10/30/2017

Mayor and Council
Village of Cadiz
128 Court Street
Cadiz, OH 43907

RE: Director’s Final Findings & Orders
NPDES
Harrison County
0PB00009

Ladies and Gentlemen:

Transmitted herewith is one copy of the Director’s Final Findings & Orders in the referenced matter. An appeal paragraph is set forth in the Orders.

Sincerely,

Kevin J. Fowler, Supervisor
Permit Processing Unit
Division of Surface Water

KJF/dks

Enclosure

CERTIFIED MAIL

cc: L. Reeder, DSW
   R. Demuth, DSW
   B. Palmer, DSW
   Compliance Section
   M. McCarron, PIC
   H. Griesmer, PIC
   J. Lee, PIC
   J. Witte, SEDO/DSW
   B. Fischbein, Legal
   Journal Room
   File
BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Mayor and Council
Village of Cadiz
128 Court Street
Cadiz, OH 43907

Director’s Final Findings and Orders
Standard Connection Ban

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director’s Final Findings and Orders (“Orders”) and standard connection ban are issued to and imposed upon, Mayor and Council of the Village of Cadiz (“Respondent”) and the Board of Trustees of Public Affairs of the Village of Cadiz (“Board”), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (“Ohio EPA”) under Ohio Revised Code (“ORC”) § 6111.03(H) and 3745.01 and Ohio Administrative Code (“OAC”) Chapter 3745-11.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and Board, and their respective successors in interest liable under Ohio law. No change in the composition of Respondent or Board, or the ownership or operation of the disposal system defined below shall in any way alter Respondent’s and Board’s obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 6111 and the rules adopted thereunder. Terms used in association with the standard connection ban shall have the same meaning as defined in OAC Chapter 3745-11.

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

[Signature] Date: 10/30/17
IV. FINDINGS

Background

The Director of Ohio EPA has determined the following findings:

1. The Village of Cadiz ("Village"), an incorporated municipality in Harrison County, is served by a wastewater treatment plant ("WWTP" or "treatment works"), upgraded in 1965 and 1988, located along United States Route 250, South.

2. The collection system ("collection system" or "sewerage system") is comprised of aged, gravity flow clay pipes, of which there are three trunk lines which convey wastewater to the WWTP, designated as North Trunk Line Sewerage System, Central Trunk Line Sewerage System and South Trunk Line Sewerage System.

3. The WWTP and associated collection system comprise the "disposal system."

4. The WWTP is designed to consist of an Imhoff tank, two trickling filters, secondary settling by two circular clarifiers, chlorine contact tank, dechlorination with sulfur dioxide, flow metering, sludge drying beds, and a 61,000 gallon sludge holding tank.

5. The WWTP has an average daily design hydraulic flow of 0.60 MGD.

5a. In 2009, 2010, 2011, and the first 60 days of 2012, the WWTP exceeded its average daily design hydraulic flow of 0.60 MGD as follow:

<table>
<thead>
<tr>
<th>Year</th>
<th>Time Period</th>
<th>Days Exceeding 0.60 MGD</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>01/01/2009 to 11/30/2009</td>
<td>30</td>
</tr>
<tr>
<td>2010</td>
<td>01/01/2010 to 11/30/2010</td>
<td>117</td>
</tr>
<tr>
<td>2011</td>
<td>01/01/2011 to 12/31/2011</td>
<td>222</td>
</tr>
<tr>
<td>2012</td>
<td>First 60 days of the year</td>
<td>47</td>
</tr>
</tbody>
</table>

6. The WWTP, pursuant to Ohio National Pollutant Discharge Elimination System permit number 0PB00009*DD, ("NPDES permit"), discharges to Sally Buffalo Creek, a tributary to the Middle Fork of Short Creek, with Sally Buffalo Creek and the Middle Fork of Short Creek constituting waters of the state.


WWTP ~ Statutory Prohibitions

8. ORC § 6111.04 prohibits any person from causing pollution or causing any sewage, industrial waste or other waste to be placed in any location where they
cause pollution to waters of the state, except if such discharges occur in accordance with an NPDES permit issued by the Director.

9. ORC § 6111.04(C) prohibits any person to whom a permit has been issued from placing or discharging, or causing to be placed or discharged, in any waters of the state any sewage, sludge, sludge materials, industrial waste, or other wastes in excess of the permissive discharges specified under an existing permit without first receiving a permit from the Director to do so.

10. ORC § 6111.07(A) prohibits any person from violating, or failing to perform, any duty imposed by ORC §§ 6111.01 to 6111.08, or violating any order, rule, or term or condition of a permit issued by the Director. Each day of violation is a separate offense.

11. ORC § 6111.09(A) provides that in civil actions, any person who violates ORC § 6111.07 shall pay a civil penalty of not more than ten thousand dollars per day of violation.

Violations

12. In a letter dated February 25, 2008, Ohio EPA informed Respondent that:
   a. The collection system is aging, in poor condition and exhibits high infiltration and inflow from clean water sources during heavy rain events, causing overflows and adversely affecting the ability of the WWTP to comply with its NPDES permit;
   b. The trunk line sewerage systems, especially the north trunk line sewerage system, overflow at manholes during heavy rain events and breaks occur, particularly in the north trunk line sewerage system, during heavy rain surges. Maintenance problems have occurred, with wastewater overflows discharging to the ground and area streams; and
   c. The Imhoff tank, trickling filters and flow distribution box are aged and in need of replacement or upgrade.

13. On February 27, 2008, Ohio EPA conducted a Compliance Evaluation Inspection of the WWTP, the purpose of which was to determine the status of compliance with the NPDES permit. It was observed that the backup clarifier was not in operation and the trickling filter arms lacked splash plates at some ports. Also, the trickling filter reportedly freezes during extreme cold periods. While the effluent appeared satisfactory at the final outlet (weir), there were patches of sewage bacteria noted in the concrete outlet channel upstream of the flow meter and on the base of the stream along the plant side of the receiving stream, downstream of the outfall.
14. During the inspection it was again brought to Respondent's attention that the WWTP receives excessive amounts of infiltration/inflow of clean water sources during heavy rain events, which causes the treatment system to be overwhelmed, which in turn causes violations of the NPDES permit effluent limits. Also noted was that the trunk lines sewerage systems, primarily the North Trunk Line Sewerage System, but also the South Trunk Line Sewerage System, receive excessive water during heavy rain events which result in overflows at manholes and breaks in the trunk lines sewerage systems, with wastewater being discharged to the ground and area streams. Numerous overflows have been reported from the collection system during periods of high flows.

15. The inspection was memorialized in an April 10, 2008 letter which stated that infiltration/inflow reduction and renovation of portions of the collection system must be undertaken soon, and that the WWTP must be upgraded so that the Imhoff tank, distribution box and trickling filters are refurbished, or replaced. Other units may also need to be upgraded. Also stated was that the WWTP was often out of compliance with the NPDES permit after heavy rain events.

16. The trickling filter dosing tank was repaired during summer 2008.

17. The April 10, 2008 letter required an evaluation of the disposal system and a brief report with preliminary options for upgrades (with cost estimates), to be submitted by June 1, 2008. Also to be included in the report were any necessary sludge management improvements, with estimated costs.

18. Respondent has not submitted the above mentioned evaluation and cost estimates.

19. On October 8, 2010, Ohio EPA was notified that the North Trunk Line Sewerage System was overflowing from a manhole, the cause of which was an obstruction in the line.

20. Respondent cleared the obstruction and was able to restore proper operation of the North Trunk Line Sewerage System by the evening of October 8, 2010.

21. Several times since the October 8, 2010 incident described above, the latest being March 27 and 28, 2012, Respondent informed Ohio EPA that the sewerage system was overflowing from a manhole, the cause of which was an obstruction in the line.¹

¹Regarding the March overflows, Respondent was able to remove the obstruction and end the episode on the same day as the overflow.
22. During the last quarter of 2011, the WWTP exceeded the following effluent limits:

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Limit Type</th>
<th>Limit</th>
<th>Reported Value</th>
<th>Violation Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nitrogen, Ammonia (NH3)</td>
<td>30D Qty</td>
<td>9.1</td>
<td>$11.4410</td>
<td>9/1/2011</td>
</tr>
<tr>
<td>Nitrogen, Ammonia (NH3)</td>
<td>30D Conc</td>
<td>4</td>
<td>$4.605</td>
<td>9/1/2011</td>
</tr>
<tr>
<td>Total Suspended Solids</td>
<td>30D Qty</td>
<td>27</td>
<td>$27.5718</td>
<td>9/1/2011</td>
</tr>
<tr>
<td>Nitrogen, Ammonia (NH3)</td>
<td>7D Qty</td>
<td>14</td>
<td>$14.9344</td>
<td>10/22/2011</td>
</tr>
<tr>
<td>Nitrogen, Ammonia (NH3)</td>
<td>7D Conc</td>
<td>6</td>
<td>$7.565</td>
<td>10/8/2011</td>
</tr>
<tr>
<td>CBOD 5 day</td>
<td>7D Qty</td>
<td>34</td>
<td>$104.129</td>
<td>10/8/2011</td>
</tr>
<tr>
<td>CBOD 5 day</td>
<td>7D Conc</td>
<td>15</td>
<td>$48.5</td>
<td>10/8/2011</td>
</tr>
<tr>
<td>Nitrogen, Ammonia (NH3)</td>
<td>7D Qty</td>
<td>14</td>
<td>$16.6355</td>
<td>10/8/2011</td>
</tr>
<tr>
<td>Nitrogen, Ammonia (NH3)</td>
<td>30D Conc</td>
<td>4</td>
<td>$5.5325</td>
<td>10/1/2011</td>
</tr>
<tr>
<td>Total Suspended Solids</td>
<td>7D Qty</td>
<td>41</td>
<td>$82.4891</td>
<td>10/1/2011</td>
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<tr>
<td>Total Suspended Solids</td>
<td>30D Qty</td>
<td>27</td>
<td>$37.2049</td>
<td>10/1/2011</td>
</tr>
<tr>
<td>Total Suspended Solids</td>
<td>7D Conc</td>
<td>18</td>
<td>$25.5</td>
<td>10/1/2011</td>
</tr>
<tr>
<td>Total Suspended Solids</td>
<td>30D Conc</td>
<td>12</td>
<td>$13.125</td>
<td>10/1/2011</td>
</tr>
<tr>
<td>CBOD 5 day</td>
<td>7D Qty</td>
<td>34</td>
<td>$49.6353</td>
<td>10/1/2011</td>
</tr>
<tr>
<td>CBOD 5 day</td>
<td>30D Qty</td>
<td>23</td>
<td>$44.4219</td>
<td>10/1/2011</td>
</tr>
<tr>
<td>CBOD 5 day</td>
<td>7D Conc</td>
<td>15</td>
<td>$15.5</td>
<td>10/1/2011</td>
</tr>
<tr>
<td>CBOD 5 day</td>
<td>30D Conc</td>
<td>10</td>
<td>$18.25</td>
<td>10/1/2011</td>
</tr>
<tr>
<td>Nitrogen, Ammonia (NH3)</td>
<td>30D Qty</td>
<td>9.1</td>
<td>$14.3184</td>
<td>10/1/2011</td>
</tr>
<tr>
<td>Total Suspended Solids</td>
<td>7D Qty</td>
<td>41</td>
<td>$71.7482</td>
<td>11/22/2011</td>
</tr>
<tr>
<td>Total Suspended Solids</td>
<td>7D Conc</td>
<td>18</td>
<td>$19.5</td>
<td>11/22/2011</td>
</tr>
<tr>
<td>Total Suspended Solids</td>
<td>30D Qty</td>
<td>27</td>
<td>$32.9500</td>
<td>11/1/2011</td>
</tr>
<tr>
<td>CBOD 5 day</td>
<td>7D Qty</td>
<td>34</td>
<td>$34.0468</td>
<td>12/15/2011</td>
</tr>
</tbody>
</table>

23. In January and February, 2012, the WWTP exceeded the following effluent limits:

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Limit Type</th>
<th>Limit</th>
<th>Reported Value</th>
<th>Violation Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>CBOD 5 day</td>
<td>7D Qty</td>
<td>34</td>
<td>$48.6192</td>
<td>1/15/2012</td>
</tr>
<tr>
<td>Total Suspended Solids</td>
<td>7D Qty</td>
<td>41</td>
<td>$41.1826</td>
<td>1/15/2012</td>
</tr>
<tr>
<td>CBOD 5 day</td>
<td>7D Qty</td>
<td>34</td>
<td>$43.2175</td>
<td>1/8/2012</td>
</tr>
<tr>
<td>CBOD 5 day</td>
<td>7D Conc</td>
<td>15</td>
<td>$18.5</td>
<td>1/8/2012</td>
</tr>
<tr>
<td>CBOD 5 day</td>
<td>30D Qty</td>
<td>23</td>
<td>$37.5133</td>
<td>1/1/2012</td>
</tr>
<tr>
<td>CBOD 5 day</td>
<td>30D Conc</td>
<td>10</td>
<td>$12.625</td>
<td>1/1/2012</td>
</tr>
<tr>
<td>Total Suspended Solids</td>
<td>30D Qty</td>
<td>27</td>
<td>$28.0831</td>
<td>1/1/2012</td>
</tr>
<tr>
<td>CBOD 5 day</td>
<td>7D Conc</td>
<td>15</td>
<td>$22.5</td>
<td>2/2/2012</td>
</tr>
<tr>
<td>Total Suspended Solids</td>
<td>7D Conc</td>
<td>18</td>
<td>$21.0</td>
<td>2/2/2012</td>
</tr>
<tr>
<td>CBOD 5 day</td>
<td>7D Qty</td>
<td>34</td>
<td>$67.3527</td>
<td>2/15/2012</td>
</tr>
<tr>
<td>CBOD 5 day</td>
<td>7D Conc</td>
<td>15</td>
<td>$27.0</td>
<td>2/15/2012</td>
</tr>
<tr>
<td>Total Suspended Solids</td>
<td>7D Qty</td>
<td>41</td>
<td>$79.2005</td>
<td>2/15/2012</td>
</tr>
<tr>
<td>Total Suspended Solids</td>
<td>7D Conc</td>
<td>18</td>
<td>$32.0</td>
<td>2/15/2012</td>
</tr>
<tr>
<td>CBOD 5 day</td>
<td>7D Qty</td>
<td>34</td>
<td>$36.9557</td>
<td>2/8/2012</td>
</tr>
<tr>
<td>CBOD 5 day</td>
<td>7D Conc</td>
<td>15</td>
<td>$19.5</td>
<td>2/8/2012</td>
</tr>
<tr>
<td>CBOD 5 day</td>
<td>30D Qty</td>
<td>23</td>
<td>$41.599</td>
<td>2/1/2012</td>
</tr>
<tr>
<td>CBOD 5 day</td>
<td>30D Conc</td>
<td>10</td>
<td>$20.125</td>
<td>2/1/2012</td>
</tr>
<tr>
<td>Total Suspended Solids</td>
<td>30D Qty</td>
<td>27</td>
<td>$40.9046</td>
<td>2/1/2012</td>
</tr>
<tr>
<td>Total Suspended Solids</td>
<td>30D Conc</td>
<td>12</td>
<td>$19.375</td>
<td>2/1/2012</td>
</tr>
</tbody>
</table>
24. Respondent’s failure to comply with the NPDES permit, at all times maintain in good working order and operate as efficiently as possible all treatment and control facilities or systems, and prevent overflows, violated, and is continuing to violate, ORC §§ 6111.04 and 6111.07, the rules adopted thereunder and the NPDES permit.

Infiltration/Inflow

25. Respondent has engaged in activities to alleviate the infiltration/inflow problem, such as smoke testing, installation of flow meters for data collection, purchases of sewer jetter/cameras, manhole mapping, conducting confined space classes for flow metering testing and the purchase of a laptop computer to compile and analyze sewer data.

Standard Connection Ban ~ Regulatory Requirements

26. OAC Rule 3745-11-02(A) provides that orders issued pursuant to ORC § 6111.03(H) may impose a standard connection ban which prohibits the person upon which it is imposed from causing or allowing the extension of or additional connections to, the sewerage system.

27. OAC Rules 3745-11-02(B) and (C), respectively, require that the Director specify in the order imposing the standard connection ban the geographical area to which the ban applies and that the ban be imposed upon both the person or persons responsible for the construction and operation of the treatment works and sewerage system in the geographical area specified; and the person or persons responsible for the issuance of permits to construct or install new connections or treatment works.

28. A standard connection ban prohibits the person(s) upon which it is imposed from causing or allowing the extension of or additional connections to the sewerage system.

29. OAC Rule 3745-11-02(E) provides that the Director may impose a standard connection ban whenever additional connections to or extensions of a sewerage system would result in:

   a. An increase in the quantity of pollutants in the discharges from a treatment works and/or sewerage system, to any waters of the state; and

   b. The delivery of wastewater in excess of the capacity of the treatment works and/or sewerage system beyond its original design capabilities to treat/dispose of the waste stream; or
c. Violations, or the contribution to a pattern of ongoing violations, of the limits and/or terms and conditions of an NPDES permit, an order issued by the Director or a court of law, or any other applicable control document; or

d. The exceedance of water quality standards adopted pursuant to ORC § 6111.041.

For the purposes of the above, the installation of a new sewer line routed directly to the treatment works shall be considered an extension of the sewerage system.

30. Orders imposing a standard connection ban shall specify one of the following as the event upon which the ban will be revoked:

a. Letting of construction contracts;

b. Approval of detail plans;

c. Approval of construction grant funding by the United States Environmental Protection Agency, or approval of state revolving loan funding by the Director; or

d. Such other date or act upon which the Director is reasonably assured that additional connection to, or extensions of, a sewerage system will not increase the polluting properties of an effluent when discharged to the waters of the state or further threaten public health and welfare or the environment.

**Standard Connection Ban – Specific Findings**

31. Respondent is responsible for the construction and operation of the treatment works and sewerage system in the geographical area to which the standard connection ban is to be imposed; the Board is responsible for the issuance of permits to construct or install new connections or treatment works in the geographical area.

32. The causing or allowing the extension of, or additional connections to, the sewerage system would result in

a. An increase in the quantity of pollutants in the discharges from the treatment works and/or sewerage system to waters of the state; and

b. The delivery of wastewater in excess of the capacity of the treatment works and/or sewerage system beyond its original design capabilities to treat/dispose of the waste stream; and/or
c. Violations, or the contribution to a pattern of ongoing violations, of the limits and/or terms and conditions of the NPDES permit.

**Potential Businesses Locating Within the Village**

33. Respondent has provided the following information regarding businesses locating within the Village and the amount of wastewater that would require treatment by the Village’s disposal system:

a. Grocery Store: Two shifts per day, with three employees per shift.

b. School District Bus Garage: Thirty employees comprised of five employees on site and twenty-five drivers. In addition to individual men’s and ladies’ restrooms, there will be one shower available to the employees.

c. Hotel: Fifty-six rooms.

d. Energy Processing Facility: The processing plant does not utilize water and will not generate wastewater. There will be an onsite office building, wherein more than forty full-time, long term employees may be stationed. The greatest number of employees would be between 120 and 140, should optimum business conditions occur. The construction process will take at least eighteen months to complete.

34. Base on the information supplied in Finding No. 33 above, and the design flow specifications set forth in OAC Rule 3745-42-05, the wastewater generated is:

<table>
<thead>
<tr>
<th>Business</th>
<th>Employees / Rooms</th>
<th>GPD$^1$</th>
<th>Total GPD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grocery Store</td>
<td>6</td>
<td>20</td>
<td>120</td>
</tr>
<tr>
<td>Bus Garage$^2$</td>
<td>30</td>
<td>35</td>
<td>1050</td>
</tr>
<tr>
<td>Hotel</td>
<td>56</td>
<td>100</td>
<td>5600</td>
</tr>
<tr>
<td>Energy Facility</td>
<td>40</td>
<td>20</td>
<td>800</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td></td>
<td><strong>7570</strong></td>
</tr>
</tbody>
</table>

Notes: $^1$ Gallons per day, per employee or room  

$^2$ Factory determination of 35 gallons per day per employee with shower was used.
35. Respondent has demonstrated that sufficient wastewater has or will be removed from the disposal system as a result of the demolition or vacating of residences or the closing of businesses, calculated at the Order No. 8 ratio of 3.33:1, to allow for the acceptance into the collection system of the wastewater generated from the businesses identified Findings Nos. 33 and 34.

2017—Modification

36. On June 11, 2012, the Director of Ohio EPA, the Mayor of the Village of Cadiz, and the Board of Trustees of Public Affairs for the Village of Cadiz signed Director's Final Findings and Orders (the “2012 Findings and Orders”) establishing a schedule to update the trunk lines, the collection system, and the wastewater treatment plant and imposed a standard connection ban.

37. Respondent has been unable to substantially comply with the 2012 Findings and Orders.

38. After continuing monthly discussion, negotiation, and coordination, OEPA met with the Respondent on October 19, 2016 to preliminarily discuss modification of the 2012 Findings and Orders due to the Respondent’s noncompliance with these Orders. Respondent has been issued thirteen (13) NOVs, has had one hundred and ninety-three (193) effluent limit violations, seven-hundred and nine (709) WWTP flow violations, and one hundred and twenty-six (126) sanitary sewer overflows since the 2012 Findings and Orders were signed and at the time of the drafting of the 2017 Findings and Orders.

39. OEPA and the Respondent agreed to enter negotiations to extend and update timelines and milestone dates for the collection system and the wastewater treatment plant. Respondent and OEPA also agreed to modify the connection ban language, the signatory authority, and address the connection of a new school within the Village of Cadiz.

ORC § 6111.03(H) Provisions

39. ORC § 6111.03(H) provides in relevant part that the Director may:

   Issue, modify, or revoke orders to prevent, control, or abate water pollution by such means as the following:

   (1) Prohibiting or abating discharges of sewage, industrial waste, or other wastes into the waters of the state;

   (2) Requiring the construction of new disposal systems or any parts thereof, or the modification, extension, or alteration of existing disposal systems or any parts thereof;
(3) Prohibiting additional connections to or extensions of a sewerage system when the connections or extensions would result in an increase in the polluting properties of the effluent from the system when discharged into any waters of the state; and

(4) Requiring compliance with any standard or rule adopted under sections 6111.01 to 6111.05 of the Revised Code or term or condition of a permit.

40. ORC § 6111.03(H) does not require that the Director inquire into the financial status of a particular party before issuing an order to that party.

41. ORC § 6111.03(H) does not provide that financial difficulties experienced by the party receiving an order will excuse compliance with Ohio's Water Pollution Control Laws, or that such difficulties bar the Director from issuing orders enforcing said laws.

42. Compliance with ORC Chapter 6111 is not contingent upon the availability of financial assurance.

43. ORC § 6111.03(H) provides that regarding the issuance of Orders, it is not Respondent alone that is to be considered, but also the benefits to the people of the entire state and also the conditions of any waters of the state.

44. The people of the state of Ohio and the waters of the state will benefit from the resolution of Respondent's noncompliance with Ohio's Water Pollution Control Laws, and rules adopted thereunder and the NPDES permit.

45. ORC § 6111.03(H) requires that the Director in the issuance of Orders under the Division give consideration to, and base the determination on, evidence relating to the technical feasibility and economic reasonableness of complying with those orders and to evidence relating to conditions calculated to result from compliance with those orders, and their relation to benefits to the people of the state to be derived from such compliance in accomplishing the purposes of the Chapter.

46. 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 purpose of ORC Chapter 6111.
47. The following Orders do not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing treatment works or sewer system. Any such construction or modification is subject to the permit to install and plan approval requirements of ORC §§ 6111.44(A) and 6111.45 and OAC Chapter 3745-42.

V. ORDERS

1. The Director's June 11, 2012 Final Findings and Orders are hereby terminated.

2. Respondent shall achieve and maintain compliance with ORC Chapter 6111, the rules adopted thereunder and the NPDES permit and any modification or renewal thereof, as soon as possible, but not later than the schedule set forth below. In accordance therewith, Respondent shall:

a. Collection Systems:

i. Submit to Ohio EPA for review and approval, a complete and approvable permit to install application, with detailed plans, for improvements to the North, South, and Central Collection Systems and Storm Water drain removal by April 30, 2018.


iii. Complete construction and obtain and maintain an operational level of the North Collection System by December 30, 2019.

iv. Complete construction and obtain and maintain an operational level of the South and Central Collection Systems by December 30, 2019.

v. Complete construction of all storm water drain removals for North, South, and Central Collection Systems by December 30, 2019.

b. Wastewater Treatment Plant:

i. Eliminate the infiltration/inflow of clean water sources to the extent possible, as identified in the facility planning report.

ii. Study the sewerage systems flow rates and submit a report evaluating the impacts of the sewerage system work from April 1, 2018 to August 1, 2019.

iii. Submit to Ohio EPA for review and approval, a complete and approvable permit to install application, with detailed plans, for
improvements to the existing treatment works or construction of a new treatment works by March 15, 2020.

iv. Commence construction of improvements to the existing treatment works or commence construction of a new treatment works in accordance with the approved permit to install and detailed plans by January 1, 2021.

v. Complete construction and obtain and maintain operational level of the improved existing treatment works or the new treatment works by January 15, 2022.

3. Respondent shall submit corrections/revisions to address any deficiencies in the permit to install applications, detailed plans and/or plan referenced above, to Ohio EPA in accordance with Section X. of these Orders, within thirty (30) days of receipt of written notification from Ohio EPA of any deficiencies, unless additional time is requested and allowed.

4. Upon request by Respondent and good cause shown, the Director may, at his sole discretion, extend in writing any time periods established by these Orders.

5. Within thirty (30) days after the effective date of these Orders, Respondent shall submit to Ohio EPA for review and approval, a plan detailing how Respondent shall comply with the following:

a. At all times, Respondent shall maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by Respondent necessary to achieve compliance with the terms and conditions of the NPDES permit. Proper operation and maintenance includes but is not limited to, properly functioning of the two clarifiers, trickling filters, 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 Respondent only when the operation is necessary to achieve compliance with conditions of the NPDES permit.

b. Respondent shall effectively monitor the operation and efficiency of treatment and control facilities and the quantity and quality of the treated discharge.

6. Respondent shall submit corrections/revisions to address any deficiencies in the plan set forth in Order No. 5 to Ohio EPA in accordance with Section X. of these Orders, within thirty (30) days of receipt of written notification from Ohio EPA of any deficiencies, unless additional time is requested and allowed.
7. Respondent shall comply with the plan set forth in Order No. 5 as approved and/or modified by Ohio EPA.

8. Except as provided in Orders No. 9 and No. 10, a standard connection ban is hereby imposed upon Respondent and the Board in accordance with the following:

a. The standard connection ban shall prohibit Respondent and Board from causing or allowing the extension of, or additional connections to, the sewerage system and treatment works. The geographic area to which the standard connection ban applies is the area served by the sewerage system and treatment works.

b. Applications for treatment works or sewerage systems, or both, and connections of new nonresidential sources of wastewater to existing treatment works or sewerage systems, or both, shall not be approved under ORC §§ 6111.44, 6111.45, or 6111.46 or OAC Chapter 3745-42, in the geographical area specified herein while a standard connection ban is in effect. This paragraph shall not apply to such facilities as are necessary to comply with orders or permit conditions issued by the Director or a court of law.

c. Nothing in these Orders shall prohibit connection to a sewerage system or construction and operation of a treatment works if:

i. The foundation of the facility proposed to be connected to the sewerage system or treatment works had been laid prior to issuance of these Orders; and

ii. Such connection or treatment works or the plans therefor have received the necessary permits and approvals from the Director and the local board of health or other licensing authority.

d. The Standard Connection Ban imposed by these Orders shall be revoked when, as determined by the Director:

i. Construction contracts are let for WWTP and sewerage systems upgrades; or

ii. Such other date or act upon which the Director is reasonably assured that additional connection to or extensions of a sewerage system will not increase the polluting properties of an effluent when discharged to the waters of the state or further threaten public health and welfare or the environment.
e. Pursuant to the procedure and criteria established in OAC Rule 3745-11-03, variances may be granted from the standard connection ban imposed herein whenever, in judgment of the Director, compelling public need, extreme individual hardship, or other extraordinary circumstances require that the variance be granted. In deciding whether to grant a variance the Director may take into consideration the following factors:

i. The proposed facility will replace a facility in the area of the ban that has been condemned;

ii. The proposed facility will be used primarily as the dwelling place of a person whose physical or mental health requires that he live within the area of the ban;

iii. The variance will allow the construction of a school or hospital, or fire or police department facilities;

iv. The proposed facility will replace one or more existing facilities with a resulting decrease in the quantity of pollutants discharged into waters of the state; and

v. Other special facts indicate that the public interest will be served by the immediate availability of the proposed facility.

9. In order to cause or allow an extension of, or additional connections to, the sewerage systems and treatment works without invoking the standard connection ban variance provisions, Respondent shall demonstrate and submit to the satisfaction of Ohio EPA documentation that Respondent has removed 3.33 gallons per day of clean water (e.g., inflow and infiltration or storm water) from the sanitary sewerage system for each gallon of sanitary sewage that is requested to be added based on average daily design flow estimates.

10. The Director has determined the connection of the “Harrison County City School” Pre-K through 12th grade to the sewerage system will be permitted under these Orders. The school will open in the fall of 2019 and total approximate GPD will be 26,940 and the approximate number of occupants will be 1535.

11. Should Respondent fail to comply with Order 2 within the deadlines set therein, in lieu of Ohio EPA’s claim for civil penalties, which may be assessed pursuant to ORC Chapter 6111, Respondent agrees to fund one or more “Supplemental Environmental Projects” (“SEPs”) listed herein. If this Order is triggered for failure to meet deadlines enumerated in Order 2, SEPs shall be funded in the amount of one hundred dollars ($100) per day of violation, not to exceed ten thousand dollars ($10,000) per Sub-Order listed as Order 2 (a)(i-v) and Order 2 (b)(ii-v) for a total not to exceed ninety thousand dollars ($90,000). By no later than thirty (30) days after
failing to meet a deadline set in Order 2, Respondent shall deposit the penalty as calculated by this Order into an interest bearing escrow account (the “Escrow Account”) for the benefit of such SEPs as listed below.

a. The funds in the Escrow Account shall be used for projects as identified below. Such funds shall be disbursed only for implementation of said projects and only after the Director or his designee determines, and notifies the Escrow Account agent in writing, that (1) the proposed project is identified in these Orders, (2) the Director or the Director’s designee approves the proposed project, and (3) the Escrow Account agent is authorized to pay all or part of the projected or incurred cost of the project. Upon receipt of such notification, the Escrow Account agent shall disburse funds from the Escrow Account, as instructed, to pay for that portion of the project cost authorized by the Director or the Director’s designee.

b. The expense of administering the Escrow Account may be deducted first from the interest paid on the account, but the remainder of the interest will be disbursed with the other funds in the Escrow Account in accordance with these Orders.

c. Funds in the Escrow Account shall be disbursed or earmarked for disbursement with notification to the Escrow Account agent by the Director or the Director’s designee by April 25th, 2022. If such funds are not disbursed or earmarked or disbursement in the above fashion, the balance of the funds in the Escrow Account shall be paid to the Ohio EPA. If Respondent fails to meet the deadline listed in Order No. 2(b)(v), the balance of funds in the Escrow Account shall be paid to Ohio EPA and Respondent shall continue to pay one-hundred ($100) per day not to exceed ten-thousand ($10,000) until compliance is achieved.

d. Should Respondent fail to fund the SEP as required by Order No. 11 within the timeframe listed in Order 11, a separate stipulated penalty for such failure shall also be calculated at the rate of one hundred dollars ($100) per day not to exceed ten thousand dollars ($10,000) and payment shall be made in accordance with Order 11(d)(ii).

i. A copy of each check submitted by Respondent to the Escrow Account or to the State of Ohio shall be sent to Ohio EPA’s South East District Office, in accordance with Section X of these Orders, and to Larry Reeder, Enforcement Manager, or his successor, at the following address:
Ohio EPA  
Division of Surface Water  
P.O. Box 1049  
Columbus, Ohio 43216-1049  

ii. In the event Orders No. 11(c) or 11(d) are triggered, payment shall be made by check, for the appropriate amount, made payable to “Treasurer, State of Ohio,” and submitted to Carol Butler, or her successor, at:  
Ohio EPA  
Office of Fiscal Administration  
P.O. Box 1049  
Columbus, Ohio 43216-1049  

e. Acceptable SEPs as determined by the Director are as follows:  
   i. Creation of a connection or sanitary improvement fund for the low income citizens of Cadiz.  
   ii. Activities which will rehabilitate riparian or wetland habitat in Cadiz.  
   iii. Rehabilitation of lead drinking water service lines.  
   iv. Projects related to controlling or abating Harmful Algal Blooms.  
   v. Other projects approved by the Director.  

VI. TERMINATION  

Respondent’s obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA’s Division of Surface Water acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.  

The certification shall contain the following attestation: “I certify that the information contained in or accompanying this certification is true, accurate and complete.”  

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of the Respondent. For purposes of these Orders, a responsible official is as defined in OAC Rule 3745-33-03.
VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to activities occurring in or at the WWTP or sewerage system.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

Unless otherwise specifically stated herein, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Southeast District Office
2195 Front Street
Logan, Ohio 43138
(ATTN: Enforcement Group Leader)

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent’s liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions,
and service of these Orders and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

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

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

IT IS SO ORDERED AND AGREED:
Ohio Environmental Protection Agency

[Signature]
Craig W. Butler
Director

10/17/17
Date

IT IS SO AGREED:
Village of Cadiz

[Signature]
[Printed or Typed Name]

[Title]

10-18-17
Date
IT IS SO AGREED:
Cadiz Village Administrator

[Signature]

[Printed or Typed Name]

[Village Administrator]

[Date]