BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Ohio Department of Rehabilitation and Correction
770 W. Broad Street
Columbus, Ohio 43222

Respondent

Director's Final Findings and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

By:  Date: 12/27/18

I. JURISDICTION

These Modified Director's Final Findings and Orders ("Orders") are issued to the Ohio Department of Rehabilitation and Correction ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("R.C.") 6111.03(H), and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in the composition of Respondent or the ownership or operation of the wastewater treatment plants and their collection systems, identified below, shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in R.C. Chapters 6111 and the rules adopted thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

Southern Ohio Correctional Facility

1. Respondent owned and operated the Southern Ohio Correctional Facility wastewater treatment works ("WWTP") located at 22 Cook Road, Lucasville, Ohio, Scioto County.
2. Southern Ohio Correctional Facility is served by a 0.60 MGD WWTP, consisting of a bar screen, grit removal, aerated grease removal unit, an oxidation ditch, and UV disinfection. The treated effluent is discharged to Candy Run, a water of the State.

3. Respondent was issued an Ohio National Pollutant Discharge Elimination System ("NPDES") permit, No. OPP00078*FD on March 4, 2015, effective April 1, 2015.

4. On February 15, 2017, Respondent entered into Director's Final Findings and Orders ("2017 Orders") with Ohio EPA to perform upgrades to the Southern Ohio Correctional Facility's WWTP and corresponding sewer line.


6. Respondent submitted a Permit to Install (PTI) application to Ohio EPA on March 16, 2018 for rehabilitation of the WWTP and corresponding sewer line. Ohio EPA approved the PTI application and issued Permit No. 1219159 on May 1, 2018. Respondent has not begun construction under the PTI.

7. Respondent completed some of the items required by the 2017 Orders but not all.

8. Section 5 of Senate Bill 66 (132nd General Assembly) authorized the sale of the Southern Ohio Correctional Facility's WWTP and corresponding sewer collection system.

9. Pursuant to SB 66, Respondent has entered into a legal agreement to sell the Southern Ohio Correctional Facility's WWTP and corresponding sewer collection system line to the Scioto County Commissioners. The agreement is predicated on Ohio EPA agreeing to modify the 2017 Orders to release Respondent from obligations under said Orders and requiring Scioto County to assume obligations for needed upgrades to the WWTP and sewer collection system.

10. Ohio EPA has entered into Director's Findings and Orders with Scioto County that includes an enforceable schedule to upgrade the Southern Ohio Correctional Facility's WWTP and corresponding sewer collection system.

   **Southeast Correctional Institute Facility**

11. Respondent owns and operates the Southeast Correctional Institute ("SCI") wastewater treatment works ("WWTP"), located at 5900 B.I.S. Road, Lancaster, Ohio, Fairfield County.

12. SCI is served by a 0.40 MGD WWTP consisting of influent screening, flow
equalization, trickling filters, clarifiers, sand filters, and UV disinfection. Currently, the flow equalization is being used as extended aeration and the trickling filters are nonfunctioning.

13. The WWTP discharges to an unnamed tributary to Arney Run, which is tributary to Clear Creek. Arney Run and Clear Creek are defined as "waters of the state" pursuant to ORC Section 6111.01.

14. National Pollutant Discharge Elimination System ("NPDES") permit number 4PP00011*ED was issued to Respondent on June 5, 2015, effective July 1, 2015. The permit will expire on June 30, 2020. A 43-month compliance schedule was included in the NPDES permit. On July 1, 2016, Respondent submitted a status report on the submittal of a complete and approvable Permit to Install ("PTI") application and detail plans for the wastewater treatment plant improvements.

15. The WWTP has a history of NPDES permit effluent limitation violations and has been in significant noncompliance with the NPDES permit for copper effluent and compliance schedule violations.

16. Respondent has violated the compliance schedule and final effluent limits of its NPDES permit for this Site on numerous occasions. These violations are set forth in Notice of Violation ("NOV") letters on the following dates: November 5, 2010, December 15, 2011, January 11, 2013, and October 6, 2015.

17. The 2017 Orders required Respondent to perform upgrades to the WWTP reaching an operational status of the plant capable of meeting final effluent limitations by February 1, 2019.

18. Respondent bid the project and the bids exceeded the estimated project costs to such a degree that it required the project to be rebid. This resulted in project delays that would make complying with the agreed to schedule for upgrades under the 2017 Orders to be impossible.

19. Respondent and its engineering consultant met with Ohio EPA on March 14, 2018 to propose a new schedule.

20. Ohio EPA desires to formally memorialize the new schedule in these Modified Orders.

21. 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 R.C. Chapter 6111.
22. 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 R.C. 6111.44(A) and 6111.45 and OAC Chapter 3745-42.

23. The following Orders do not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing public water system. Any such construction or modification is subject to the plan approval requirements of R.C. 6109.07(A) and OAC Chapter 3745-91.

V. ORDERS

**Southern Ohio Correctional Facility**

1. Orders number 1, 2, 3, and 4 contained in the February 15, 2017 Director's Final Findings and Orders are hereby revoked.

2. Within seven (7) days of these Orders, Respondent shall, in coordination with the Scioto County Commissioners, submit an application to Ohio EPA to transfer Permit to Install Number 1219159 to the Scioto County Commissioners.

3. Within seven (7) days of these Orders, Respondent shall, in coordination with the Scioto County Commissioners, submit an application to transfer National Pollutant Elimination Discharge Permit Number 0PP00078*FD to Scioto County Commissioners.

4. The modification of these specific Orders in the February 15, 2017 Director's Final Findings and Orders shall not affect any other outstanding requirements Respondent may have under the February 15, 2017 Director's Final Findings and Orders.

**Southeastern Correctional Institute Facility**

5. Orders number 5, 6, 7, 8, 9, and 10 contained in the February 15, 2017 Director's Final Findings and Orders are hereby revoked.


10. Respondent shall notify Ohio EPA within 7 days of completion of Order 8, in writing, to the following address:

   Ohio Environmental Protection Agency
   Central District Office
   50 West Town Street
   P.O. Box 1049
   Columbus, Ohio 43216
   ATTN: Division of Surface Water Enforcement

11. The modification of these specific Orders in the February 15, 2017 Director's Final Findings and Orders shall not affect any other outstanding requirements Respondent may have under the February 15, 2017 Director's Final Findings and Orders.

VI. TERMINATION

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

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

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

VII. OTHER CLAIMS

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

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 Respondents pursuant to these Orders shall be addressed to:

**Southern Ohio Correctional Facility**

Ohio Environmental Protection Agency  
Southeast District Office  
2195 Front Street  
Logan, Ohio 43402  
ATTN: Enforcement Supervisor, Division of Surface Water

**Southeastern Correctional Institute Facility**

Ohio Environmental Protection Agency  
Central District Office  
50 W Town Street, Suite 700  
Columbus, Ohio 43215  
ATTN: Enforcement Supervisor, Division of Surface Water

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

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.

Signature page to follow.
IT IS SO ORDERED AND AGREED:
Ohio Environmental Protection Agency

Craig Butler
Director

Date
12-27-18

IT IS SO AGREED:
Ohio Department of Rehabilitation and Correction

Stuart C. Hudson
Interim Director

Date
12/18/18