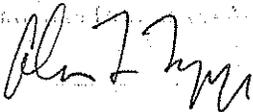


Certify this to be a true and accurate copy of the
original document as it appears in the Ohio
Administrative Code.

BY: 

12-20-01

OHIO E.P.A.

DEC 20 2001

ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

Mayor and Council
City of Solon
34200 Bainbridge Road
Solon, Ohio 44139

**Director's Final Findings
and Orders**

PREAMBLE

Pursuant to Ohio Revised Code (ORC) Sections 6111.03 and 3745.01, the Director of the Ohio Environmental Protection Agency hereby makes the following Findings and issues the following Orders:

PARTIES BOUND

These Orders shall apply to and be binding upon the City of Solon hereinafter "Respondent", and its assigns and successors in interest liable under Ohio law. No change in ownership or operation relating to the Respondent's Facility, as hereinafter defined, shall in any way alter Respondent's obligations under these Orders. Respondent's obligations under these Orders may be altered only by the written action of the Director of the Ohio EPA.

FINDINGS OF FACT

1. Respondent is the City of Solon located in Cuyahoga County, Ohio.
2. Respondent owns and operates a wastewater treatment facility located at 6951 Cochran Road, Solon, Ohio ("Facility").
3. Respondent discharges pollutants into Beaver Meadow Run from its wastewater treatment facility. Beaver Meadow Run is part of the Cuyahoga River watershed basin. The Cuyahoga River and its tributaries, including Beaver Meadow Run, are defined as "waters of the state" in accordance with ORC Section 6111.01.
4. Respondent was issued an NPDES permit number 3PD00019*LD (OH0027430) effective July 1, 2000, for the discharge of pollutants into Beaver Meadow Run. This permit requires compliance with final effluent limitations.

5. Respondent did not comply with the 30 day final effluent limitations for copper for its discharge during the months of July, August, September, October, and December of the year 2000 and January, February, and April of 2001.
6. Respondent did not comply with the 30 day final effluent limitation for phosphorus for its discharge during the months of July, August, September, and October of the year 2000. Respondent has demonstrated compliance with the phosphorus 30 day final effluent limitation for six consecutive months beginning with November and December of the year 2000 and January, February, March, and April of 2001.
7. Respondent believes that the source for the exceedances for phosphorus and copper was due, in part, to an industrial user discharging brine wastewater into the collection system. In accordance with Respondent's pretreatment program, the industrial user has been notified to terminate the discharge of the brine wastewater.
8. In an effort to determine and address the cause(s) of the copper exceedances, Respondent submitted a report entitled, The City of Solon Water Reclamation Facility Compliance Plan - Effluent Copper (Compliance Plan) dated August 31, 2001. The Compliance Plan sets forth Respondent's strategy for achieving compliance with its NPDES effluent limits for copper as well as milestones for each step it will initiate.
9. The discharge of pollutants into waters of the state in excess of the permissible limitations of the National Pollutant Discharge Elimination Permit is a violation of the ORC Section 6111.04.
10. Compliance with the ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
11. These Orders do not alter or modify Respondent's NPDES permit. Ohio EPA recognizes that until the date specified in Order No. 2, Respondent will likely discharge pollutants in excess of those authorized in its NPDES permit. The purpose of the effluent limitations and monitoring requirements set forth in Order No. 3, is to assess compliance with these Orders and not to authorize discharges of pollutants in excess of the permissive discharges specified under Respondent's NPDES permit.
12. These 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 requirement of ORC Sections 6111.44 and 6111.45 and OAC Chapter 3745-31.

13. 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 Chapter 6111 of the Revised Code.

ORDERS

1. Beginning on the effective date of these Orders, Respondent shall implement the Compliance Plan in accordance with the milestones set forth therein.
2. Not later than December 31, 2002, Respondent shall achieve compliance with the final effluent limitations for copper in its effective NPDES permit.
3. Beginning on the effective date of these Findings and Orders and lasting until the compliance date identified in Order No. 2, Respondent shall conduct, at a minimum, monthly monitoring of its effluent for copper via a composite sample.
4. Beginning on the effective date of these Findings and Orders and lasting until the compliance date identified in Order No. 2, Respondent shall not exceed 31ug/l as a 30 day final effluent limitation for copper.
5. Within seven (7) days of each milestone set forth in the Compliance Plan, Respondent shall submit written notification of compliance with said Order to the Ohio EPA - Northeast District Office at the following address:

Ohio Environmental Protection Agency
Northeast District Office
2110 East Aurora Road
Twinsburg, OH 44087
(ATTN: Enforcement Group Leader)

6. Respondent shall report any noncompliance with Orders No. 3 and 4, in accordance with Part III, Paragraph 12., of NPDES permit 3PD00019*LD.

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. Nothing in these Orders shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations applicable to Respondent's operation of its Facility.

RESERVATION OF RIGHTS

These Orders do not prevent Ohio EPA from enforcing the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders. These Orders do not prevent Ohio EPA from exercising its authority to require Respondent to perform additional activities pursuant to Chapter 6111 of the Ohio Revised Code or any other applicable law in the future. These Orders do not restrict the right of Respondent to raise any administrative, legal or equitable claim or defense for any additional activities that Ohio EPA may seek to require of Respondent. These Orders do not limit the authority of Ohio EPA to seek relief for violations not cited in these Orders.

TERMINATION

Respondent's obligations under these Orders shall be satisfied and terminated when the Respondent demonstrates in writing and certifies to the satisfaction of the Ohio EPA that it has satisfied all its obligations under these Orders, Respondent has complied with its NPDES effluent limitations for copper for twelve (12) consecutive months subsequent to the effective date of these Orders, and the Chief of Ohio EPA's Division of Surface Water acknowledges the termination of these Orders in writing.

This certification shall be submitted by Respondent to the Northeast District Office (attention: DSW Enforcement Group Leader) and shall be signed by a responsible official of the Respondent. A responsible official is as defined in OAC Rule 3745-33-03(D)(4) for a municipal, state, or other public facility. The certification shall contain the following attestation:

"I certify under the penalty of law that I have personally examined and am familiar with the information contained in or accompanying this certification, and based on inquiry of those individuals immediately responsible for obtaining the information, I believe the information contained in or accompanying this certification is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment."

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 agrees to comply with these Orders, Respondent agrees that these Orders are lawful and reasonable, and Respondent agrees that the times provided for compliance herein are reasonable. Compliance with these Orders shall be a full accord and satisfaction of Respondent's liability for the violations specifically cited herein. Ohio EPA specifically does not waive its right to pursue actions and civil penalties as set forth in the Reservation of Rights paragraph of these Orders.

Respondent hereby waives the right to appeal the issuance, terms and service of these Orders, and it hereby waives any and all rights it might have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that in the event that 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 agrees to continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

Each undersigned representative of a signatory to these Orders certifies that he or she is fully authorized to enter into the terms and conditions of these Orders and to legally bind such signatory to this document.

IT IS SO AGREED:

City of Solon

By: Kevin C Patton

Date: 12-3-2001

Name & Title: Kevin C Patton - Mayor, City of Solon

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Christopher Jones

Christopher Jones
Director

Date: 12-17-01