BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Ken-Bur-Bel Post No. 41	:	**Director's Final Findings**
American Legion	:	**and Orders**
1544 U.S. Route 20 West	:	
Norwalk, OH 44857	:	

Respondent

OHIO E.P.A.
AUG 19 2013
CENTRAL RECORDS JOURNAL

PREAMBLE

It is agreed by the Parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Ken-Bur-Bel Post No. 41 American Legion ("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 ownership of the Facility described in Finding No. 1 of these Orders 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 Chapter 6111 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA (Director) has made the following findings:

1. Respondent owns and operates the Norwalk American Legion Post No. 41 located at 1544 U.S. Route 20 West, Norwalk, Huron County, Ohio 44857 ("Facility").

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.

By: Zona L Clements Date: Aug 19, 2013

2. The Facility is currently served by a wastewater treatment plant ("WWTP"). The WWTP discharges "sewage," "industrial waste," and/or "other wastes," as defined in ORC § 6111.01, to East Branch Huron River. East Branch Huron River is a "water of the state" as defined in ORC § 6111.01.

3. Respondent was issued Ohio National Pollutant Discharge Elimination System ("NPDES") permit No. 2PR00183*BD for the discharge from the Facility. The permit became effective April 1, 2008 and will expire on March 31, 2013.

4. On October 17, 2007, NWDO-DSW sent an inspection letter documenting an inspection of the WWTP on September 24, 2007 and October 4, 2007. During the inspection, a broken pipe was observed between the clarifier and sand filter dosing station and it appeared that partially treated wastewater had been discharging to the ground. The letter also documented that numerous effluent violations and reporting frequency violations occurred since June 2005.

5. On October 29, 2008, NWDO-DSW sent an inspection letter documenting an inspection of the WWTP on October 7, 2008. During the inspection, it was noted that there were no chlorine tablets in the chlorine tablet feeder and the log book was not being maintained. The letter documented effluent violations as well. A written response was requested within 14 days.

6. On January 19, 2009, Ohio EPA received a response from Eastwood Environmental, Inc., to the October 29, 2008 inspection letter. The response letter indicated that Respondent was feeding sodium bicarbonate to the system and the sodium bicarbonate was helping to eliminate the ammonia effluent violations. The letter mentions that the entity was not aware that the final permit was issued until May 2008.

7. On March 3, 2010, a Notice of Violation was issued for effluent limit violations that occurred between August 2009 and January 2010.

8. On March 23, 2010, a letter of response from Eastwood Environmental, Inc. was received by Ohio EPA regarding the March 3, 2010, NOV. The response letter indicated that the plant was being scheduled to be pumped out and Respondent planned to add sodium bicarbonate to the plant if necessary in order to meet NPDES permit limits.

9. An inspection/NOV letter was sent on April 8, 2010, documenting an inspection conducted by NWDO-DSW on March 31, 2010. The inspection documented that the record keeping requirements and the minimum staffing times outlined in the NPDES permit needed to be met. The letter also documented effluent limit

violations that occurred in February 2010. A written response was requested within 14 days but no response was received.

10. On July 7, 2010, NWDO-DSW sent an inspection letter documenting an inspection conducted on June 22, 2010. The letter outlined that recordkeeping requirements were not being met and minimum staffing requirements were not being met. A written response was requested within 14 days.

11. On August 12, 2010, NWDO-DSW received a response from Eastwood Environmental, Inc. detailing comments from the letters sent on April 8 and July 7, 2010. Eastwood Environmental, Inc. requested to install a temporary weed bed to address the ongoing nitrogen ammonia violations. Ohio EPA allowed the temporary installation of the weed bed pursuant to a May 6, 2011 e-mail, however, if deemed unsuccessful, it was to be removed by January 1, 2012.

12. On October 14, 2010, NWDO-DSW representatives and Ohio EPA's Compliance Assistance Unit (CAU) met with Respondent to discuss plant operations. CAU offered suggestions to bring the WWTP back into compliance with final effluent limits.

13. On February 28, 2011, NWDO-DSW sent an inspection letter documenting an inspection conducted on February 10, 2011. During the inspection, it was determined that the daily visual inspections of the plant were not being conducted and that the operator of record had not visited the plant since February 1, 2011. The letter also documented effluent violations of nitrogen ammonia parameters and CBOD parameters that occurred between June 2010 and January 2011.

14. On May 24, 2012, NWDO-DSW sent an inspection letter documenting an April 25, 2012 inspection. The letter documents continued violations of minimum staffing times and operator of record requirements as well as effluent limit violations of nitrogen ammonia and total suspended solids that occurred between February 2011 and March 2012.

15. On June 22, 2012, Ohio EPA received a response from Eastwood Environmental, Inc. to the inspection sent to Respondent on May 24, 2012. The letter discusses the inability of this plant design to feasibility achieve the nitrogen ammonia limit. The letter details the original PTI application submitted to Ohio EPA for approval and how the original approval never addressed raw ammonia levels. The letter discusses the costs of the various abatement techniques used as well.

16. Pursuant to Respondent's NPDES permit and OAC Rule 3745-33-08(C), whenever a sewage system of a publically owned treatment work becomes available and accessible to a semi public disposal system, the semi-public disposal system shall be abandoned and connected into the publically owned treatment work.

17. Respondent's Facility is located about 1,000 feet from the City of Norwalk wastewater pump station. While the sanitary sewer is not considered "available and accessible" at this distance under the facts in this case, Respondent has agreed to conduct a Supplemental Environmental Project as set forth in Order 3 that entails eliminating the discharge from its Facility by properly abandoning the existing wastewater system and connecting to the City of Norwalk's sanitary sewer system thereby eliminating the potential for future violations and impacts to the East Branch of the Huron River.

18. Pursuant to ORC § 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.

19. Pursuant to ORC Section 6111.07(A), no person shall violate or fail to perform any duty imposed by sections 6111.01 to 6111.08 of the Revised Code or violate any order, rule, or term or condition of a permit issued or adopted by the director of environmental protection pursuant to those sections. Each day of violation is a separate offense.

20. 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 permit to install ("PTI") requirements of ORC §§ 6111.44 and 6111.45 and OAC Chapter 3745-42.

21. This document does not modify NPDES permit No. 2PR00183*BD. The purpose of these Orders is to correct Respondent's noncompliance with permit No. 2PR00183*BD and not to alter said permit.

22. Compliance with ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.

23. 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

1. Until such time as the WWTP is abandoned in accordance with Order No. 3, Respondent shall maintain in good working order and operate as efficiently as possible the WWTP to achieve compliance with the terms and conditions of the NPDES permit.

2. Respondent shall be assessed a penalty in the amount of ten thousand four hundred and thirteen dollars ($10,413.00) in settlement of the Ohio EPA's claim for civil penalties pursuant to ORC § 6111.09. 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 $1,500.00 of the total amount. The official check, together with a letter identifying Respondent, shall be submitted to Carol Butler or her successor at:

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

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

3. In lieu of paying the remaining $8,913.00 of the civil penalty, Respondent shall, conduct the following supplemental environmental project (SEP):

   a. Within 90 days from the effective date of the Orders, Respondent shall submit a PTI application and detailed plans for connection of a sanitary sewer to enable Respondent to connect the Facility's sewer system to the City of Norwalk's sanitary sewer system and the proper abandonment of its current wastewater plant.

   b. Within fourteen (14) days from receipt of notification of comments or deficiencies from Ohio EPA on the PTI application and detailed plans required by Order 3a, Respondent shall provide to Ohio EPA, in accordance with Section X. of these Orders, a response addressing any comments or deficiencies and/or submitting any requested revisions to the recommended actions or improvements.

c. Upon approval of the PTI, Respondent shall initiate construction within 90 days in accordance with its approved PTI.

d. Respondent shall complete construction in accordance with its approved PTI within 45 days of the initiation of construction.

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.

This 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 as defined in OAC Rule 3745-33-03(E).

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, the Respondent's 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 the Facility.

IX. MODIFICATIONS

These Orders may be modified by the 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, OH 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 those 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

Scott Nally
Director

8/12/13
Date

IT IS SO AGREED:
Ken-Bur-Bel Post No. 41 American Legion

Jeffrey D Kronewitter LCSE
Signature

8/8/13
Date

Jeffrey D Kronewitter, LCSE
Print Name

Finance Officer
Title