

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

In the Matter of:

Village of Marshallville  
38 North Main Street  
Marshallville, OH 44645

Respondent

FEB - 1 2008  
Director's Modified Final Findings  
and Orders ENTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the  
official documents as filed in the records of the Ohio  
Environmental Protection Agency.

PREAMBLE

It is agreed by the parties hereto as follows:

By: [Signature] Date: 2-1-08

I. JURISDICTION

These modified Director's Final Findings and Orders ("Orders") are issued to the Village of Marshallville ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 6111.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in the composition of Respondent or the ownership or operation of the Facility described below shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 6111. and the rules adopted thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. On March 21, 2006, the Director and Respondent entered into Director's Final Findings and Orders ("March Orders") to address violations of ORC Chapter 6111. that occurred as a result of Respondent's noncompliance with the conditions of its NPDES permit. The March Orders, which are attached hereto and incorporated herein by reference, included a number of operational requirements and required the payment of a civil penalty.

2. In specific, the March Orders included the following, set forth in Order No. 1.f.:

Respondent shall achieve and maintain compliance with the final effluent limitations of the NPDES permit as expeditiously as practicable, but not later than the dates established in the following schedule:

\* \* \*

f. Within thirty (30) months of the effective date of these Orders, Respondent shall complete construction;

3. The March Orders further including the following, set forth in Order No. 6.:

Respondent has expressed concern that completion of the treatment works pursuant to the schedule contained herein may be delayed as a result of funding contingencies .... Upon request by Respondent, the Director may, at his sole discretion, extend in writing any time periods established by these Orders for a period not to exceed twenty-four (24) months ....

4. On October 29, 2007, Ohio EPA received a letter from Respondent requesting an extension to the date set forth in March Order No. 1.f., due to the difficulty in obtaining financial assistance for the proposed wastewater plant and constructed wetland. Respondent requested an extension of the completed construction requirement to 36 months, with the extension to be initiated from the date of acceptance of the loan/grant by the USDA Rural Development who has not yet accepted the application.

5. The Director and Respondent wish to modify March Order No. 1.f.

6. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

#### **V. ORDERS**

1. The March Orders are effective, except that Order 1.f. is deleted and pursuant to March Order No. 6., is replaced as follows:

Within fifty-four (54) months of the effective date of these Orders, Respondent shall complete construction;

#### **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and Ohio EPA's Division of Surface Water acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is a corporate officer who is in charge of a principle business function of Respondent.

#### **VII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to the operation of the Facility.

#### **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

#### **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

#### **X. NOTICE**

Unless otherwise specified, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Northeast District Office  
Division of Surface Water  
2110 E. Aurora Road  
Twinsburg, OH 44087  
Attn: DSW Enforcement Coordinator

#### **XI. RESERVATION OF RIGHTS**

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XI of these Orders.

#### **XII. WAIVER**

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically

cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

**XIII. EFFECTIVE DATE**

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**IT IS SO ORDERED AND AGREED:**  
Ohio Environmental Protection Agency

  
\_\_\_\_\_  
Chris Korleski  
Director

1/28/08  
Date

**IT IS SO AGREED:**  
Village of Marshallville

  
\_\_\_\_\_  
By

1/7/08  
Date

ROBERT BROOKER  
\_\_\_\_\_  
Print Name

MAYOR  
\_\_\_\_\_  
Title