

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

OCT 21 2010

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Village of Millersburg
6 North Washington Street
Millersburg, OH 44654

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**Director's Final Findings
and Orders**

Respondent

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: Don Kussler Date: 10-21-10

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Village of Millersburg ("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 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 is an incorporated village located in Holmes County, Ohio.
2. Respondent holds a National Pollutant Discharge Elimination System ("NPDES") permit (3PC00100) for the Village's wastewater treatment plant ("WWTP"). The WWTP discharges "sewage" as defined in ORC § 6111.01 to Killbuck Creek. Killbuck Creek constitutes "waters of the state" as defined by ORC § 6111.01.

3. Respondent completed major upgrades to the WWTP in December 2005. The upgraded plant was originally intended by Respondent to operate as a low sludge yield system.
4. From January 2006 through at least April 2008, Respondent has reported 191 violations of its NPDES permit effluent limits. The violations have in many instances been magnitudes above the NPDES permit effluent limits. The specific violations are presented in Attachment I. Attachment I is hereby incorporated into these Findings and Orders as stated herein. During this period of time Respondent was attempting to bring the WWTP into compliance with permit limits while operating in a low sludge yield mode.
5. Although reported on Respondent's monthly discharge monitoring reports, from March 2005 through January 2007, Respondent failed to inform Ohio EPA of the NPDES violations as required by Part III of its NPDES permit.
6. Notice of violation ("NOV") letters were issued by Ohio EPA to Respondent on May 27, 2008, June 29, 2007, May 1, 2007, March 6, 2007, and January 31, 2007.
7. Ohio EPA's Compliance Assistance Unit has been working with Respondent since March 2007. Despite their best efforts, CAU and Respondent have been unable to get the WWTP to work as it was originally designed.
8. Pursuant to ORC § 6111.04(C), no person to whom a permit has been issued shall place or discharge, or cause to be placed or discharged, in any waters of the state any sewage, sludge, sludge materials, industrial waste, or other wastes in excess of the permissive discharges specified under an existing permit.
9. ORC § 6111.07(A), no person shall violate or fail to perform any duty imposed by ORC §§ 6111.01 to 6111.08 or violate any order, rule, term or condition of a permit issued or adopted by the Director of Ohio EPA pursuant to those sections, including OAC Rule 3745-33-08(C). Each day of violation constitutes a separate offense.
10. 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. Respondent shall maintain compliance with the final effluent limitations of its currently-effective NPDES permit.
2. As soon as possible but no later than eight (8) months of the effective date of these Orders, Respondent shall submit an engineering study to Ohio EPA at the address listed in Section X of these Orders. The engineering study shall determine the average daily design and peak daily design flows of the WWTP under current operating conditions per Ten States Standards, US EPA Nutrient Control Design Manual (EPA Pub. EPA/600/R - 10/100), and any other applicable design criteria. Respondent shall also submit with the engineering study an updated operation and maintenance manual consistent with the average daily design flow.
3. Respondent shall pay to Ohio EPA the amount of five thousand dollars (\$5,000.00) in settlement of Ohio EPA's claims for civil penalties for all violations at the Site, which may be assessed pursuant to R.C. Chapter 6111. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to ATreasurer, State of Ohio@ for \$5,000.00 which shall be submitted to:

Office of Fiscal Administration
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049

A copy of the check shall be sent to Ohio EPA's Northeast District Office at:

Ohio EPA, Northeast District Office
Attn: DSW Enforcement Unit Supervisor
2110 East Aurora Road,
Twinsburg, Ohio 44087

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 the Chief of 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.

This 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 as defined in OAC Rule 3745-33-03 for a municipal, state, or other public facility.

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 Respondent's WWTP and sewer system.

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 the Respondent.

IX. MODIFICATIONS

These Orders may be modified by the 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 these Orders shall be addressed to:

Ohio EPA, Northeast District Office
Attn: DSW Enforcement Unit Supervisor
2110 East Aurora Road
Twinsburg, Ohio 44087

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII 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 those 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

10/19/10
Date

IT IS SO AGREED:

Village of Millersburg



Signature
Jeff Huebner

Print Name
Mayor

Title

9-27-10
Date

Attachment I

Reporting Period	Station	Parameter	Limit/Type	Limit	Reported Value	Violation Date
January 2006	001	Total Suspended Solids	30D Conc	18.4	123.	1/1/2006
January 2006	001	Total Suspended Solids	30D Qty	97.5	456.172	1/1/2006
January 2006	001	CBOD 5 day	30D Conc	15	50.3846	1/1/2006
January 2006	001	CBOD 5 day	7D Conc	23	24.6666	1/1/2006
January 2006	001	CBOD 5 day	30D Qty	79.5	164.146	1/1/2006
January 2006	001	Total Suspended Solids	7D Conc	27.6	451.666	1/15/2006
January 2006	001	Total Suspended Solids	7D Qty	146	1740.81	1/15/2006
January 2006	001	CBOD 5 day	7D Conc	23	90.3333	1/15/2006
January 2006	001	CBOD 5 day	7D Qty	119	364.630	1/15/2006
January 2006	001	Dissolved Oxygen	1D Conc	6.0	5.11	1/18/2006
January 2006	001	Total Suspended Solids	7D Conc	27.6	47.	1/22/2006
January 2006	001	CBOD 5 day	7D Conc	23	89.6666	1/22/2006
January 2006	001	CBOD 5 day	7D Qty	119	224.270	1/22/2006
February 2006	001	Total Suspended Solids	30D Conc	18.4	254.333	2/1/2006
February 2006	001	Total Suspended Solids	7D Conc	27.6	179.	2/1/2006
February 2006	001	Total Suspended Solids	30D Qty	97.5	649.356	2/1/2006
February 2006	001	Total Suspended Solids	7D Qty	146	528.741	2/1/2006
February 2006	001	CBOD 5 day	30D Conc	15	91.	2/1/2006
February 2006	001	CBOD 5 day	7D Conc	23	65.3333	2/1/2006
February 2006	001	CBOD 5 day	30D Qty	79.5	231.820	2/1/2006
February 2006	001	CBOD 5 day	7D Qty	119	198.306	2/1/2006
February 2006	001	Total Suspended Solids	7D Conc	27.6	37.3333	2/8/2006
February 2006	001	CBOD 5 day	7D Conc	23	26.3333	2/8/2006
February 2006	001	Total Suspended Solids	7D Conc	27.6	245.333	2/15/2006
February 2006	001	Total Suspended Solids	7D Qty	146	627.391	2/15/2006
February 2006	001	CBOD 5 day	7D Conc	23	47.	2/15/2006
February 2006	001	Total Suspended Solids	7D Conc	27.6	555.666	2/22/2006
February 2006	001	Total Suspended Solids	7D Qty	146	1331.17	2/22/2006
February 2006	001	CBOD 5 day	7D Conc	23	225.333	2/22/2006
February 2006	001	CBOD 5 day	7D Qty	119	539.907	2/22/2006
March 2006	001	Total Suspended Solids	30D Conc	18.4	163.571	3/1/2006
March 2006	001	Total Suspended Solids	7D Conc	27.6	230.666	3/1/2006
March 2006	001	Total Suspended Solids	30D Qty	97.5	443.554	3/1/2006
March 2006	001	Total Suspended Solids	7D Qty	146	560.924	3/1/2006
March 2006	001	CBOD 5 day	30D Conc	15	76.5714	3/1/2006

March 2006	001	CBOD 5 day	7D Conc	23	76.3333	3/1/2006
March 2006	001	CBOD 5 day	30D Qty	79.5	207.797	3/1/2006
March 2006	001	CBOD 5 day	7D Qty	119	185.957	3/1/2006
March 2006	001	Total Suspended Solids	7D Conc	27.6	106.333	3/8/2006
March 2006	001	Total Suspended Solids	7D Qty	146	376.867	3/8/2006
March 2006	001	CBOD 5 day	7D Conc	23	59.6666	3/8/2006
March 2006	001	CBOD 5 day	7D Qty	119	196.055	3/8/2006
March 2006	001	Dissolved Oxygen	1D Conc	6.0	5.46	3/10/2006
March 2006	001	Total Suspended Solids	7D Conc	27.6	113.	3/15/2006
March 2006	001	Total Suspended Solids	7D Qty	146	343.568	3/15/2006
March 2006	001	CBOD 5 day	7D Conc	23	54.3333	3/15/2006
March 2006	001	CBOD 5 day	7D Qty	119	168.957	3/15/2006
March 2006	001	Total Suspended Solids	7D Conc	27.6	268.666	3/22/2006
March 2006	001	Total Suspended Solids	7D Qty	146	689.011	3/22/2006
March 2006	001	CBOD 5 day	7D Conc	23	140.	3/22/2006
March 2006	001	CBOD 5 day	7D Qty	119	358.843	3/22/2006
April 2006	001	Total Suspended Solids	30D Conc	18.4	186.545	4/1/2006
April 2006	001	Total Suspended Solids	7D Conc	27.6	229.333	4/1/2006
April 2006	001	Total Suspended Solids	30D Qty	97.5	481.620	4/1/2006
April 2006	001	Total Suspended Solids	7D Qty	146	577.691	4/1/2006
April 2006	001	CBOD 5 day	30D Conc	15	66.5454	4/1/2006
April 2006	001	CBOD 5 day	7D Conc	23	67.6666	4/1/2006
April 2006	001	CBOD 5 day	30D Qty	79.5	165.322	4/1/2006
April 2006	001	CBOD 5 day	7D Qty	119	168.532	4/1/2006
April 2006	001	Total Suspended Solids	7D Conc	27.6	379.333	4/15/2006
April 2006	001	Total Suspended Solids	7D Qty	146	1017.62	4/15/2006
April 2006	001	CBOD 5 day	7D Conc	23	136.666	4/15/2006
April 2006	001	CBOD 5 day	7D Qty	119	345.684	4/15/2006
April 2006	001	Total Suspended Solids	7D Conc	27.6	60.3333	4/22/2006
April 2006	001	CBOD 5 day	7D Conc	23	32.	4/22/2006
May 2006	001	Total Suspended Solids	30D Conc	18.4	26.1428	5/1/2006
May 2006	001	Total Suspended Solids	30D Qty	97.5	108.525	5/1/2006
May 2006	001	Total Suspended Solids	7D Conc	27.6	74.6666	5/15/2006
May 2006	001	Total Suspended Solids	7D Qty	146	370.947	5/15/2006
May 2006	001	CBOD 5 day	7D Conc	23	24.6666	5/15/2006
May 2006	001	CBOD 5 day	7D Qty	119	122.432	5/15/2006
June 2006	001	Total Suspended Solids	30D Conc	18.4	157.923	6/1/2006

June 2006	001	Total Suspended Solids	7D Conc	27.6	63.6666	6/1/2006
June 2006	001	Total Suspended Solids	30D Qty	97.5	479.515	6/1/2006
June 2006	001	Total Suspended Solids	7D Qty	146	176.994	6/1/2006
June 2006	001	CBOD 5 day	30D Conc	15	27.	6/1/2006
June 2006	001	CBOD 5 day	30D Qty	79.5	83.9390	6/1/2006
June 2006	001	Total Suspended Solids	7D Conc	27.6	57.6666	6/8/2006
June 2006	001	Total Suspended Solids	7D Conc	27.6	419.666	6/15/2006
June 2006	001	Total Suspended Solids	7D Qty	146	1331.72	6/15/2006
June 2006	001	CBOD 5 day	7D Conc	23	78.6666	6/15/2006
June 2006	001	CBOD 5 day	7D Qty	119	258.863	6/15/2006
June 2006	001	Total Suspended Solids	7D Conc	27.6	143.333	6/22/2006
June 2006	001	Total Suspended Solids	7D Qty	146	427.646	6/22/2006
July 2006	001	Total Suspended Solids	7D Conc	27.6	45.3333	7/8/2006
July 2006	001	Total Suspended Solids	7D Qty	146	174.485	7/8/2006
August 2006	001	Total Suspended Solids	7D Conc	27.6	57.3333	8/1/2006
August 2006	001	Total Suspended Solids	7D Qty	146	214.490	8/1/2006
September 2006	001	Total Suspended Solids	30D Conc	18.4	223.166	9/1/2006
September 2006	001	Total Suspended Solids	30D Qty	97.5	541.034	9/1/2006
September 2006	001	CBOD 5 day	30D Conc	15	32.6363	9/1/2006
September 2006	001	Total Suspended Solids	7D Conc	27.6	357.333	9/8/2006
September 2006	001	Total Suspended Solids	7D Qty	146	886.603	9/8/2006
September 2006	001	CBOD 5 day	7D Conc	23	68.	9/8/2006
September 2006	001	CBOD 5 day	7D Qty	119	170.345	9/8/2006
September 2006	001	Total Suspended Solids	7D Conc	27.6	46.	9/15/2006
September 2006	001	Total Suspended Solids	7D Conc	27.6	477.333	9/22/2006
September 2006	001	Total Suspended Solids	7D Qty	146	1152.27	9/22/2006
September 2006	001	Nitrogen, Ammonia (NH3)	7D Conc	2.3	2.93333	9/22/2006
September 2006	001	CBOD 5 day	7D Conc	23	62.5	9/22/2006
September 2006	001	CBOD 5 day	7D Qty	119	132.372	9/22/2006
September 2006	001	Dissolved Oxygen	1D Conc	6.0	4.	9/28/2006
October 2006	001	Total Suspended Solids	30D Conc	18.4	263.	10/1/2006
October 2006	001	Total Suspended Solids	7D Conc	27.6	187.333	10/1/2006
October 2006	001	Total Suspended Solids	30D Qty	97.5	861.425	10/1/2006
October 2006	001	Total Suspended Solids	7D Qty	146	401.129	10/1/2006
October 2006	001	CBOD 5 day	30D Conc	15	24.7692	10/1/2006
October 2006	001	CBOD 5 day	30D Qty	79.5	82.2960	10/1/2006
October 2006	001	Total Suspended Solids	7D Conc	27.6	577.	10/8/2006

October 2006	001	Total Suspended Solids	7D Qty	146	1494.05	10/8/2006
October 2006	001	CBOD 5 day	7D Conc	23	42.3333	10/8/2006
October 2006	001	Total Suspended Solids	7D Conc	27.6	374.666	10/15/2006
October 2006	001	Total Suspended Solids	7D Qty	146	1835.58	10/15/2006
October 2006	001	CBOD 5 day	7D Conc	23	42.3333	10/15/2006
October 2006	001	CBOD 5 day	7D Qty	119	200.406	10/15/2006
October 2006	001	Dissolved Oxygen	1D Conc	6.0	5.85	10/18/2006
October 2006	001	Dissolved Oxygen	1D Conc	6.0	4.47	10/20/2006
November 2006	001	Total Suspended Solids	30D Conc	18.4	264.727	11/1/2006
November 2006	001	Total Suspended Solids	30D Qty	97.5	1049.01	11/1/2006
November 2006	001	CBOD 5 day	30D Conc	15	64.4545	11/1/2006
November 2006	001	CBOD 5 day	30D Qty	79.5	252.148	11/1/2006
November 2006	001	Total Suspended Solids	7D Conc	27.6	52.5	11/8/2006
November 2006	001	Total Suspended Solids	7D Conc	27.6	330.	11/15/2006
November 2006	001	Total Suspended Solids	7D Qty	146	1583.89	11/15/2006
November 2006	001	CBOD 5 day	7D Conc	23	72.	11/15/2006
November 2006	001	CBOD 5 day	7D Qty	119	342.952	11/15/2006
November 2006	001	Dissolved Oxygen	1D Conc	6.0	4.93	11/17/2006
November 2006	001	Total Suspended Solids	7D Conc	27.6	51.	11/22/2006
December 2006	001	Total Suspended Solids	30D Conc	18.4	173.8	12/1/2006
December 2006	001	Total Suspended Solids	7D Conc	27.6	76.3333	12/1/2006
December 2006	001	Total Suspended Solids	30D Qty	97.5	503.796	12/1/2006
December 2006	001	Total Suspended Solids	7D Qty	146	207.921	12/1/2006
December 2006	001	CBOD 5 day	30D Conc	15	37.7	12/1/2006
December 2006	001	CBOD 5 day	30D Qty	79.5	107.646	12/1/2006
December 2006	001	Dissolved Oxygen	1D Conc	6.0	5.11	12/1/2006
December 2006	001	Total Suspended Solids	7D Conc	27.6	157.	12/8/2006
December 2006	001	Total Suspended Solids	7D Qty	146	400.070	12/8/2006
December 2006	001	CBOD 5 day	7D Conc	23	38.3333	12/8/2006
December 2006	001	Total Suspended Solids	7D Conc	27.6	519.	12/15/2006
December 2006	001	Total Suspended Solids	7D Qty	146	1606.99	12/15/2006
December 2006	001	CBOD 5 day	7D Conc	23	98.5	12/15/2006
December 2006	001	CBOD 5 day	7D Qty	119	300.807	12/15/2006
January 2007	001	Total Suspended Solids	30D Conc	18.4	29.0714	1/1/2007
January 2007	001	Total Suspended Solids	7D Conc	27.6	40.3333	1/1/2007
January 2007	001	Total Suspended Solids	30D Qty	97.5	171.679	1/1/2007
January 2007	001	Total Suspended Solids	7D Conc	27.6	31.6666	1/8/2007