

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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Dept-1980

STATE OF WISCONSIN
BEFORE THE
EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS,
DESIGNERS AND LAND SURVEYORS

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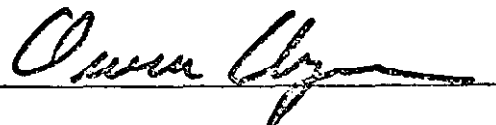
IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION
	:	AND
JEROME A. HAGEN (E-14437),	:	ORDER
RESPONDENT.	:	

The State of Wisconsin, Examining Board of Architects Professional Engineers, Designers and Land Surveyors, having considered the above entitled matter and having reviewed the record and the proposed decision of the Examiner, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the examiner, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Examining Board of Architects, Professional Engineers, Designers and Land Surveyors In the Disciplinary Proceedings Against Jerome A. Hagen (E-14437), Respondent. Let a copy of this order be served on the Respondent by certified mail.

Dated this 7th day of May, 1980.



pc862-456

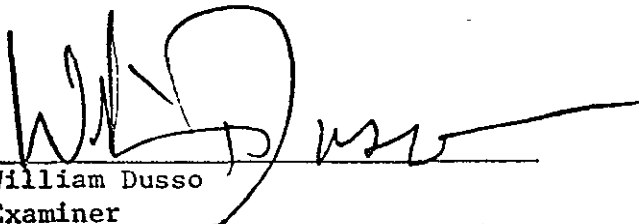
STATE OF WISCONSIN
BEFORE THE EXAMINING BOARD OF ARCHITECTS,
PROFESSIONAL ENGINEERS, DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
: CORRECTION TO
JEROME A. HAGEN (E-14437), : PROPOSED DECISION
:
RESPONDENT.:
:

After issuance of the proposed decision in the above-
captioned matter on April 14, 1980, the examiner discovered an
error on Page 1.

In the third complete paragraph on Page 1 at Line 2, the
words "Real Estate Examining Board" should read "Examining Board
of Architects, Professional Engineers, Designers and Land
Surveyors".

Dated at Madison, Wisconsin, this 24th day of April, 1980.


William Dusso
Examiner

WD:jmm

STATE OF WISCONSIN
BEFORE THE EXAMINING BOARD OF ARCHITECTS,
PROFESSIONAL ENGINEERS, DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JEROME A. HAGEN (E-14437),
RESPONDENT.

PROPOSED DECISION

On September 25, 1979, a complaint and notice of hearing were served on the respondent by certified mail. A prehearing conference and hearing on the complainant's motion for default judgment took place on November 30, 1979, in Room 173, 1400 East Washington Avenue, Madison, Wisconsin, commencing at 9:40 a.m. Wayne R. Austin, attorney, appeared at the prehearing conference for the complainant. The respondent did not appear personally or by an attorney. During the prehearing conference, the complainant's motion for default was granted based upon the respondent's failure to answer the complaint or otherwise defend.

On December 11, 1979, respondent was sent a notice that a hearing in this matter would take place at 9:30 a.m. on January 7, 1980. At 8:30 a.m. on January 7, 1980, the examiner received a telephone call from the respondent who requested that the hearing be rescheduled. The respondent was notified that the hearing would take place on January 8, 1980, at 10:00 a.m. At 9:00 a.m. on January 8, 1980, the examiner received a telephone call from the respondent who indicated that his car had broken down and that he would be unable to attend the hearing. Hearing was held as scheduled at 10:00 a.m. on January 8, 1980, with Wayne R. Austin appearing as the attorney for the Division of Consumer Complaints at which time various documents were offered to be included in the record. The examiner withheld receiving the documents and ordered that the record be held open for 20 days from the date the transcript of the hearing was sent to the respondent. The respondent was given 20 days in which to 1) object to the documents offered by the complainant; 2) request the matter be continued in the form of a hearing; or 3) submit arguments on the case. A transcript of the hearing was sent to the respondent on February 4, 1980. The respondent has not filed any response to the transcript.

Based on the pleadings, other documents, and on the evidence in the record, the examiner recommends that the Real Estate Examining Board make as its final decision in this matter the following findings of fact, conclusions of law and order.

FINDINGS OF FACT

1. Jerome A. Hagen (Hagen) was duly licensed under the provisions of ch. 443, Wis. Stats., to practice as a professional engineer in the State of Wisconsin (License No. E-14437, issued November 8, 1974).

2. Hagen's address is 2611 14th Avenue, Menominee, Michigan 49858.

3. Hagen is President of Cory Laboratories, Inc. (Cory) located at 823 5th Street, Menominee, Michigan 49858.

4. On June 14, 1976, Cory, by Hagen, entered into a contractual agreement with the Little Arbor Vitae Lake Protection and Rehabilitation District (District) to perform and carry out a lake improvement feasibility study.

5. The total professional fee to be paid to Cory, as provided by the contract with the District, was \$16,050. Hagen submitted partial billings on March 21, 1977 and on July 1, 1977 in the amounts of \$5,589.50 and \$2,644.53, respectively; and those billings were paid by the District on April 11, 1977 and September 19, 1977, respectively.

6. Hagen agreed by the contract to conduct a lake improvement feasibility study (Study) to commence in November, 1976 and conclude in October, 1977. Hagen also agreed to provide quarterly reports to the District apprising the District as to the progress of the Study.

7. Hagen failed to commence the Study in November, 1976 and failed to conclude the Study in October, 1977. Hagen has failed to provide any quarterly report to the District.

8. By letter dated March 21, 1977, Hagen stated the Study would be commenced on April 1, 1977, and would be completed by March 31, 1978.

9. The Study was not completed by March 31, 1978.

10. Commencing in January, 1978 and continuing to the date the complaint was filed, numerous written and oral inquiries were directed to Hagen requesting information regarding the anticipated completion date of the Study. Hagen has made numerous commitments in this regard. A partial list of such communications includes:

a. A telephone conversation between Hagen and Russell Dunst, Deputy Director of the State of Wisconsin Department of Natural Resources Office of Inland Lake Renewal, hereinafter referred to as Dunst, taking place on or about January 30, 1978, in which Hagen stated the Study would be completed in approximately three weeks.

b. A telephone conversation between Hagen and Dunst taking place on June 21, 1978, in which Hagen stated the Study would be completed by August 30, 1978.

c. An annual meeting of the District attended by Hagen on August 14, 1978, at which time Hagen stated the Study would be completed by August 30, 1978.

d. A telephone conversation between Hagen and Joan Mertz, Chairman of the District, hereinafter referred to as Mertz, taking place on October 9, 1978, in which Hagen stated the project would be completed by October 16, 1978.

e. A telephone conversation between Hagen and Mertz taking place on November 7, 1978, in which Hagen stated the Study would be completed by November 15, 1978.

f. A letter from Hagen to Wayne Austin, attorney for the complainant, dated July 27, 1979, in which respondent stated the Study would be completed "almost by the time you receive this."

11. Hagen failed to complete the Study by the times specified in the communications described in paragraphs 10a through f, above; and Hagen had failed to complete the Study by the date the complaint in this action was filed.

CONCLUSIONS OF LAW

1. That Hagen's repeated failure to complete the Study, as described in paragraphs 7 through 12, above, evidences a failure to exercise the highest degree of integrity, truthfulness, and accuracy in his representation to his client, as required by sec. A-E 4.03, Wis. Adm. Code.

2. That Hagen's failure to exercise the highest degree of integrity, truthfulness, and accuracy in his representations to his client constitutes misconduct in the practice of professional engineering within the meaning of sec. 443.01(13)(a)4, Wis. Stats.

ORDER

NOW, THEREFORE, IT IS ORDERED that the Certificate of Registration #E-14437 to practice as a professional engineer of Jerome A. Hagen shall be, and hereby is, SUSPENDED for a period of one year, said suspension to commence on June 1, 1980, and that at the conclusion of the one-year period Hagen's Certificate of Registration shall be reinstated only upon the application of respondent Hagen.

OPINION

Pursuant to sec. 443.01(13)(a), Wis. Stats., the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors may limit, suspend, or revoke the certificate of registration of any registrant who is found guilty of certain prohibited conduct. Subsection (a)4. of sec. 443.01(13), Wis. Stats., indicates that such prohibited conduct includes "any gross negligence, incompetency or misconduct in the practice of . . . professional engineering as a registered professional engineer . . ."

The preamble of Chapter A-E 4, Wis. Adm. Code, states as follows at sec. A-E 4.001(1):

"Inasmuch as the practices of architecture, professional engineering, designing of engineering systems and land surveying are essential to the orderly use of the physical environment, and, inasmuch as the technical work resultant thereof has important effects on the health, welfare, and safety of the public, the practices should be conducted with the highest degree of moral and ethical standards."

The introduction to sec. A-E 4.03, Wis. Adm. Code, states that,

"The highest degree of integrity, truthfulness and accuracy should be paramount in all dealings with, and representation to, others, by not misleading in any way the others' understanding of personal qualifications or information regarding a project."

Sec. A-E 4.03(4), Wis. Adm. Code, requires that a professional engineer,

" . . . accurately and truthfully represent to a prospective client or employer the costs and completion time of a proposed project as is reasonably possible."

The law cited clearly indicates that licensed professional engineers must show the highest degree of "integrity, truthfulness and accuracy" in their dealings with employers or prospective clients.

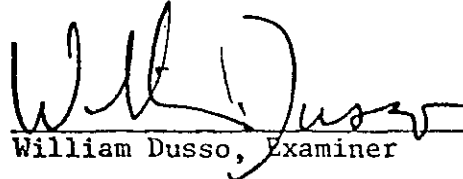
The record in this proceeding shows Jerome A. Hagen guilty of a long and continuing pattern of unkept promises with respect to progress reports as well as the actual completion date of a lake improvement feasibility study. This continuing series of unfulfilled promises and assurances by Hagen constitutes a breach of his professional duty to the public which calls for a suspension of Hagen's license for one year.

This suspension is warranted to reassure the public and warn licensees that the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors will not tolerate conduct such as that by Hagen in this case.

The Board's decision In the Matter of Disciplinary Proceedings Against Dennis L. Stella, Respondent is precedent for a six-month's suspension where a licensee has failed to correct work after promising to do so. This case is more serious because the client received no useful work product.

Dated at Madison, Wisconsin this 14th day of April, 1980.

Respectfully submitted,


William Dusso, Examiner

266-211

BEFORE THE STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL
ENGINEERS, DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

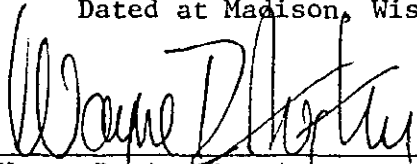
JEROME A. HAGEN,
RESPONDENT

:
:
:
:
:

MOTION FOR DEFAULT JUDGMENT
OR FOR AFFIDAVITS IN LIEU
OF ORAL TESTIMONY

Lucian G. Schlimgen, Jr., Complainant in the above-entitled matter, upon the annexed affidavit of Wayne R. Austin, attorney for the Complainant, moves the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors, by its designated hearing examiner, for an order that pursuant to Wisconsin Administrative Code Sections RL 2.09(3) and RL 2.14, the allegations of the Complaint are deemed admitted, and that the Respondent not be permitted to deny the allegations of the Complaint or present any defenses at the hearing, and that to the extent that the Complainant may be required to present evidence at the hearing to support the allegations of the Complaint, Complainant be permitted to introduce sworn affidavits of affected witnesses in lieu of oral testimony.

Dated at Madison, Wisconsin this 15th day of November, 1979.



Wayne R. Austin, Attorney
Division of Consumer Complaints

916-338

BEFORE THE STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL
ENGINEERS, DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JEROME A. HAGEN,
RESPONDENT

AFFIDAVIT IN
SUPPORT OF MOTION FOR
DEFAULT JUDGMENT

Wayne R. Austin, being duly sworn, says that he is attorney for the complainant in the above entitled matter.

That the above entitled matter was commenced by service of a complaint and of a notice of hearing on the twenty-fifth day of September, 1979, and that said service was effected by the mailing of true and accurate copies of said notice of hearing and complaint by certified mail with return receipt requested in an envelope properly stamped and addressed to respondent.

That more than twenty days have elapsed since the date on which the respondent was served with said notice of hearing and complaint.

That respondent has failed to answer or otherwise defend as to the complaint, or to serve a copy of any answer or other defense which he may have had, upon the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors, or upon Wane R. Austin, attorney for said complainant.

That this affidavit is executed by the affiant in accordance with s. RL 2.14, Wis. Adm. Code, for the purpose of enabling complainant to obtain an order of default against the respondent for his failure to answer or otherwise defend as to the complaint.

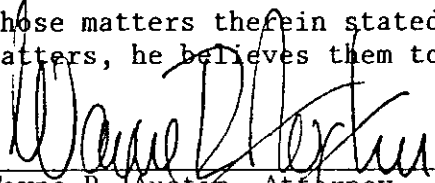
Dated at Madison, Wisconsin this 15th day of November, 1979.

Wayne R. Austin, Attorney
Division of Consumer Complaints


State of Wisconsin)
) ss
County of Dane)

Wayne R. Austin, being first duly sworn on oath deposes and says that he is in the Department of Regulation and Licensing, State of Wisconsin, and that he has read the foregoing affidavit and knows the contents thereof and that the same is true to his own knowledge, except as to

those matters therein stated on information and belief and as to such matters, he believes them to be true.


Wayne R. Austin, Attorney
Division of Consumer Complaints
Department of Regulation and Licensing
1400 East Washington Avenue
Madison, Wisconsin 53702

Subscribed and sworn to before me this 15th day of November, 1979.


Notary Public
My commission is permanent

086-361

BEFORE THE STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL
ENGINEERS, DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :

NOTICE OF HEARING

Jerome A. Hagen (E-14437) :
RESPONDENT :

TO: Jerome A. Hagen
2611 14th Avenue
Menominee, MI 49858

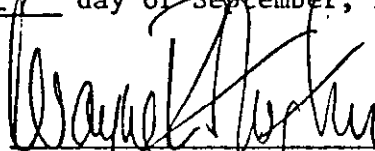
Please take notice that a hearing constituting a class 2 proceeding as defined in Sec. 227.01(2)(b), Wis. Stats., will be held on the 29th day of November, 1979, at 9:30 o'clock a.m., or as soon thereafter as the matter may be reached, in Room 180C, at 1400 East Washington Avenue, Madison, Wisconsin, on the question of whether the license heretofore issued to the above-named respondent pursuant to s. 443.01, Wis. Stats., should be suspended or revoked, the above-named respondent should be reprimanded or whether such license should be limited.

The legal authority and jurisdiction under which the hearing is to be held is set forth in Chapter 443, Wis. Stats., and Chapter RL 2, Wis. Adm. Code.

The matters asserted and the charges then and there to be considered are as set forth in the attached complaint to which you are required to make answer in writing within twenty (20) days from the date of service of the complaint. The hearing examiner designated to preside over the matter pursuant to Sec. 227.09(2), Wis. Stats. and Sec. RL 2.10, Wis. Adm. Code, is William L. Dusso, 1400 East Washington Avenue, Madison, Wisconsin 53702. You shall file your answer with the examiner at the address indicated, a copy of said answer with the Board and a copy with complainant's attorney, Wayne R. Austin, 1400 East Washington Avenue, Madison, Wisconsin (telephone 608-266-1815). If you fail to file an answer within such time, or if you fail to appear at the time set for hearing, a default judgment may be entered, and your license revoked, suspended, or other disciplinary action taken upon proof of such default.

If you are represented by counsel, the counsel is requested to file a notice of appearance with the Board forthwith.

Dated at Madison, Wisconsin this 29th day of September, 1979.


Wayne R. Austin, Attorney
Division of Consumer Complaints

BEFORE THE STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL
ENGINEERS, DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :

COMPLAINT

JEROME A. HAGEN (E-14437) :
RESPONDENT :

Lucian G. Schlimgen, Jr., Director, Department of Regulation and Licensing Bureau of Design Professions, 1400 East Washington Avenue, Madison, Wisconsin 53702, upon information and belief, complains and alleges as follows:

1. That Jerome A. Hagen, hereinafter referred to as Respondent, was at all times relevant to this complaint duly licensed under the provisions of ch. 443, Wis. Stats., to practice as a professional engineer in the State of Wisconsin (License No. E-14437, issued November 8, 1974).

2. That Respondent's address is 2611 14th Avenue, Menominee, Michigan 49858.

3. That Respondent is President and/or chief operating of a firm doing business as Cory Laboratories, Inc., located at 823 5th Street, Menominee, Michigan 49858.

4. That Respondent's firm, doing business as Cory Laboratories, Inc., is not incorporated in the States of Michigan, Wisconsin, or any other state.

5. That on June 14, 1976, Respondent, doing business as Cory Laboratories, Inc., entered into a contractual agreement with the Little Arbor Vitae Lake Protection and Rehabilitation District, hereinafter referred to as the District, to perform and carry out a lake improvement feasibility study, which contract is attached and made a part hereof as if fully reproduced herein.

6. That the total professional fee to be paid to Respondent, as provided by the contract described in paragraph 5, above, was \$16,050.00; that Respondent submitted partial billings on March 21, 1977 and on July 1, 1977 in the amounts of \$5,589.50 and \$2,644.53, respectively; and that Respondent's billings were paid by the District on April 11, 1977 and September 19, 1977, respectively.

7. That Respondent agreed, as provided by the contract described in paragraph 5, above, to conduct the required lake improvement feasibility study, hereinafter referred to as the study, commencing in November, 1976, and concluding in October, 1977; and that Respondent agreed to provide quarterly reports to the District, apprising the District as to the progress of the study.

8. That Respondent failed to commence the study in November, 1976, and failed to conclude the study in October, 1977; and that Respondent has failed to provide any quarterly report to the District.

9. That by letter dated March 21, 1977, from Respondent to Richard Hill, then Chairman of the District, and by enclosure to said letter, Respondent stated the study would be commenced on April 1, 1977, and would be completed by March 31, 1978.

10. That the study was not completed by March 31, 1978.

11. That commencing in January, 1978, and continuing to the date of this complaint, numerous written and oral inquiries have been directed to Respondent requesting information regarding the anticipated completion date of the study; and that Respondent has made numerous commitments in this regard. A partial list of such communications includes:

a. A telephone conversation between Respondent and Russel Dunst, Deputy Director of the State of Wisconsin Department of Natural Resources Office of Inland Lake Renewal, hereinafter referred to as Dunst, taking place on or about January 30, 1978, in which Respondent stated the study would be completed in approximately three weeks.

b. A telephone conversation between Respondent and Dunst taking place on June 21, 1978, in which Respondent stated the study would be completed in approximately two weeks.

c. An annual meeting of the District attended by Respondent on August 14, 1978, at which time Respondent stated the study would be completed by August 30, 1978.

d. A telephone conversation between Respondent and Joan Mertz, Chairman of the District, hereinafter referred to as Mertz, taking place on October 9, 1978, in which Respondent stated the project would be completed by October 16, 1978.

e. A telephone conversation between Respondent and Mertz taking place on November 9, 1978, in which Respondent stated the study would be completed by November 15, 1978.

f. A letter from Respondent to Wayne Austin, attorney for the Complainant, dated July 27, 1979, in which Respondent stated the study would be completed "almost by the time you receive this."

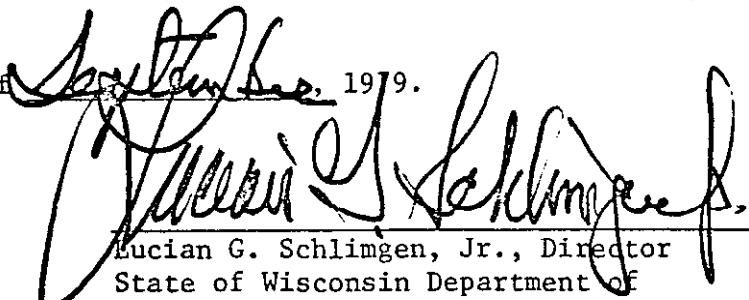
12. That Respondent failed to complete the study by the times specified in the communications described in paragraphs 11a. through f., above; and that Respondent had failed to complete the study by the date of filing of this Complaint.

13. That Respondent's repeated failure to complete the study, as described in paragraphs 7 through 12, above, evidences a failure to exercise the highest degree of integrity, truthfulness and accuracy in his representation to his client, as required by s. A-E 4.03 Wis. Adm. Code.

14. That Respondent's failure to exercise the highest degree of integrity, truthfulness and accuracy in his representations to his client constitutes misconduct in the practice of professional engineering within the meaning of s. 443.01(13)(a)4, Wis. Stats.

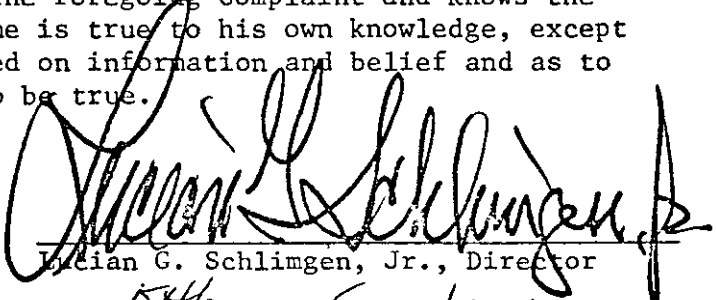
WHEREFORE, the Complainant demands that the Board hear evidence relevant to the matters recited herein, determine and impose the discipline warranted.

Dated this 18 day of September, 1979.



Lucian G. Schlimgen, Jr., Director
State of Wisconsin Department of
Regulation and Licensing, Bureau of
Design Professions
1400 East Washington Avenue
Madison, Wisconsin 53702

STATE OF WISCONSIN)
) ss
COUNTY OF DANE)

Lucian G. Schlimgen, being first duly sworn on oath deposes and says that he is in the Department of Regulation and Licensing, State of Wisconsin, and that he has read the foregoing Complaint and knows the contents thereof and that the same is true to his own knowledge, except as to those matters therein stated on information and belief and as to such matters, he believes them to be true.


Lucian G. Schlimgen, Jr., Director

Subscribed and sworn to before me this 18th day of September, 1979.


Notary Public

My commission expires 1-25-81

LAURNA J. LANDPHIER
NOTARY PUBLIC
STATE OF WISCONSIN

Wayne R. Austin
Attorney for Complainant
1400 East Washington Avenue
Madison, Wisconsin 53702

954-205

CONTRACTUAL AGREEMENT

The following agreement of terms and conditions between Cory Laboratories, Inc., Menominee, Michigan, hereinafter referred to as Cory, and Little Arbor Vitae Lake Protection and Rehabilitation District, hereinafter referred to as LAVLPRD, is made to carry out the design requirements of the Lake Study provided by the Wisconsin DNR (Appendix C) and to provide definition and dollar credit to the "Value in Kind" tasks to be provided by LAVLPRD.

1. Cory shall perform the tasks required by the design study in the manner and times designated and in accordance with our proposal (Appendix A) for a sum not to exceed \$16,050.59.
2. LAVLPRD shall provide "Value in Kind" assistance in accordance with (Appendix B) and be credited with the amount of \$2774.00
3. Cory shall bill the LAVLPRD on a calendar quarterly basis for those tasks that are completed and the proportional share of those tasks that span more than one calendar quarter. Cory shall credit the LAVLPRD for "Value in Kind" services performed as the tasks are completed or quarterly in proportion to the share completed where the efforts span more than one calendar quarter.

Signed and Agreed to this

14th day of June 1976.

Little Arbor Vitae Lake
Protection and Rehabilitation
District

Richard W. Hill
John A. Gile

Cory Laboratories, Inc.

Jerome A. Hagen
Jerome A. Hagen

MAR 8 1979