Northfield Township and reviewed by Hamburg Township and the same are made a part of this Exhibit A as though fully set forth herein:

List to be filed separately

The parties understand and agree that the Current Design and Construction Plans may be henceforth from time to time amended or modified and that any such amendments and modifications, insofar as the technology remains consistent with the concepts and standards contemplated in the Current Design and Construction Plans, shall be deemed approved by Hamburg Township as though fully set forth herein.

EXHIBIT B

Wastewater Treatment Plant Technology Study Criteria:

1. Review current available wastewater treatment technology suitable to the member townships' respective treatment plants.
2. Review existing plant specifications, engineering, and operations and current plans, specifications and engineering drawings and information relating to any proposed plant expansions except 2.25 MGD. HAMBURG and GREEN OAK agree that the existing NORTHFIELD wastewater treatment plant can be immediately expanded and operated, in accordance with MDEQ Permit No. M10023710, issued November 14, 1997, at 2.25 million gallons per day (mgd) by duplicating the current technology utilized at NORTHFIELD's wastewater treatment plant which would also include the construction of an equalization basin, as more particularly defined in Exhibit A. The design and construction set forth in Exhibit A are approved by the parties and are not subject to the review provisions of the Consent Judgment.
3. Propose recommendations for specific technology applicable to any proposed plant expansions.
4. Recommend specific effluent goals for each plant including but not limited to recommendations regarding nitrogen and phosphorus.

EXHIBIT C

Watershed Study Criteria

1. Define goals, methodologies, and protocols for long term study of watershed area.
2. Define sampling plan and specify activities and schedules for implementation of proposed plan.
3. Propose implementation of this study within an initial \$22,500 budget in year one and up to approximately \$30,000 in each of years two through five, subject to adjustment based upon additional funding requirements for Wastewater Treatment Plant study during the term of this Consent Judgment.