



2. On August 31, 1999, Respondent obtained coverage under General Storm Water Permit Associated with Construction Activities, Number OHR108354, ("General Permit"), for the construction of Big Run Intermediate School, located on the northeast corner of Holt Road and Big Run South Road, ("site"), in southern Franklin County.
3. On June 5, June 27, July 17, August 11, and August 23, 2000, Ohio EPA conducted storm water inspections of the site and found inadequate sediment and/or erosion controls, which constitute violations of the General Permit.
4. Under the general permit, a storm water pollution prevention plan ("SWPPP") was to be developed by each facility authorized for coverage, with such plan to describe and ensure the implementation of practices which are used to reduce the pollutants in storm water discharges associated with the construction activity and assure compliance with ORC § 6111.04, OAC Rule 3745-1, and the terms and conditions of the general permit.
5. The SWPPP is to be amended, when among other things, the SWPPP proves to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges associated with construction activity.
6. Respondent's SWPPP provided that:

Concentrated storm water runoff leaving the site will be discharged directly into a well defined adequately protected natural or man-made off-site receiving channel or pipe. If no off-site channel or pipe exists, the storm water will be detained on site in a suitable retention/detection facility.
7. From May to November 2000, Respondent constructed a regional detention basin ("basin"), with said basin being over two and one-half acres in size and thirty-seven feet deep, located on the eastern perimeter of the site.
8. Respondent directed the discharge from said basin to Baumgartner Ditch, which discharge was in such an amount so as to overflow the ditch's banks, resulting in the discharge being directed into waters of the state through the flooding of downstream properties (areas of minimal positive off-site drainage) and the inundation of their respective septic systems.
9. In July, 2001, the Franklin County Soil and Water Conservation District conducted an evaluation of the site and recommended that a large underground pipe, the same size as the discharge pipe, be routed through the downstream properties to Demorest Road.
10. On July 30, 2001, Ohio EPA conducted an inspection of the adjacent properties and observed the surfacing of sewage.

11. On August 6, and September 17, 2001, the Franklin County Board of Health sampled the large area of impounded water directly below the discharge from the basin, and found evidence of E. Coli, in the range of <50 #/100ml to 200#/100ml.
12. On August 29, 2001, the basin was sampled, showing fecal coliform at 80 #/100ml.
13. On September 13, 2001, a storm water inspection determined that additional sediment controls were required for the site. On-site contractors indicated that maintenance logs required by the General Permit have not been maintained.
14. On September 25, 2001, sampling was performed at the discharge from the hose installed by Respondent to drain the standing water behind the adjacent (Paxson) property. The sampling found the discharge to contain the presence of E. Coli (40#/100ml), fecal coliform (175#/100ml) and fecal streptococcus (110#/100ml).
15. On September 25, 2001, sampling was conducted downstream at the northeast corner of Demorest and Big Run South Road. The sampling found the presence of E. Coli (110#/100ml), fecal coliform (190#/100ml) and fecal streptococcus (650#/100ml).
16. On November 15, 2001, Ohio EPA sampling of the discharge from the pump hose into the storm drain at the Paxson property determined the presence of E. Coli (range <10#/100ml) Fecal Coliform (10#/100ml) and Fecal Streptococcus (90 #/100ml).
17. On March 14, 2002, Ohio EPA observed that the basin was discharging onto adjacent properties.
18. The size of the basin is sufficient to comply with the General Permit.
19. When the discharged storm water ceased to be contained within Baumgartner Ditch and was directed into waters of the state through the flooding of downstream properties and the inundation of their respective septic systems, the continuing action of said discharging by Respondent caused the placement of said waste in locations which resulted in the causing of the pollution of waters of the state.
20. Respondent has re-routed its detention basin discharge from Baumgartner Ditch to the County storm water drainage system along Big Run South Road and is in compliance with its SWPPP.
21. The violations of the general permit and discharge of pollutants to the waters of the state described above are violations of ORC §§ 6111.04 and 6111.07.

22. 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 purpose of ORC Chapter 6111.

#### V. ORDERS

1. Within thirty (30) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of seven thousand dollars (\$7,000.00) in settlement of Ohio EPA's claims for civil penalties which may be assessed for noncompliance pursuant to ORC Chapter 6111. Payment shall be made by tendering an official check made payable to "**Treasurer, State of Ohio**" for the full amount, to the following address: Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent and the Facility.

A photocopy of the check shall be sent to the Ohio EPA, Central District Office at the following address:

Ohio EPA Central District Office  
ATTN: DSW Enforcement Group Leader  
3232 Alum Creek Drive  
Columbus, Ohio 43207-3417

#### 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. 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.

#### **XI. 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.

**XII. EFFECTIVE DATE**

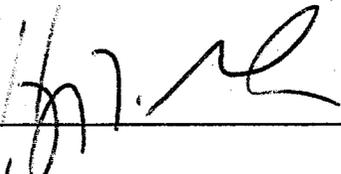
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XIII. 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 AGREED:**

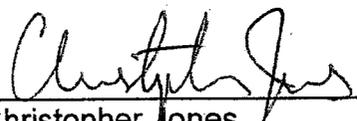
**South-Western City School District**

  
\_\_\_\_\_  
By  
HUGH W. GARSONE JR.  
Print Name  
TREASURER  
Title

\_\_\_\_\_  
Date 8/29/03

**IT IS SO ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Christopher Jones  
Director

\_\_\_\_\_  
Date 9-11-03