

OHIO E.P.A.
JUN 17 2013
ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

Village of Delta
401 Main Street
Delta, Ohio 43515

:
:
:

Modified 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.

PREAMBLE

It is agreed by the parties hereto as follows:

By:  Date: 6-17-13

I. JURISDICTION

These Director's Modified Final Findings and Orders ("Modified Orders") are issued to the Village of Delta ("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 Modified 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 Modified Orders shall have the same meaning as defined in ORC Chapter 6111 and the rules promulgated thereunder.

IV. FINDINGS

All of the Findings necessary for the issuance of these Modified Orders have been made by the Director, not the Respondent, and are outlined below. Nothing in these Findings shall be considered to be an admission by Respondent of any fact, violation or liability.

The Director of Ohio EPA has determined the following findings:

1. Respondent is the Village of Delta. Respondent owns and operates, a wastewater treatment plant (WWTP) located at 516 Locust Street, Delta, Ohio, Fulton County and a sewer collection system that collects sewage from homes and businesses throughout the Village of Delta.
2. Respondent holds a valid, National Pollutant Discharge Elimination System (NPDES) permit, number 2PB00003*MD (effective February 1, 2013) for the discharge of treated effluent from the WWTP to Bad Creek. The effluent loadings for the plant are based on an average design flow of 0.725 Million Gallons per Day (MGD).
3. On October 13, 2011, the Director issued Final Findings and Orders ("2011 Orders") to Respondent. A copy of the 2011 Orders are attached hereto and incorporated by reference as if fully re-written herein except as expressly modified herein.
4. The 2011 Findings and Orders addressed noncompliance pertaining to Respondent's NPDES permit for a wastewater treatment plant and sewer collection system.
5. The 2011 Findings and Orders required, among other things, that Respondent upgrade its wastewater treatment plant (2011 Order 2) and revise and implement its Long Term Control Plan to address combined sewer overflows (CSOs) (2011 Order 4).
6. Based on funding and timing constraints of the 2011 Orders 2 and 4, Respondent has requested a modification of the schedule for 2011 Order 4.
7. With the exception of the revisions to Orders No. 4 of the 2011 Orders, which will be modified herein, all other provisions of the 2011 Orders shall remain in full force and effect.
8. The following Modified Orders do not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing treatment works. Any such construction or modification is subject to the PTI requirements of OAC Chapter 3745-42.

9. This document does not modify NPDES Permit No. 2PB00003*MD.
10. Compliance with the ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
11. The Director has given consideration the factors set forth in ORC Sections 6111.03 and 6111.60, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Modified Orders and to evidence relating to conditions calculated to result from compliance with these Modified 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

Order No. 4 of the 2011 Orders is hereby modified as follows:

4. Respondent shall take action to revise and implement its Long Term Control Plan in accordance with the following:
 - a. As soon as possible but not later than May 1, 2013, Respondent shall submit a revised Long Term Control Plan that identifies Respondent's Transport and Treat alternative for Ohio EPA's review and approval. The revised LTCP shall include an implementation schedule, operation plan and post construction monitoring plan.
 - b. The implementation schedule shall include the following milestones:
 - i. Submission of a Permit to Install (PTI) by no later than October 1, 2014;
 - ii. Initiation of construction by no later than December 1, 2015;
 - iii. Completion of construction by no later than December 1, 2016.
 - c. Respondent shall respond in writing within 30 days of any written comment letter from Ohio EPA concerning the review/approval of the LTCP. Ohio EPA shall likewise respond to Respondent's comments in writing within 30 days of concerning the review/approval of the LTCP.
 - d. Upon Ohio EPA's approval of the LTCP, the LTCP shall be incorporated into and made an enforceable part of these Modified Orders and Respondent shall implement the approved LTCP in accordance with the approved schedule.

VI. TERMINATION

Respondent's obligations under these Modified Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Modified Orders and the Chief of Ohio EPA's Division of Surface Water acknowledges, in writing, the termination of these Modified 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 Modified Orders, a responsible official is defined in OAC Rule 3745-33-03(E)(1) for a corporation, OAC Rule 3745-33-03(E)(2) for a partnership, OAC Rule 3745-33-03(E)(3) for a sole proprietorship, and OAC Rule 3745-33-03(E)(4) for a municipal, state, or other public facility.

VII. OTHER CLAIMS

Nothing in these Modified 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 Modified 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 Modified Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Modified Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Modified Orders may be further 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 and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XI of these Modified Orders.

XI. 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 the 2011 Findings and Orders, Respondent consents to the issuance of these Modified Orders and agrees to comply with these Modified Orders. Compliance with these Modified Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited in the 2011 Findings and Orders.

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

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Modified 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 Modified Orders notwithstanding such appeal and intervention unless these Modified Orders are stayed, vacated or modified.

XII. EFFECTIVE DATE

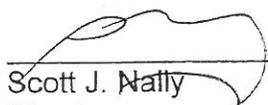
The effective date of these Modified Orders is the date these Modified Orders are entered into the Ohio EPA Director's journal.

XIII. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Modified Orders certifies that he or she is fully authorized to enter into these Modified Orders and to legally bind such party to these Modified Orders.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency



Scott J. Nally
Director

6/14/13

Date

IT IS SO AGREED:

Village of Delta



Signature

May 9, 2013

Date

Derek K. Allen

Printed or Typed Name

Village Administrator

Title