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Bishop Tub Co.  
E. W. Whitehead  
Chester County

CONSENT ORDER

WHEREAS, a precision metal tube manufacturing facility located at Frazer, Chester County, Pennsylvania, has utilized for many years Valley Creek, part of the waters of the Commonwealth, for the discharge of its industrial waste; and

WHEREAS, the nature of the waste being discharged has been such as to be potentially hazardous to the public and to require a permit pursuant to the provisions of the Pennsylvania Clear Stream Law; and

WHEREAS, this manufacturing facility has engaged over an unknown period of years in various processes harmful to the Commonwealth's environment and to its said waters, namely discharge of industrial wastes into its septic system, the temporary storage of industrial waste in a "wet well" and the collection and discharge into its sanitation system of waters threatening flooding conditions to its plant; and

WHEREAS, the nature of the violations over the years has been such as to create a certain fixed financial responsibility on the operator of the facility to the Pennsylvania Clear Water Fund; and

WHEREAS, the present operator has proposed such steps to eliminate the pollution of the said Valley Creek in such manner and within such time period as to justify a reduction of a continuing monthly obligation to the said Fund; and

WHEREAS, the present operator of the facility is Christiana Metals Corporation, a Pennsylvania Corporation, doing business at Frazer, Pennsylvania as Bishop Tube Company ("Bishop Tube").

WHEREAS, neither Bishop Tube or its predecessors have applied for nor have they been issued a permit pursuant to the provisions of the Pennsylvania Clean Streams Law, by the Commonwealth of Pennsylvania, Department of Environmental Resources ("Der

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ment") to discharge or permit the discharge of industrial waste to the waters of the Commonwealth.

NOW, THEREFORE, on this 24th day of September, 1974, it is hereby agreed by the Department and Bishop Tube that:

After full and complete negotiations of all matters set forth in this Consent Order, both the Department and Bishop Tube, upon mutual exchange of covenants herein and intending to be legally bound by this Consent Order agree as follows:

I. On or before May 1, 1975, Bishop Tube shall cease and desist all discharges to the waters of the Commonwealth.

II. Bishop Tube may continue to discharge its sanitary wastes to the existing septic system; provided, said sanitary wastes are disinfected by the application of chlorine. When connection to the East Whiteland sewerage system becomes available, Bishop Tube shall connect to said system and cease and desist all discharge of sanitary wastes to the septic system.

III. Bishop Tube shall dispose of all solid and acid wastes in a method approved by this Department.

IV. On or before November 1, 1974, Bishop Tube shall submit to the Department, for approval, a "conceptual report" regarding the methods to be employed for eliminating all discharges as required by paragraph I above; and a pollution incident prevention program ("PIPP") in accordance with the written instructions given Bishop Tube by the Department during their September 24, 1974 meeting.

V. Bishop Tube shall, commencing with the month of October, 1974, on or before the 15th day of the subsequent month, submit to the Department's Norristown Office, monthly progress reports, including, inter alia,

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information on the availability of equipment, materials, and energy requirements until such time as Bishop Tube is notified, in writing, by the Department, that it is in compliance with this Consent Order. Further, within ten (10) days of any delay or notice of said delay, whichever occurs first, affecting its ability to comply with this Consent Order, Bishop Tube shall, by certified mail, notify the Department's Norristown Office of such delay and the reasons therefore. All monthly progress reports and reports of delays shall be accompanied by a notarized, verifying affidavit, executed by the President of Bishop Tube.

VI. Should Bishop Tube fail to meet the terms of paragraph I above of this Consent Order and such failure is caused solely by revolution or other civil disorders, wars, acts of enemies, strikes, lock-outs by other than Bishop Tube, floods, acts of God, unavailability of equipment and/or material or other causes not within the control of Bishop Tube, which Bishop Tube, by exercising reasonable diligence, would not be able to prevent, the Commonwealth will not institute any civil or equitable proceedings, provided notice is given the Department as set forth in paragraph V above.

VII. Contemporaneously with the execution of Consent Order, Bishop Tube shall voluntarily contribute to the Pennsylvania Clean Water Fund \$5,000, and an additional \$5,000 in five (5) equal monthly payments from the date hereof, in lieu of civil prosecution for past violations of the Pennsylvania Clean Streams Law.

VIII. Should, for any reason, compliance with paragraph I above be delayed beyond May 1, 1975, Bishop Tube shall voluntarily contribute Two Thousand Dollars (\$2,000) to the Pennsylvania Clean Water Fund per month until the provisions of paragraph I above are complied with. Payment

of voluntary contributions under this paragraph are to be made with the monthly progress reports as provided for in paragraph V above, provided in no event, shall compliance with paragraph I be delayed beyond August 1, 1975, except as provided for in paragraph VI above.

IX. Bishop Tube, recognizing its right to appeal Orders of the Department, hereby waives its right to appeal from this Consent Order. This Consent Order shall have the force and effect of an order issued by the Department pursuant to its authority under the Pennsylvania Clean Streams Law and shall be enforceable as a final order of the Department.

X. The Department reserves all rights to enforce this Consent Order and any violation of the Pennsylvania Clean Streams Law and the Rules and Regulations of the Environmental Quality Board promulgated pursuant thereto except those exclusively waived in this Consent Order; the Department shall not institute any civil action to obtain compliance with the Pennsylvania Clean Streams Law and the Rules and Regulations of the Environmental Quality Board promulgated pursuant thereto so long as and Bishop Tube complies with this Consent Order. All rights and remedies contained herein are to be concurrent, unless specifically provided to the contrary.

XI. This Consent Order shall bind the parties, their agents, servants, employees, successors and assigns.

XII. This is the entire agreement between the parties and no alterations, additions or amendments thereto shall



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be valid unless in writing and duly executed by the parties.

October 29, 1974

Date

Donald W. Hedgess  
Attest Secretary

FOR CHRISTIANA METALS CORPORATION

[Signature]

FOR THE COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL RESOURCES

[Signature]

Drew S. Dorfman/  
Assistant Attorney General

11/30/74  
Date