



1. On February 27, 2004, the Director issued Final Findings and Orders (2004 Orders) to Respondent (copy attached hereto and incorporated by reference as if fully rewritten herein).
2. The 2004 Orders contained a compliance schedule for Respondent to resolve violations of Ohio Administrative Code (OAC) Chapters 3745-81 and 3745-33 at the Atwood Resort via public water system (PWS) improvements and installation of pollution control equipment.
3. The 2004 Orders required Respondent to submit, within eight (8) months of the effective date of the Orders, a general plan to Ohio EPA regarding PWS improvements necessary for compliance with the surface water treatment requirements at the Atwood Resort.
4. On October 25, 2004, in compliance with the 2004 Orders, Respondent submitted a general plan to Ohio EPA.
5. The 2004 Orders required Respondent to submit, within fourteen (14) months of the effective date of the Orders, detail plans to Ohio EPA for PWS improvements necessary for compliance with the surface water treatment requirements at the Atwood Resort.
6. The 2004 Orders required Respondent, within three (3) months of the Director's plan approval and in accordance with such approval, to begin construction of the PWS improvements at the Atwood Resort.
7. The 2004 Orders required Respondent, within eighteen (18) months of the Director's plan approval, to complete construction of the PWS improvements at the Atwood Resort.
8. The 2004 Orders required Respondent, within nineteen (19) months of the Director's plan approval, to begin operation of the PWS improvements at the Atwood Resort and comply with the surface water treatment requirements of OAC Rules 3745-81-71 through 3745-81-75.
9. The 2004 Orders required Respondent, within three (3) months of the effective date of the Orders, to submit a permit to install (PTI) application with approvable detail plans for installation of pollution control equipment at the Atwood Resort.
10. On October 27, 2004, in compliance with the 2004 Orders, Respondent submitted a PTI application with detail plans to Ohio EPA.

11. On February 17, 2005, the Director issued PTI No. 02-20098 to Respondent for installation of pollution control equipment at the Atwood Resort.
12. The 2004 Orders required Respondent, within thirteen (13) months of the effective date of the Orders, to complete installation of the pollution control equipment at the Atwood Resort pursuant to the PTI issued by the Director.
13. The 2004 Orders required Respondent, within fourteen (14) months of the effective date of the Orders, to achieve compliance with the effluent limits in its National Pollutant Discharge Elimination System Permit No. 3IZ00060\*AD.
14. Respondent has expressed concern that due to various logistical and financial issues, compliance with the time frames in the 2004 Orders, as specifically outlined above, may be delayed and has requested an extension of the Director relative to such time frames.
15. With the exception of the revisions to Orders No. 5, 11, and 12 of the 2004 Orders, as provided for in these Modified Orders, all other provisions of the 2004 Orders shall remain in full force and effect.
16. Each of the violations cited above represents a separate violation of ORC §§ 6111.07.
17. With respect to Orders issued pursuant to ORC Chapter 6111 herein, 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**

Orders No. 5, 11, and 12 of the 2004 Orders are hereby modified as follows:

1. **Order No. 5:** On or before April 27, 2006, Respondent shall submit detail plans to Ohio EPA, Northeast District Office, Division of Drinking and Ground Waters, in accordance with OAC Chapter 3745-91, for PWS improvements necessary for compliance with surface water treatment requirements at the Atwood Resort.
2. **Order No. 11:** On or before June 1, 2005, Respondent shall complete installation of the pollution control equipment at the Atwood Resort, in accordance with the PTI No.02-20098.

3. **Order No. 12:** On or before July 1, 2005, all water treatment plant filter backwash/ sewage from the Atwood Resort shall be conveyed to the Atwood Regional Wastewater Treatment Plant via the installation of the pollution control equipment by Respondent, in accordance with PTI No. 02-020098.

#### **VI. TERMINATION**

Respondent's obligations under these Modified Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Modified Orders and the Chiefs of Ohio EPA's Division of Drinking and Ground Waters and Division of Surface Water acknowledge, in writing, the termination of these Modified 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 Modified Orders, a responsible official is defined in OAC Rule 3745-33-03(D)(4).

#### **VII. OTHER CLAIMS**

Nothing in these Modified 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 Modified Orders, for any liability arising from, or related to, the operation of Respondent's PWS or water pollution control equipment at the Atwood Resort.

#### **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Modified Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Modified Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

#### **IX. MODIFICATIONS**

These Modified 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 Modified Orders shall be addressed to:

Ohio Environmental Protection Agency  
Northeast District Office  
Division of Drinking and Ground Waters or Division of Surface Water  
2110 Aurora Road  
Twinsburg, Ohio 44087-1969

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

#### **XI. RESERVATION OF RIGHTS**

Ohio EPA reserves its rights to seek civil or administrative penalties against Respondent for violations specifically cited in these Modified Orders. Ohio EPA and Respondent each reserve all other rights, privileges and causes of action, except as specifically waived in Section XII of these Modified 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 Modified Orders, Respondent consents to the issuance of these Modified Orders and agrees to comply with these Modified Orders. Compliance with these Modified 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 Modified Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Modified Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Modified 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 Modified Orders notwithstanding such appeal and intervention unless these Modified Orders are stayed, vacated or modified.

**XIII. EFFECTIVE DATE**

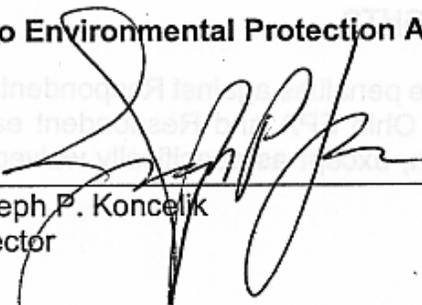
The effective date of these Modified Orders is the date these Modified Orders are entered into the Ohio EPA Director's journal.

**XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Modified Orders certifies that he or she is fully authorized to enter into these Modified Orders and to legally bind such party to these Modified Orders.

**IT IS SO ORDERED AND AGREED:**

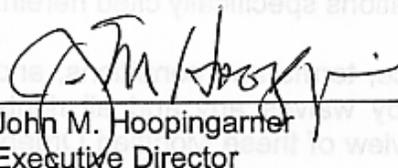
**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Joseph P. Koncelik  
Director

MAY 18 2005  
Date

**IT IS SO AGREED:**

**Muskingum Watershed Conservancy District**

  
\_\_\_\_\_  
John M. Hoopingartner  
Executive Director

4-11-05  
Date