OHIO E.P.A.

AUG 30 2016

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter Of:

Muskingum Conservancy	:	
Watershed District	:	**Director's Final**
1319 3rd St. NW	:	**Findings and Orders**
P.O. Box 349	:	
New Philadelphia, Ohio 44663	:	

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: 8-30-16

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Muskingum Watershed Conservancy District ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Chapters 6111.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent's public water system 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. Seneca Lake Campground is located at State Route 313, Senecaville, Ohio, Richland Township, Guernsey County, ("the Site"). The Site is currently owned by Respondent, who owns and operates a two cell, 37,000 gpd aerated lagoon that serves the Site, which consists of approximately 400 camp sites and 40 seasonal homes. Discharge from the lagoon flows into Seneca Lake which is tributary to Wills Creek. Seneca Lake and Wills Creek are defined as "waters of the state" pursuant to ORC Section 6111.01.

2. National Pollutant Discharge Elimination System ("NPDES") permit number 0PX0002*AD was issued to Respondent in March 2005. The permit expired in March of 2010. A 36-month compliance schedule was included in the NPDES permit to meet a residual chlorine limit of 0.011mg/l.

3. As of January 2013, the Site remained in significant noncompliance with the NPDES permit. After a Compliance Evaluation Inspection of the Site on August 8, 2012, Ohio EPA found that the Site was consistently not meeting residual chlorine limitations, and had committed excessive effluent violations for multiple other parameters including fecal coliform, ammonia (NH3), total suspended solids (TSS) and phosphorus. As of June 1, 2015, the Site is in compliance with Ohio EPA standards.

4. Respondent violated the final effluent limits of its NPDES permit, as listed in Attachment I, which is incorporated into these Findings and Orders by reference. Each violation cited constitutes a separate violation of ORC §§ 6111.04 and 6111.07. As of June 1, 2015, the Site is in compliance with Ohio EPA standards.

5. Respondent failed to comply with Part I, Item C of the NPDES permit by not meeting the 36-month schedule of compliance for chlorine effluents requiring the site to maintain a level of 0.011 mg/l. As of June 1, 2015, the Site is in compliance with Ohio EPA standards.

6. Respondent failed to comply with Part III, Item 3(A), of the NPDES permit by not maintaining in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the permittee necessary to achieve compliance with the terms of the NPDES permit. As of June 1, 2015, the Site is in compliance with Ohio EPA standards.

7. The following Notice of Violations ("NOV") letters were sent to Respondent on the dates indicated: January 19, 2008, September 19, 2008, November 7, 2008, February 19, 2008, September 19, 2008, November 7, 2008, March 24, 2009, June 9, 2009, September 30, 2009, December 23, 2009, April 9, 2010, June 24, 2010, January 21, 2011, February 17, 2012, May 4, 2012, August 8, 2012, August 24, 2012, and December 10, 2012.

8. Pursuant to ORC section 6111.04(A), no person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state. Such an action is prohibited under ORC section 6111.04(A) and is declared to be a public nuisance unless the person causing pollution or placing or causing to be placed wastes in a location in which they cause pollution of any waters of the state holds a valid, unexpired permit, or renewal of a permit, governing the causing or placement as provided in ORC sections 6111.01 to 6111.08 or if the person's application for renewal of such a permit is pending.

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. 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.

11. 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 ORC §§ 6111.44 and 6111.45 and OAC Chapter 3745-42.

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

1. Respondent has submitted a complete and now approved Permit to Install ("PTI") application with detailed plans where necessary that have accomplished the following:

    a. Installation of ultraviolet disinfection equipment;
    b. Adjustment of the phosphorus removal process to achieve compliance with Respondent's expired permit limits for phosphorous;
    c. Removal of sludge in lagoons to increase capacity and detention time;

2. Respondent has completed construction of the WWTP improvements per the approved PTI.

3. Respondent has achieved full compliance with the NPDES permit.

4. Respondent has submitted written verification of the completion to Ohio EPA Southeast District Office pursuant to the requirements in Section X of these Orders.

5. Respondent's construction included the installation of tertiary sand filters.

6. Respondent completed construction of the tertiary sand filters and submitted written verification of the completion to Ohio EPA Southeast District Office pursuant to the requirements of Section X of these Orders.

7. In lieu of paying a civil penalty, Respondent shall, within thirty (30) days of the effective date of these Orders, fund a supplemental environmental project ("SEP") by making a contribution in the amount of $34,000.00 to the Village of Cadiz for the purchase and installation of water quality monitoring equipment to be utilized in Tappan Lake for the purpose of analyzing water quality, including the detection of harmful algal blooms, that may affect the Village of Cadiz's drinking water. Respondent shall tender an official check made payable to the Village of Cadiz for that amount.

   A copy of the check shall be sent to Mark Mann, Environmental Manager, Enforcement Section, or his successor, at the following address:

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

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 Respondent. For purposes of these Orders, a responsible official is as 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 the operation of Respondent's waste water treatment 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 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 these Orders shall be addressed to:

Ohio Environmental Protection Agency
Southeast District Office
Division of Surface Water
2195 Front Street
Logan, Ohio 43138

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 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

Craig W. Butler
Director

8/26/16
Date

IT IS SO AGREED:

Muskingum Watershed Conservancy District

Signature

8/5/16
Date

John M. Hoopingarner
Printed or Typed Name and Title