

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
JUL 14 2011

ENTERED DIRECTOR'S JOURNAL

In the matter of:

Mercer County Commissioners
Central Service Building
220 West Livingston Street, Room A201
Celina, Ohio 45822

**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: Joseph Cassel Date: 7-14-11

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Mercer County Commissioners ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 6111.03, and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and its successors in interest liable under Ohio law.

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 there under.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operates a wastewater treatment plant ("WWTP") located at 8233 State Route 703, Celina, Mercer County, Ohio 45822.
2. Respondent holds a valid, non-major National Pollutant Discharge Elimination System ("NPDES") permit, number 2PG00106*FD, for the discharges from the WWTP. The permit was allowed to expire because of the planned elimination of the plant.



Mercer County Commissioners – Northwood SSD WWTP

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3. Respondent discharges to "waters of the state" as defined by ORC Section 6111.01.
4. This document does not modify NPDES Permit No. 2PG00106*FD. The purpose of this document is to correct a condition of noncompliance with NPDES Permit No. 2PG00106*FD and not to alter said permit.
5. Pursuant to ORC Section 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.
6. 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.
7. The Ohio EPA has sent Respondent a Notice of Violation ("NOV") after an inspection on May 26, 2011. During the inspection, Ohio EPA was informed by the Respondent that due to a collapsed line, the effluent from the Northwood SSD pump station had been rerouted to an unnamed tributary to Grand Lake St. Marys. Attachment I is Respondent's NOV letter. Attachment I is hereby incorporated into these Findings and Orders as if fully stated herein.
8. 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 Ohio Administrative Code ("OAC") Chapter 3745-42.
9. Compliance with the ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
10. 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

The Director hereby issues the following Orders:

1. Respondent shall not cause, permit or allow the installation or modification of a disposal system at any location in Ohio without first receiving a permit to install (PTI) or plan approval from the Director as required by OAC Rule 3745-42-02 and ORC 6111.45.
2. Respondent shall remove all sources of sanitary waste from the Northwood SSD pump station within 10 days of the effective date of these Orders. The respondent shall notify Ohio EPA in writing once this has been completed.
3. Respondent shall pay the amount of five thousand dollars (\$5,000) in settlement of Ohio EPA's claims 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". The official check shall be submitted to Brenda Case, or her successor, together with a letter identify the Respondent, to:

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

A copy of the check 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

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 defined in OAC Rule 3745-33-03(D)(1) for a corporation, OAC Rule 3745-33-03(D)(2) for a partnership, OAC Rule 3745-33-03(D)(3) for a sole proprietorship, and OAC Rule 3745-33-03(D)(4) for a municipal, state, or other public facility.

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 site.

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. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XI of these Orders.

XI. 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.



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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.

XII. EFFECTIVE DATE

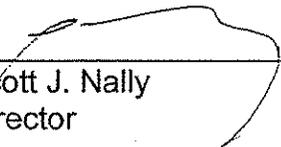
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIII. 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

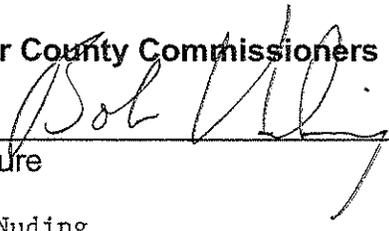


Scott J. Nally
Director

7/3/11

Date

IT IS SO AGREED:

Mercer County Commissioners


Signature

6-30-11

Date

Bob Nuding

Printed or Typed Name

Chairman

Title





Environmental
Protection Agency

John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

Re: Mercer County
Mercer County Commissioners
NPDES Permit
Notice of Violation

June 10, 2011

Mr. Kent Hinton
220 West Livingston Street
Suite A 230
Celina, Ohio 45822

Dear Mr. Hinton:

On May 26, 2011, Ohio EPA representatives, Ms. Michelle Sharp and Mr. Andrew Gall, met with Mr. Jared Ebbing, Mr. Jerry Laffin, Mr. James Karafit and you to discuss current and future sanitary sewer issues in Mercer County.

Discussions about specific plants are summarized in the inspection notes below. Other items to note are:

- The study for the Neptune area has been completed and the county has received money to begin engineering work for this area. We would be interested in receiving a copy of the study once you have received it.
- A study to sewer Mercer will be completed sometime in the future. A definitive time frame has not been set for this project.
- The planning document for the Southwest Grand Lake area, also known as Marion Phase II, is approximately 75% complete. These projects will be completed in stages as funding becomes available.

After the meeting, operation and maintenance inspections were made of the wastewater treatment facilities serving West Jefferson, Wagners, Philothea, Chapel Hill, Montezuma Club Island, Northwood, Country Time, and Deerfield areas. Mr. James Karafit was present and provided information about the operation of the treatment facilities to Ohio EPA representatives Ms. Michelle Sharp and Mr. Andrew Gall. Our observations and recommendations are as follows:

West Jefferson

Due to lower than expected flow rates at the plant, only half of the plant is being used. At the time of inspection, the aeration tanks were not being aerated. The blowers are on a timer, but Mr. Karafit was not sure what the exact setting was.

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The returns and skimmers were not evaluated. The clarifier had some scum floating on the surface. There was also an oil sheen observed on the surface of the clarifier. The effluent from the upflow filters appeared to be clear. The sand filters had some solids on them, but the overall condition was better than previous inspections. However, it should be noted that the condition of the old sand filter walls is deteriorating. Chlorination and dechlorination tablets were observed in the tube feeders. The effluent appeared to be clear. The log book for the plant was present at the plant. It appears that proper documentation was being maintained and that minimum staffing hours are being met.

We are in receipt of the discharge monitoring reports from June 2010, through April 2011. Our review indicates no violations of the terms and conditions of your NPDES permit.

Wagner's Subdivision

In general, both operation and maintenance appeared good. All major treatment components were in operation, and a clear effluent was observed. The mixed liquor in the aeration tanks had good color and was receiving an adequate amount of air. The sludge return and skimmer were both operating well. The clarifier appeared to be operating well. The west sand filter had some solids and plant growth on it. The east sand filter was almost completely full of water. Mr. Karafit indicated that this was due to the creek backflowing into the plant the night before due to a heavy amount of rain. Steps should be taken to prevent this type of water intrusion to the plant. **Please submit a letter to our office within 30 days of receipt of this letter indicating how this intrusion will be prevented in the future.** Chlorination and dechlorination tablets were observed in the tube feeders. The log book for the plant was present at the plant. It appears that proper documentation was being maintained and that minimum staffing hours are being met.

Mr. Karafit indicated that when the trash traps are pumped out the waste is hauled to the second lagoon at Montezuma Club Island. As indicated previously, this is not an acceptable practice for the liquid sludge and it is also not an acceptable disposable method for trash trap waste. This waste should be taken to a facility designed to treat it. **Please submit a letter to our office within 30 days of receipt of this letter indicating how this waste will be handled in the future.** The NPDES permit for this facility expires September 30, 2011. During the meeting prior to the inspections Mr. Ebbing indicated that he is currently working on the permit renewal application and will be submitting it in the near future.

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We are in receipt of the discharge monitoring reports from June 2010, through April 2011. Our review indicates no violations of the terms and conditions of your NPDES permit.

Philothea

In general, both operation and maintenance appeared good. Mr. Karafit indicated that the aerator would be placed in the second lagoon in the near future. The aerators in the first lagoon were not operating when we arrived. Mr. Karafit indicated that electrical issues at the plant cause them to be turned off from time to time and they must be manually reset. The lagoons were not discharging at the time of inspection. Usually the lagoons discharge once per year for less than a week. The log book for the plant was present at the plant. It appears that proper documentation was being maintained and that minimum staffing hours are being met.

We are in receipt of the discharge monitoring reports from June 2010, through April 2011. Our review indicates no violations of the terms and conditions of your NPDES permit.

Chapel Hill

This plant has been connected to the Chickasaw WWTP and was being demolished at the time of inspection. We will give this permit a no permit required (NPR) status in the near future. You will receive a letter once this has been completed. Please continue to submit your discharge monitoring reports until you receive this notification that the permit has been terminated.

We are in receipt of the discharge monitoring reports from June 2010 through April 2011. Our review indicated violations of the terms and conditions of your NPDES permit. The specific instances of noncompliance are listed below:

Violation Date	Station	Reporting Code	Parameter	Limit Type	Limit	Reported Value
2/1/2011	001	00530	Total Suspended Solids	30D Qty	0.91	1.25965
3/1/2011	001	00530	Total Suspended Solids	30D Qty	0.91	1.10901

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Montezuma Club Island

In general, both operation and maintenance appeared good. At the time of inspection, influent was coming into the second lagoon. Mr. Karafit indicated that influent is changed between lagoon one and lagoon two based on the strength of the incoming waste. When there is a lot of inflow and infiltration present in the influent, it is routed to the second lagoon. When the waste is higher strength it is routed to the first lagoon. We were not able to locate the operation and maintenance manual for this facility to determine if this is the appropriate way of running the treatment system. **Please submit to us within 30 days of receipt of this letter documentation from the operation and maintenance manual indicating that this is proper operation.** We are in receipt of the discharge monitoring reports from June 2010, through April 2011. Our review indicates no violations of the terms and conditions of your NPDES permit.

Northwood

During the meeting before the inspections you informed Ohio EPA representatives that the line between the pump station and the Northwood treatment plant had broken and that on May 25 a line had been installed directing the water from the pump station directly to the lake. When this action was taken three (3) homes were still tied to the sewer lines that flowed to the pump station. **By doing this you have created an unpermitted discharge to waters of the State. Chapter 6111, Ohio Revised Code and P.L. 92-500, State and Federal Law, respectively, require that all wastewater dischargers to Waters of the State apply for an NPDES permit for that discharge.** At the time of this letter, we have not been informed that the three (3) homes have been disconnected from this pump station or that the discharge has been eliminated. You indicated that only a small amount of sewage was flowing from these homes as two are not currently inhabited and one is a home only used on the weekend. Regardless of the amount of sewage being discharged it is illegal to create a discharge of pollutants to waters of the State without first receiving an NPDES permit for the discharge. In collection systems tributary to treatment facilities that have an NPDES permit these are considered sanitary sewer overflows, which are strictly prohibited.

Our office should have been contacted before the decision was made to route the pump station directly to the lake. Due to the proximity of the East Jefferson pump station, our preference would have been for the water to be diverted into that pump station until the three (3) remaining houses were removed; thereby, eliminating the discharge of sewage into the lake. Unfortunately, due to your lack of communication with this office and the current situation of the lake, we have no choice but to refer this incident for escalated enforcement action.

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You shall take immediate action to eliminate this discharge or to remove the remaining three (3) houses from the sewer system tributary to the discharging pump station. **Please submit written notification of either of these actions within 10 days of receipt of this letter.**

It was also indicated during this meeting that the home owner's association would like to maintain this pump station for storm water removal. To ensure that the discharge of pollutants has been eliminated we will require the following information to be submitted to our office:

- Sampling 2 times per month for three (3) months for the following parameters:
 - CBOD
 - Ammonia
 - E. Coli

These samples should be collected from the wet well during dry weather. Dry weather for this situation shall be defined as a period greater than two (2) days since the last precipitation event.

Please inform this office once the discharge from the Northwood facility has been eliminated, so that we can complete another inspection and give the permit an NPR status.

We are in receipt of the discharge monitoring reports from June 2010, through April 2011. Our review indicates violations of the terms and conditions of your NPDES permit. The specific instances of noncompliance are listed below:

Violation Date	Station	Reporting Code	Parameter	Limit Type	Limit	Reported Value
6/1/2010	001	00530	Total Suspended Solids	30D Qty	2.3	3.17259
6/1/2010	001	00610	Nitrogen, Ammonia (NH3)	30D Qty	0.4	.66634
6/1/2010	001	00610	Nitrogen, Ammonia (NH3)	7D Qty	0.6	.70098
6/8/2010	001	00530	Total Suspended Solids	7D Qty	3.4	5.11656
6/15/2010	001	00530	Total Suspended Solids	7D Qty	3.4	3.86751

Violation Date	Station	Reporting Code	Parameter	Limit Type	Limit	Reported Value
6/15/2010	001	00610	Nitrogen, Ammonia (NH3)	7D Qty	0.6	.63169
11/22/2010	001	00530	Total Suspended Solids	7D Qty	3.4	3.67524
12/8/2010	001	00530	Total Suspended Solids	7D Qty	3.4	3.79938
2/1/2011	001	00530	Total Suspended Solids	30D Qty	2.3	3.50113
2/15/2011	001	00530	Total Suspended Solids	7D Qty	3.4	5.86145
2/15/2011	001	80082	CBOD 5 day	7D Qty	2.8	2.93073
2/22/2011	001	00530	Total Suspended Solids	7D Qty	3.4	7.28613
3/1/2011	001	00530	Total Suspended Solids	30D Qty	2.3	3.97236
3/1/2011	001	00530	Total Suspended Solids	7D Qty	3.4	5.07493
3/1/2011	001	80082	CBOD 5 day	30D Qty	2.0	2.09222
3/22/2011	001	00530	Total Suspended Solids	7D Qty	3.4	6.52156
4/1/2011	001	00530	Total Suspended Solids	30D Qty	2.3	3.44851
4/1/2011	001	00530	Total Suspended Solids	7D Qty	3.4	6.46478
4/15/2011	001	00530	Total Suspended Solids	7D Qty	3.4	3.66312

Country Time

The aeration tank had a healthy color and was receiving an adequate amount of air. The skimmer and return were both operating properly. The sand filters had solids and plant growth on them. Chlorination and dechlorination tablets were observed in the feeders. The effluent appeared clear.

We are in receipt of the discharge monitoring reports for March 2011 and April 2011. Our review indicates no violations of the terms and conditions of your NPDES permit.

Mr. Kent Hinton
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If you have any questions, please call Michelle Sharp at (419) 373-3019.

Sincerely,



Elizabeth A. Wick, P.E.
District Engineer
Division of Surface Water

/lir

pc: DSW-NWDO File
Mr. Jared Ebbing, Mercer County Economic Development
Mr. Jerry Laffin, Mercer County Commissioners
Mr. Robert Nuding, Mercer County Commissioners
Mr. Jim Zehringer, Mercer County Commissioners

ec: Ms. Elizabeth Wick, Ohio EPA, NWDO
Ms. Darla Peelle, Ohio EPA, CO

