

A. Conway

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

JAN 16 2008

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Continental, Village of
508 W. Elm Street
P.O. Box 429
Continental, OH 45831

Director's Final Findings
and Orders

Respondent

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.

PREAMBLE

It is agreed by the parties hereto as follows:

By: *[Signature]* Date: 1-16-08

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Village of Continental ("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 or the ownership or operation of the wastewater treatment plant ("WWTP") and/or sewer system 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 has determined the following findings:

1. Respondent is an incorporated area of approximately 1,250 citizens in Monroe Township, Putnam County. There are approximately 509 housing units and 44 commercial establishments.
2. Respondent owns and operates a WWTP with an original design flow of 178,000 gpd and an average flow of 80,000 to 100,000 gpd. The WWTP is operated under Ohio National Pollutant Discharge Elimination System Permit No. 2PB00049*DD ("NPDES permit"), which became effective on March 1, 2000 and expired on February 28, 2005. A renewal application was not submitted in a timely manner, in that the renewal application was not submitted within at least one hundred eighty days prior to the expiration of the NPDES permit.

3. The NPDES permit authorized a discharge of pollutants from the WWTP to County Ditch 322, a waters of the state.
4. Respondent is discharging pollutants into waters of the state without either a valid NPDES permit or a pending renewal application that was submitted in a timely manner, which constitutes a violation of ORC Chapter 6111.
5. Ohio Administrative Code ("OAC") Rule 3745-32-02 (now OAC Rule 3745-42-02) required the Director's issuance of a permit to install prior to the installation of a new disposal system, such as dechlorination facilities.
6. Respondent's 1993 NPDES permit No. 2PB00049*CD required a general plan for installation dechlorination facilities to be submitted by May 1, 1994.
7. Dechlorination facilities were installed without the submission of a general plan or an approved permit to install. Further, the dechlorination facilities were installed after the May 1, 1996 deadline for compliance with final effluent limits. This is a violation of ORC Chapter 6111.
8. An as built permit to install application was requested by Ohio EPA pursuant to an inspection letter dated June 18, 1998.
9. In a letter received March 23, 2006, Respondent stated that the as built permit to install application for the dechlorination facilities would be submitted by April 15, 2006.
10. An as built permit to install application for the dechlorination facilities was submitted, and a permit to install was issued on April 13, 2006.
11. A review of data from Respondent's Monthly Operating Reports indicate that during the period from January 1, 2004 to July 27, 2005, the WWTP experienced approximately thirty days when wastewater flow exceeded the plant's design flow. During a June 20, 2005 inspection, a representative of Respondent estimated that over a years time, there were three times when wastewater bypassed the WWTP, resulting in the discharged of raw or partially treated sewage, industrial waste and/or other waste from the WWTP to County Ditch 322. This constituted a violation of the NPDES permit and ORC Chapter 6111.
12. During the June 20, 2005 inspection, five hundred gallons of sludge were observed on the ground, next to the sludge management bed. The sludge had dried out, with solids remaining on the grass. This constituted a violation of the NPDES permit and ORC Chapter 6111.
13. The NPDES permit contained a schedule of compliance requiring that a general plan for WWTP improvements be submitted by March 1, 2001, and a detail plan for WWTP and sewer system improvements be submitted by September 1, 2001. By March 1, 2002, Respondent was to attain operational level of the WWTP and meet final effluent limitations.

14. In a letter received on March 23, 2006, Respondent stated they anticipate submitting a complete general plan by May 15, 2006.
 15. Respondent submitted the general plan on July 15, 2006. This late submittal constituted a violation of the NPDES permit and ORC Chapter 6111.
 16. The detail plan referenced in Finding No. 13 has not been submitted, nor has Respondent achieved compliance with the final effluent limitations of its NPDES permit. This constituted a violation of the NPDES permit and ORC Chapter 6111.
 17. The WWTP has experienced final effluent limit violations for Total Suspended Solids, Ammonia, Dissolved Oxygen, Residual Chlorine, and CBOD, which constituted violations of the NPDES permit and ORC Chapter 6111.
 18. In a letter dated July 27, 2005, Ohio EPA notified Respondent of over 300 violations of its NPDES permit from January 2003 to May 2005.
 19. From March 1, 2005 to July 7, 2006, Respondent had 49 violations of its NPDES permits, occurring on 40 different days.
 20. Respondent has not achieved compliance with its NPDES permit nor ORC Chapter 6111.
 21. ORC § 6111.04 prohibits any person from causing pollution or causing any sewerage, industrial waste or other waste to be placed in any location where they cause pollution to waters of the state, except if such discharges occur in accordance with a NPDES permit issued by the Director.
 22. ORC § 6111.07(A) prohibits any person from violating, or failing to perform, any duty imposed by ORC §§ 6111.01 to 6111.08, or violating any order, rule, or term or condition of a permit issued by the Director pursuant to those sections. Each day of violation represents a separate violation.
 23. Respondent has applied and will be applying to the Ohio EPA and other funding sources for money to fund the WWTP and sewer system improvements.
 24. Compliance with ORC Chapter 6111. is not contingent upon the availability or receipt of financial assistance.
 25. 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.
-

ORDERS

1. Respondent shall comply with the requirements of ORC Chapter 6111, the rules adopted under that Chapter, and the terms and conditions of its NPDES permit, and any renewals or modifications thereof, in accordance with the following schedule:
 - a. Submit revised facility plan as soon as possible, but not later than May 15, 2008;
 - b. Submit a complete and approvable permit to install and plan approval for WWTP and sewer system improvements and an NPDES permit modification application, as soon as possible, but not later than June 1, 2009;
 - c. Start construction of improvements as soon as possible, but not later than eighteen months from the effective date of the PTI;
 - d. Install said improvements in accordance with the terms and conditions of an approved permit to install and plan approval;
 - e. Notify Ohio EPA, Northwest District Office, in writing, within seven (7) days of construction initiation;
 - f. Notify Ohio EPA, Northwest District Office, in writing, within seven (7) day of construction completion;
 - g. Attain operational level of the WWTP and meet final effluent limitations as soon as possible, but not later than August 1, 2011; and
 - h. Notify Ohio EPA, Northwest District Office, in writing, within seven (7) days of attaining operational level.
2. Within sixty (60) days of the effective date of these Orders, provide a written description of how Respondent will address and has addressed its inflow and infiltration (I/I) problem, including milestone dates up to and including completion of any tasks or activities.
3. Respondent shall pay the amount of ten thousand dollars (\$10,000.00) in settlement of Ohio EPA's claim 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" for eight thousand dollars (\$8,000.00) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and the Facility, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

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

4. In lieu of paying the remaining two thousand dollars (\$2,000.00) of the civil penalty, Respondent shall within thirty (30) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of two thousand dollars (\$2,000.00) to the Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for said amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and the Facility, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

A copy of each check shall be sent to Mark Mann, Enforcement Coordinator, or his successor, at the following address:

Ohio EPA
Division of Surface Water
P.O. Box 1049
Columbus, OH 43216 - 1049

5. Should Respondent fail to fund the SEP within the required timeframe set forth in Order No. 4, Respondent shall immediately pay to Ohio EPA the remaining two thousand dollars (\$2,000.00) of the of the civil penalty in accordance with the procedures in Order No. 3.

6. Respondent has expressed concern that completion of the WWTP and sewer system improvements pursuant to the schedule contained herein may be delayed as a result of contingencies such as funding, property acquisition, purchase arrangements or litigation. Upon request by Respondent, the Director may, at his sole discretion, extend in writing any time periods established by these Orders for a period not to exceed twenty-four (24) months.

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 as defined in OAC Rule 3745-33-03(E)(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 Village of Continental.

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
347 North Dunbridge Road
P.O. Box 466
Bowling Green, Ohio 43402
Attn: Enforcement Supervisor, Division of Surface Water

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**



Chris Korleski
Director

Date 1/14/08

**IT IS SO AGREED:
Continental, Village of**



Signature
TERRY L. DOCKERY SR.

Printed or Typed Name

Mayor

Title

Date 12/20/07