

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

JUL 12 2013

ENTERED DIRECTOR'S JOURNAL

In the matter of:

Buckeye Local School District
3044 Columbia Road
Medina, Ohio 44256

:
:
:

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: 7-12-13

I. JURISDICTION

These Director's Final Finding and Orders ("Orders") are issued to the Buckeye Local School District ("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 successor 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:

1. Respondent owns the former Litchfield Elementary School located at 9339 Brooker Street, Litchfield, Ohio in Medina County ("the Site"). The Site is served by a 9,000 gallon per day wastewater treatment plant ("WWTP") which discharges to the East Branch of the Black River via an unnamed tributary. The unnamed tributary and the East Branch of the Black River are defined as "waters of the state" pursuant to ORC § 6111.01.
2. On December 3, 2001, an NPDES permit (No. 3PT00099*AD) was issued, with an effective date of January 1, 2002 and an expiration date of December 31, 2006.

The NPDES permit effluent loadings and monitoring frequencies were based upon the sewage system average daily design flow of 9,000 gallons per day.

3. On March 7, 2007, a letter was sent to the Respondent stating that the NPDES permit had expired and that Ohio EPA did not have a renewal application on file. It was requested that the application forms be submitted to the Ohio EPA within 30 days.
4. On October 31, 2008, Ohio EPA submitted a letter to Respondent detailing a compliance inspection conducted at the WWTP serving the Site on October 16, 2008. During the inspection, it was noted that the school building appeared to be permanently closed. The SWIMS search of the electronic discharge monitoring report ("eDMR") operating data found numerous frequency, monitoring, and reporting violations from the period of January 1, 2007 through October 1, 2008. The letter noted that the current NPDES permit expired on December 31, 2006 and a renewal application was never submitted.
5. On June 15, 2009, the Chief of the Ohio EPA Northeast District Office issued Respondent a final notice letter stating that the NPDES permit had expired and a renewal application had not been received by Ohio EPA. NPDES permit application forms were enclosed with the letter. There was no record of a response from Respondent.
6. In 2009, the Medina County Health Department ("MCHD") received an application from a group requesting licensing for a day care which was being opened at the Site. On July 1, 2011, the MCHD received information that the day care was providing prepared meals at the day care. In correspondence dated July 14, 2011, the MCHD informed the day care that approval of the existing sewage system was needed before they could issue a food service operation license. Although the day care is currently operating at the Site, Respondent is still listed as the owner of the property.
7. On August 15, 2011, an e-mail was sent to the day care stating that a favorable recommendation on using the sewage system for the proposed food service would be difficult given the deficiencies of the WWTP and its operation. The e-mail stated that some maintenance work needed to be addressed and the WWTP needed a NPDES permit since the previous permit expired in December 2006.
8. On August 18, 2011, Ohio EPA issued to both Respondent and the day care an inspection letter detailing an inspection that occurred on July 25, 2011. The purpose of the inspection was to evaluate the WWTP's suitability with a food service license and to evaluate the operation and maintenance condition of the WWTP. The letter noted that Ohio EPA has not received eDMR data since June 1, 2009.

9. On April 3, 2012, Ohio EPA submitted to the day care operating at the Site an inspection letter regarding an inspection conducted at the WWTP serving the Site on March 15, 2012. During the inspection, the following deficiencies were noted: the blower/motor was not operating and the east sand filter cell had some vegetative growth. Overall, it was noted that the operation and maintenance of the sewage system serving the Site had improved. The letter noted that Ohio EPA had not received eDMR data since June 1, 2009 and a renewal application for the NPDES permit had still not been submitted.
10. On October 24, 2012, Ohio EPA sent Respondent an inspection letter detailing an inspection that occurred on October 11, 2012 at the Site. Several items, as detailed in the letter, were not operating properly and in need of repair or replacement. The letter noted that a NPDES permit renewal application had not been received.
11. Additionally, letters indicating non-submittal of eDMR data were sent by Ohio EPA in August 2009, September 2009, November 2009, and May 2012 to Respondent.
12. The Site is currently discharging without a valid NPDES permit. Respondent has violated the final effluent and monitoring frequency limits of its NPDES permit, on numerous occasions as set forth in the above referenced NOV's and eDMR data letters sent to Respondent. Each violation cited constitutes a separate violation of ORC §§ 6111.04 and 6111.07.
13. Respondent also failed to staff the WWTP with a Class A wastewater treatment operator as required by the NPDES permit and has failed to submit to Ohio EPA an Operator of Record form.
14. Pursuant to ORC Section 6111.07(A), no person shall violate or fail to perform any duty imposed by ORC Sections 6111.01 to 6111.08 or violate any order, rule, or term or condition of a permit issued or adopted by the Director of Ohio EPA pursuant to those sections. Each day of violation is a separate offense.
15. Pursuant to ORC section 6111.04(A), no person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state. Such an action is prohibited under ORC section 6111.04(A) and is declared to be a public nuisance unless the person causing pollution or placing or causing to be placed wastes in a location in which they cause pollution of any waters of the state holds a valid, unexpired permit, or renewal of a permit, governing the causing or placement as provided in ORC sections 6111.01 to 6111.08 or if the person's application for renewal of such a permit is pending.
16. Pursuant to ORC § 6111.04(C), no person to whom a permit has been issued shall place or discharge, or cause to be placed or discharged, in any waters of the state

any sewage, sludge, sludge materials, industrial waste, or other wastes in excess of the permissive discharges specified under an existing permit.

17. 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 PTI requirements of Ohio Administrative Code ("OAC") Chapter 3745-42.
18. Compliance with ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
19. 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 purposes of ORC Chapter 6111.

V. ORDERS

The Director hereby issues the following Orders:

1. Within fourteen (14) days from the effective date of these Orders, Respondent shall apply for a new NPDES permit for the Site.
2. Within thirty (30) days from the effective date of these Orders, Respondent shall have a Class A State certified operator supervising the treatment works and also submit an Operator of Record Form to Ohio EPA.
3. Respondent shall comply with all requirements of the expired NPDES permit until such time as the requirements are superseded by a new NPDES permit issued by Ohio EPA.
4. Respondent shall pay the amount of ten thousand dollars (\$10,000.00) 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" in the amount of \$8,000.00. The official check shall be 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 copy of the check shall be sent to Mark Mann, Environmental 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

5. In lieu of paying the remaining \$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 \$2,000.00 to Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for that amount. The official check and a cover letter identifying the Respondent shall be submitted to Carol Butler, or her successor at:

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

A copy of the check shall be sent to Mark Mann, Environmental Manager, Storm Water and Enforcement Section, or his successor, at the following address:

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

6. Should Respondent fail to fund the SEP within the required time frame set forth in Order No. 5, Respondent shall immediately pay to Ohio EPA the remaining \$2,000.00 of civil penalty in accordance with the procedures in Order No 4.

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 Site.

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
Northeast District Office
Division of Surface Water
ATTN: DSW Enforcement Unit Supervisor
2110 East Aurora Road
Twinsburg, Ohio 44087

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Surface Water
ATTN: Manager, Storm water and Enforcement Section

50 West Town Street, Suite 700 [P.O. Box 1049]
Columbus, Ohio 43215 [43216-1049]

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

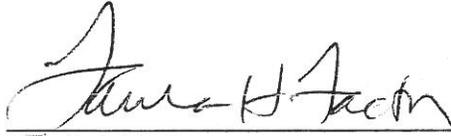
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



Scott J. Nally
Director

7/11/13
Date

IT IS SO AGREED:

Buckeye Local School District



By
Brian J. Williams
Print Name

Superintendent
Title

6-14-13
Date