

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

OCT 23 2013

In the Matter of:

Fairfield County Board of Commissioners  
210 East Main Street  
Lancaster, Ohio 43130  
(Lakeside Estates Water Reclamation Facility)

Respondent

ENTERED DIRECTOR'S JOURNAL

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: [Signature] Date: 10-23-13

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Fairfield County Board of Commissioners ("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 Lakeside Estates Water Reclamation Facility ("Lakeside Estates") identified below 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 § 6111.01 and the rules adopted thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operates Lakeside Estates, located on Meadow Brook Drive, Pleasant Township, Fairfield County, which discharges to Pleasant Run pursuant to Ohio National Pollutant Discharge Elimination System ("NPDES") Permit No. 4PG00028\*GD.
2. Pleasant Run is a "waters of the state," as defined in ORC § 6111.01(H).

3. Lakeside Estate's NPDES permit expired on July 31, 2012; Respondent timely filed renewal application therefor on November 17, 2011.

**NPDES Permit Violations**  
***Site Inspections***

4. Ohio EPA performed compliance evaluation inspections ("CEI") and reconnaissance inspections ("Recon") and sent Notice of Violation Letters ("NOV") on the dates set forth in Attachment 1; Table 1, which Attachment is attached hereto and incorporated by reference as if fully rewritten herein.
5. From January 2010 to January 2013, Lakeside Estates reported the effluent limit violations set forth in Attachment 2, which Attachment is attached hereto and incorporated by reference as if fully rewritten herein.
6. The effluent limits in the Lakeside Estates NPDES permit are based on a flow rate of 8,000 gallons per day. From January 1, 2011 to April 30, 2012, Lakeside Estates exceeded the daily flow rate 489 times.
7. On August 31, 2010, Ohio EPA, Central District Office personal performed a Recon at Lakeside Estates, which inspection was memorialized in a letter dated October 4, 2010. The letter identified, as relevant to these Orders, ten effluent limit violations from January 2010 to June 2010, and requested Respondent to provide a schedule for resolving the observed noncompliance.

**Finding of Violations**

8. Premised on the above findings, Respondent has violated ORC § 6111.07(A).

**Director's Considerations**

9. 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.
10. ORC § 6111.60 requires that in the enforcement of the Federal Water Pollution Control Act as applied to publicly owned sewerage systems, the Director, to the extent allowable under that Act and regulations adopted thereunder, shall consider, to the extent applicable, specified criteria.

11. In the issuance of these Orders the Director has considered the applicable ORC § 6111.60 criteria.
12. 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 and plan approval requirements of ORC §§ 6111.44(A) and 6111.45 and Ohio Administrative Code Chapter 3745-42.

#### V. ORDERS

1. Respondent shall abate the NPDES permit violations at Lakeside Estate by taking the following actions as expeditiously as practicable, but not later than the dates set forth in the schedule below:
  - a. Within thirty (30) days of the effective date of these Orders, Respondent shall commence negotiations with the landowner(s) whose property needs to be acquired to construct the improvements required by these Orders;
  - b. If such negotiations have not resulted in an agreement for the acquisition of the property within one hundred twenty (120) days after the effective date of these Orders, Respondent shall immediately commence legal action to acquire same by eminent domain;
  - c. Within one hundred twenty (120) days of the effective date of these Orders, Respondent shall submit complete and approvable detail plans and a permit to install application to Ohio EPA; and
  - d. Within twelve (12) months of issuance of a permit to install, or such longer time as may be required due to unavoidable judicial delays in the acquisition of the property, Respondent shall complete construction of the improvements described in the approved permit to install and detail plans.
2. Within thirty (30) days of receipt of written notification from Ohio EPA of any correction/deficiencies, in any application, plan, or schedule required by Order No. 1, Respondent shall submit corrections/revisions to address same to Ohio EPA, in accordance with Section X of these Orders, unless a shorter time is indicated by Ohio EPA, or Respondent requests and Ohio EPA allows time greater than thirty (30) days. Respondent reserves its right to appeal the issuance or denial of detail plans or a permit to install application.
3. Respondent shall pay the amount of ten thousand six hundred dollars (\$10,600.00) 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" for such amount, with the official check submitted to Carol Butler, or her successor, together with a letter identifying the Respondent, to:

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

A photocopy of the check shall be sent to Ohio EPA in accordance with Section X of these Orders and Mark Mann, Enforcement 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

4. It is hereby provided and understood that twenty percent (20%) of the total payment shall be placed in Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD), for expenditure in accordance with such fund.

#### **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 Respondent. For purposes of these Orders, a responsible official is defined in OAC Rule 3745-33-03.

#### **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 facilities.

### **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**

Unless otherwise stated herein, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Central District Office  
Attn: Enforcement Supervisor  
Division of Surface Water  
50 West Town Street  
Columbus, OH 43215

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 the violations specifically cited in these Orders, as well as violations known by Ohio EPA by virtue of inspections performed by Ohio EPA, or information reported to Ohio EPA by Respondent by way of discharge monitoring reports or other written or electronic communications, 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.

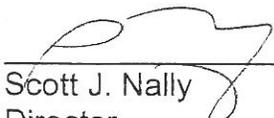
**XIII. EFFECTIVE DATE**

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

**XIV. SIGNATORY AUTHORITY**

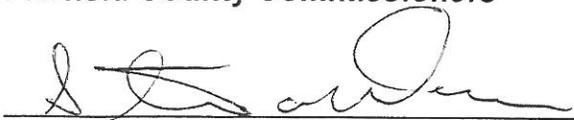
Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**IT IS SO ORDERED:**  
**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Scott J. Nally  
Director

10/22/13  
Date

**IT IS SO AGREED:**  
**Fairfield County Commissioners**

  
\_\_\_\_\_  
By  
Steven A. DAVIS  
\_\_\_\_\_  
Print Name  
President  
\_\_\_\_\_  
Title

10-01-13  
Date

David L. Levan  
By David L. Levan  
Print Name V. Pres.  
Title

10-01-13  
Date

Mike Ktger  
By Mike Ktger  
Print Name Commissioner  
Title

10-01-13  
Date

## Summary of NOVs and inspections sent

Table 1: Lakeside Estates NOVs and Inspections

Inspection Type	Inspection Date	Inspection Date	Inspection Type	Inspection Date
CEI	6/13/2008	6/26/2008		
			Inspection Type	Inspection Date
NOV		9/29/2010	Yes	Compliance Schedule
NOV		6/30/2011	Yes	Compliance Schedule
			Inspection Date	Inspection Date
Recon	12/28/2006	3/2/2007		
Recon	8/31/2010	9/29/2010		

Get New Data								
Permit No	Reporting Period	Station	Reporting Code	Parameter	Limit Type	Limit	Reported Value	Violation Date
4PG00028*GD	January 2010	001	00530	Total Suspended Solids	30D Qty	0.36	.37598	1/1/2010
4PG00028*GD	February 2010	001	00530	Total Suspended Solids	30D Qty	0.36	.51381	2/1/2010
4PG00028*GD	February 2010	001	00530	Total Suspended Solids	7D Qty	0.54	.66616	2/8/2010
4PG00028*GD	February 2010	001	00530	Total Suspended Solids	7D Qty	0.54	.95382	2/22/2010
4PG00028*GD	March 2010	001	00530	Total Suspended Solids	30D Qty	0.36	.59046	3/1/2010
4PG00028*GD	March 2010	001	00530	Total Suspended Solids	7D Qty	0.54	.68887	3/8/2010
4PG00028*GD	April 2010	001	00530	Total Suspended Solids	7D Qty	0.54	.6813	4/1/2010
4PG00028*GD	April 2010	001	00610	Nitrogen, Ammonia (NH3	30D Qty	0.08	.11855	4/1/2010
4PG00028*GD	April 2010	001	00610	Nitrogen, Ammonia (NH3	7D Qty	0.12	.22861	4/1/2010
4PG00028*GD	June 2010	001	31616	Fecal Coliform	7D Conc	2000	2800	6/1/2010
4PG00028*GD	October 2010	001	00530	Total Suspended Solids	30D Qty	0.36	.43149	10/1/2010
4PG00028*GD	October 2010	001	00530	Total Suspended Solids	7D Qty	0.54	.62453	10/1/2010
4PG00028*GD	October 2010	001	50060	Chlorine, Total Residu	1D Conc	0.019	.09	10/21/2010
4PG00028*GD	December 2010	001	00530	Total Suspended Solids	30D Qty	0.36	.4542	12/1/2010
4PG00028*GD	January 2011	001	00530	Total Suspended Solids	30D Qty	0.36	.41257	1/1/2011
4PG00028*GD	February 2011	001	00530	Total Suspended Solids	30D Qty	0.36	.76836	2/1/2011
4PG00028*GD	February 2011	001	00530	Total Suspended Solids	7D Qty	0.54	1.0598	2/8/2011
4PG00028*GD	March 2011	001	00530	Total Suspended Solids	30D Qty	0.36	.62263	3/1/2011
4PG00028*GD	March 2011	001	00530	Total Suspended Solids	7D Qty	0.54	.60939	3/1/2011
4PG00028*GD	March 2011	001	00530	Total Suspended Solids	7D Qty	0.54	.63588	3/15/2011
4PG00028*GD	May 2011	001	00530	Total Suspended Solids	30D Qty	0.36	1.8925	5/1/2011
4PG00028*GD	May 2011	001	80082	CBOD 5 day	30D Qty	0.3	.66616	5/1/2011
4PG00028*GD	May 2011	001	80082	CBOD 5 day	7D Qty	0.45	.66616	5/15/2011
4PG00028*GD	May 2011	001	00530	Total Suspended Solids	7D Qty	0.54	1.8925	5/22/2011
4PG00028*GD	June 2011	001	00530	Total Suspended Solids	30D Qty	0.36	.47691	6/1/2011
4PG00028*GD	August 2011	001	31616	Fecal Coliform	7D Conc	2000	7483.31	8/1/2011
4PG00028*GD	August 2011	001	50060	Chlorine, Total Residu	1D Conc	0.019	.09	8/26/2011
4PG00028*GD	October 2011	001	00530	Total Suspended Solids	30D Qty	0.36	.50341	10/1/2011
4PG00028*GD	November 2011	001	00530	Total Suspended Solids	30D Qty	0.36	.44285	11/1/2011
4PG00028*GD	December 2011	001	00530	Total Suspended Solids	30D Qty	0.36	.58289	12/1/2011
4PG00028*GD	December 2011	001	00530	Total Suspended Solids	7D Qty	0.54	.58289	12/8/2011
4PG00028*GD	February 2012	001	00530	Total Suspended Solids	30D Conc	12	12.1666	2/1/2012
4PG00028*GD	February 2012	001	00530	Total Suspended Solids	30D Qty	0.36	.54567	2/1/2012
4PG00028*GD	February 2012	001	00530	Total Suspended Solids	7D Qty	0.54	.56207	2/8/2012
4PG00028*GD	February 2012	001	00530	Total Suspended Solids	7D Qty	0.54	.78728	2/15/2012
4PG00028*GD	March 2012	001	00530	Total Suspended Solids	30D Qty	0.36	.38796	3/1/2012
4PG00028*GD	May 2012	001	00530	Total Suspended Solids	30D Qty	0.36	.65985	5/1/2012
4PG00028*GD	May 2012	001	00530	Total Suspended Solids	7D Qty	0.54	1.29826	5/8/2012
4PG00028*GD	May 2012	001	00530	Total Suspended Solids	7D Qty	0.54	.80494	5/15/2012
4PG00028*GD	June 2012	001	50060	Chlorine, Total Residu	1D Conc	0.019	.1	6/4/2012
4PG00028*GD	June 2012	001	50060	Chlorine, Total Residu	1D Conc	0.019	.05	6/6/2012
4PG00028*GD	June 2012	001	50060	Chlorine, Total Residu	1D Conc	0.019	.06	6/13/2012
4PG00028*GD	June 2012	001	50060	Chlorine, Total Residu	1D Conc	0.019	.07	6/14/2012
4PG00028*GD	June 2012	001	50060	Chlorine, Total Residu	1D Conc	0.019	.06	6/19/2012
4PG00028*GD	June 2012	001	50060	Chlorine, Total Residu	1D Conc	0.019	.05	6/20/2012
4PG00028*GD	July 2012	001	50060	Chlorine, Total Residu	1D Conc	0.019	.05	6/25/2012
4PG00028*GD	July 2012	001	50060	Chlorine, Total Residu	1D Conc	0.019	.06	7/9/2012
4PG00028*GD	July 2012	001	50060	Chlorine, Total Residu	1D Conc	0.019	.07	7/10/2012
4PG00028*GD	July 2012	001	50060	Chlorine, Total Residu	1D Conc	0.019	.05	7/12/2012
4PG00028*GD	September 2012	001	50060	Chlorine, Total Residu	1D Conc	0.019	.05	9/17/2012
4PG00028*GD	October 2012	001	00530	Total Suspended Solids	30D Qty	0.36	.54504	10/1/2012
4PG00028*GD	October 2012	001	00530	Total Suspended Solids	7D Qty	0.54	.54504	10/1/2012
4PG00028*GD	December 2012	001	00530	Total Suspended Solids	30D Qty	0.36	.49962	12/1/2012
4PG00028*GD	January 2013	001	00530	Total Suspended Solids	30D Qty	0.36	.43149	1/1/2013

