

OHIO E.P.A.
ABC-2 2011

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

ENTERED DIRECTOR'S JOURNAL

In the matter of:

**Village of Adena
P.O. Box 507
Adena, Ohio 43901**

**Director's Final Findings
and Orders**

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.

Respondent

PREAMBLE

[Signature]

8/2/2011

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Village of Adena ("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 on Smithfield Township Road 122, Adena, Jefferson County, Ohio 43901.
2. Respondent holds a valid, unexpired, non-major National Pollutant Discharge Elimination System ("NPDES") permit, number 0PB00056*FD, for the discharges from the WWTP.

3. Respondent discharges to "waters of the state" as defined by ORC Section 6111.01.
4. This document does not modify NPDES Permit No. 0PB00056*FD. The purpose of this document is to correct a condition of noncompliance with NPDES Permit No. 0PB00056*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. Respondent violated terms and conditions of its NPDES permit by not meeting the milestones set forth in Part I, C, Schedule of Compliance thus allowing discharges to waters of the state in excess of the permissive discharges specified under the existing permit. Part I, C, Schedule of Compliance is cited as Attachment I. Attachment I is hereby incorporated into these Findings and Orders as if fully stated herein.
8. The Ohio EPA informed Respondent in writing on October 6, 2010 and November 30, 2010 that the milestones in Finding #7 have all been exceeded.
9. 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.
10. Compliance with the ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
11. 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 achieve compliance with the final effluent limitations of its currently effective NPDES permit, and any successor permit, as expeditiously as practicable, but not later than the following schedule:
 - a. Within one hundred twenty (120) days of the effective date of these Orders, Respondent shall submit to Ohio EPA, a copy of legally adopted rules or ordinances prohibiting connection of roof drains, foundation drains, and other clean water connections to the sanitary sewer.
 - b. Within one hundred twenty (120) days of the effective date of these Orders, Respondent shall submit to Ohio EPA, a written action plan that will address the conditions of the private laterals and public sewers crossing Short Creek. The written action plan shall determine if each lateral/public sewer is to be repaired, replaced, or remain as is and a schedule included to address each crossing.
 - c. Within nine (9) months of the effective date of these Orders, Respondent shall complete an assessment of the main lift station to determine improvements needed to eliminate the sanitary sewer overflows (SSO's). Submit documented improvements to Ohio EPA, Southeast District Office. If the improvements require a PTI, Respondent shall submit a PTI within eighteen (18) months from the effective date of these Orders. Improvements shall be completed and all SSO's eliminated within twenty four (24) months of the effective date of the Orders.
 - d. Within twenty four (24) months of the effective date of these Orders, Respondent shall have construction work completed on all repairs/replacements.
3. Until the date specified in the schedule listed in Order No. 2(d) in which Respondent's WWTP is able to attain compliance with final effluent limitations in its unexpired NPDES permit, No. 0PB00056*FD or any successor permit, Respondent shall properly operate and maintain its existing WWTP to achieve the best quality effluent possible.
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 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. NOTICE

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

Ohio Environmental Protection Agency
Southeast District Office
Division of Surface Water
Attn: DSW Enforcement Unit Supervisor
2195 Front Street
Logan, Ohio 43138

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

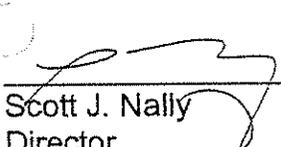
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



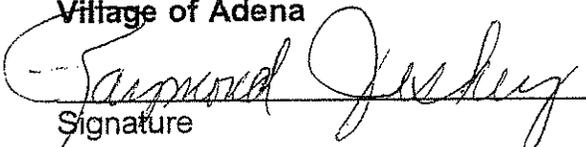
Scott J. Nally
Director

8/1/11

Date

IT IS SO AGREED:

Village of Adena



Signature

7-31-11

Date

Raymond Jeskey

Printed or Typed Name

Mayor

Title