FILED
AUG 13 2010
NANCY S. REINBOLD
STARK COUNTY OHIO
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS
STARK COUNTY, OHIO

STATE OF OHIO, ex rel. RICHARD CORDRAY, OHIO ATTORNEY GENERAL,	:	CASE NO. 2008-CV-05100
	:	JUDGE CHARLES E. BROWN, JR.
Plaintiff,	:	
v.	:	
WILLIAM WALKER, SR., et al.	:	
Defendants.	:	

CONSENT ORDER

Plaintiff, State of Ohio, by its Attorney General Richard Cordray ("Plaintiff") filed a Complaint in the above-captioned case on December 1, 2008 against William Walker Sr., Norma Kathryn Walker, William Walker Sr. d.b.a. Hillview Mobile Home Park and/or d.b.a. Hillview Mobile Home Court and Norma Kathryn Walker, d.b.a. Hillview Mobile Home Park and/or d.b.a. Hillview Mobile Home Court (collectively "Defendants") pursuant to Chapter 6109 and Chapter 6111 of the Ohio Revised Code ("R.C."), and the rules promulgated thereunder. Plaintiff's Complaint seeks, among other things, injunctive relief and civil penalties for Defendants violations of Ohio's Safe Drinking Water and Water Pollution Control Laws at the Hillview Mobile Home Park or Court, located at 8021 Manchester Road SW, Stark County, Navarre, Ohio 44662-9445.

This Court signed and journalized a Consent Order for Preliminary Injunction ("COPI") on December 3, 2008 that partially settled the claims raised in Plaintiff's December 1, 2008 Complaint. This Court signed and journalized a Modified COPI on June 25, 2009 that modified three of the provisions in the December 3, 2008 COPI.

NOW THEREFORE, without trial of any issue of fact or law, and upon consent of the parties hereto, it is hereby ORDERED as follows:

I. JURISDICTION AND VENUE

1. The Court has both personal and subject matter jurisdiction over the parties. The Complaint states a claim upon which relief can be granted against Defendants under R.C. Chapter 6109 and R.C. Chapter 6111 and the rules promulgated under those statutes, and venue is proper in this Court for the purposes and duration of this Consent Order.

II. PARTIES

2. The provisions of this Consent Order shall apply to and be binding upon Defendants, their agents, officers, employees, assigns, heirs, successors in interest and others bound by Rule 65(D) of the Ohio Rules of Civil Procedure and any others who are acting in concert and/or privity with Defendants. Defendants shall provide a copy of this Consent Order to each general contractor and/or consultant they employ to perform work itemized herein and each general contractor shall provide a copy of this Consent Order to each of its subcontractors for such work.

III. SATISFACTION OF LAWSUIT

3. Plaintiff alleges in its Complaint that Defendants have violated R.C. Chapter 6109 and R.C. Chapter 6111 at the Hillview Mobile Home Park or Court, located at 8021 Manchester Road SW, Stark County, Navarre, Ohio 44662-9445 ("Hillview"). Compliance with the terms of

this Consent Order shall constitute full satisfaction of any civil liability by Defendants for all claims alleged in the December 1, 2008 Complaint.

4. Nothing in this Consent Order shall be construed to limit the authority of the State of Ohio to seek relief against other appropriate persons for claims or conditions alleged in the Complaint. Nothing in this Consent Order shall be construed to limit the authority of the State of Ohio to seek relief against Defendants or other appropriate persons for claims or conditions not alleged in the Complaint, including violations that occur after the filing of the Consent Order. Similarly, nothing in this Consent Order shall be construed to limit the authority of the State of Ohio to undertake any action against any person, including Defendants, to eliminate or mitigate conditions that may present a threat to the public health, welfare or the environment.

IV. PERMANENT INJUNCTION

5. Defendants are hereby permanently enjoined and immediately ordered to comply with the requirements of R.C. Chapter 6109 and R.C. Chapter 6111 and the rules adopted under those statutes. Defendants are further hereby permanently enjoined and immediately ordered to comply with the effluent limitations, monitoring requirements and other terms and conditions of Exhibit A and any renewals thereof, until such time as Defendants' Wastewater Treatment Works serving Hillview ("WWTW") is tied into the Village of Brewster's ("Village") Publicly Owned Treatment Works. Exhibit A is incorporated herein by reference.

V. COMPLIANCE SCHEDULE

6. Defendants are hereby enjoined and ordered: (a) to pay in full all of the remaining costs of tying Hillview's Public Drinking Water system into the Village's Public Drinking Water System, or $32,303.00, by no later than June 7, 2010; or (b) to make payments pursuant to and in

accordance with any other payment terms entered into between the Village and Defendants for repayment of the costs of tying Hillview's Public Drinking Water system into the Village's Public Drinking Water system.

7. Defendants are hereby enjoined and ordered to implement the requirements related to wastewater imposed upon them in R.C. Chapter 6111, the rules adopted under that statute, and Exhibit A and any renewals or modifications thereof, in accordance with the following schedule:

a. Defendants are hereby enjoined and ordered to immediately refrain from making changes to Hillview's WWTW until a Permit to Install application for such change has been submitted to and approved by the Director, consistent with the requirements of Ohio Administrative Code ("O.A.C.") Chapter 3745-42.

b. Defendants are hereby enjoined and ordered to immediately bring and/or maintain their WWTW in full compliance with the terms and conditions of Exhibit A until such time as the Hillview WWTW is tied into the Village's Publicly Owned Treatment Works.

c. Defendants are hereby enjoined and ordered to immediately hire and/or retain an operator of record who holds a valid Class I Wastewater Works Operator Certificate to oversee the technical operation of Hillview's WWTW until such time as the Hillview WWTW is connected to the Village of Brewster's Publicly Owned Treatment Works. Defendants shall ensure that this operator of record is conducting his or her duties at the Hillview WWTW for at least the minimum amount of time required by O.A.C. 3745-7-04.

d. Defendants are hereby enjoined and ordered to submit to the Ohio EPA, by no later than September 1, 2010, a fully signed legally binding Agreement and Declaration of Covenants for Extension of Village Sewer Services, entered into between the Village and Defendants, that states that the Village authorizes Defendants to connect the Hillview WWTW into the Village's Publicly Owned Treatment Works and that binds Defendants to pay the Village for the cost of connecting the Hillview WWTW into the Village's Publicly Owned Treatment Works.

e. Defendants are hereby enjoined and ordered to connect their WWTW into the Village's Publicly Owned Treatment Works by no later than 60 days after the Village notifies them in writing that it is available, and to abandon their WWTW by no later than 30 days thereafter.

8. Any document, paper, writing or application that must be submitted to the Director or to the Ohio EPA pursuant to the terms of this Consent Order shall be sent to the following addresses:

Ohio Environmental Protection Agency
Division of Drinking & Ground Waters
Lazarus Government Center
50 W. Town Street, Suite 700
Columbus, Ohio 43215

Ohio Environmental Protection Agency
Northeast District Office
Division of Surface Water
2110 East Aurora Road
Twinsburg, OH 44087

VI. CIVIL PENALTY

9. It is hereby ordered that Defendants shall pay the State of Ohio a civil penalty of thirty-thousand dollars ($30,000.00). Defendant shall make payments of this civil penalty to the State of Ohio according to the following schedule;

a. By no later than December 30, 2010, the amount of four thousand, two hundred and eighty-six dollars ($4286.00);

b. By no later than October 4, 2011, the amount of four thousand, two hundred and eighty-six dollars ($4286.00);

c. By no later than July 9, 2012, the amount of three thousand, five hundred and seventy - two dollars ($3572.00);

d. By no later than April 12, 2013, the amount of three thousand, five hundred and seventy -two dollars ($3572.00);

e. By no later than January 15, 2014, the amount of three thousand, five hundred and seventy –one dollars ($3571.00);

f. By no later than October 20, 2014, , the amount of three thousand, five hundred and seventy –one dollars ($3571.00);

g. By no later than July 24, 2015, , the amount of three thousand, five hundred and seventy –one dollars ($3571.00); and

h. By no later than April 29, 2016, , the amount of three thousand, five hundred and seventy –one dollars ($3571.00).

10. If Defendants fail to make any one of the civil penalty payments on or before the date specified by Paragraph 9 this Consent Order for such payment, the total outstanding amount of the civil penalty ordered to be paid by Defendants shall be immediately due and payable to the State of Ohio. The Defendant shall pay the thirty thousand dollars ($30,000.00) civil penalty, less any amount of civil penalty that has already been paid to the State of Ohio pursuant to Paragraph 9 of this Consent Order, no later than 30 days following the date of the missed payment. In the event of a missed payment, interest on the remaining amount due will accrue as stated in R.C. 1343.03 and R.C. 5703.47 beginning on the day of the missed payment.

11. The civil penalty payments shall be made by delivering a certified check, made payable to the order of "Treasurer, State of Ohio," for the appropriate amount and sent to:

Ohio Attorney General's Office
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio, 43215-3400

Attn: Karen Pierson, or her successor

VII. STIPULATED PENALTIES

12. In the event that the Defendants fail to meet any of the deadlines and requirements of this Consent Order, Defendants shall pay a stipulated penalty for each failure according to the following payment schedule:

a. For each day of each failure to meet each deadline or requirement, up to thirty (30) days - Two Hundred and Fifty Dollars ($250.00) per day for each deadline or requirement not met;

b. For each day of each failure to meet each deadline or requirement, from thirty-one (31) to sixty (60) days - Five Hundred Dollars ($500.00) per day for each deadline or requirement not met;

c. For each day of each failure to meet each deadline or requirement, from sixty-one (61) to one hundred and twenty (120) days - Seven-Hundred and Fifty Dollars ($750.00) per day for each deadline or requirement not met; and

d. For each day of each failure to meet each deadline or requirement, over one hundred and twenty (120) days - One Thousand Dollars ($1000.00) per day for each deadline or requirement not met.

13. Any payment required to be made under Section VII of this Consent Order shall be made without further demand by the State by delivering to Karen Pierson, or her successor, at the address set forth in Paragraph 11 within forty-five (45) days from the date of the failure to meet the requirement of the Consent Order, a certified check for the appropriate amount(s), made payable to the order of "Treasurer, State of Ohio". The Defendants shall also state in writing the specific requirements of the Consent Order that was not complied with, and the date(s) of non-compliance. The payment of stipulated penalties by Defendants and the acceptance of such stipulated penalties by the Plaintiff for specific violations of this Order shall not be construed to limit the Plaintiff's authority to seek judicial enforcement of this Consent Order.

VIII. COMPLIANCE NOT DEPENDENT ON GRANTS OR LOANS

14. Performance of the terms of this Consent Order by Defendants is not conditioned on the receipt of any federal or state grant or loan funds. In addition, Defendants' performance is not excused by the failure to obtain any federal or state grant or loan funds, or by the processing of any applications for the same.

IX. POTENTIAL FORCE MAJEURE

15. If any event occurs which causes or may cause a delay in Defendants' compliance

with any requirement of this Consent Order, Defendants shall notify the Ohio EPA in writing within ten (10) days from when Defendants knew, or by the exercise of due diligence should have known, of the event. The notification to Ohio EPA shall describe in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by Defendants to prevent or minimize the delay, and the timetable by which those measures will be implemented. Defendants shall adopt all reasonable measures to avoid or minimize any such delay.

16. In any action by Plaintiff to enforce any of the provisions of this Consent Order, Defendants may raise that they are entitled to a defense that their conduct was caused by reasons entirely beyond their control such as, by way of example and not limitation, acts of God, strikes, acts of war or civil disturbances. While Plaintiff does not agree that such a defense exists, it is, however, hereby agreed upon by Defendants and Plaintiff that it is premature at this time to raise and adjudicate the existence of such a defense and that the appropriate point at which to adjudicate the existence of such a defense is at the time, if ever, that a court proceeding to enforce this Consent Order is commenced by Plaintiff. At that time, Defendants will bear the burden of proving that any delay was or will be caused by circumstances entirely beyond the control of Defendants. Unanticipated or increased costs associated with the implementation of any action required by this Consent Order, or a change in Defendants' financial circumstances, shall not constitute circumstances entirely beyond the control of Defendants or serve as a basis for an extension of time under this Consent Order. Failure by Defendants to timely comply with the notice requirements of this Section shall render this Section void and of no force and effect as to the particular incident involved and shall constitute a waiver of Defendants' right to request an

extension of their obligations under this Consent Order based on such incident. An extension of one date based on a particular incident does not mean that Defendants qualify for an extension of a subsequent date or dates. Defendants must make an individual showing of proof regarding each incremental step or other requirement for which an extension is sought. Acceptance of this Consent Order without a Force Majeure Clause does not constitute a waiver by Defendants of any rights or defenses it may have under applicable law.

X. EFFECT OF CONSENT ORDER

17. This Consent Order does not constitute authorization or approval for the construction or modification of any physical structure, facility, public water system, distribution system, or WWTW. Authorization or approval for any such construction or modification shall be by approval letter or permit issued by the Director or other such permits as may be required by applicable federal, state, or local laws, rules, or regulations.

XI. RESERVATION OF RIGHTS

18. Plaintiff reserves the right to seek further relief from this or any other Court including, but not limited to, further preliminary and/or permanent injunctive relief and civil penalties.

19. Plaintiff expressly reserves and this Consent Order shall be without prejudice to, any claims, demands, rights or causes of action, judicial or administrative, that Plaintiff may have or which may in the future accrue against Defendants or others, regardless of whether such claim, demand, right or cause of action was asserted in the Complaint.

20. Nothing herein shall limit the authority of Plaintiff to undertake any action against any entity, including Defendants, to eliminate or to control conditions which may present a threat

to the public health, safety, welfare, or environment or to seek cost reimbursement for any such action. This Consent Order in no way waives any defenses which Defendants may have as to such claims, demands, rights or causes of action.

21. Nothing herein shall be construed to relieve Defendants of their obligations to comply with applicable federal, state or local statutes, regulations or ordinances, including, but not limited to, permit requirements.

XII. MODIFICATION

22. No modification shall be made to this Consent Order without the written agreement of the parties and the Court.

XIII. RETENTION OF JURISDICTION

23. The Court will retain jurisdiction of this action for the purpose of administering and enforcing Defendants' compliance with this Consent Order.

XIV. COSTS

24. Defendants are hereby ordered to pay the costs of this action.

XV. SIGNATORIES

25. The undersigned is a representative of Defendants and understands the terms and conditions of this Consent Order and certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Order and to execute and legally bind Defendants to this document.

XVI. ENTRY OF CONSENT ORDER AND FINAL JUDGMENT BY CLERK

26. The Parties agree and acknowledge that final approval by the Plaintiff and Defendant, and entry of this Consent Order is subject to the requirement of 40 Code of Federal Regulations

Section 123.27(d)(2)(iii), which provides for notice of the lodging of this Consent Order, opportunity for public comment, and the consideration of any public comment. The Plaintiff and Defendant reserve the right to withdraw consent to this Consent Order based on comments received during the public comment period. Defendant shall pay the cost of publishing the public notice within 30 days of receipt of a bill or notice from the Director.

27. Upon the signing of this Consent Order by the Court, the Clerk is hereby directed to enter it upon the journal. Within three days of entering the judgment upon the journal, the Clerk is hereby directed to serve notice of the judgment upon all parties, and its date of entry upon the journal in the manner prescribed by Rule 5(B) of the Ohio Rules of Civil Procedure and note the service in the appearance docket, which date shall be the effective date as defined and used herein.

IT IS SO ORDERED:

_____ _____

JUDGE CHARLES E. BROWN, JR. Date

APPROVED:

STATE OF OHIO, ex rel.
RICHARD CORDRAY
OHIO ATTORNEY GENERAL

MARGARET A. MALONE (0021770)
ERICA M. SPITZIG (0085536)
Assistant Attorneys General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3400
Telephone: (614) 466-2766
Telefax: (614) 644-1926
E-Mail: Margaret.Malone@ohioattorneygeneral.gov
Erica.Spitzig@ ohioattorneygeneral.gov

Counsel for Plaintiff

WILLIAM E. WALKER, JR. (0038703)
P.O. Box 192
Massillon, OH 44646-0192
Telephone: 330-327-1437
Telefax: 330-837-3626
E-Mail: walker@wmwalkerlaw.com

Counsel for Defendants

WILLIAM WALKER, SR.
8021 Manchester Road SW
Navarre, Ohio 44662-9445

WILLIAM WALKER, SR.
d.b.a. HILLVIEW MOBILE HOME PARK
d.b.a. HILLVIEW MOBILE COURT
8021 Manchester Road SW
Navarre, Ohio 44662-9445

NORMA KATHRYN WALKER
8021 Manchester Ave. SW
Navarre, OH 44662-9445

NORMA KATHRYN WALKER
d.b.a. HILLVIEW MOBILE HOME PARK
d.b.a. HILLVIEW MOBILE COURT
8021 Manchester Ave. SW
Navarre, OH 44662-9445

Table - Final Outfall - 001 - Final

Effluent Characteristic	Discharge Limitations							Monitoring Requirements		
	Concentration Specified Units				Loading kg/day					
Parameter	Maximum	Minimum	Weekly	Monthly	Daily	Weekly	Monthly	Measuring Frequency	Sampling Type	Monitoring Months
00010 - Water Temperature - C	-	-	-	-	-	-	-	1/Week	Grab	All
00056 - Flow Rate - GPD	-	-	-	-	-	-	-	1/Month	Total Estimate	All
00083 - Color, Severity - Units	-	-	-	-	-	-	-	1/Week	Estimate	All
00300 - Dissolved Oxygen - mg/l	-	6.0	-	-	-	-	-	1/Quarter	Grab	Quarterly
00400 - pH - S.U.	9.0	6.5	-	-	-	-	-	1/Quarter	Grab	Quarterly
00530 - Total Suspended Solids - mg/l	-	-	18	12	-	~~0.55~~ 0.41	~~0.36~~ 0.27	1/Quarter	Grab	Quarterly
00610 - Nitrogen, Ammonia (NH3) - mg/l	-	-	4.5	3.0	-	~~0.14~~ 0.11	~~0.091~~ 0.068	1/Quarter	Grab	Winter-Qtrly
00610 - Nitrogen, Ammonia (NH3) - mg/l	-	-	1.5	1.0	-	~~0.045~~ 0.034	~~0.03~~ 0.023	1/Quarter	Grab	Summer-Qtrly
01330 - Odor, Severity - Units	-	-	-	-	-	-	-	1/Week	Estimate	All
01350 - Turbidity, Severity - Units	-	-	-	-	-	-	-	1/Week	Estimate	All
31616 - Fecal Coliform - #/100 ml	-	-	~~2000~~	~~1000~~	-	-	-	1/Quarter	Grab	Summer-Qtrly
~~50060 - Chlorine, Total Residual - mg/l~~	~~0.019~~							~~1/Quarter~~	~~Grab~~	~~Summer-Qtrly~~
80082 - CBOD 5 day - mg/l	-	-	15	10	-	~~0.45~~ 0.34	~~0.30~~ 0.23	1/Quarter	Grab	Quarterly

Notes for station 3PV00126001:

- Total residual chlorine - See Part II, Item G.
- Color, Odor, Turbidity - See Part II, Item D.

Part II. Other Requirements

C. All parameters, except flow, need not be monitored on days when the plant is not normally staffed (Saturdays, Sundays, and Holidays). On those days, report "AN" on the monthly report form.

D. If Severity Units are required for Turbidity, Odor, or Color, use the following table to determine the value between 0 and 4 that is reported.

REPORTED VALUE*	SEVERITY DESCRIPTION	TURBIDITY	ODOR	COLOR
0	None	Clear	None	Colorless
1	Mild			
2	Moderate	Light Solids	Musty	Grey
3	Serious			
4	Extreme	Heavy Solids	Septic	Black

* Interpolate between the descriptive phrases.

E. Grab samples shall be collected at such times and locations, and in such fashion, as to be representative of the facility's performance.

F. ~~Effluent~~ disinfection is not directly required, however, the entity is required ~~to meet all~~ applicable discharge ~~permit~~ limits. If disinfection facilities ~~exist, they~~ shall be maintained in an operable condition. Any ~~design of wastewater~~ treatment facilities should provide for the capability ~~to install~~ disinfection if required ~~at a future~~ time. Disinfection may be ~~required~~ if future bacteriological studies or emergency conditions ~~indicate~~ the need.

Q. The parameters below have had effluent limitations established that are below the Ohio EPA Quantification Level (OEPA QL) for the approved analytical procedure promulgated at 40 CFR 136. OEPA QLs may be expressed as Practical Quantification Levels (PQL) or Minimum Levels (ML).

Compliance with an effluent limit that is below the OEPA QL is determined in accordance with ORC Section 6111.13 and OAC Rule 3745-33-07(C). For maximum effluent limits, any value reported below the OEPA QL shall be considered in compliance with the effluent limit. For average effluent limits, compliance shall be determined by taking the arithmetic mean of values reported for a specified averaging period, using zero (0) for any value reported at a concentration less than the OEPA QL, and comparing that mean to the appropriate average effluent limit. An arithmetic mean that is less than or equal to the average effluent limit shall be considered in compliance with that limit.

The permittee must utilize the lowest available detection method currently approved under 40 CFR Part 136 for monitoring these parameters.

REPORTING:

All analytical results, even those below the OEPA QL (listed below), shall be reported. Analytical results are to be reported as follows:

1. Results above the QL: Report the analytical result for the parameter of concern.

2. Results above the MDL, but below the QL: Report the analytical result, even though it is below the QL.

3. Results below the MDL: Analytical results below the method detection limit shall be reported as "below detection" using the reporting code "AA".

The following table of quantification levels will be used to determine compliance with NPDES permit limits:

Parameter	PQL	ML
Chlorine, Total Residual	0.050 mg/l	--

This permit may be modified, or, alternatively, revoked and reissued, to include more stringent effluent limits or conditions if information generated as a result of the conditions of this permit indicate the presence of these pollutants in the discharge at levels above the water quality based effluent limit (WQBEL).

H. POTWs that accept hazardous wastes by truck, rail, or dedicated pipeline are considered to be hazardous waste treatment, storage, and disposal facilities (TSDFs) and are subject to regulation under the Resource Conservation and Recovery Act (RCRA). Under the "permit-by-rule" regulation found at 40 CFR 270.60(c), a POTW must:

1) comply with all conditions of its NPDES permit,
2) obtain a RCRA ID number and comply with certain manifest and reporting requirements under RCRA,
3) satisfy corrective action requirements, and
4) meet all federal, state, and local pretreatment requirements.

I. Final permit limitations based on preliminary or approved waste load allocations are subject to change based on modifications to or finalization of the allocation or report or changes to Water Quality Standards. Monitoring requirements and/or special conditions of this permit are subject to change based on regulatory or policy changes.

J. All disposal, use, storage, or treatment of sewage sludge by the Permittee shall comply with Chapter 6111. of the Ohio Revised Code, Chapter 3745-40 of the Ohio Administrative Code, any further requirements specified in this NPDES permit, and any other actions of the Director that pertain to the disposal, use, storage, or treatment of sewage sludge by the Permittee.

PART III - GENERAL CONDITIONS

1. DEFINITIONS

"Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the day.

"Average weekly" discharge limitation means the highest allowable average of "daily discharges" over a calendar week, calculated as the sum of all "daily discharges" measured during a calendar week divided by the number of "daily discharges" measured during that week. Each of the following 7-day periods is defined as a calendar week: Week 1 is Days 1 - 7 of the month; Week 2 is Days 8 - 14; Week 3 is Days 15 - 21; and Week 4 is Days 22 - 28. If the "daily discharge" on days 29, 30 or 31 exceeds the "average weekly" discharge limitation, Ohio EPA may elect to evaluate the last 7 days of the month as Week 4 instead of Days 22 - 28. Compliance with fecal coliform bacteria or E coli bacteria limitations shall be determined using the geometric mean.

"Average monthly" discharge limitation means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month. Compliance with fecal coliform bacteria or E coli bacteria limitations shall be determined using the geometric mean.

"85 percent removal" means the arithmetic mean of the values for effluent samples collected in a period of 30 consecutive days shall not exceed 15 percent of the arithmetic mean of the values for influent samples collected at approximately the same times during the same period.

"Absolute Limitations" Compliance with limitations having descriptions of "shall not be less than," "nor greater than," "shall not exceed," "minimum," or "maximum" shall be determined from any single value for effluent samples and/or measurements collected.

"Net concentration" shall mean the difference between the concentration of a given substance in a sample taken of the discharge and the concentration of the same substances in a sample taken at the intake which supplies water to the given process. For the purpose of this definition, samples that are taken to determine the net concentration shall always be 24-hour composite samples made up of at least six increments taken at regular intervals throughout the plant day.

"Net Load" shall mean the difference between the load of a given substance as calculated from a sample taken of the discharge and the load of the same substance in a sample taken at the intake which supplies water to given process. For purposes of this definition, samples that are taken to determine the net loading shall always be 24-hour composite samples made up of at least six increments taken at regular intervals throughout the plant day.

"MGD" means million gallons per day.

"mg/l" means milligrams per liter.

"ug/l" means micrograms per liter.

"ng/l" means nanograms per liter.

"S.U." means standard pH unit.

"kg/day" means kilograms per day.

"Reporting Code" is a five digit number used by the Ohio EPA in processing reported data. The reporting code does not imply the type of analysis used nor the sampling techniques employed.

"Quarterly (1/Quarter) sampling frequency" means the sampling shall be done in the months of March, June, August, and December, unless specifically identified otherwise in the Effluent Limitations and Monitoring Requirements table.

"Yearly (1/Year) sampling frequency" means the sampling shall be done in the month of September, unless specifically identified otherwise in the effluent limitations and monitoring requirements table.

"Semi-annual (2/Year) sampling frequency" means the sampling shall be done during the months of June and December, unless specifically identified otherwise.

"Winter" shall be considered to be the period from November 1 through April 30.

"Bypass" means the intentional diversion of waste streams from any portion of the treatment facility.

"Summer" shall be considered to be the period from May 1 through October 31.

"Severe property damage" means substantial physical damage to property, damage to the treatment facilities which would cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

"Sewage sludge" means a solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works as defined in section 6111.01 of the Revised Code. "Sewage sludge" includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes. "Sewage sludge" does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit and screenings generated during preliminary treatment of domestic sewage in a treatment works, animal manure, residue generated during treatment of animal manure, or domestic septage.

"Sewage sludge weight" means the weight of sewage sludge, in dry U.S. tons, including admixtures such as liming materials or bulking agents. Monitoring frequencies for sewage sludge parameters are based on the reported sludge weight generated in a calendar year (use the most recent calendar year data when the NPDES permit is up for renewal).

"Sewage sludge fee weight" means the weight of sewage sludge, in dry U.S. tons, excluding admixtures such as liming materials or bulking agents. Annual sewage sludge fees, as per section 3745.11(Y) of the Ohio Revised Code, are based on the reported sludge fee weight for the most recent calendar year.

2. GENERAL EFFLUENT LIMITATIONS

The effluent shall, at all times, be free of substances:

A. In amounts that will settle to form putrescent, or otherwise objectionable, sludge deposits; or that will adversely affect aquatic life or water fowl;

B. Of an oily, greasy, or surface-active nature, and of other floating debris, in amounts that will form noticeable accumulations of scum, foam or sheen;

C. In amounts that will alter the natural color or odor of the receiving water to such degree as to create a nuisance;

D. In amounts that either singly or in combination with other substances are toxic to human, animal, or aquatic life;

E. In amounts that are conducive to the growth of aquatic weeds or algae to the extent that such growths become inimical to more desirable forms of aquatic life, or create conditions that are unsightly, or constitute a nuisance in any other fashion;

F. In amounts that will impair designated instream or downstream water uses.

3. FACILITY OPERATION AND QUALITY CONTROL

All wastewater treatment works shall be operated in a manner consistent with the following:

A. At all times, the permittee shall maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the permittee necessary to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with conditions of the permit.

B. The permittee shall effectively monitor the operation and efficiency of treatment and control facilities and the quantity and quality of the treated discharge.

C. Maintenance of wastewater treatment works that results in degradation of effluent quality shall be scheduled during non-critical water quality periods and shall be carried out in a manner approved by Ohio EPA as specified in the Paragraph in the PART III entitled, "UNAUTHORIZED DISCHARGES".

4. REPORTING

A. Monitoring data required by this permit may be submitted in hardcopy format on the Ohio EPA 4500 report form pre-printed by Ohio EPA or an approved facsimile. Ohio EPA 4500 report forms for each individual sampling station are to be received no later than the 15th day of the month following the month-of-interest. The original report form must be signed and mailed to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Surface Water
Enforcement Section ES/MOR
P.O. Box 1049
Columbus, Ohio 43216-1049

Monitoring data may also be submitted electronically using Ohio EPA developed SWIMware software. Data must be transmitted to Ohio EPA via electronic mail or the bulletin board system by the 20th day of the month following the month-of-interest. A Surface Water Information Management System (SWIMS) Memorandum of Agreement (MOA) must be signed by the responsible official and submitted to Ohio EPA to receive an authorized Personal Identification Number (PIN) prior to sending data electronically. A hardcopy of the Ohio EPA 4500 form must be generated via SWIMware, signed and maintained onsite for records retention purposes.

B. If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified below, the results of such monitoring shall be included in the calculation and reporting of the values required in the reports specified above.

C. Analyses of pollutants not required by this permit, except as noted in the preceding paragraph, shall not be reported on Ohio EPA report form (4500) but records shall be retained as specified in the paragraph entitled "RECORDS RETENTION".

5. SAMPLING AND ANALYTICAL METHOD

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored flow. Test procedures for the analysis of pollutants shall conform to regulation 40 CFR 136, "Test Procedures For The Analysis of Pollutants" unless other test procedures have been specified in this permit. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals to insure accuracy of measurements.

6. RECORDING OF RESULTS

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

A. The exact place and date of sampling; (time of sampling not required on EPA 4500)

B. The person(s) who performed the sampling or measurements;

C. The date the analyses were performed on those samples;

D. The person(s) who performed the analyses;

E. The analytical techniques or methods used; and

F. The results of all analyses and measurements.

7. RECORDS RETENTION

The permittee shall retain all of the following records for the wastewater treatment works for a minimum of three years except those records that pertain to sewage sludge disposal, use, storage, or treatment, which shall be kept for a minimum of five years, including:

A. All sampling and analytical records (including internal sampling data not reported);

B. All original recordings for any continuous monitoring instrumentation;

C. All instrumentation, calibration and maintenance records;

D. All plant operation and maintenance records;

E. All reports required by this permit; and

F. Records of all data used to complete the application for this permit for a period of at least three years, or five years for sewage sludge, from the date of the sample, measurement, report, or application.

These periods will be extended during the course of any unresolved litigation, or when requested by the Regional Administrator or the Ohio EPA. The three year period, or five year period for sewage sludge for retention of records shall start from the date of sample, measurement, report, or application

8. AVAILABILITY OF REPORTS

Except for data determined by the Ohio EPA to be entitled to confidential status, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the appropriate district offices of the Ohio EPA. Both the Clean Water Act and Section 6111.05 Ohio Revised Code state that effluent data and receiving water quality data shall not be considered confidential

9. DUTY TO PROVIDE INFORMATION

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking, and reissuing, or terminating the permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

10. RIGHT OF ENTRY

The permittee shall allow the Director or an authorized representative upon presentation of credentials and other documents as may be required by law to:

A. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit.

B. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit.

C. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit.

D. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

11. UNAUTHORIZED DISCHARGES

A. Bypassing or diverting of wastewater from the treatment works is prohibited unless:

1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of downtime. This condition is not satisfied if adequate back up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

3. The permittee submitted notices as required under paragraph D. of this section.

B. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

C. The Director may approve an unanticipated bypass after considering its adverse effects, if the Director determines that it has met the three conditions listed in paragraph 11.A. of this section.

D. The permittee shall submit notice of an unanticipated bypass as required in section 12. A.

E. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded if that bypass is for essential maintenance to assure efficient operation.

12. NONCOMPLIANCE NOTIFICATION

A. The permittee shall by telephone report any of the following within twenty-four (24) hours of discovery at (toll free) 1-800-282-9378:

1. Any noncompliance which may endanger health or the environment;

2. Any unanticipated bypass which exceeds any effluent limitation in the permit; or

3. Any upset which exceeds any effluent limitation in the permit.

4. Any violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit.

B. For the telephone reports required by Part 12.A., the following information must be included:

1. The times at which the discharge occurred, and was discovered;

2. The approximate amount and the characteristics of the discharge;

3. The stream(s) affected by the discharge;

4. The circumstances which created the discharge;

5. The names and telephone numbers of the persons who have knowledge of these circumstances.

6. What remedial steps are being taken; and

7. The names and telephone numbers of the persons responsible for such remedial steps.

C. These telephone reports shall be confirmed in writing within five days of the discovery of the discharge and/or noncompliance and submitted to the appropriate Ohio EPA district office. The report shall include the following:

1. The limitation(s) which has been exceeded;

2. The extent of the exceedance(s);

3. The cause of the exceedance(s);

4. The period of the exceedance(s) including exact dates and times;

5. If uncorrected, the anticipated time the exceedance(s) is expected to continue; and

6. Steps being taken to reduce, eliminate, and/or prevent occurrence of the exceedance(s).

13. RESERVED

14. DUTY TO MITIGATE

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

15. AUTHORIZED DISCHARGES

All discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant identified in this permit more frequently than, or at a level in excess of, that authorized by this permit shall constitute a violation of the terms and conditions of this permit. Such violations may result in the imposition of civil and/or criminal penalties as provided for in Section 309 of the Act and Ohio Revised Code Sections 6111.09 and 6111.99.

16. DISCHARGE CHANGES

The following changes must be reported to the appropriate Ohio EPA district office as soon as practicable:

A. For all treatment works, any significant change in character of the discharge which the permittee knows or has reason to believe has occurred or will occur which would constitute cause for modification or revocation and reissuance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. Notification of permit changes or anticipated noncompliance does not stay any permit condition.

B. For publicly owned treatment works:

1. Any proposed plant modification, addition, and/or expansion that will change the capacity or efficiency of the plant;

2. The addition of any new significant industrial discharge; and

3. Changes in the quantity or quality of the wastes from existing tributary industrial discharges which will result in significant new or increased discharges of pollutants.

C. For non-publicly owned treatment works, any proposed facility expansions, production increases, or process modifications, which will result in new, different, or increased discharges of pollutants.

Following this notice, modifications to the permit may be made to reflect any necessary changes in permit conditions, including any necessary effluent limitations for any pollutants not identified and limited herein. A determination will also be made as to whether a National Environmental Policy Act (NEPA) review will be required. Sections 6111.44 and 6111.45, Ohio Revised Code, require that plans for treatment works or improvements to such works be approved by the Director of the Ohio EPA prior to initiation of construction.

D. In addition to the reporting requirements under 40 CFR 122.41(l) and per 40 CFR 122.42(a), all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Director as soon as they know or have reason to believe:

1. That any activity has occurred or will occur which would result in the discharge on a routine or frequent basis of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the "notification levels" specified in 40 CFR Sections 122.42(a)(1)(i) through 122.42(a)(1)(iv).

2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the "notification levels" specified in 122.42(a)(2)(i) through 122.42(a)(2)(iv).

17. TOXIC POLLUTANTS

The permittee shall comply with effluent standards or prohibitions established under Section 307 (a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement. Following establishment of such standards or prohibitions, the Director shall modify this permit and so notify the permittee.

18. PERMIT MODIFICATION OR REVOCATION

A. After notice and opportunity for a hearing, this permit may be modified or revoked, by the Ohio EPA, in whole or in part during its term for cause including, but not limited to, the following:

1. Violation of any terms or conditions of this permit;

2. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or

3. Change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

B. Pursuant to rule 3745-33-04, Ohio Administrative Code, the permittee may at any time apply to the Ohio EPA for modification of any part of this permit. The filing of a request by the permittee for a permit modification or revocation does not stay any permit condition. The application for modification should be received by the appropriate Ohio EPA district office at least ninety days before the date on which it is desired that the modification become effective. The application shall be made only on forms approved by the Ohio EPA.

19. TRANSFER OF OWNERSHIP OR CONTROL

This permit may be transferred or assigned and a new owner or successor can be authorized to discharge from this facility, provided the following requirements are met:

A. The permittee shall notify the succeeding owner or successor of the existence of this permit by a letter, a copy of which shall be forwarded to the appropriate Ohio EPA district office. The copy of that letter will serve as the permittee's notice to the Director of the proposed transfer. The copy of that letter shall be received by the appropriate Ohio EPA district office sixty (60) days prior to the proposed date of transfer;

B. A written agreement containing a specific date for transfer of permit responsibility and coverage between the current and new permittee (including acknowledgement that the existing permittee is liable for violations up to that date, and that the new permittee is liable for violations from that date on) shall be submitted to the appropriate Ohio EPA district office within sixty days after receipt by the district office of the copy of the letter from the permittee to the succeeding owner;

At anytime during the sixty (60) day period between notification of the proposed transfer and the effective date of the transfer, the Director may prevent the transfer if he concludes that such transfer will jeopardize compliance with the terms and conditions of the permit. If the Director does not prevent transfer, he will modify the permit to reflect the new owner.

20. OIL AND HAZARDOUS SUBSTANCE LIABILITY

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act.

21. SOLIDS DISPOSAL

Collected grit and screenings, and other solids other than sewage sludge, shall be disposed of in such a manner as to prevent entry of those wastes into waters of the state, and in accordance with all applicable laws and rules.

22. CONSTRUCTION AFFECTING NAVIGABLE WATERS

This permit does not authorize or approve the construction of any onshore or offshore physical structures or facilities or the undertaking of any work in any navigable waters.

23. CIVIL AND CRIMINAL LIABILITY

Except as exempted in the permit conditions on UNAUTHORIZED DISCHARGES or UPSETS, nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

24. STATE LAWS AND REGULATIONS

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Clean Water Act.

25. PROPERTY RIGHTS

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

26. UPSET

The provisions of 40 CFR Section 122.41(n), relating to "Upset," are specifically incorporated herein by reference in their entirety. For definition of "upset," see Part III, Paragraph 1. DEFINITIONS.

27. SEVERABILITY

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

28. SIGNATORY REQUIREMENTS

All applications submitted to the Director shall be signed and certified in accordance with the requirements of 40 CFR 122.22.

All reports submitted to the Director shall be signed and certified in accordance with the requirements of 40 CFR Section 122.22

29. OTHER INFORMATION

A. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

B. ORC 6111.99 provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $25,000 per violation.

C. ORC 6111.99 states that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $25,000 per violation.

D. ORC 6111.99 provides that any person who violates Sections 6111.04, 6111.042, 6111.05, or division (A) of Section 6111.07 of the Revised Code shall be fined not more than $25,000 or imprisoned not more than one year, or both.

30. NEED TO HALT OR REDUCE ACTIVITY

40 CFR 122.41(c) states that it shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with conditions of this permit.

31. APPLICABLE FEDERAL RULES

All references to 40 CFR in this permit mean the version of 40 CFR which is effective as of the effective date of this permit.

32. AVAILABILITY OF PUBLIC SEWERS

Not withstanding the issuance or non-issuance of an NPDES permit to a semi-public disposal system, whenever the sewage system of a publicly owned treatment works becomes available and accessible, the permittee operating any semi-public disposal system shall abandon the semi-public disposal system and connect it into the publicly owned treatment works.