

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.  
APR 19 2011

In the matter of:

ENTERED DIRECTOR'S JOURNAL

City of Pickerington  
100 Lockville Road  
Pickerington OH 43147

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.

Respondent

PREAMBLE

By John Lassiter Date: 4-19-11

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 Pickerington ("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 there under.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operates a wastewater treatment plant that is designed to discharge up to 3.2 million gallons per day (MGD) to Sycamore Creek at river mile 4.35 under National Pollutant Discharge Elimination System (NPDES)

Permit No. 4PB00017\*LD. Sycamore Creek is tributary to Walnut Creek and a part of the Walnut Creek Watershed.

2. The WWTP's wet stream processes include influent pumping, screening and grit removal, activated sludge, extended aeration, final clarifiers, tertiary filters, ultraviolet disinfection and post aeration. Solid stream processes are aerobic digestion, dewatering using a filter press, and land application of stabilized sludge at agronomic rates.
3. In 1996 the Respondent's water treatment plant was upgraded to include ion exchange softening units. Wastewater discharge from the water treatment plant is routed into the Respondent's sanitary sewer collection system.
4. On April 1, 1999, Ohio EPA issued a Technical Support Document for Walnut Creek Watershed which indicated partial impairment in Sycamore Creek due to wastewater discharge from the Pickerington WWTP. A bioassay of a Pickerington WWTP effluent sample showed chronic toxicity was present.
5. In preparation for a WWTP upgrade to increase the plant's treatment capacity, Respondent commissioned R.D. Zande & Associates, Inc. to perform an assimilative capacity study of Sycamore Creek with sampling occurring at various locations in 1999. A final report dated March, 2000 was published summarizing sampling results. Sampling downstream from the Pickerington WWTP outfall showed a significant Total Dissolved Solids (TDS) concentration increase in contrast with the TDS concentration upstream from the WWTP outfall.
6. Respondent's NPDES permit was renewed (NPDES Permit No. 4PB00017\*JD), with an effective date of January 2, 2003, and an expiration date of July 31, 2007. The permit contained interim and final tables for TDS to account for an anticipated WWTP upgrade. The interim table lasted for three years and required that Respondent monitor TDS and develop a means for meeting the final table TDS limit of 1710 mg/l by January 2, 2006.
7. In 2004, Respondent began to question the need for the expansion of its WWTP as it believed that its WWTP had more treatment capacity than its official rating of 1.2 MGD. Respondent conducted tests and submitted a report dated January 28, 2005 that demonstrated to the Ohio EPA's satisfaction that the WWTP's treatment capacity plant was 1.6 MGD. Respondent's NPDES permit was modified effective January 2, 2007, (4PB00017\*KD) to reflect the new 1.6 MGD design flow. Since Respondent had increased its WWTP capacity without construction, the modified permit contained only final table effluent limitations since there was now no need for an interim table. A TDS limit of 1710 mg/l remained in the final table and was effective on January 2, 2007.

8. In 2005 Ohio EPA conducted sampling in the Walnut Creek Watershed and published sampling results in 2006 in the Biological and Water Quality Study of Walnut Creek and Tributaries. The study indicated that TDS discharge from the Pickerington WWTP is detrimental to Sycamore Creek. Page 54 of the study indicates that..."The site at RM 4.18 only partially met the WWH biological criteria. The fish community was in very good condition while qualitative invertebrate sampling revealed a low-fair community. This is likely caused by the proximity of the Pickerington WWTP to this sampling station and documented chronic toxicity of effluent to Ceriodaphnia (Ohio EPA, 2006 Bioassay Report 06-3447-C). This is likely due to excessive quantities of total dissolved solids in the effluent...Both fish and invertebrate communities improved at Sycamore Creek sites downstream of RM 4.18."
9. Page 58 of the study indicates that "Bioassay work performed in July 2006 revealed chronic toxicity to Ceriodaphnia. Invertebrate chronic toxicity is likely an artifact of high dissolved solids concentrations found in the effluent. The WWTP receives filter backwash and ion exchange wastes from the water treatment facility and these materials basically pass through the WWTP untreated."
10. Page 63 of the study indicates that "Water chemistry trends for Sycamore Creek are best discussed in the context of upstream and downstream of the Pickerington WWTP discharge at RM 4.35. Upstream of the Pickerington discharge, trends for mean total dissolved solids, chloride, BOD5, total suspended solids, dissolved oxygen, nitrate+nitrite, and total phosphorus were all similar or lower than those observed in 1996 (Figure 33). Both mean TKN and ammonia-N were generally elevated above those found in 1996 (Figure 33). Downstream of the Pickerington WWTP discharge, parameters such as mean chloride, sulfate, total dissolved solids, hardness, and TKN were significantly higher than mean values found in previous survey work (Figure 33). This seems indicative of a stream dominated by WWTP effluent due to a combination of growth in effluent volume from Pickerington and a dry summer in 2005."
11. During 2007, Respondent asked if Ohio EPA would consider another 12 month extension, when the NPDES permit was renewed, for additional time to resolve the TDS issue. This request was granted.
12. Respondent's current NPDES permit (4PB00017\*LD) has an effective date is January 1, 2008, and the expiration date is December 31, 2012. The permit contains a compliance schedule requiring WWTP upgrade completion and meeting final limits by February 1, 2010. The permit also contains a schedule for submittal of a plan to control the concentration and loading of TDS to the extent necessary to comply with the interim and final effluent limits. This permit required compliance by January 1, 2009, with an interim TDS limit of 1710 mg/l and compliance by February 1, 2010, with a final TDS limit of 1632 mg/l. Consistent compliance with the TDS limits has not occurred. The TDS

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. Respondent shall achieve compliance with ORC Chapter 6111 in accordance with the following schedule:
  - a. As soon as possible but not later than August 31, 2011, Respondent shall complete construction and place into operation the reverse osmosis treatment system at Respondent's drinking water treatment plant;
  - b. As soon as possible but not later than October 1, 2011, Respondent shall achieve compliance the TDS limit of 1632 mg/l in its NPDES permit 4PB00017\*LD or subsequent renewals.

## 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(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 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. RESERVATION OF RIGHTS**

Ohio EPA reserves its rights to seek civil or administrative penalties against Respondent for violations specifically cited in these Orders. Ohio EPA and Respondent each reserve all other 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. Except for the right to seek civil or administrative penalties against Respondent for violations specifically cited in these Orders, which right Ohio EPA does not waive, 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**

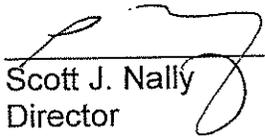
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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 ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**

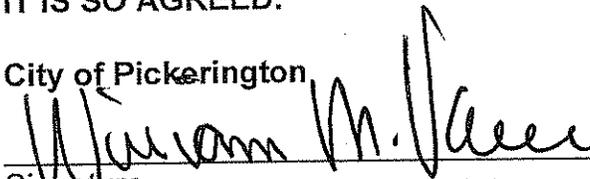
  
\_\_\_\_\_  
Scott J. Nally  
Director

**APR 19 2011**

\_\_\_\_\_  
Date

**IT IS SO AGREED:**

**City of Pickerington**

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**4/5/11**

**WILLIAM M. VANCE**  
\_\_\_\_\_  
Printed or Typed Name

**CITY MANAGER**  
\_\_\_\_\_  
Title

Attachment I

Permit No	Reporting Period	Station	Reporting Code	Parameter	Limit Type	Limit	Reported Value
PB00017*JD	February 2004	001	00530	Total Suspended Solids	7D Conc	9.0	12.8133
PB00017*JD	February 2004	001	00530	Total Suspended Solids	7D Qty	61.3	94.5128
PB00017*JD	June 2006	001	00515	Residue, Total Dissolved	30D Conc	1710	1727.
PB00017*JD	July 2006	001	00515	Residue, Total Dissolved	30D Conc	1710	1716.91
PB00017*JD	August 2006	001	00515	Residue, Total Dissolved	30D Conc	1710	1791.92
PB00017*JD	December 2006	001	00530	Total Suspended Solids	7D Conc	9.0	11.2666
PB00017*KD	January 2007	001	00530	Total Suspended Solids	30D Conc	6.0	6.95385
PB00017*KD	January 2007	001	00530	Total Suspended Solids	7D Conc	9.0	18.
PB00017*KD	January 2007	001	00530	Total Suspended Solids	30D Qty	36.3	50.6031
PB00017*KD	January 2007	001	00530	Total Suspended Solids	7D Qty	54.6	127.624
PB00017*KD	February 2007	001	00530	Total Suspended Solids	30D Conc	6.0	8.76667
PB00017*KD	February 2007	001	00530	Total Suspended Solids	30D Qty	36.3	40.6760
PB00017*KD	February 2007	001	00530	Total Suspended Solids	7D Conc	9.0	11.2
PB00017*KD	May 2007	001	00515	Residue, Total Dissolved	30D Conc	1710	1933.33
PB00017*KD	June 2007	001	00515	Residue, Total Dissolved	30D Conc	1710	2380.58
PB00017*KD	July 2007	001	00515	Residue, Total Dissolved	30D Conc	1710	2177.83
PB00017*KD	August 2007	001	00515	Residue, Total Dissolved	30D Conc	1710	1799.25
PB00017*KD	September 2007	001	00515	Residue, Total Dissolved	30D Conc	1710	1929.08
PB00017*KD	October 2007	001	00515	Residue, Total Dissolved	30D Conc	1710	1732.5
PB00017*LD	September 2008	001	00610	Nitrogen, Ammonia (NH3)	7D Conc	1.4	2.5
PB00017*LD	September 2008	001	00610	Nitrogen, Ammonia (NH3)	7D Qty	8.5	10.4479
PB00017*LD	January 2009	001	00530	Total Suspended Solids	30D Conc	6.0	6.03077
PB00017*LD	February 2009	001	00530	Total Suspended Solids	30D Conc	6.0	20.3333
PB00017*LD	February 2009	001	00530	Total Suspended Solids	7D Conc	9.0	52.7333
PB00017*LD	February 2009	001	00530	Total Suspended Solids	30D Qty	36.3	111.817
PB00017*LD	February 2009	001	00530	Total Suspended Solids	7D Qty	54.6	224.598
PB00017*LD	February 2009	001	00530	Total Suspended Solids	7D Conc	9.0	22.3333
PB00017*LD	February 2009	001	00530	Total Suspended Solids	7D Qty	54.6	193.787
PB00017*LD	June 2009	001	00515	Residue, Total Dissolved	30D Conc	1710	2011.25
PB00017*LD	July 2009	001	00515	Residue, Total Dissolved	30D Conc	1710	2255.66
PB00017*LD	August 2009	001	00515	Residue, Total Dissolved	30D Conc	1710	1874.16
PB00017*LD	September 2009	001	00515	Residue, Total Dissolved	30D Conc	1710	1828.58
PB00017*LD	February 2010	001	00530	Total Suspended Solids	7D Conc	14	16.6
PB00017*LD	March 2010	001	00530	Total Suspended Solids	30D Conc	9.0	13.3076
PB00017*LD	March 2010	001	00530	Total Suspended Solids	7D Conc	14	31.6
PB00017*LD	March 2010	001	00300	Dissolved Oxygen	1D Conc	8.0	7.34

**Attachment II**

Compliance schedule violations of permit 4PB00017\*LD (eff. date: 1/1/08).

Facility	Permit No	App No	Permit Effective Date	Permit Expiration Date	Schedule Due Date	Completion Date	Event Code	Schedule Type
Pickerington WWTP	4PB00017*LD	OH0031119	1/1/2008	12/31/2012	2/1/2008	<b>2/19/2008</b>	1799	Constructio
Pickerington WWTP	4PB00017*LD	OH0031119	1/1/2008	12/31/2012	7/1/2008	<b>7/18/2008</b>	95999	Other
Pickerington WWTP	4PB00017*LD	OH0031119	1/1/2008	12/31/2012	8/1/2008	<b>10/20/2008</b>	3099	Constructio
Pickerington WWTP	4PB00017*LD	OH0031119	1/1/2008	12/31/2012	1/1/2009	<b>Not Completed</b>	5699	Constructio
Pickerington WWTP	4PB00017*LD	OH0031119	1/1/2008	12/31/2012	2/1/2010	<b>Not Completed</b>	4599	Constructio
Pickerington WWTP	4PB00017*LD	OH0031119	1/1/2008	12/31/2012	2/1/2010	<b>Not Completed</b>	5699	Constructio