

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
OCT 28 2014

In the Matter of:

Village of Lindsey
240 South Main Street
P.O. Box 364
Lindsey, Ohio 43442

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.

PREAMBLE

It is agreed by the parties hereto as follows:

By: Dorothy Kasseker Date: 10-28-14

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Village of Lindsey, ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("R.C.") 6111.03(H) and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in the composition of Respondent or the ownership or operation of the wastewater treatment plant ("WWTP") and the sanitary sewer system, identified below, 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 R.C. Chapter 6111 and the rules adopted thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent, located in Sandusky County, is served by a WWTP located at 139 East Dewey Street, Lindsey, which discharges to Muddy Creek pursuant to Ohio National Pollutant Discharge Elimination System ("NPDES") Permit No. 2PA00024*ID ("permit").
2. The NPDES permit has an effective date of April 1, 2007 and expiration date of March 31, 2012. A timely renewal application was submitted and is pending review before Ohio EPA.

3. Muddy Creek, a water of the state, is designated as:

- a. Aquatic Life Habitat: Warm water habitat
- b. Water Supply: Agricultural and Industrial
- c. Recreation: Primary Contact

4. From January 2010 to June, 2013, the WWTP exceeded its design flow of 0.215 MGD on the following dates, with the amounts indicated:

Date	Reported Value (MGD)
4/26/2010	0.224
5/11/2010	0.22
5/17/2010	0.419
5/18/2010	0.375
2/17/2011	0.304
2/28/2011	0.657
3/1/2011	0.298
3/4/2011	0.362
3/5/2011	0.573
3/6/2011	0.351
3/9/2011	0.328
3/10/2011	0.369
3/11/2011	0.283
3/12/2011	0.216
4/1/2011	0.475
4/2/2011	0.55
4/3/2011	0.412
4/9/2011	0.245
4/19/2011	0.223
4/20/2011	0.298
4/22/2011	0.482
4/25/2011	0.874
4/26/2011	0.488
4/27/2011	0.38
5/25/2011	0.446
5/26/2011	0.671
5/27/2011	0.359
5/28/2011	0.217
5/29/2011	0.42
5/30/2011	0.298
7/23/2011	0.222

Date	Reported Value (MGD)
8/2/2011	0.525
9/7/2011	0.2913
9/8/2011	0.2903
9/26/2011	0.7641
9/27/2011	0.2912
10/1/2011	0.2352
10/19/2011	0.6412
10/20/2011	0.4639
10/21/2011	0.3344
11/14/2011	0.282
11/22/2011	0.585
11/23/2011	0.334
11/27/2011	0.235
11/28/2011	0.392
11/30/2011	0.906
12/1/2011	0.2472
12/5/2011	0.5224
12/6/2011	0.3308
12/21/2011	0.2398
1/23/2012	0.2195
3/15/2012	0.307
3/16/2012	0.911
3/17/2012	0.421
3/18/2012	0.477
3/19/2012	0.3
5/7/2012	0.7524
5/8/2012	0.3453
1/12/2013	0.226
1/14/2013	0.486
1/15/2013	0.218
2/27/2013	0.255

Date	Reported Value (MGD)
2/28/2013	0.319
4/12/2013	0.309
4/13/2013	0.368
7/2/2013	0.419
7/5/2013	0.286
7/6/2013	0.741
7/7/2013	0.223
7/8/2013	0.447
7/9/2013	0.337
7/10/2013	0.328
7/11/2013	0.485
7/12/2013	0.237
7/21/2013	0.544
7/22/2013	0.237
9/22/2013	0.353
10/6/2013	0.369
10/7/2013	0.496
10/8/2013	0.291
12/22/2013	0.526
12/23/2013	0.348
1/11/2014	0.255
1/12/2014	0.282
1/13/2014	0.235
2/21/2014	0.294
2/22/2014	0.284
4/4/2014	0.218
4/5/2014	0.228
4/15/2014	0.224
5/12/2014	0.85
5/13/2014	0.91
5/15/2014	0.233

**Violations of Ohio Water Pollution Control Laws
 Regulatory Statutes**

5. R.C. 6111.04(C) prohibits any person to whom a permit has been issued from placing or discharging or causing to be placed or discharged into 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 without first receiving an authorizing permit from the Director.
6. Ohio Administrative Code ("Ohio Admin.Code") 3745-40-02(E)(1) provides, in part, that the surface disposal of sewage sludge or biosolids is prohibited.
7. R.C. 6111.07(A) prohibits any person from violating, or failing to perform, any duty imposed by R.C. 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 offense.
8. R.C. 6111.09 provides that any person who violates R.C. 6111.07 shall pay a civil penalty of not more than ten thousand dollars per day of violation.

**NPDES Permit Violations
 Effluent Limit Exceedances**

9. From January, 2010 to July 24, 2014 Respondent reported the following effluent limit violations:

Parameter	Limit Type	Limit	Reported Value	Violation Date
Dissolved Oxygen	1D Conc	6.0	5.7	7/12/2010
Total Suspended Solids	7D Conc	18	21.	7/15/2010
Nitrogen, Ammonia (NH3)	7D Qty	9.8	10.8879	4/22/2011
Dissolved Oxygen	1D Conc	5.0	.	2/2/2011
pH	1D Conc	6.5	.	2/2/2011
Dissolved Oxygen	1D Conc	6.0	5.9	7/25/2011
Dissolved Oxygen	1D Conc	6.0	5.6	9/8/2011
Dissolved Oxygen	1D Conc	6.0	5.4	9/9/2011
Dissolved Oxygen	1D Conc	6.0	5.5	9/27/2011
Dissolved Oxygen	1D Conc	6.0	5.7	9/28/2011
Fecal Coliform	7D Conc	2000	10000.	10/8/2011
Fecal Coliform	7D Conc	2000	10000.	10/15/2011
Dissolved Oxygen	1D Conc	6.0	5.7	6/13/2012
Dissolved Oxygen	1D Conc	6.0	5.6	7/13/2012
Total Suspended Solids	7D Conc	18	24.	7/8/2012
Dissolved Oxygen	1D Conc	6.0	5.8	9/4/2012
Dissolved Oxygen	1D Conc	6.0	5.7	7/2/2013
Dissolved Oxygen	1D Conc	6.0	5.2	7/8/2013
Dissolved Oxygen	1D Conc	6.0	5.1	7/9/2013
Dissolved Oxygen	1D Conc	6.0	5.8	7/11/2013

Dissolved Oxygen	1D Conc	6.0	5.8	8/5/2013
Dissolved Oxygen	1D Conc	6.0	5.7	8/8/2013
Dissolved Oxygen	1D Conc	6.0	5.8	8/20/2013
Dissolved Oxygen	1D Conc	6.0	5.4	8/21/2013
Dissolved Oxygen	1D Conc	6.0	5.9	8/22/2013
Dissolved Oxygen	1D Conc	6.0	5.1	10/7/2013
Dissolved Oxygen	1D Conc	6.0	5.5	10/8/2013
Dissolved Oxygen	1D Conc	5.0	.	1/6/2014
Dissolved Oxygen	1D Conc	5.0	.	1/7/2014
pH	1D Conc	6.5	.	1/6/2014
pH	1D Conc	6.5	.	1/7/2014
pH	1D Conc	6.5	6.4	2/6/2014
Dissolved Oxygen	1D Conc	5.0	4.9	4/11/2014

10. Based on the above Respondent violated R.C. 6111.07.

***NPDES Permit Violations
 Sludge Violations***

11. During compliance evaluation inspections Ohio EPA staff observed large accumulations of stockpiled sludge on the drying beds, which accumulations are considered "surface disposal" as defined by Ohio Admin.Code 3745-40-01 (UUUU).
12. Respondent's stockpiled sludge violated Ohio Adm.Code 3745-40-02 and 3745-40-07.
13. Based on the above Respondent violated R.C. 6111.07.
14. Respondent notified Ohio EPA that the accumulated sludge has been removed, with the sludge to be annually removed and land applied.

***NPDES Permit Violations
 Compliance Schedule***

15. The NPDES permit contained a municipal construction compliance schedule that included the following:
- a. Submittal of an Infiltration and Inflow Reduction Plan by April 1, 2008; and
 - b. Completing all work necessary for the reduction of infiltration and inflow into the collection system¹ to reduce peak weather flows by April 1, 2012.
16. Respondent did not comply with the above referenced compliance schedule.
17. Based on the above Respondent violated R.C. 6111.07.

¹ In these Orders referred to as "sanitary sewer system."

18. On March 27, 2013, Ohio EPA received for review and approval Respondent's Infiltration and Inflow Reduction Plan.
19. Ohio EPA determined that the Infiltration and Inflow Reduction Plan was not acceptable as it was missing key components. Respondent was provided notification of these deficiencies and resubmitted the Infiltration and Inflow Reduction Plan that is now pending review before Ohio EPA.

***NPDES Permit Violations
Sanitary Sewer Overflow Violations***

20. Respondent reported that since February 2013 there were 35 sanitary sewer overflows.
21. The NPDES permit prohibits sanitary sewer overflows except under emergency conditions.
22. Based on the above Respondent violated R.C. 6111.07.

Director Considerations

23. Respondent requested that aeration to the WWTP surge tank be required only from May 1st to September 30th of each year. Respondent informed Ohio EPA that the design of the aeration diffusers leads to ice breakage of the diffusers during colder weather. Dissolved oxygen readings have not been an issue for the WWTP during the fall and winter months, as colder water tends to retain more dissolved oxygen, and the dissolved oxygen target reduces from 6 mg/l to 5 mg/l during these same months.
24. 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 sanitary sewer system. Any such construction or modification is subject to the permit to install and plan approval requirements of R.C. 6111.44(A) and 6111.45 and Ohio Admin.Code Chapter 3745-42.
25. To settle Ohio EPA's claim for civil penalties for the above-referenced violations, the assessment of a civil penalty settlement amount was calculated using Ohio EPA's standard methodology for calculating civil penalties associated with surface water violations.
26. Respondent submitted financial records that documented its financial situation.
27. After review of the records, it was determined by Ohio EPA that Respondent had the ability to pay the civil penalty settlement amount set forth in the Orders below.

28. 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 R.C. Chapter 6111.

V. ORDERS

1. Respondent shall attain and maintain compliance with the NPDES permit, and any renewal or modification thereof and with R.C. Chapter 6111 and the rules adopted thereunder, as expeditiously as practicable, but not later than the dates established in the following schedule:
 - a. Within seven (7) days from the effective date of these Orders, Respondent shall report any and all sand filter overflows under station 2PA00024300; and
 - b. Not later than December 1, 2014 the Class II Certified Operator for the WWTP shall meet the staffing requirements of Ohio Admin.Code 3745-7-04 *Treatment works and sewerage system classification and staffing requirements*, or such reduced amount as may be approved by Ohio EPA pursuant to the submittal of a minimum staffing hour reduction request plan.
2. Respondent shall submit corrections/revisions to address any deficiencies identified by Ohio EPA in the Infiltration and Inflow Reduction Plan submitted by Respondent, within thirty (30) days of receipt of written notification from Ohio EPA of any correction/deficiencies, unless an earlier time is indicated or additional time is requested and allowed.
3. Respondent shall implement the Infiltration and Inflow Reduction Plan as approved by Ohio EPA as follows:
 - a. As soon as possible but no later than February 1, 2016 Respondent shall complete in home inspections of sump pumps and foundation/basement drains, and require residents to disconnect the clean water connections from the sanitary sewer system; and
 - b. As soon as possible but no later than December 1, 2014, Respondent shall submit to Ohio EPA, in accordance with Section X of these Orders, a copy of the report prepared by the Engineer documenting the condition of the sanitary sewer system with recommendations for repairs, replacements, lining and/or other improvements;

- c. No later than March 31, 2015, Respondent shall submit to Ohio EPA, in accordance with Section X of these Orders, for review and approval, an implementation schedule of the Engineer's report described in Order 3.b., setting forth with milestone dates, the designated repairs, replacements, lining and/or other improvements to the sanitary sewer system necessary to, by September 1, 2019, eliminate sanitary sewer overflows and achieve compliance with final effluent limitations in the NPDES permit or successor permit.
4. The WWTP Surge Tank shall be managed as follows:
 - a. From May 1st to September 30th of each year aeration is required; and
 - b. From October 1 to April 30 of each year the plastic drop shall be removed.
 5. Respondent is assessed a penalty of ten thousand dollars (\$10,000.00) in settlement of Ohio EPA's claims for civil penalties pursuant to R.C. Chapter 6111. Respondent shall pay the civil penalty in accordance with the following schedule:
 - a. No later than ten (10) months after the effective date of these Orders, Respondent shall pay the first installment of three thousand three hundred thirty-three dollars (\$3,333.00),
 - b. No later than twenty (20) months after the effective date of these Orders, Respondent shall pay the second installment of three thousand three hundred thirty-three dollars (\$3,333.00), and
 - c. No later than thirty (30) months after the effective date of these Orders, Respondent shall pay the third installment of three thousand three hundred thirty-four dollars (\$3,334.00).

All payments shall be made by official check payable to "Treasurer of State" and submitted to Carol Butler, or her successor, together with a letter identifying Respondent, to

Office of Fiscal Administration
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049

A photocopy of the checks 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

If Respondent misses any of the scheduled payments set forth in this Order all remaining payments shall become due and owing immediately.

6. It is hereby provided and understood that twenty percent (20%) of the total civil penalty shall be placed in Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD), for expenditure in accordance with such fund.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrate 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 defined in Ohio Admin.Code 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 WWTP.

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

Unless otherwise specifically stated herein, all documents required to be submitted by Respondents pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office
347 North Dunbridge Road
Bowling Green, Ohio 43402
ATTN: Enforcement Supervisor, Division of Surface Water

or to such persons and addresses Ohio EPA may hereafter otherwise specify as in writing.

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

OCT 28 2014

Date

**IT IS SO AGREED:
Village of Lindsey**



Signature

9-19-14

Date

SANDRA A BOWEN

Printed or Typed Name

MAYOR OF LINDSEY

Title