

OHIO E.P.A.
JUL 18 2005

ENTERED DIRECTOR'S JOURNAL

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of: : **Director's Final**
: **Findings and Orders**
: **City of Greenfield**
: **300 Jefferson Street**
: **Greenfield, Ohio 45123**
:
Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the City of Greenfield ("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 thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

**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: *[Signature]* Date 7/18/05

1. Respondent operates a wastewater treatment plant (WWTP) located 1/4 mile west of Rapid Forge Road and 1/4 mile south of the intersection of Rapid Forge Road and Thrifton Road, for which Respondent holds an effective National Pollutant Discharge Elimination System (NPDES) permit, number 1PD00022*DD (OH0021083) which authorizes Respondent to discharge from the WWTP to waters of the state. Respondent also operates a sewer system which consists of separate storm and sanitary sewer systems tributary to the WWTP.
2. From 1996 to present, Ohio EPA has received numerous complaints from local residents regarding sanitary sewer overflows (SSOs) within Respondent's sewer system.
3. Ohio EPA's inquiry into the complaints, including inspections of the complained of SSOs, has revealed three SSOs within Respondent's sewer system. The SSOs are as follows: the manhole adjacent to the upstream side of the West Jefferson Street Pump Station (West Jeff SSO); the manhole at the intersection of Washington and Oak Streets (W&O SSO); and, the manhole at the intersection of Front and Smith Streets (F&S SSO). These SSOs discharge untreated sanitary sewage to Farmers Run and Paint Creek.
4. Respondent has retained a consultant, Woolpert Inc. to propose a plan to address the West Jeff, W&O, and F&S SSOs referenced in Finding No. 3. of these Orders. Woolpert Inc. has submitted to Respondent a general design plan and schedule to eliminate the SSOs.
5. Farmers Run and Paint Creek are defined as "waters of the state" pursuant to ORC § 6111.01.
6. The discharge of sanitary sewage to "waters of the state" without a valid NPDES permit is a violation of ORC § 6111.04.
7. It is anticipated that Respondent will continue to discharge from the West Jeff, W&O, and F&S SSOs present in the sewer system. Therefore, these Orders are necessary to bring Respondent into compliance with Ohio's water pollution control laws.
8. 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 requirements of ORC §§ 6111.44 and 6111.45 and OAC Chapter 3745-42.
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 their 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

1. Respondent shall implement the Woolpert Inc. general design plan to eliminate the West Jeff, W&O, and F&S SSOs referenced in Finding No. 3. of these Orders in accordance with the City of Greenfield, Ohio SSO Elimination Project Schedule identified in Attachment 1, which is attached to these Orders and incorporated by reference as if fully rewritten within.
2. Respondent shall submit to Ohio EPA progress reports on project phases identified in Attachment 1 to these Orders every 90 days from the effective date of these Orders until all projects are complete.
3. Respondent shall submit to Ohio EPA a substantially approvable Permit-to-Install application for the construction of the Railroad Bridge Interceptor, identified in Attachment 1 to these Orders, on or before February 1, 2006.
4. Respondent shall submit to Ohio EPA a substantially approvable Permit-to-Install application for the Remaining Collection System Rehabilitation, identified in Attachment 1 to these Orders, on or before January 2, 2007.
5. Respondent shall submit to Ohio EPA a substantially approvable Permit-to-Install application for the Wastewater Treatment Plant Upgrade, identified in Attachment 1 to these Orders, on or before February 28, 2007.
6. Respondent shall submit all documents required under these Orders to the following address unless the Respondent is directed otherwise:

Ohio EPA Southwest District Office
Attn: DSW Enforcement Group Leader
401 East Fifth Street
Dayton, Ohio 45402-2911
7. Respondent shall pay to Ohio EPA the amount of \$45,000 in settlement of Ohio EPA's claims for civil penalties which may be assessed pursuant to ORC Chapter 6111. in accordance with the following schedule:
 - a. Respondent shall pay to Ohio EPA \$10,000. Payment of the \$10,000 shall be made in four installment payments as follows:
 - (i) Within 90 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$2,500;

- (ii) Within 180 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$2,500;
- (iii) Within 270 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$2,500; and
- (iv) Within 360 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$2,500.

Each of the above payments shall be made by tendering an official check made payable to "Treasurer, State of Ohio" for the full amount, to the following address: Ohio EPA, Office of Fiscal Administration, Post Office Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent and the project(s) (City of Greenfield SSOs)

A photo copy of each check shall be sent to the Ohio EPA at the addresses below:

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

- b. In lieu of payment of the remaining \$35,000 of the civil penalty settlement, Respondent shall pay \$35,000 to the Paint Creek Watershed Project for riparian establishment or restoration, wetland establishment or restoration and/or purchase of conservation easements within the Paint Creek Watershed. Payment of the \$35,000 shall be made in four installment payments as follows:
 - (i) Within 450 days after the effective date of these Orders, Respondent shall pay to the Paint Creek Watershed Project the amount of \$8,750;
 - (ii) Within 540 days after the effective date of these Orders, Respondent shall pay to the Paint Creek Watershed Project the amount of \$8,750;
 - (iii) Within 630 days after the effective date of these Orders, Respondent shall pay to the Paint Creek Watershed Project the amount of \$8,750; and
 - (iv) Within 720 days after the effective date of these Orders, Respondent shall pay to the Paint Creek Watershed Project the amount of \$8,750.

Each of the above payments shall be made by tendering an official check made payable to the Paint Creek Watershed Project, Attention: Julie Brown, Watershed Coordinator, 475 Western Avenue, Suite H, Chillicothe, Ohio 45601.

A photo copy of each check shall be sent to the Ohio EPA at the addresses below:

Ohio EPA, Division of Surface Water
Attn: Stormwater and Enforcement Manager
P.O. Box 1049
Columbus, Ohio 43216-1049

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

- c. If Respondent fails to make any of the payments to the Paint Creek Watershed Project within the timeframes established in Order No. 7.b. of these Orders, Respondent shall pay the amount due to Ohio EPA in accordance with the procedures set forth in Order No. 7.a. of these Orders. Payment shall be due no later than 7 days after the date the payment was due to the Paint Creek Watershed Project.

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)(4) for a municipality.

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 the Respondent's SSOs.

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. 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 Orders.

XI. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, 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.

XII. EFFECTIVE DATE

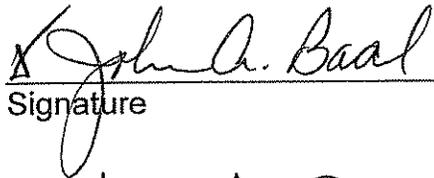
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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.

IT IS SO AGREED:

City of Greenfield



Signature

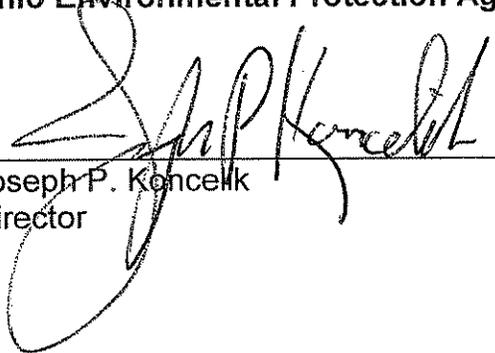
July 7, 2005
Date

JOHN A. BAAL
Printed or Typed Name

MAYOR
Title

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency



Joseph P. Kencelk
Director

JUL 18 2005
Date

ATTACHMENT 1

| CITY OF GREENFIELD, OHIO SSO ELIMINATION PROJECT SCHEDULE | | |
|---|-----------|------------|
| Project | Date | |
| | Start | Finish |
| Finish West Jefferson Street Pump Station Improvements | | Completed |
| Finish Interceptor Sewer (Formerly Called Railroad Bridge Interceptor) Design | | 5/20/2005 |
| Finish Systemwide Infiltration/Inflow Characterization & Reduction Program | | 5/20/2005 |
| Wastewater Systems Improvements Funding Project - | | |
| Submit Funding Proposal (ARC) | | Completed |
| Submit Project Pre-Application for Funding (ARC) | | 8/17/2005 |
| Submit Application for Funding (OPWC)* | | 10/7/2005 |
| Submit Full Application for Funding (ARC) | | 1/31/2006 |
| Receive Funds (OPWC)* | | 7/1/2006 |
| Receive Release of Award/Funds (ARC)* | | 9/30/2006 |
| (*Application and Release of Funds Contingent on City's Choice of Funding Source, and Successful Award of Funding from this Source) | | |
| Sewer Rate Study | 7/5/2005 | 9/30/2005 |
| Interceptor Sewer Bidding & Construction Phase - | | |
| Bidding Phase | 8/1/2006 | 9/30/2006 |
| Construction | 10/1/2006 | 9/30/2007 |
| Collection System Rehabilitation - | | |
| Engineering Design of Recommended Improvements | 9/1/2006 | 12/31/2006 |
| Construction of Recommended Improvements | 4/1/2007 | 10/1/2007 |
| Wastewater Treatment Plant (WWTP) Upgrade - | | |
| WWTP Study | 1/3/2006 | 5/31/2006 |
| WWTP Upgrade Design | 7/1/2006 | 2/28/2007 |
| WWTP Upgrade Regulatory Review | 3/1/2007 | 5/31/2007 |
| WWTP Upgrade Bidding Phase | 6/1/2007 | 7/31/2007 |
| WWTP Upgrade Construction | 8/1/2007 | 7/31/2008 |
| WWTP Upgrade Startup | 8/1/2008 | 8/31/2008 |