

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY OHIO E.P.A.

AUG -4 2005

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Village of Mechanicsburg  
18 North Main Street  
Mechanicsburg, OH 43044

: Director's Final Findings  
: and Orders

Respondent

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:  
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:  
:

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Village of Mechanicsburg ("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 as described herein, 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 promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operates a wastewater treatment plant ("Facility" or "WWTP") located at 90 Mill Street, Mechanicsburg, Champaign County.
2. The Facility, a Class II wastewater works so classified by the Director pursuant to Ohio Administrative Code ("OAC") Rule 3745-7-04, discharges pollutants to the Little Darby Creek pursuant to Ohio National Pollutant Discharge Elimination System permit No. 1PB00037\*BD ("NPDES permit"), with an effective date of

August 25, 1988, and an expiration date of August 22, 1993. An incomplete renewal application (Short Form A) was submitted to Ohio EPA on October 20, 1994; a complete renewal application was received on May 30, 2002.

3. Little Darby Creek constitutes "waters of the state" as defined in ORC § 6111.01.
4. ORC § 6111.04 provides that no person shall cause pollution or place or cause to be place waste in a location in which such waste cause pollution of any waters of the state unless the person holds a valid, unexpired permit, a renewal of a permit, or if the person's application for renewal of such a permit is pending.
5. ORC § 6111.07 provides that no person shall violate or fail to perform any duty imposed by ORC §§ 6111.01 to 6111.08 or violate any order, rule, or term or condition of a permit issued or adopted by the Director pursuant to those sections. Each day of violation is a separate offense.
6. OAC Rule 3745-33-04(C)(1) provides that a NPDES permit holder who wishes to continue to discharge after the expiration date of the Ohio NPDES permit must file for reissuance of the permit at least one hundred eighty days prior to its expiration.
7. OAC Rule 3745-33-04(C)(2) provides that a NPDES permit shall not be renewed unless the Director determines that the permittee is making satisfactory progress toward the achievement of all applicable limitations and has complied with the terms and conditions of the existing permit.
8. Respondent did not make a timely application for a renewal of Respondent's NPDES permit and is discharging pollutants to waters of the state in violation of ORC §§ 6111.04 and 6111.07.
9. The WWTP has a design flow of 0.4 MGD and a permitted design flow of 0.23 MGD, which permitted design flow has been exceeded on numerous occasions. Charts identifying the average, maximum, and minimum flows are appended hereto as Appendix A, and incorporated into these Orders as if fully written herein.
10. Between October 1998 and April 2003, Respondent reported 103 effluent violations and 251 monitoring frequency violations. Charts summarizing these violations are appended hereto as Appendix B, and incorporated into these Orders as if fully written herein.
11. The WWTP has discharged solids in amounts that have formed putrescent and otherwise objectionable sludge deposits which have adversely affected aquatic life, in violation of OAC Rule 3745-1-04(A).

12. Stream survey data collected from the Little Darby Creek in 1987, 1992, 1997, 1999, 2001 and 2002 has identified water quality impacts resulting from the WWTP's discharge. Organic enrichment downstream of the WWTP's discharge has been documented.
13. Significant sources of infiltration and inflow ("I/I") in Respondent's collection system have impacted the WWTP's ability to comply with the final effluent limitations set forth in Respondent's NPDES permit.
14. On August 30, 1989, Respondent was issued Permit to Install ("PTI") No. 90-178 for a new Sequential Batch Reactor, a system designed to meet the final effluent limitations set forth in Respondent's NPDES permit.
15. Respondent has not provided proper operation and maintenance of the WWTP, including, but not limited to, inadequate sludge removal, inadequate operation and maintenance, and insufficient sampling and analysis.
16. Respondent's sludge management plan, PTI No. 05-203-PW, ("SMP"), does not comply with current sludge disposal and reporting standards.
17. On December 26, 2001, Respondent submitted PTI Application No. 05-421-PW, to update its SMP to comply with the current disposal and reporting standards. On January 2, 2002, Ohio EPA requested a revision to the application. To date, no response from Respondent has been forthcoming.
18. Respondent requested assistance from Ohio EPA's Division of Surface Water's Compliance Assistance Unit ("CAU") to evaluate factors limiting the WWTP's performance to effectively treat wastewater. CAU conducted an evaluation of the WWTP on January 26, 2005 through January 28, 2005, with its findings and recommendations set forth in Ohio EPA's 2005 WWTP Field Evaluation Report.
19. The discharge of pollutants into waters of the state in excess of permissible effluent limitations set forth in a NPDES permit is a violation of ORC §§ 6111.04 and 6111.07, with each day of violation a separate offense.
20. These Orders do not alter or modify Respondent's NPDES permit or any permit to install issued to, or application submitted by, Respondent.
21. These Orders do not constitute authorization of or approval for, the construction or modification of any physical structure or facilities. Any such construction or modification is subject to the permit to install requirements of ORC §§ 6111.44 and 6111.45 and OAC Chapter 3745-42.
22. Compliance with ORC § 6111. is not contingent upon the availability or receipt of financial assistance.

23. The Director has given consideration to and based his determination on evidence relating to the technical feasibility and the economic reasonableness of complying with these Orders, 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. Respondent shall achieve compliance with its NPDES permit as expeditiously as practicable, but not later than the dates set forth in the following schedule:
  - a. Within seven (7) days of the effective date of these Orders, Respondent shall begin conducting and recording daily flow readings of wastewater influent into the WWTP through either: (1) the installation of a flow meter, or (2) by conducting "drawdown" tests of the influent pump and making calculations based upon the number of pumping hours where pumping of influent occurred. The selected method shall begin the monitoring of influent flow into the WWTP and the impacts of I/I to the WWTP collection system, which are necessary for determining WWTP upgrades. Respondent shall maintain a log of the daily recordings at the WWTP.
  - b. Within seven (7) days of the effective date of these Orders, Respondent shall begin recording daily rainfall amounts at the WWTP. Rainfall amounts shall be used to determine the impacts of I/I to the WWTP system. Respondent shall maintain a log of the daily recordings at the WWTP.
  - c. Within seven (7) days of the effective date of these Orders, Respondent shall begin recording the daily water elevation of the WWTP lagoon. Respondent shall maintain a log of the daily water elevation recordings at the WWTP. Respondent need not record the daily water elevation when the WWTP lagoon is frozen.
  - d. Within seven (7) days of the effective date of these Orders, Respondent shall submit to the Ohio EPA Division of Environmental and Financial Assistance ("DEFA"), in accordance with Section X of these Orders, a complete Ohio Water Pollution Control Loan Fund Project Nomination Form, which form is necessary to nominate the WWTP for inclusion onto DEFA's project priority list.
  - e. Within thirty (30) days of the effective date of these Orders, Respondent shall notify OhioEPA Southwest District Office, in accordance with Section X of these Orders, via letter of any violation of Respondent's NPDES permit or of these Orders. Thereafter, Respondent shall provide notification to Ohio EPA Southwest District Office of any such violations on a monthly basis. in

accordance with Section X of these Orders, with said notification due the 15<sup>th</sup> of the month following the month when violations occurred. The notification shall include, at a minimum, the date the violation occurred, the reason the violation occurred, and the actions initiated to correct the violation. This Order shall terminate when Respondent has completed construction of the WWTP upgrades in accordance with the Permit to Install (PTI) that has been approved by Ohio EPA in Order No. 1(h).

- f. Within one hundred twenty (120) days of the effective date of these Orders, Respondent shall submit to DEFA, in accordance with Section X of these Orders, a complete planning loan application that will be used to define the current WWTP situation, select the best solution, identify specific steps to implement the solution, and explain the WWTP upgrades to the local public. Should Respondent select not to utilize DEFA as a funding source, within one hundred twenty (120) days of the effective date of these Orders, Respondent shall submit to Ohio EPA Southwest District Office, in accordance with Section X of these Orders, documentation that application was made to a financial institution to obtain a loan to define the current WWTP situation, select the best solution, and identify specific steps to implement the solution and the contact information of the financial institution selected to obtain such a loan.
- g. Within one hundred eighty (180) days of the effective date of these Orders, Respondent shall submit to Ohio EPA Southwest District Office, in accordance with Section X of these Orders, for approval, a general plan that addresses I/I removal from within the WWTP collection system, and any WWTP improvements necessary to achieve and maintain consistent compliance with its NPDES permit and any successor permit. Should Respondent submit a deficient general plan, Respondent shall, within fourteen (14) days of receiving notification of general plan deficiency from Ohio EPA, address all of Ohio EPA's deficiency comments and resubmit the general plan to Southwest District Office, in accordance with Section X of these Orders.
- h. Within three hundred sixty-five (365) days of the effective date of these Orders, Respondent shall submit to Ohio EPA Southwest District Office, in accordance with Section X of these Orders, a complete and approvable PTI application for any WWTP upgrades contained within the approved general plan in Order No. 1.g. Should Respondent submit a deficient PTI application, Respondent shall, within fourteen (14) days of receiving notification of PTI deficiency from Ohio EPA, address all of Ohio EPA's deficiency comments and resubmit the PTI application. The PTI application and any revisions thereto, shall be submitted to Ohio EPA Southwest District Office, in accordance with Section X of these Orders. The compliance schedule contained within the PTI application approved by Ohio EPA for bid awards, construction initiation, and construction completion shall become

incorporated into these Orders by reference herein as if fully rewritten.

2. Within ninety (90) days of the effective date of these Orders, Respondent shall begin evaluating the WWTP's collection system to locate areas of excessive I/I flows and point source repairs.
3. Within ninety (90) days of the effective date of these Orders, Respondent shall submit a revised SMP to the Ohio EPA Southwest District Office, which plan shall address the items outlined in Ohio EPA's comment letter dated January 2, 2002. Said comment letter is appended hereto as Appendix C, and incorporated by reference into these Orders as if fully written herein. Respondent shall implement the revised SMP, as such plan is approved by the Director, and report annually to Ohio EPA Southwest District Office, in accordance with Section X of these Orders.
4. Within ninety (90) days of the effective date of these Orders, Respondent shall submit to Ohio EPA, in accordance with Section X of the Orders, a complete and approvable NPDES permit renewal application.
5. Within two hundred ten (210) days of the effective date of these Orders, Respondent shall update the Operation and Maintenance ("O&M") manual for the WWTP. Said update shall include any O&M recommendations made within the general plan, as required in Order No. 1(g), for both the WWTP and the collection system and a routine inspection schedule for maintenance and cleaning of WWTP components and treatment units. Respondent shall immediately implement the schedule and all measures identified in the updated O&M manual.
6. Respondent shall pay to Ohio EPA the amount of seven thousand two hundred seventy-six dollars (\$7,276.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6111.
7. Within thirty (30) days of the effective date of these Orders, Respondent shall pay to Ohio EPA two thousand two hundred dollars (\$2,200.00) of the penalty established in Order No.6. Payment shall be made by tendering an official check made payable to "Treasurer, State of Ohio" to the following address: Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent.

A photocopy of the check shall be sent to the Ohio EPA Southwest District Office in accordance with Section X of these Orders.

8. In lieu of paying the remaining five thousand seventy-six dollars (\$5,076.00) of civil penalty, Respondent shall fund a Supplemental Environmental Project (SEP) by making a contribution in the amount of five thousand seventy-six dollars (\$5,076.00) to the Darby Joint Board of Supervisors for purposes of aiding in the funding of activities and/or duties associated with the Darby Creek watershed. At a minimum, the SEP shall aid in the following:

- a. The building of public support for the Darby Creek watershed through the securement of funding to finance the development and implementation of a Darby Creek Watershed Plan (DCWP), the implementation of program maintenance, the strengthening of the Darby Creek watershed organization, the promotion of activities within the Darby Creek watershed, and the recruitment of new Darby Creek watershed stakeholders.
- b. The creation of an inventory of the Darby Creek watershed through the compilation of data assessing the quality of the Darby Creek watershed and the examination of human and ecological features that affect water quality with Darby Creek and its associated tributaries.
- c. The continuing of the Darby Creek watershed vision, goals, and solutions through working with the advisory board, steering committee, and joint board of supervisors, the evaluation of potential solutions for identified problems within the Darby Creek watershed, the setting of measurable and achievable goals, and the selection of a solution with the highest probability of achieving specific goals.
- d. The coordination of a DCWP that shall establish priorities and time frames to improve water quality within the Darby Creek watershed.
- e. The implementation and evaluation of the DCWP through the obtainment of funding to implement the DCWP, the utilization of best management practices on areas designated as a priority, the measurement of DCWP progress, and the revision and/or adjustment of the DCWP where goals have not been achieved.

Respondent shall make payment on or within 30 days of the effective date of these Orders by tendering an official check made payable to "Darby Joint Board of Supervisors" for five thousand seventy-six dollars (\$5,076.00). The official check shall be submitted to the Darby Joint Board of Supervisors, at the following address:

Darby Joint Board of Supervisors  
18000 SR 4 Suite B  
Marysville, Ohio 43040

A copy of each check shall be sent to Southwest District Office, in accordance with Section X of these Orders.

9. Should Respondent chose to pursue the SEP option and fail to complete, on or before the required time frame, the SEP committed to as outlined in Order No. 8, Respondent shall pay to Ohio EPA, in accordance with Order No. 7, the five thousand seventy-six dollar (\$5,076.00) remainder of the civil penalty within thirty (30) days of receipt of written confirmation from Ohio EPA.

## **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**

All documents required to be submitted by Respondent pursuant to Order Nos. 1e, 1f, 1g, 1h, 3, 4, 7, and 8 shall be addressed to:

Ohio Environmental Protection Agency  
Southwest District Office  
Division of Surface Water  
401 East Fifth Street  
Dayton, OH 45402  
Attn: Enforcement Coordinator

All documents required to be submitted by Respondent pursuant to Order Nos. 1d and 1f shall be addressed to:

Ohio Environmental Protection Agency  
Division of Environmental and Financial Assistance  
122 South Front Street  
Columbus, Ohio 43215

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

Ohio EPA reserves its rights to seek civil or administrative penalties against Respondents for violations specifically cited in these Orders. Ohio EPA and Respondents each reserve all other 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, Respondents consent to the issuance of these Orders and agree to comply with these Orders. Except for the right to seek civil or administrative penalties against Respondents for violations specifically cited in these Orders, which right Ohio EPA does not waive, compliance with these Orders shall be a full accord and satisfaction for Respondents' liability for the violations specifically cited herein.

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

Notwithstanding the preceding, Ohio EPA and Respondents agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondents retain the right to intervene and participate in such appeal. In such an event, Respondents 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**

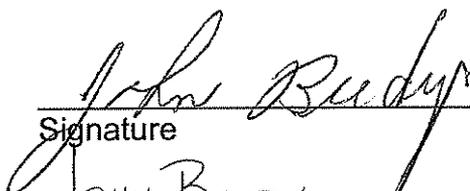
Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

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

  
\_\_\_\_\_  
Joseph P. Konecny  
Director

Date 8/3/05

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

  
\_\_\_\_\_  
Signature  
JOHN Beedy  
\_\_\_\_\_  
Print Name  
MAYOR  
\_\_\_\_\_  
Title

Date JUNE 23, 2005