BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Village of Oak Harbor
146 North Church Street
Oak Harbor, Ohio 43449

Respondent

Director's Final Findings and Orders

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Village of Oak Harbor ("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 successors in interest liable under Ohio law. No change in the composition of Respondent 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 ORC Chapters 6111 and 3745, and the rules promulgated thereunder.

IV. FINDINGS

1. Respondent owns two sanitary lift stations located on Benton Street and Bassett Street ("the Sites") in Oak Harbor, Ohio, Ottawa County.

2. Respondent installed two separate sanitary lift stations at the Sites to replace existing lift stations without Ohio EPA's review and approval via a Permit-to-Install (PTI) for the above-mentioned Sites.
3. Pursuant to ORC Section 6111.44(A), No municipal corporation, county, public institution, corporation, or officer or employee thereof or other person shall provide or install sewerage or treatment works for sewage, sludge, or sludge materials disposal or treatment or make a change in any sewerage or treatment works until the plans therefor have been submitted to and approved by the director of environmental protection.

4. Pursuant to Ohio Administrative Code ("OAC") Section 3745-42-02(A)(1), no person shall cause, permit, or allow the installation of a new disposal system or cause, permit, or allow the modification of a disposal system without first obtaining an individual PTI, a general PTI, or plan approval in accordance with this chapter and all other applicable rules and laws.

5. On February 20, 2019, Ohio EPA conducted a compliance evaluation inspection of Respondent's wastewater treatment plant ("WWTP"). During the inspection, Ohio EPA was informed that Respondent had installed two sanitary lift stations at the Sites to replace existing lift stations. The replacement lift stations have been in operation since December 2017. Based on the information provided during the inspection, Ohio EPA determined that a PTI was needed for the installation of the two replacement lift stations.

6. On March 15, 2019, Ohio EPA issued a Notice of Violation ("NOV") letter to Respondent for the installation of the two replacement lift stations at the Sites without first obtaining a PTI. The NOV letter requested a response from Respondent within thirty (30) days of receipt of the letter detailing a timeframe in which the as-built PTI application(s) for the two lift stations would be submitted.

7. On April 9, 2019, Respondent provided a response letter to the NOV letter, stating that a PTI application and detail plans would be submitted for the two lift stations within thirty (30) to sixty (60) days.

8. On April 19, 2019, Ohio EPA received a PTI application and detail plans for the replacement of the lift station on Benton Street, Oak Harbor, Ohio. It was confirmed that two separate lift stations had been installed and Respondent would submit a second PTI application for the replacement of the lift station on Bassett Street, Oak Harbor, Ohio.

9. On May 2, 2019, Ohio EPA determined the PTI application and detail plans that were submitted by Respondent on April 19, 2019 were not complete and, therefore, not approvable. Ohio EPA provided technical comments to Respondent and Respondent’s consulting engineer via email regarding the information required to complete the previously submitted PTI application and detail plans. A response to the technical comments was not received.
10. On May 28, 2019, Ohio EPA sent a follow-up email to Respondent regarding the technical comments from May 2, 2019, as no response had been received from Respondent's consulting engineer.

11. The Director has given consideration to, and based her 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

1. Respondent shall not install sewerage, or treatment works for sewage disposal or new disposal systems, including, but not limited to, sanitary sewers, at any location in Ohio without first receiving prior approval from the Director as required by law.

2. Within fourteen (14) days of the effective date of these Orders, Respondent shall provide adequate response to Ohio EPA's technical comments from May 2, 2019, such that the PTI application submitted for the replacement sanitary lift station located on Benton Street, Oak Harbor, Ohio is complete and approvable.

3. Within thirty (30) days of the effective date of these Orders, Respondent shall submit a complete and approvable PTI application, stamped and signed by a professional engineer licensed in the State of Ohio, for the replacement sanitary lift station located on Bassett Street, Oak Harbor, Ohio.

4. 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 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 copy of the check shall be sent to Larry Reeder, Environmental Manager, Enforcement Section, or his successor, at the following address:

Division of Surface Water
Ohio Environmental Protection Agency
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(F).

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. NOTICE

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

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

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 or 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

Laurie A. Stevenson, Director

AUG 19 2019

Date

IT IS SO AGREED:

Village of Oak Harbor

Signature

Printed or Typed Name

Title