

3. The Village WWTP has been classified by the Director as a Class II wastewater works pursuant to Ohio Administrative Code (OAC) Rule 3745-7-04.
4. The Village holds a national pollutant discharge elimination system (NPDES) permit for the WWTP discharge to Killbuck Creek. This NPDES permit contains effluent limitations for concentrations of total suspended solids (TSS) and carbonaceous biochemical oxygen demand (CBOD).
5. From sometime in February 1998 through sometime in August 2000, Respondent submitted approximately nineteen (19) monthly operating reports (MORs) which contained a total of approximately eighty (80) statements which Respondent knew were false and under-reported concentrations of TSS and CBOD which Respondent knew concealed the fact that the WWTP was in violation of its NPDES permit.
6. For a period in May 2000 and July 2000, Respondent failed to maintain the bench sheets prepared by Village employees at the time that they conducted the tests required by the NPDES permit. To conceal NPDES permit violations, Respondent prepared and created a second set of bench sheets that had not been prepared by the employees who conducted the tests and were not prepared at the time the tests were conducted, in violation of standard testing practices and procedures utilized at the WWTP.
7. This matter was investigated by a joint task force comprised of the Ohio Bureau of Criminal Identification and Investigation, Ohio EPA, and the United States Environmental Protection Agency (US EPA), all members of the Northeast Ohio Environmental Crimes Task Force.
8. On September 27, 2000, special agents of the US EPA executed a search warrant at the Village WWTP.
9. Also on September 27, 2000, Ohio EPA actively began to supervise the administration of the WWTP to ensure the results of tests required by the NPDES permit were reported correctly. For a number of months thereafter, the WWTP reported constant TSS, CBOD, and fecal coliform results that were in violation of its NPDES permit.
10. On May 27, 2003, Respondent entered a voluntary plea of guilty to making false statements to the Ohio EPA. As part of this plea agreement, a copy of which is attached hereto and incorporated as if fully rewritten herein, Respondent has agreed to waive all right to notice and hearing regarding his wastewater operator license(s), and agreed to not contest, and to withdraw any challenge to, the cancellation of such license(s).

11. On August 21, 2003, a criminal judgment was entered against Respondent in United States District Court, Northern District of Ohio, Eastern Division, Case Number 5:03cr00200-001.
12. Pursuant to the judgment in Finding #11, Respondent has been placed on probation for two (2) years, shall participate in the Home Confinement Program with Electronic Monitoring for six (6) months, and shall pay a special assessment of \$100.00 and a fine of \$2,000.00.
13. Pursuant to OAC Rule 3745-7-12, the Director may revoke the certification of an operator upon a finding that the operator has knowingly or negligently submitted misleading, inaccurate, or false reports to Ohio EPA. During the time of revocation the operator shall not apply for certification.
14. Respondent has knowingly or negligently submitted misleading, inaccurate, or false reports to Ohio EPA during his employment as Superintendent of the Village WWTP.
15. Pursuant to OAC Rule 3745-7-12 (E), after the period of ineligibility (revocation) has expired, Respondent may apply for examination for certification under OAC Chapter 3745-7.
16. 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

1. Upon the effective date of these Orders, Respondent's Wastewater Operator III Certificate No. 3-91-010 shall be revoked for five (5) years.
2. Within seven (7) days of the effective date of these Orders, Respondent shall return, via certified mail, Wastewater Operator III Certificate No. 3-91-010.
3. After the five (5) year period of revocation has expired, Respondent may apply for examination for certification under OAC Chapter 3745-7.

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 Drinking and Ground Waters 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 Respondent.

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 operations at the Village WWTP.

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. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Division of Drinking and Ground Waters
122 South Front Street, P.O. Box 1049
Columbus, Ohio 43216-1049
Att: Supervisor, Operator Certification Unit

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

X. RESERVATION OF RIGHTS

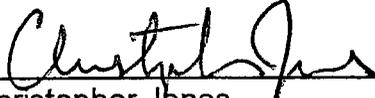
Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking civil or administrative penalties against the Village for the violations specifically cited in these Orders. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 6111. or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

XI. EFFECTIVE DATE

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

IT IS SO ORDERED:

Ohio Environmental Protection Agency



Christopher Jones
Director

Date: 5-19-04

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

KEVIN J. VAUGHN,

Defendant.

INFORMATION

5:03CR0200

CASE NO.

Title 33, United States Code,
Section 1319(c)(4)

JUDGE GWIN

Count I

Background

The United States Attorney charges:

At all times material herein:

1. The Village of Millersburg (the "Village") owned and operated a Wastewater Treatment Plant ("WWTP"). The function of the Village's WWTP was to treat wastewater received through the sewer from residences as well as industrial sources. After treatment by the WWTP the cleaned wastewater was discharged to Killbuck Creek.

2. KEVIN J. VAUGHN ("VAUGHN") was the Superintendent of the Village's WWTP and had held that position since at least 1993. As Superintendent VAUGHN was responsible for the operation of the WWTP, including filing the necessary reports with the State of Ohio.

Summary of Clean Water Act Regulations

The following statutes and regulations were in effect at all times material herein.

3. The Clean Water Act ("CWA"), 33 U.S.C. § 1251, *et seq.*, requires that discharges of pollutants from point sources into waters of the United States be permitted. *See* U.S.C. § 1311(a). Such permits are issued under the National Pollutant Discharge Elimination System ("NPDES"). *See* 33 U.S.C. § 1342. Discharges exceeding the permitted levels are prohibited. *See* 33 U.S.C. § 1311(a).

4. The U.S. EPA may delegate to a state the authority to issue CWA permits, and has done so in Ohio. *See* 33 U.S.C. § 1342(b). The federal government retains the power to enforce the provisions of the CWA and such permits. *See* 33 U.S.C. § 1342(i).

At all times material herein:

The Permit Requirements

5. The Village's WWTP had a NPDES permit to discharge to Killbuck Creek which was issued by the Ohio Environmental Protection Agency ("Ohio EPA"). The permit, in part, set limits on the concentration and amount of pollutants that could be discharged by the WWTP to Killbuck Creek. To ensure the WWTP was meeting its permit limits, the Village was required to sample and analyze the WWTP's discharge on a regular basis. The results of sampling and

analysis done by the WWTP were sent to the Ohio EPA on a form referred to as a Monthly Operating Report ("MOR").

6. The permit limited the concentration of total suspended solids ("TSS") and carbonaceous biochemical oxygen demand ("CBOD") that could be discharged by the WWTP.

7. TSS is a measure of the amount of suspended solid in a sample of water. Elevated TSS in the discharge of a WWTP is an indicator of ineffective treatment. TSS can impair a stream by reducing light transparency (which causes certain fish species not to be able to feed), suffocating fish and macroinvertebrates by clogging their gills, and reducing the ability of sensitive macroinvertebrates to feed. These solids can also over-enrich the stream with nutrients and can cause degradation of the habitat by clogging the spaces in the stream bottom used as hiding places by aquatic organisms.

8. CBOD is an indirect measure of the effect the WWTP will have on oxygen content of a stream receiving the discharge from the WWTP. Discharges with a high CBOD will reduce the amount of oxygen in a stream. When levels of oxygen become too low in a stream, fish and other aquatic organisms cannot survive.

9. Pursuant to the permit the Village was required to maintain all records for the WWTP for a minimum of three years.

Vaughn's Supervisory Role

10. VAUGHN supervised several village employees who performed the tests required by the permit and recorded the results on bench sheets. Using the data provided by these employees on the bench sheets, and in some cases, making the final calculations on the bench sheets himself, VAUGHN prepared the MORs and submitted them to the Ohio EPA.

False Statements

11. From some time in February 1998 through sometime in August 2000, VAUGHN submitted approximately 19 MORs which contained a total of approximately 80 statements which VAUGHN then knew were false in that they under-reported the concentration of TSS or CBOD and which he knew concealed the fact that the WWTP was in violation of its permit.

12. VAUGHN used the following techniques to under-report TSS and CBOD on MORs. He "outright fabricated" entries by submitting data that were different than the actual final test results listed on the bench sheets. VAUGHN "pencil whipped" data by overwriting accurate raw data after the completion of analysis or by mathematically manipulating the final results of tests to indicate a lower result. VAUGHN "dry labbed" data by reporting test results when no valid test had been performed. VAUGHN fabricated a "second set of data" for TSS in that he created a second fictitious bench sheet that he used to prepare the MOR rather than using the actual bench sheets that contained the tests results obtained by Village employees at the time they conducted the tests.

13. From on or about March 18, 1998, and continuing to on or about September 8, 2000, in the Northern District of Ohio, Eastern Division, VAUGHN, knowingly made the following false material statements, representations, and certifications on MORs, reports that were required to be filed and maintained under the CWA.

Period Covered by MOR	Approximate Date MOR Submitted	Parameter	Sampling Date	Method of Concealment
February 1998	03/18/98	TSS	02/24/98	Pencil Whipped
March 1998	04/14/98	TSS	03/31/98	Pencil Whipped
April 1998	05/12/98	TSS	04/02/98	Pencil Whipped
		CBOD	04/14/98	Pencil Whipped
		TSS	04/22/98	Pencil Whipped
		TSS	04/28/98	Outright Fabrication
May 1998	06/09/98	TSS	05/14/98	Pencil Whipped
		TSS	05/19/98	Pencil Whipped
		TSS	05/21/98	Pencil Whipped
		TSS	05/26/98	Pencil Whipped
		TSS	05/28/98	Pencil Whipped
June 1998	07/12/98	TSS	06/04/98	Outright Fabrication and Pencil Whipped
		CBOD	06/04/98	Outright Fabrication
		CBOD	06/09/98	Pencil Whipped
		TSS	06/30/98	Pencil Whipped
July 1998	08/11/98	TSS	07/01/98	Pencil Whipped
		TSS	07/07/98	Pencil Whipped
		TSS	07/09/98	Pencil Whipped
		CBOD	07/30/98	Pencil Whipped
August 1998	09/15/98	TSS	08/11/98	Pencil Whipped
		TSS	08/13/98	Pencil Whipped
		CBOD	08/18/98	Pencil Whipped
		CBOD	08/20/98	Pencil Whipped

Period Covered by MOR	Approximate Date MOR Submitted	Parameter	Sampling Date	Method of Concealment
September 1998	10/13/98	TSS	09/08/98	Pencil Whipped
		CBOD	09/08/98	Pencil Whipped
		CBOD	09/10/98	Pencil Whipped
		TSS	09/10/98	Pencil Whipped
		TSS	09/15/98	Pencil Whipped
		CBOD	09/15/98	Pencil Whipped
		TSS	09/17/98	Pencil Whipped
		CBOD	09/17/98	Pencil Whipped
		CBOD	09/22/98	Pencil Whipped
		CBOD	09/24/98	Pencil Whipped
		CBOD	09/29/98	Pencil Whipped
October 1998	11/10/98	CBOD	10/01/98	Pencil Whipped
		CBOD	10/06/98	Pencil Whipped
		CBOD	10/08/98	Pencil Whipped
		CBOD	10/13/98	Dry Labbed
		CBOD	10/15/98	Dry Labbed
		TSS	10/21/98	Pencil Whipped
		CBOD	10/21/98	Dry Labbed
		CBOD	10/22/98	Dry Labbed
		CBOD	10/29/98	Pencil Whipped
November 1998	12/08/98	CBOD	11/17/98	Pencil Whipped
January 1999	02/10/98	CBOD	01/07/99	Pencil Whipped
		CBOD	01/12/99	Pencil Whipped
		TSS	01/25/99	Pencil Whipped

Period Covered by MOR	Approximate Date MOR Submitted	Parameter	Sampling Date	Method of Concealment
		CBOD	01/25/99	Pencil Whipped
		TSS	01/28/99	Pencil Whipped
February 1999	03/03/99	TSS	02/01/99	Pencil Whipped
		TSS	02/09/99	Pencil Whipped
		TSS	02/11/99	Outright Fabrication
		CBOD	02/23/99	Pencil Whipped
		CBOD	02/25/99	Outright Fabrication
March 1999	04/12/99	TSS	03/02/99	Pencil Whipped
		CBOD	03/02/99	Pencil Whipped
		TSS	03/04/99	Pencil Whipped
		CBOD	03/04/99	Pencil Whipped
		TSS	03/09/99	Pencil Whipped
		TSS	03/11/99	Pencil Whipped
		TSS	03/15/99	Pencil Whipped
		TSS	03/18/99	Pencil Whipped
		TSS	03/30/99	Pencil Whipped
		CBOD	03/30/99	Pencil Whipped
		TSS	03/31/99	Pencil Whipped
		CBOD	03/31/99	Pencil Whipped
April 1999	05/13/99	CBOD	04/13/99	Pencil Whipped
		CBOD	04/15/99	Pencil Whipped
June 1999	07/13/99	CBOD	06/01/99	Pencil Whipped
		TSS	06/03/99	Pencil Whipped
		TSS	06/07/99	Pencil Whipped

Period Covered by MOR	Approximate Date MOR Submitted	Parameter	Sampling Date	Method of Concealment
		CBOD	06/15/99	Pencil Whipped
		CBOD	06/22/99	Outright Fabrication
October 1999	11/10/99	TSS	10/07/99	Outright Fabrication
		TSS	10/28/99	Pencil Whipped
June 2000	07/11/00	TSS	06/22/00	Two Sets of Data
		TSS	06/28/00	Two Sets of Data
		TSS	06/29/00	Two Sets of Data
July 2000	08/14/00	TSS	07/05/00	Two Sets of Data
August 2000	09/08/00	CBOD	08/03/00	Pencil Whipped

14. For a period in May 2000 and in July 2000, VAUGHN destroyed and concealed the bench sheets prepared by village employees at the time they conducted the tests required by the permit, and prepared and maintained a second set of bench sheets that had not been prepared by the employees who conducted the tests and were not prepared at the time the tests were conducted, all in violation of standard testing practices and procedures employed at the Village's WWTP.

All in violation of Title 33, United States Code, Section 1319(c)(4).

GREGORY A. WHITE
UNITED STATES ATTORNEY

*- pulled on
5/27/03*

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	Case No.
)	
Plaintiff,)	
)	Judge
v.)	
)	
KEVIN J. VAUGHN,)	
)	<u>PLEA AGREEMENT</u>
Defendant.)	

Pursuant to Rule 11(e)(1)(B) of the Federal Rules of Criminal Procedure, and in consideration of the mutual promises set forth below, the United States Attorney's Office for the Northern District of Ohio (hereinafter "USAO"), by and through its undersigned attorney, and the defendant, Kevin J. Vaughn (hereinafter "Defendant"), agree as follows:

**MAXIMUM PENALTIES AND OTHER
CONSEQUENCES OF PLEADING GUILTY**

1. **Waiver of Constitutional Trial Rights.** Defendant understands that Defendant has the right to plead not guilty and go to trial. At trial, Defendant would be presumed innocent, have the right to trial by jury or the Court, with the consent of the United States, the right to the assistance of counsel, the right to confront and cross-examine adverse witnesses and subpoena witnesses to testify for the defense, and the right against compelled self-incrimination. Defendant understands that Defendant has the right to an attorney at every stage of the proceeding and, if necessary, one will be appointed to represent Defendant. Defendant understands that, if Defendant pleads guilty and that plea is accepted by the Court, there will not be a further trial of any kind, so that by pleading guilty Defendant waives the right to a trial.

2. **Maximum Sentence.** The statutory maximum sentence for the count to which Defendant agrees to plead guilty is/are as follows:

<u>Count</u>	<u>Statute</u>	<u>Maximum sentence per count</u>
1	33 U.S.C. § 1319(c)(4) (Clean Water Act -False Statements)	Imprisonment: 2 years Fine: \$250,000 Supervised release: 1 year

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3. **Alternative Maximum Fine.** The maximum fine that the Court may impose is the greater of the statutory maximum stated above or twice the gross pecuniary loss or gain from the offense of conviction, whichever is greater.
4. **Sentencing Guidelines.** In imposing sentence, the Court will be required to consider any applicable Sentencing Guidelines but may depart from those Guidelines under some circumstances.
5. **Special Assessment.** Defendant will be required to pay a mandatory special assessment of \$100, due immediately upon sentencing.
6. **Costs.** The Court may order Defendant to pay the costs of prosecution and sentence, including but not limited to imprisonment, community confinement, home detention, probation, and supervised release.
7. **Restitution.** The Court may order Defendant to pay restitution as a condition of the sentence, probation, and/or supervised release.
8. **Violation of Probation/Supervised Release.** If Defendant violates any term or condition of probation or supervised release, such violation could result in a period of incarceration or other additional penalty as imposed by the Court. In some circumstances, the combined term of imprisonment under the initial sentence and additional period of incarceration could exceed the maximum statutory term.

ELEMENTS OF THE OFFENSE

9. The elements of the offense to which Defendant will plead guilty are:

33 U.S.C. § 1319(c)(4): Violation of a Pretreatment Standard	
One:	The Defendant knowingly;
Two:	Made a false material statement, representation, or certification in any application, report, record, plan or other document; and
Three:	The document was required to be filed or maintained under the Clean Water Act.

AGREEMENTS AND STIPULATIONS OF THE PARTIES

GUILTY PLEA / OTHER CHARGES

10. **Agreement to Plead Guilty.** Defendant agrees to plead guilty to count 1 of the Information in this case.

11. **Agreement Not to Bring Certain Other Charges.** The USAO will not bring any other criminal charges against Defendant with respect to conduct charged in the Information based on facts currently within the knowledge of the USAO.

FACTUAL BASIS

The parties stipulate to the following facts, which satisfy all of the elements of the offense to which Defendant agrees to plead guilty:

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12. The Village of Millersburg (the "Village") owned and operated a Wastewater Treatment Plant ("WWTP"). The function of the Village's WWTP was to treat wastewater received through the sewer from residences as well as industrial sources. After treatment by the WWTP the cleaned wastewater was discharged to Killbuck Creek.

13. Defendant was the Superintendent of the Village's WWTP and had held that position since at least 1993. As Superintendent, Defendant was responsible for the operation of the WWTP, including filing the necessary reports with the State of Ohio.

Summary of Clean Water Act Regulations

14. The Clean Water Act ("CWA"), 33 U.S.C. § 1251, *et seq.*, requires that discharges of pollutants from point sources into waters of the United States be permitted. *See* U.S.C. § 1311(a). Such permits are issued under the National Pollutant Discharge Elimination System ("NPDES"). *See* 33 U.S.C. § 1342. Discharges exceeding the permitted levels are prohibited. *See* 33 U.S.C. § 1311(a).

15. The U.S. EPA may delegate to a state the authority to issue CWA permits, and has done so in Ohio. *See* 33 U.S.C. § 1342(b). The federal government retains the power to enforce the provisions of the CWA and such permits. *See* 33 U.S.C. § 1342(i).

The Permit Requirements

16. The Village's WWTP had a NPDES permit to discharge to Killbuck Creek which was issued by the Ohio Environmental Protection Agency ("Ohio EPA"). The permit, in part, set limits on the concentration and amount of pollutants that could be discharged by the WWTP to Killbuck Creek. To ensure the WWTP was meeting its permit limits the Village was required to sample and analyze the WWTP's discharge on a regular basis. The results of sampling and analysis done by the WWTP were sent to the Ohio EPA on a form referred to as a Monthly Operating Report ("MOR").

17. The permit limited the concentration of total suspended solids ("TSS") and carbonaceous biochemical oxygen demand ("CBOD") that could be discharged by the WWTP.

18. TSS is a measure of the amount of suspended solid in a sample of water. Elevated TSS in the discharge of a WWTP is an indicator of ineffective treatment. TSS can impair a stream by reducing light transparency (which causes certain fish species not to be able to feed), suffocating fish and macroinvertebrates by clogging their gills, and reducing the ability of sensitive macroinvertebrates to feed. These solids can also over-enrich the stream with nutrients and can cause degradation of the habitat by clogging the spaces in the stream bottom used as hiding places by aquatic organisms.

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19. CBOD is an indirect measure of the effect the WWTP will have on oxygen content of a stream receiving the discharge from the WWTP. Discharges with a high CBOD will reduce the amount of oxygen in a stream. When levels of oxygen become too low in a stream, fish and other aquatic organisms cannot survive.

20. Pursuant to the permit the Village was required to maintain all records for the WWTP for a minimum of three years.

Defendant's Supervisory Role

21. Defendant supervised several village employees who performed the tests required by the permit and recorded the results on bench sheets. Using the data provided by these employees on the bench sheets, and in some cases, making the final calculations on the bench sheets himself, Defendant prepared the MORs and submitted them to the Ohio EPA.

False Statements

22. From some time in February 1998 through sometime in August 2000, Defendant submitted approximately 19 MORs which contained a total of approximately 80 statements which Defendant then knew were false in that they under-reported the concentration of TSS or CBOD and which he knew concealed the fact that the WWTP was in violation of its permit.

23. Defendant, used the following techniques to under-report TSS and CBOD on MORs. Defendant "outright fabricated" entries by submitting data that were different than the actual final test results listed on the bench sheets. Defendant "pencil whipped" data by overwriting accurate raw data after the completion of analysis or by mathematically manipulating the final results of tests to indicate a lower result. Defendant "dry labbed" data by reporting test results when no valid test had been performed. Defendant fabricated a "second set of data" for TSS in that he created a second fictitious bench sheet that he used to prepare the MOR rather than using the actual bench sheets that contained the tests results obtained by Village employees at the time they conducted the tests.

24. Defendant, knowingly made the following false material statements, representations, and certifications on MORs, reports that were required to be filed and maintained under the CWA.

Period Covered by MOR	Approximate Date MOR Submitted	Parameter	Sampling Date	Method of Concealment
February 1998	03/18/98	TSS	02/24/98	Pencil Whipped
March 1998	04/14/98	TSS	03/31/98	Pencil Whipped
April 1998	05/12/98	TSS	04/02/98	Pencil Whipped
		CBOD	04/14/98	Pencil Whipped

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Period Covered by MOR	Approximate Date MOR Submitted	Parameter	Sampling Date	Method of Concealment
		TSS	04/22/98	Pencil Whipped
		TSS	04/28/98	Outright Fabrication
May 1998	06/09/98	TSS	05/14/98	Pencil Whipped
		TSS	05/19/98	Pencil Whipped
		TSS	05/21/98	Pencil Whipped
		TSS	05/26/98	Pencil Whipped
		TSS	05/28/98	Pencil Whipped
June 1998	07/12/98	TSS	06/04/98	Outright Fabrication and Pencil Whipped
		CBOD	06/04/98	Outright Fabrication
		CBOD	06/09/98	Pencil Whipped
		TSS	06/30/98	Pencil Whipped
July 1998	08/11/98	TSS	07/01/98	Pencil Whipped
		TSS	07/07/98	Pencil Whipped
		TSS	07/09/98	Pencil Whipped
		CBOD	07/30/98	Pencil Whipped
August 1998	09/15/98	TSS	08/11/98	Pencil Whipped
		TSS	08/13/98	Pencil Whipped
		CBOD	08/18/98	Pencil Whipped
		CBOD	08/20/98	Pencil Whipped
September 1998	10/13/98	TSS	09/08/98	Pencil Whipped

Period Covered by MOR	Approximate Date MOR Submitted	Parameter	Sampling Date	Method of Concealment
		CBOD	09/08/98	Pencil Whipped
		CBOD	09/10/98	Pencil Whipped
		TSS	09/10/98	Pencil Whipped
		TSS	09/15/98	Pencil Whipped
		CBOD	09/15/98	Pencil Whipped
		TSS	09/17/98	Pencil Whipped
		CBOD	09/17/98	Pencil Whipped
		CBOD	09/22/98	Pencil Whipped
		CBOD	09/24/98	Pencil Whipped
		CBOD	09/29/98	Pencil Whipped
October 1998	11/10/98	CBOD	10/01/98	Pencil Whipped
		CBOD	10/06/98	Pencil Whipped
		CBOD	10/08/98	Pencil Whipped
		CBOD	10/13/98	Dry Labbed
		CBOD	10/15/98	Dry Labbed
		TSS	10/21/98	Pencil Whipped
		CBOD	10/21/98	Dry Labbed
		CBOD	10/22/98	Dry Labbed
		CBOD	10/29/98	Pencil Whipped
November 1998	12/08/98	CBOD	11/17/98	Pencil Whipped

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Period Covered by MOR	Approximate Date MOR Submitted	Parameter	Sampling Date	Method of Concealment
January 1999	02/10/98	CBOD	01/07/99	Pencil Whipped
		CBOD	01/12/99	Pencil Whipped
		TSS	01/25/99	Pencil Whipped
		CBOD	01/25/99	Pencil Whipped
		TSS	01/28/99	Pencil Whipped
February 1999	03/03/99	TSS	02/01/99	Pencil Whipped
		TSS	02/09/99	Pencil Whipped
		TSS	02/11/99	Outright Fabrication
		CBOD	02/23/99	Pencil Whipped
		CBOD	02/25/99	Outright Fabrication
March 1999	04/12/99	TSS	03/02/99	Pencil Whipped
		CBOD	03/02/99	Pencil Whipped
		TSS	03/04/99	Pencil Whipped
		CBOD	03/04/99	Pencil Whipped
		TSS	03/09/99	Pencil Whipped
		TSS	03/11/99	Pencil Whipped
		TSS	03/15/99	Pencil Whipped
		TSS	03/18/99	Pencil Whipped
		TSS	03/30/99	Pencil Whipped
		CBOD	03/30/99	Pencil Whipped
		TSS	03/31/99	Pencil Whipped

Period Covered by MOR	Approximate Date MOR Submitted	Parameter	Sampling Date	Method of Concealment
		CBOD	03/31/99	Pencil Whipped
April 1999	05/13/99	CBOD	04/13/99	Pencil Whipped
		CBOD	04/15/99	Pencil Whipped
June 1999	07/13/99	CBOD	06/01/99	Pencil Whipped
		TSS	06/03/99	Pencil Whipped
		TSS	06/07/99	Pencil Whipped
		CBOD	06/15/99	Pencil Whipped
		CBOD	06/22/99	Outright Fabrication
October 1999	11/10/99	TSS	10/07/99	Outright Fabrication
		TSS	10/28/99	Pencil Whipped
June 2000	07/11/00	TSS	06/22/00	Two Sets of Data
		TSS	06/28/00	Two Sets of Data
		TSS	06/29/00	Two Sets of Data
July 2000	08/14/00	TSS	07/05/00	Two Sets of Data
August 2000	09/08/00	CBOD	08/03/00	Pencil Whipped

25. For a period in May 2000 and in July 2000, Defendant failed to maintain the bench sheets prepared by village employees at the time they conducted the tests required by the permit, and, in order to conceal permit violations, prepared and created a second set of bench sheets that had not been prepared by the employees who conducted

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the tests and were not prepared at the time the tests were conducted, all in violation of standard testing practices and procedures employed at the Village's WWTP.

Effect of Concealing Permit Violations

26. Defendant first learned that he was under investigation for these violations on September 27, 2000, when special agents of the U.S. EPA executed a search warrant at the WWTP. On that date, Ohio EPA began to actively supervise the administration of the WWTP, and insured that the results of tests required by the permit were reported correctly. For a number of months thereafter, the WWTP reported constant TSS, CBOD and fecal coliform results that were in violation of the permit. After several months of these violations, the Village prohibited L & W Egg Products, Inc. ("L & W"), which was responsible for a significant discharge to the WWTP, from discharging into the system, and the violations ceased. Since then, L & W has been trucking its waste-water to another facility at great expense. In addition, the Village hired a consultant to advise on improvements for the plant. The Ohio EPA required that the Village take one of two actions to insure continued operation within the limits of the permit: 1) engage in a capital improvement plan that would allow the plant to expand from a half million gallon per day capacity to a 1.4 million gallon per day capacity, or 2) ban further development in the Village. The Village has opted for the former and is currently seeking approval for a \$3.94 million expansion project.

WAIVER OF APPEAL AND POST-CONVICTION ATTACK

27. Defendant acknowledges having been advised by counsel of Defendant's rights, in limited circumstances, to appeal the conviction or sentence in this case, including the appeal right conferred by 18 U.S.C. § 3742, and to challenge the conviction or sentence collaterally through a post-conviction proceeding, including a proceeding under 28 U.S.C. § 2255. The Defendant expressly waives those rights, except as reserved below. Defendant reserves the right to appeal: (a) any punishment in excess of the statutory maximum; (b) any punishment to the extent it constitutes an upward departure from the Sentencing Guideline range deemed most applicable by the Court. Nothing in this paragraph shall act as a bar to the Defendant perfecting any legal remedies Defendant may otherwise have on appeal or collateral attack respecting claims of ineffective assistance of counsel or prosecutorial misconduct.

COOPERATION

28. Defendant agrees to cooperate fully with the United States of America and any other state or local government in investigations and prosecutions, as and when requested by the USAO. Such cooperation shall include providing all information, attending all interviews, testifying before all tribunals, providing all documents and records, and providing all other forms of cooperation requested by government agents and prosecutors. Such cooperation also includes the obligation to provide truthful and

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complete information and the obligation not to commit any additional crimes. Defendant understands that if Defendant provides any false or misleading information, documents, or testimony, refuses to testify or otherwise fails to cooperate, or commits any additional crimes, such conduct will constitute a breach of this agreement. In addition, Defendant may be subject to separate prosecution for such criminal conduct, and nothing in this agreement will preclude the use of Defendant's sworn or unsworn statements against Defendant in this or any other prosecution.

29. The USAO will advise the Court of the nature and extent of Defendant's cooperation.

OTHER OBLIGATIONS OF THE PARTIES

30. Licenses Held by Mr. Vaughn. Defendant agrees to waive all right to notice and hearing about cancellation of any licenses Defendant has related to wastewater treatment, and agrees not to contest, and to withdraw any challenge to, the cancellation of any licenses Defendant has related to wastewater treatment.

SENTENCING STIPULATIONS AND AGREEMENTS

31. Stipulated Guideline Computation. The parties agree that the following calculation, using the Guidelines Manual effective November 1, 2000, represents the correct computation of the applicable offense level in this case, prior to any adjustment

for acceptance of responsibility. The parties agree that no other Sentencing Guideline adjustments apply.

Count 1 - Guideline § 2Q1.3		
Base offense level	6	§ 2Q1.3(a)
Repetitive discharge	6	§ 2Q1.3(b)(1)(A)
- guided departure related to discharge into the environment	-2	Application Note 4
In violation of the permit	4	§ 2Q1.3(b)(4)
- guided departure related to discharge without a permit	-2	Application Note 7
Abuse of a position of trust	2	§ 3B1.3
Subtotal before Acceptance of Responsibility	14	

32. **Acceptance of Responsibility.** The USAO has no reason to believe at this time that Defendant has not clearly and affirmatively accepted personal responsibility for Defendant's criminal conduct. Defendant understands, however, that the Court will determine acceptance of responsibility based on Defendant's overall conduct as of the date of sentencing.

33. **Substantial Assistance Departure.** If Defendant fully complies with Defendant's obligation to cooperate, as set forth above, the USAO will, at the time of sentencing, move for a downward departure of no more than 2 levels under Guideline § 5K1.1. The USAO may request a continuance in the sentencing until Defendant has

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substantially completed the agreed cooperation. Defendant understands, however, that the USAO, in its discretion, will determine whether and to what extent to seek such a departure based on the actual nature and extent of the cooperation provided. Additionally, Defendant understands that no promise has been made that the Court will grant Defendant such a downward departure.

34. **Agreement Not to Seek Departures.** The parties agree that there are no bases for either an upward or downward departure from the Sentencing Guidelines and agree not to seek any such departure, except as may be expressly stated in this agreement.

35. **Criminal History Category.** The parties have no agreement as to the Criminal History Category applicable in this case. Defendant understands that the Criminal History Category will be determined by the Court after the completion of a Pre-Sentence Investigation by the U.S. Probation Office.

OTHER PROVISIONS

36. **Agreement Silent as to Matters Not Expressly Addressed.** This agreement is silent as to all aspects of the determination of sentence not expressly addressed herein, and the parties are free to advise the Court of facts and to make recommendations to the Court with respect to all aspects of sentencing not agreed to herein.

37. Sentencing Recommendations Not Binding on the Court. Defendant

understands that the recommendations of the parties will not be binding upon the Court, that the Court alone will decide the applicable sentencing range, whether there is any basis to depart from that range, and what sentence to impose. Defendant further understands that once the Court has accepted Defendant's guilty plea, Defendant will not have the right to withdraw such plea if the Court does not accept any sentencing recommendations made on Defendant's behalf or if Defendant is otherwise dissatisfied with the sentence.

38. Consequences of Breaching the Plea Agreement. Defendant understands

that if Defendant breaches any promise in this agreement or if Defendant's guilty plea or conviction in this case are at any time rejected, vacated, or set aside, the USAO will be released from all of its obligations under this agreement and may institute or maintain any charges and make any recommendations with respect to sentencing that would otherwise be prohibited under the terms of the agreement. Defendant understands, however, that a breach of the agreement by Defendant will not entitle Defendant to withdraw, vacate, or set aside Defendant's guilty plea or conviction.

39. Waiver of Statute of Limitations. Defendant waives all defenses based on

the statute of limitations with respect to any prosecution that is not already time-barred by the applicable statute of limitation on the date of Defendant's signing of this agreement and that is commenced within 60 days after any of the following events: (1) Defendant fails to

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plead guilty at the plea proceeding or the Court refuses to accept a guilty plea by Defendant pursuant to this agreement, (2) the Court permits Defendant to withdraw a guilty plea entered pursuant to this agreement or otherwise vacates such a guilty plea, or (3) the convictions following Defendant's guilty plea pursuant to this agreement are vacated, overturned, or abrogated for any reason. Defendant understands the waiver of the statute of limitations is effective immediately upon Defendant's signing of this agreement and is not conditioned upon the approval of this agreement by the Court.

40. **Agreement not Binding on other Jurisdictions and Agencies.** Defendant understands that this plea agreement is binding only on the United States Attorney's Office for the Northern District of Ohio (USAO). It does not bind any other United States Attorney, any other federal agency, or any state or local government.

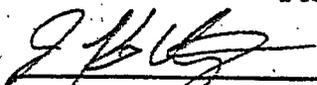
41. **Defendant is Satisfied with Assistance of Counsel.** Defendant makes the following statements: I acknowledge receiving the assistance of counsel from attorney James R. Wooley concerning this plea agreement. I have fully discussed with my attorney all of my Constitutional trial and appeal rights, the nature of the charges, the elements of the offenses the United States would have to prove at trial, the evidence the United States would present at such trial, the Sentencing Guidelines, and the potential consequences of pleading guilty in this case. I have had sufficient time and opportunity to discuss all aspects of the case in detail with my attorney and have told my attorney everything I know about the

charges, any defense that I may have to those charges, and all personal and financial circumstances in possible mitigation of sentence. My attorney has done everything I have asked my attorney to do and I am satisfied with the legal services and advice provided to me by my attorney and believe that my attorney has given me competent and effective representation.

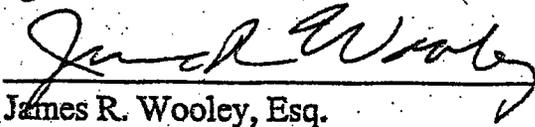
42. **Agreement Is Complete and Voluntarily Entered.** Defendant and Defendant's undersigned attorney state that this agreement constitutes the entire agreement between Defendant and the USAO and that no other promises or inducements have been made, directly or indirectly, by any agent or representative of the United States government concerning any plea to be entered in this case. In particular, no promises or agreements have been made with respect to any actual or prospective civil or administrative proceedings or actions involving Defendant, except as expressly stated herein. In addition, Defendant states that no person has, directly or indirectly, threatened or coerced Defendant to do or refrain from doing anything in connection with any aspect of this case, including entering a plea of guilty.

SIGNATURES

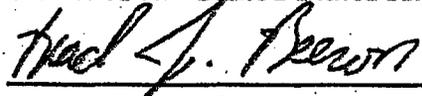
Defendant: I have read this entire plea agreement and have discussed it with my attorney. I have initialed each page of the agreement to signify that I have read, understood, and approved the provisions on that page. I am entering this agreement voluntarily and of my own free will. No threats have been made to me, nor am I under the influence of anything that could impede my ability to understand this agreement.

 5/27/03
Kevin I. Vaughn ^{JPW 3513} J. Kevin Vaughn Date

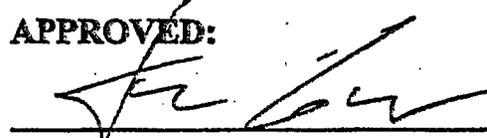
Defense Counsel: I have read this plea agreement and concur in Defendant pleading in accordance with terms of the agreement. I have explained this plea agreement to Defendant, and to the best of my knowledge and belief, Defendant understands the agreement.

 5/27/03
James R. Wooley, Esq. Date

United States Attorney's Office: I accept and agree to this plea agreement on behalf of the United States Attorney for the Northern District of Ohio.

 May, 27, 2003
Ann C. Rowland Date

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APPROVED:
 5/27/03
JAMES S. GWIN Date
UNITED STATES DISTRICT JUDGE

Defendant's Initials: 