



3. An Ohio National Pollutant Discharge Elimination System ("NPDES") permit number 4PW00005\*CD ("permit"), effective August 1, 2008, with a July 31, 2013 expiration date, authorized the discharge from the WWTP to the Olentangy River in accordance with the conditions specified in Parts I, II, and III of said permit.
4. On July 16, 2013, Ohio EPA received a NPDES permit renewal application, which application was submitted under the name of Riverby Estates Sewage Disposal System, Inc.
5. Respondent has recently undergone a change of management and on November 14, 2013 elected a new board of directors.

#### **WWTP**

6. Respondent under the active Ohio registered trade name of Riverby Estates Sewage Disposal System, Inc., (entity number 1947178), owns and operates a WWTP located on the east side of Pollock Road approximately one-quarter mile south of Riverby Lane, Delaware Township, Delaware County, and the associated collection system.
7. The WWTP has a design flow of 30,000 gallons per day and with the collection system serves Riverby Estates lot owners and condominium unit owners pursuant to the NPDES permit, which authorizes a final effluent discharge to the Olentangy River, a water of the state.
8. All the above lot owners and condominium unit owners are members of Respondent, pursuant to deed restriction.

#### **Statutory Requirements**

9. Pursuant to R.C. 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.
10. Pursuant to R.C. 6111.07(A), no person shall violate or fail to perform any duty imposed by R.C. 6111.01 to 6111.08 or violate any order, rule, term or condition of a permit issued or adopted by the Director of Ohio EPA pursuant to those sections. Each day of violation constitutes a separate offense.
11. Pursuant to R.C. 6111.09(A), any person who violates R.C. 6111.07 shall pay a civil penalty of not more than ten thousand dollars per day of violation.

### **WWTP Noncompliance**

12. The following is correspondence regarding pertinent violations of the NPDES permit:

- a. August 19, 2011 Notice of Violation Letter ("NOV"):
  - i. The WWTP was in significant noncompliance due to the frequency and magnitude of violations for total suspended solids and ammonia;
  - ii. The WWTP was experiencing a problem with filamentous bacteria and as a result, excessive solids were observed on the surface of most treatment system components (e.g. gravity clarifiers, fixed media clarifiers and tertiary sand filters). A schedule was to be submitted within fourteen days for removing all solids from the drying beds and sludge holding tank;
  - iii. The flow equalization blower was not functional, with the unit to be repaired or replaced as soon as possible; and
  - iv. The average daily flow was approximately 20,000 to 30,000 gallons per day, with peak flows reported at 200,000 gallons per day. A schedule was to be submitted within twenty-one days for the investigation and elimination of infiltration and inflow from the collection system.
- b. September 19, 2011 NOV: On September 7, 2011, Ohio EPA observed that one of the two tertiary sand filters was overflowing, allowing a significant volume of partially treated wastewater to flow across the surface of the ground toward the Olentangy River. The second filter, cleaned and available for service, was not in operation. The bypassing and the failure to provide notification was a violation of the NPDES permit. The information requested in the August 19, 2011 NOV was not submitted.
- c. December 22, 2011 NOV: On December 13, 2011, Ohio EPA observed that one of the two tertiary sand filters was overflowing, allowing partially treated wastewater to flow across the surface of the ground toward the Olentangy River. The second filter was clogged with approximately a foot of frozen solids and unavailable for use. A small diameter flexible pipe, placed in the filter to drain back to the equalization tank was ineffective in draining the filter and was leaking onto the ground around the plant. The bypassing and the failure to provide notification was a violation of the NPDES permit and that the information requested in the August 19, 2011 NOV was not submitted.
- d. March 1, 2012: During the site visit Ohio EPA observed that contractors were attempting to dewater liquids (pumped out of the sand filters) from a vacuum truck by discharging the truck's contents onto a pile of sand outside of the WWTP, in an area without controlled drainage. The contractors were advised by the Ohio EPA observer to discontinue this practice immediately.

- e. March 8, 2012 NOV: On February 27, 2012, Ohio EPA observed that both tertiary sand filters were ponded and plugged with solids. The northernmost filter, which was still receiving flow from the dosing station, was overflowing from its northeast corner with the flow entering a small drainage swale tributary to the Olentangy River. Similar conditions were observed on February 21, 2012, which were reported by Ohio EPA via a telephone conversation. Corrective action to immediately abate the overflows and to return the WWTP to compliance was not taken.
- f. May 22, 2013: Ohio EPA inspected the WWTP and concluded that a sand filter recently overflowed. The operator was advised to remove the overflowing filter from service and to report this and any future overflows to Ohio EPA in accordance with the requirements of the NPDES permit.

13. For calendar year 2013 the following NPDES permit effluent limit violations were reported.

Parameter	Limit Type	Limit	Reported Value	Violation Date
Total Suspended Solids	7D Conc	18	142.	2/1/2013
Total Suspended Solids	7D Qty	2.04	13.4367	2/1/2013
Total Suspended Solids	7D Conc	18	51.	2/8/2013
Total Suspended Solids	7D Qty	2.04	4.82588	2/8/2013
Total Suspended Solids	7D Conc	18	216.	2/15/2013
Total Suspended Solids	7D Qty	2.04	20.439	2/15/2013
Total Suspended Solids	30D Conc	12	175.75	2/1/2013
Total Suspended Solids	7D Conc	18	294.	2/22/2013
Total Suspended Solids	30D Qty	1.36	16.6303	2/1/2013
Total Suspended Solids	7D Qty	2.04	27.8197	2/22/2013
CBOD 5 day	7D Conc	15	72.15	2/1/2013
CBOD 5 day	7D Qty	1.71	6.82719	2/1/2013
CBOD 5 day	7D Conc	15	20.28	2/8/2013
CBOD 5 day	7D Qty	1.71	1.919	2/8/2013
CBOD 5 day	7D Conc	15	98.55	2/15/2013
CBOD 5 day	7D Qty	1.71	9.32529	2/15/2013
CBOD 5 day	30D Conc	10	73.845	2/1/2013
CBOD 5 day	7D Conc	15	104.4	2/22/2013
CBOD 5 day	30D Qty	1.14	6.98758	2/1/2013
CBOD 5 day	7D Qty	1.71	9.87885	2/22/2013
Nitrogen, Ammonia (NH3	30D Conc	3.0	7.41	2/1/2013
Nitrogen, Ammonia (NH3	7D Conc	4.5	10.4	2/15/2013
Nitrogen, Ammonia (NH3	30D Qty	0.34	.70117	2/1/2013
Nitrogen, Ammonia (NH3	7D Qty	0.51	.9841	2/15/2013
Dissolved Oxygen	1D Conc	6.0	2.39	3/13/2013
CBOD 5 day	7D Conc	15	15.72	3/1/2013
Nitrogen, Ammonia (NH3	7D Conc	4.5	18.4	3/1/2013
Nitrogen, Ammonia (NH3	7D Qty	0.51	1.6436	3/1/2013
Nitrogen, Ammonia (NH3	30D Conc	3.0	11.525	3/1/2013
Nitrogen, Ammonia (NH3	7D Conc	4.5	4.65	3/15/2013
Nitrogen, Ammonia (NH3	30D Qty	0.34	1.0418	3/1/2013

Riverby Estates Home Owners Association  
 dba Riverby Estates Sewage Disposal System Inc.  
 Director's Final Findings and Orders  
 Page 5 of 10

Chlorine, Total Residu	1D Conc	0.038	.07	5/28/2013
Nitrogen, Ammonia (NH3	30D Conc	1.0	2.28	5/1/2013
Nitrogen, Ammonia (NH3	30D Qty	0.11	.13442	5/1/2013
Fecal Coliform	30D Conc	1000	5000.	5/1/2013
Chlorine, Total Residu	1D Conc	0.038	.15	6/12/2013
Chlorine, Total Residu	1D Conc	0.038	.08	6/25/2013
Chlorine, Total Residu	1D Conc	0.038	.08	6/26/2013
Chlorine, Total Residu	1D Conc	0.038	.09	6/27/2013
Chlorine, Total Residu	1D Conc	0.038	.21	6/28/2013
Nitrogen, Ammonia (NH3	7D Conc	1.5	15.1	6/1/2013
Nitrogen, Ammonia (NH3	7D Qty	0.17	1.14879	6/1/2013
Nitrogen, Ammonia (NH3	30D Conc	1.0	16.25	6/1/2013
Nitrogen, Ammonia (NH3	7D Conc	1.5	17.4	6/15/2013
Nitrogen, Ammonia (NH3	30D Qty	0.11	1.06175	6/1/2013
Nitrogen, Ammonia (NH3	7D Qty	0.17	.97471	6/15/2013
Fecal Coliform	30D Conc	1000	16000.	6/1/2013
Fecal Coliform	7D Conc	2000	16000.	6/22/2013
Chlorine, Total Residu	1D Conc	0.038	.06	7/1/2013
Chlorine, Total Residu	1D Conc	0.038	.08	7/2/2013
Chlorine, Total Residu	1D Conc	0.038	.09	7/3/2013
Chlorine, Total Residu	1D Conc	0.038	.07	7/5/2013
Chlorine, Total Residu	1D Conc	0.038	.11	7/8/2013
Chlorine, Total Residu	1D Conc	0.038	.05	7/9/2013
Chlorine, Total Residu	1D Conc	0.038	2.5	7/16/2013
Dissolved Oxygen	1D Conc	6.0	1.58	7/18/2013
Dissolved Oxygen	1D Conc	6.0	4.75	7/23/2013
Total Suspended Solids	7D Qty	2.04	2.66388	7/8/2013
Nitrogen, Ammonia (NH3	7D Conc	1.5	13.3	7/1/2013
Nitrogen, Ammonia (NH3	7D Qty	0.17	.89606	7/1/2013
Nitrogen, Ammonia (NH3	7D Conc	1.5	18.8	7/15/2013
Nitrogen, Ammonia (NH3	7D Qty	0.17	1.48009	7/15/2013
Nitrogen, Ammonia (NH3	30D Conc	1.0	20.4	7/1/2013
Nitrogen, Ammonia (NH3	30D Qty	0.11	1.69523	7/1/2013
Chlorine, Total Residu	1D Conc	0.038	.11	8/23/2013
Dissolved Oxygen	1D Conc	6.0	5.66	8/27/2013
Fecal Coliform	30D Conc	1000	1400.	8/1/2013
Chlorine, Total Residu	1D Conc	0.038	5.	8/9/2013
Chlorine, Total Residu	1D Conc	0.038	.05	9/18/2013
Chlorine, Total Residu	1D Conc	0.038	.1	9/19/2013
Chlorine, Total Residu	1D Conc	0.038	.05	9/26/2013
Nitrogen, Ammonia (NH3	7D Conc	1.5	2.25	9/1/2013
Nitrogen, Ammonia (NH3	30D Conc	1.0	1.175	9/1/2013
Chlorine, Total Residu	1D Conc	0.038	.06	10/21/2013
Chlorine, Total Residu	1D Conc	0.038	.06	10/23/2013
Chlorine, Total Residu	1D Conc	0.038	.05	10/29/2013
Chlorine, Total Residu	1D Conc	0.038	.06	10/31/2013
Dissolved Oxygen	1D Conc	6.0	4.21	10/1/2013

14. As of April 17, 2014 no NPDES permit effluent limit violations have been reported for 2014.
15. Ohio EPA classifies a wastewater treatment plant as being in significant noncompliance with effluent limits if one or more pollutants meet the following conditions:
- a. During 2 or more months the reported effluent concentration (or computed load) for a parameter exceeded an effluent limit by:
    - i. 40% for Group 1 pollutants plus fecal coliform;
    - ii. 20% for Group 2 pollutants plus pH, temperature, whole effluent toxicity; or
  - b. During 4 or more months the reported concentration (or computed load) exceeded the limit by > 1%.
16. For the following six month periods in 2013 the WWTP has been in significant noncompliance:
- a. From January to June:

Parameter	Max % Exceeded	Months Significant Exceed (See Finding 15.a)	Months Exceed (See Finding 15.b)
Nitrogen, Ammonia (NH3)	1525	4	4
Fecal Coliform	1500	2	2
Chlorine, Total Residual	452.6	2	2

- b. July to December:

Parameter	Max % Exceeded	Months Significant Exceed (See Finding 15.a)	Months Exceed (See Finding 15.b)
Nitrogen, Ammonia (NH3)	1940	2	2
Chlorine, Total Residual	13057.9	4	4

17. Based on the above Findings Respondent has violated R.C. 6111.07.

**Considerations**

18. The following Orders to 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 permit to install requirements of R.C. 6111.44 and 6111.45 and Ohio Admin.Code 3745-42-02.

19. 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 at all times from the effective date of these Orders comply with the NPDES permit, and as such permit may be modified or renewed, including, but not limited to, the maintaining in good working order and operating as efficiently as possible all treatment, collection or control facilities or systems installed or used by Respondent necessary to achieve compliance with the terms and conditions of this permit. Respondent shall effectively monitor the operation and efficiency of treatment, collection and control facilities.
2. Within fourteen (14) days of the effective date of these Orders and within fourteen days of any new, modified or renewal contract being entered into, Respondent shall submit to Ohio EPA in accordance with Section X of these Orders a copy of the contract entered into with the person(s) hired to operate or oversee the treatment, collection and control facilities, and any modified, renewed or new contract.
3. Respondent shall connect to the City of Delaware Publicly Owned Treatment Works and have such connection operational as expeditiously as possible, but in no event later than the following schedule:
  - a. Within two hundred seventy (270) days of the effective date of these Orders provide Ohio EPA in accordance with Section X of these Orders the written consent of the City of Delaware authorizing said connection;
  - b. Within ninety (90) days of obtaining such consent, submit to Ohio EPA in accordance with Section X of these Orders a plan detailing such connection, including implementing compliance schedules, and necessary detail plans and permit to install application;
  - c. Within one-hundred fifty (150) days after obtaining consent of the City of Delaware to connect, submit to Ohio EPA in accordance with Section X of these Orders a complete and detailed plan for the abandonment of the existing WWTP and area cleanup, or the status thereof, and implement the plan after approval by Ohio EPA; and
  - d. Implement the connection plan, detail plans and permit to install as approved by Ohio EPA, with said connection to occur and be operational no later than eighteen (18) months after the effective date of these Orders.

4. Should Respondent be unable to obtain written consent of the City of Delaware authorizing the connection or be unable to connect to the City of Delaware Publicly Owned Treatment Works, as set forth in Order No. 3, above, Respondent shall comply with its NPDES permit, and as such permit may be renewed and modified, as set forth in Order No. 1, above.
5. Respondent shall submit corrections/revisions to address any deficiencies identified by Ohio EPA in any of the documents submitted under these Orders 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.

#### **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, as the term "responsible official" is 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 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 stated herein, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Central District Office  
Division of Surface Water  
Attn: DSW Enforcement Unit Supervisor  
50 West Town Street, Suite 700  
Columbus, Ohio 43215

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

### **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

6-27-2014

Date

**IT IS SO AGREED:**  
Riverby Estates Homeowners Association  
dba Riverby Estates Sewage Disposal System Inc.



By

FRANK PIZZO

Print Name

PRESIDENT

Title



5-13-14

GEORGE KLOPEC  
VICE PRESIDENT

5-13-14

Date



JOYCE A. RATHBUN  
SECRETARY

5-13-14