

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Greene County Board of Commissioners
35 Greene Street
Xenia, Ohio 45385-3101

and

Greene County Department of Public Works
Office of Sanitary Engineering
667 Dayton-Xenia Rd.
Xenia, OH 45385

Respondents

Director's Final Findings
and Orders

ENTERED DIRECTOR'S JOURNAL

AUG 15 2003

OHIO E.P.A.

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Greene County Board of Commissioners and the Greene County Department of Public Works, Office of Sanitary Engineering, (together referred to as "Respondents," individually as "Respondent County" and "Respondent Sanitary Engineering," respectively), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 6111.03(H) and 3745.01, and Ohio Administrative Code ("OAC") Chapter 3745-11.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondents and their successors in interest liable under Ohio law. No change in ownership or operation of the Facility shall in any way alter Respondents' 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 adopted thereunder.

I certify this to be a true and accurate copy of the
official document as filed in the records of the Ohio
Environmental Protection Agency.

By:  State 15 AUG 03

03-C-26-7

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. The Village of Cedarville ("Village"), until October, 1995, owned and operated a wastewater treatment plant, referred to as the Cedarville Wastewater Resource Reclamation Facility, ("Facility"), located at 152 West Cedar St., Village of Cedarville, Greene County.
2. The most recent National Pollutant Discharge Elimination System Permit, No. 1PB00006*BD, ("NPDES Permit"), was issued to the Village for the Facility on October 4, 1990, with an expiration date of October 1, 1995.
3. The Facility discharges to Massie Creek, which flows to the Little Miami River and subsequently to the Ohio River. Massie Creek, the Little Miami River and the Ohio River constitute waters of the state as defined by ORC § 6111.01.
4. A NPDES Permit renewal was submitted by the Village on March 12, 1995, with the Facility operating under the authority of its NPDES Permit, pending a determination on the renewal.
5. The Village joined the Greater Greene-Little Miami Sewer District in October, 1995, at which time Respondent County assumed ownership and operation of the Facility.
6. On November 24, 1995, Respondent County submitted to Ohio EPA a transfer of ownership application for the Facility.
7. After the change in ownership and operation of the Facility, Respondent County contracted with Camp, Dresser & McGee for an evaluation of the Facility and recommendations for maintenance and improvements, with a report presented to Respondent County in January, 1996.
8. Respondent County, in addition to regular operation and maintenance activities, has, among other things, undertaken the following in regards to the Facility:
 - a. The entire collection system has been cleaned using a hydraulic jet rodder to ensure use to the maximum capacity of the sewer system;
 - b. Repairs were made to equipment and processes;
 - c. The entire collection system has been inspected using sanitary sewer TV equipment;

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- d. A pilot inflow/infiltration study in the southeast area of the Village has been performed to determine the extent of clean water entering into the sanitary sewer system and the potential expense associated with removing the sources of clean water from the sanitary sewer system;
 - e. Sanitary sewer and manhole rehabilitation has been performed throughout the system;
 - f. Remediated the sludge disposal lagoon; and
 - g. Replaced return activated sludge pumps.
9. Notwithstanding the activities set forth in Finding No. 8, above, the Facility has remained in noncompliance with its NPDES Permit effluent limitations.
 10. On September 5, 2000, a permit to install application No. 05-11175, ("PTI No. 05-11175"), for two pump stations, force mains, equalization, pretreatment, biological nutrient removal, ultraviolet disinfection, post aeration, and with a Facility design flow of 0.56 MGD, was submitted to Ohio EPA.
 11. PTI No. 05-11175 was issued on October 17, 2002.
 12. In August, 2002, Cedarville University instituted semester sessions, which resulted in students on campus during low flow conditions in Massie Creek.
 13. In October 2002, Ohio EPA's Compliance Assistance Unit ("CAU") began an evaluation of the Facility and made the following initial recommendations for improvements, which have been implemented by Respondent County:
 - a. Revise the existing Facility process from a contact stabilization process to a plug flow, by directing the influent to the head of the aeration tank; and
 - b. Install baffles to create a selector zone, which will be used to create an environment favorable to bacteria, to provide better treatment.
 14. Notwithstanding the activities set forth in Finding No. 13 above, the Facility has remained in noncompliance with its NPDES Permit effluent limitations.
 15. As set forth in OAC Rule 3745-1-07, Table 7-13, Massie Creek, designated as primary contact, has the following water quality criteria for fecal coliform:

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Fecal coliform - geometric mean fecal coliform content (either MPN or MF), based on not less than five samples within a thirty-day period, shall not exceed 1,000 per 100 ml and fecal coliform content (either MPN or MF) shall not exceed 2,000 per 100 ml in more than ten per cent of the samples taken during any thirty-day period.

16. As referenced in Finding No. 14. above, the Facility has exceeded the final NPDES Permit effluent limitations for fecal coliform for the dates, times and locations cited in Attachment I, which is incorporated into these Orders as if fully stated herein.
17. In Fall 2002, Ohio EPA observed a poor quality discharge resulting in sludge deposits in Massie Creek, with an associated sewage odor noted.
18. The aforementioned discharge to waters of the state caused exceedances of the criteria applicable to all waters as defined by OAC Rule 3745-1-04. OAC Rule 3745-1-04(A) states that water shall be free from suspended solids or other substances that enter the waters as a result of human activity and that will settle to form putrescent or otherwise objectionable sludge deposits. OAC Rule 3745-1-04(C) states that waters shall be free from materials entering the waters as a result of human activity producing color, odor or other conditions in such a degree as to create a nuisance.
19. The Facility is not in compliance with the final NPDES Permit effluent limits, in violation of the NPDES Permit and ORC §§ 6111.04 and 6111.07.
20. CAU continues to work with Respondent County to address the Facility's noncompliance with the NPDES Permit effluent limitations.
21. On February 3, 2003, a contract was awarded and signed for the implementation of PTI No. 05-11175, with construction to commence in February or March, 2003, and to be completed, with the modified Facility operational, by the end of May, 2004.
22. On April 30, 2003, Respondent County submitted PTI Application No. 05-12702 (PTI No. 05-12702), to modify the Facility, to achieve compliance with the final NPDES Permit effluent limitations.
23. These Orders do not modify the NPDES Permit or PTI No. 05-11175, but are intended to address the violations of the NPDES Permit effluent limitations and ORC sections cited above.

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24. OAC Rule 3745-11-02(A) provides that orders of the Director issued pursuant to ORC § 6111.03(H) may impose connection bans.
25. OAC Rules 3745-11-02(B) and (C) require that in any connection ban imposed, the geographical area to which the connection ban applies shall be specified, and connection ban shall be imposed on both:
 - a. The person or persons responsible for the construction and operation of the treatment works and sewerage system in the geographical area specified; and
 - b. The person or persons responsible for the issuance of permits to construct or install new connections or treatment works.
26. Respondent County is responsible for the construction and operation of the treatment works and sewerage system in the area served by the Facility.
27. The Greene County, Ohio, Regulations and Specifications, Part A - Regulations, Procedures and Permits, Section 5.01, provide that "all water taps, sewers taps, extensions or any construction that involves water or sewage works which will become part of utilization of, be taped into, the existing system, require the securing of permits from the Office of Sanitary Engineering"
28. Respondent Sanitary Engineering is responsible for the issuance of permits to construct or install new connections or treatment works.
29. OAC Rule 3745-11-02(E) provides that a standard connection ban prohibits the person upon which it is imposed from causing or allowing the extension of or additional connections to, the sewerage system.
30. OAC Rule 3745-11-02(E)(3) provides that the Director may impose a standard connection ban whenever additional connections to or extensions of a sewerage system would result in violation or the contribution to a pattern of ongoing violations, of the limits and/or terms and conditions of a national pollutant discharge elimination system permit.
31. Any additional connections to the Facility's sewerage system will result in violation or the contribution to a pattern of ongoing violations, of the limits and/or terms and conditions of the NPDES Permit.

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32. OAC Rule 3745-11-02(I)(4) provides that a connection ban shall be modified or revoked upon such date or act upon which the Director is reasonably assured that additional connection to or extensions of a sewerage system will not increase the polluting properties of an effluent when discharged to the waters of the state or further threaten public health and welfare or the environment.
33. The OAC Rule 3745-11-02(I)(4) assurance will manifest when the modifications to the Facility, as required in PTI No. 05-11175, are completed and operational, and the Facility is in compliance with the NPDES Permit effluent limitations for two consecutive months.
34. Compliance with ORC Chapter 6111. is not contingent upon the availability or receipt of financial assistance.
35. 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 ORC Chapter 6111.

V. ORDERS

1. Respondent County shall complete construction pursuant to PTI No. 05-12702, and have the modifications detailed in said PTI operational, by the dates established in PTI No. 05-12702.
2. After the issuance and implementation of PTI No. 05-12702, should Respondent County be notified by Ohio EPA that the Facility is not in compliance with the final NPDES Permit effluent limitations and that additional measure to secure compliance with the final NPDES Permit effluent limitations are required, Respondent County shall submit to Ohio EPA, within the time period established in such notification, an appropriate plan or application to achieve such compliance.
3. On or before June 1, 2004, the modifications to the Facility, as required in PTI No. 05-11175, shall be completed and operational.
4. All documents required under these Orders, unless specified otherwise, shall be submitted to:

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Ohio EPA
Southwest District Office
401 E. Fifth Street,
Dayton, Ohio 45402-2911
Attn: DSW Enforcement Group Leader

5. A standard connection ban is hereby imposed upon Respondents to prohibit any additional connections to or extension of, the Facility's "sewerage systems" and "treatment works," as those terms are defined in OAC Rule 3745-11-01. The geographical area of the connection ban is the area serviced by the Facility.
6. The Director, pursuant to the procedure and criteria established in OAC Rule 3745-11-03, may grant a variance from the standard connection ban imposed herein, whenever, in his judgment, compelling public need, extreme individual hardship, or other extraordinary circumstances require that the variance be granted. In deciding whether to grant a variance the Director may take into consideration the following factors:
 - a. The proposed facility will replace a facility in the area of the ban that has been condemned;
 - b. The proposed facility will be used primarily as the dwelling place of a person whose physical or mental health requires that he live within the area of the ban;
 - c. The variance will allow the construction of a school or hospital, or fire or police department facilities;
 - d. The proposed facility will replace one or more existing facilities with a resulting decrease in the quantity of pollutants discharged into waters of the state; and
 - e. Other special facts indicate that the public interest will be served by the immediate availability of the proposed facility
7. The standard connection ban imposed herein shall be revoked when the modifications to the Facility, as detailed in PTI No. 05-11175; are completed and operational, and the Facility is in compliance with the final NPDES Permit effluent limitations for two consecutive months.

VI. TERMINATION

Respondents' obligations under these Orders shall terminate when Respondents certify in writing and demonstrates to the satisfaction of Ohio EPA that Respondents have 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 Respondents of the obligations that have not been performed, in which case Respondents shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I (we) certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondents to Ohio EPA and shall be signed by responsible officials of the Respondents. For purposes of these Orders, a responsible official is defined in OAC Rule 3745-33-03(D)(4).

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 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 Respondents.

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 reserves its rights to seek civil or administrative penalties against Respondents for violations specifically cited in these Orders. Ohio EPA and Respondents each reserve all other 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, Respondents consent to the issuance of these Orders and agree to comply with these Orders. Except for the right to seek civil or administrative penalties against Respondents for violations specifically cited in these Orders, which right Ohio EPA does not waive, compliance with these Orders shall be a full accord and satisfaction for Respondents' liability for the violations specifically cited herein.

Respondents hereby waive the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondents hereby waive any and all rights Respondents may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondents agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondents retain the right to intervene and participate in such appeal. In such an event, Respondents 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.

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IT IS SO AGREED:

Greene County Board of Commissioners

W. Reed Madden

By

6/26/03
Date

W. REED MADDEN

Print Name

PRESIDENT

Title

Ralph C. Harper

By

6/26/03
Date

RALPH C. HARPER

Print Name

Vice-PRESIDENT

Title

Marilyn J. Reid

By

6/26/03
Date

MARILYN J. Reid

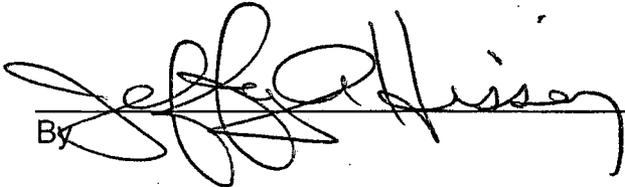
Print Name

Member

Title

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Greene County Department of Public Works

Greene County Department of Public Works
Office of Sanitary Engineering

By 

JEFFREY A. HISSONG, P.E.

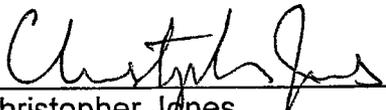
Print Name

DIRECTOR, SANITARY ENGINEERING

Title

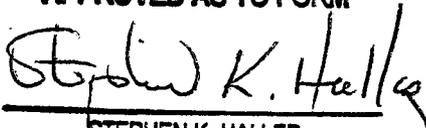
1 July 2003
Date

IT IS SO ORDERED AND AGREED:
Ohio Environmental Protection Agency


Christopher Jones
Director

8-15-03
Date

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APPROVED AS TO FORM

STEPHEN K. HALLER
ASSISTANT PROSECUTOR
GREENE COUNTY, OHIO