OHIO E.P.A.
APR 20 2015

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

Village of Butler **33 W. Elm Street** **Butler, Ohio 44822**	:	**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.

By: _____ Date: 4-20-2015

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Finding and Orders ("Orders") are issued to the Village of Butler ("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 its successors in interest liable under Ohio law.

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 ("WWTP") located at 223 Grant Street, Butler, Ohio, 44822 in Richland County.

2. Respondent holds an unexpired National Pollutant Discharge Elimination System ("NPDES") Permit No. 2PA00044*FD for the discharges from the WWTP.

3. Respondent's WWTP discharges to the Clear Fork of the Mohican River. Clear Fork and the Mohican River constitute "waters of the state" as defined by ORC Section 6111.01.

4. Respondent's NPDES permit contains a Schedule of Compliance that requires Respondent to attain compliance with the final effluent limitations of the permit by submitting detail plans for plant and sewer system improvements no later than 36 months from the effective date of the permit (November 1, 2009.)

5. Anticipating that the Schedule of Compliance would not be met within the timeframes set forth in the NPDES Permit, Respondent set forth in a May 2, 2013 letter to Ohio EPA a proposed schedule to complete infiltration/inflow repairs and construct WWTP improvements. In a June 3, 2013 letter to Respondent, Ohio EPA agreed to the proposed schedule.

6. Respondent has already received a permit to install ("PTI") to install some sanitary system improvements and a new UV disinfection system at the WWTP.

7. Respondent has violated the effluent limitations of its NPDES permit as cited in Notice of Violation letters ("NOVs") on the following dates: April 11, 2013; September 19, 2012; March 6, 2012, and June 29, 2011. Each violation cited in the foregoing NOVs constitutes a separate violation of ORC Sections 6111.04 and 6111.07.

8. Pursuant to ORC Section 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. Pursuant to ORC Section 6111.07(A), no person shall violate or fail to perform any duty imposed by ORC Sections 6111.01 to 6111.08 or violate any order, rule, or term or condition of a permit issued or adopted by the Director of Ohio EPA pursuant to those sections. Each day of violation is a separate offense.

10. The following Orders do not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing treatment works or sewer system. Any such construction or modification is subject to the PTI requirements of Ohio Administrative Code ("OAC") Chapter 3745-42.

11. Compliance with ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.

12. 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

The Director hereby issues the following Orders:

1. Respondent shall not cause, permit or allow the installation or modification of a disposal system at any location in Ohio without first receiving a PTI or plan approval from the Director as required by OAC Rule 3745-42-02 and ORC 6111.45.

2. Respondent shall achieve compliance with the final effluent limitations of its currently effective NPDES permit, and any successor permit, as expeditiously as practicable, but not later than the following schedule:

    a) Complete the approved collection system improvements no later than June 1, 2015;
    b) Submit a Preliminary Engineering Report for WWTP improvements no later than January 1, 2016;
    c) Submit a Permit to Install for WWTP improvements no later than March 1, 2017;
    d) Begin construction of WWTP improvements no later than July 1, 2017;
    e) Complete construction of WWTP improvements no later than July 1, 2018;
    f) Eliminate the Imhoff tank, WWTP internal bypass, and all sanitary sewer overflows no later than December 1, 2018.

3. Until the date specified in the schedule listed in Order No. 2(b) in which Respondent's WWTP is able to attain compliance with final effluent limitations in its unexpired NPDES permit, No. 2PA00044*FD, or any successor permit, Respondent shall properly operate and maintain its existing WWTP to achieve the best quality effluent possible.

4. Should Respondent fail to implement Order #2 within the deadlines set forth above, Respondent shall pay civil penalties to Ohio EPA, which shall be assessed pursuant to ORC Chapter 6111. Payment shall be made by an official check(s) submitted to Carol Butler, or her successor, together with a letter identifying the Respondent, 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 Mark Mann, Environmental Manager, Storm Water and Enforcement Section, or his successor, at the following address:

Ohio EPA
Division of Surface Water
P.O. Box 1049
Columbus, Ohio 43216-1049

Payment shall be made in the appropriate amount(s) as follows:

a. Respondent shall be liable for and shall pay a penalty of fifty dollars ($50.00) per day for the first sixty (60) days for failure to meet any of the deadlines set forth in Order #2 and thereafter, a penalty of one hundred dollars ($100.00) per day for failure to meet the deadline(s).

b. The penalties stipulated in Order #4 for failure to meet the deadlines in Order #2 shall not exceed the amount of five thousand dollars ($5,000.00).

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.

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 the Respondent. For purposes of these Orders, a responsible official is defined in OAC Rule 3745-33-03.

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 activities occurring on or at the site.

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 ORDERED AND AGREED:

Ohio Environmental Protection Agency

Craig W. Butler
Director

APR 20 2015
Date

IT IS SO AGREED:

Village of Butler

Signature

3/31/2015
Date

Kevin P. Carr
Printed or Typed Name

Mayor.
Title