



3. Respondent's WWTP, designed for 60 employees and installed in 1976, consisted of a trash trap, 1500 gpd extended aeration plant, surface sand filter and chlorination tank. The WWTP, as constituted, was undersized and in need of upgrades such as dechlorination, sludge holding and phosphorous removal.
4. The WWTP discharges at outfalls 001 and 002 to Indian Trail Creek pursuant to Ohio National Pollutant Discharge Elimination System ("NPDES") permit No. 31R00059\*CD, effective October 1, 2005.
5. The NPDES permit contained interim and final limitations for outfall 002.
6. A schedule of compliance was established in Part I.C., requiring the following:
  - a. Within three months of the effective date of the NPDES permit, Respondent was to submit to Ohio EPA a complete and approvable permit to install application and detail plans for achieving final compliance with the phosphorus limits and an aeration sludge holding tank;
  - b. Construction was to commence within six months of the effective date of the NPDES permit;
  - c. Construction was to be completed within twelve months of the effective date of the NPDES permit; and
  - d. Within twelve months of the effective date of the NPDES permit, Respondent was to attain full compliance with the final effluent limits for outfall 002.
7. Respondent is in noncompliance with the above schedule of compliance.
8. On May 11, 2006, a compliance evaluation inspection was conducted at the facility for the purpose of determining compliance with the NPDES permit. At the time of the inspection, it was observed for outfall 002 that:
  - a. the clarifier was coated with floating solids;
  - b. The clarifier V-notched weir was almost entirely blocked and the trough contained a considerable amount of solids;
  - c. The sand filters were in need of maintenance. One half contained a large amount of sludge on the surface and needed to be raked and the sludge removed. The other half appeared to be plugged as it was almost full of water which did not appear to be draining; and
  - d. There was no flow at the chlorination chamber.

9. A review of the compliance history for the period of January 2005 thru April 2006 revealed the following violations for CBOD5:

<i>Limit Type</i>	<i>Limit</i>	<i>Reported Value</i>	<i>Violation Date</i>
30 day Qty.	.057	.07949	11/01/2005
30 day Qty.	.057	.09084	12/01/2005
7 Day Qty.	.085	.09084	12/01/2005
30 day Qty.	.057	.07949	02/01/2006
30 day Qty.	.057	.06813	01/01/2006
30 day Qty.	.057	.09084	03/01/2006
7 Day Qty.	.085	.09084	03/15/2006

10. Permit condition Part III. Section 12, required a letter of non-compliance notification from a permittee to be submitted within five days of the permittee's knowledge of a permit violation. Respondent did not submit any such letters.
11. On November 1, 2006, a compliance evaluation inspection was conducted at the facility for the purpose of determining compliance with the NPDES permit. At the time of the inspection, it was observed for outfall 002 that:
- a. The sand filters were in need of maintenance. One half contained dried sludge on the surface and needed to be raked and the sludge removed. The other half appeared to be plugged as it was almost full of water which did not appear to be draining; and
  - b. There was a small flow at the chlorination filter.
12. A review of the compliance history for the time period of May, 2006 thru September 2006 identified the following violations for CBOD5:

<i>Limit Type</i>	<i>Limit</i>	<i>Reported Value</i>	<i>Violation Date</i>
30 day Qty.	.057	.0757	07/01/2006
30 day Qty.	.057	.06813	08/01/2006

13. Permit condition Part III, Section 12, required a letter of non-compliance notification from a permittee to be submitted within five days of the permittee's knowledge of a permit violation. Respondent did not submit any such letters.
14. On November 15, 2006, Respondent notified Ohio EPA that they will engage the services of a licensed engineer to submit a permit to install application for an aeration sludge holding tank and anticipated having the tank installed, as weather permits, in the spring of 2007. Respondent had explored the possible extension of sewer services from Holmes County and the Village of Winesburg to the vicinity of the facility. Respondent learned that the sewer services would not be extended for 3 – 5 years at the earliest. Ohio EPA determined installation of the upgraded system at the facility pursuant to NPDES Permit No. 31R00059\*DD was necessary to protect human health and the environment.
15. A permit to install application for a new wastewater treatment system was received on May 11, 2007, proposing the installation of a 5000 gpd plant. Respondent's consultant was notified that the permit to install application did not include an NPDES permit modification, and was requested to submit the modification as soon as possible.
16. Respondent was not compliant with its NPDES permit nor ORC Chapter 6111, and the rules adopted thereunder.
17. ORC § 6111.04 prohibits any person from causing pollution or causing any sewerage, industrial waste or other waste to be placed in any location where they cause pollution to waters of the state, except if such discharges occur in accordance with an NPDES permit issued by the Director.
18. ORC § 6111.07(A) prohibits any person from violating, or failing to perform, any duty imposed by ORC §§ 6111.01 to 6111.08, or violating any order, rule, or term or condition of a permit issued by the Director pursuant to those sections. Each day of violation represents a separate violation.
19. With an effective date of January 1, 2008, NPDES permit No. 31R00059\*CD was modified to 31R00059\*DD to, *inter alia*, revise discharge limitations and the compliance schedule for WWTP upgrades.
20. Respondent submitted a revised permit to install application and on January 2, 2008, permit to install application 610492 was approved and journalized for WWTP upgrades, pursuant to ORC § 6111.03(J).
21. During a site visit in July, 2008, Ohio EPA observed that the WWTP upgrades were constructed as designed. Respondent has advised Ohio EPA that the life expectancy of the upgraded facility is 12 – 15 years.

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. Respondent shall achieve and maintain compliance with its NPDES permit.
2. Respondent shall pay the amount of four thousand five hundred fifty two dollars (\$4,552.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for four thousand five hundred fifty two dollars (\$4,552.00). The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and the facility, at:

Ohio EPA  
Office of Fiscal Administration  
P.O. Box 1049  
Columbus, Ohio 43216-1049

A photocopy of the check shall be sent to the Ohio EPA, Northeast District Office, in accordance with Section X of these Orders.

#### 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 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 activities occurring on or at 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. NOTICE**

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Northeast District Office  
2110 East Aurora Road  
Twinsburg, Ohio 44087  
Attn: Enforcement Supervisor, Division of Surface Water

#### **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.

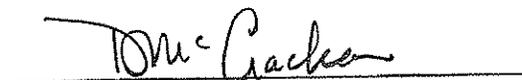
**IT IS SO ORDERED AND AGREED:  
Ohio Environmental Protection Agency**



\_\_\_\_\_  
Laura Powell  
Assistant Director

11/13/07  
Date

**IT IS SO AGREED:  
Holmco Division**

  
\_\_\_\_\_  
Signature

9/12/2008  
Date

D. McCracken  
\_\_\_\_\_  
Printed or Typed Name

PRESIDENT  
\_\_\_\_\_  
Title