BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Village of East Palestine : Director's Final Findings
P.O. Box 231 : and Orders
144 North Market Street :
East Palestine, Ohio 44413 :
Respondent :

PREAMBLE

It is agreed by the Parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Village of East Palestine ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("EPA") under Ohio Revised Code (R.C.) §§ 6111.03 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 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 3745, and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has made the following findings:

1. Respondent is located in Columbiana County, Ohio, and has a population of approximately 4,720 people.

2. Respondent owns and operates a wastewater treatment plant ("WWTP") located at 220 Park Drive, East Palestine, Ohio 44413. The WWTP consists of a bar screen, fine screen, grit removal, aeration, phosphorus removal through chemical
addition, clarification, Ultra-Violet disinfection, and post aeration. The final effluent discharges to Leslie Run. The WWTP is designed to treat an average of 1.4 million gallons per day ("MGD") of sewage.

3. Respondent holds a National Pollutant Discharge Elimination System ("NPDES") permit, number 3PD00042*LD, effective December 1, 2016 which authorizes Respondent to discharge effluent from the WWTP to Leslie Run. Leslie Run is defined as "waters of the state" pursuant to R.C. § 6111.01.

4. Respondent’s previous NPDES permit No. 3PD00042*KD effective from August 1, 2011, contained a Schedule of Compliance to address and eliminate all sanitary sewer overflows ("SSOs"). The Village did not meet the milestone dates in the compliance schedule and did not eliminate the SSOs from its system.

5. Respondent violated NPDES permit No. 3PD00042*KD by not complying with the compliance schedules in a timely manner, in violation of R.C. § 6111.07.

6. Respondent also operates a separate sanitary sewerage system tributary to the WWTP.

7. Numerous sanitary sewer overflows and bypasses have occurred from the WWTP and within the collection system. These overflows consisted of untreated sanitary sewage which reached waters of the state. When a bypass occurs, the sanitary sewage does not undergo full treatment at the WWTP. Untreated and partially treated sanitary sewage is "pollution," as that term is defined in R.C. § 6111.01.


9. The discharge of pollutants into waters of the state in excess of the permissible limits of an NPDES permit is a violation of R.C. §§ 6111.04 and 6111.07.

10. Ohio EPA conducted Compliance Evaluation Inspections ("CEI") of Respondent’s WWTP and or collection system with follow up CEI letters on 02/14/2013,
02/24/15, and 10/29/15. Following these inspections, CEI reports listing violations of Respondent’s NPDES permit, were sent to Respondent. Ohio EPA issued Respondent Notices of Violation ("NOVs") dated 2/14/13, 4/23/15, and 12/1/15. Meetings were held on 11/25/14, 1/21/16, and 11/21/16 between Ohio EPA and Respondent to discuss Respondent’s noncompliance.

11. Respondent has failed to maintain and operate the WWTP and sanitary sewerage system in a fashion necessary to ensure compliance with its NPDES permit. Failure to maintain the WWTP and the sanitary sewerage system as required to ensure compliance is a violation of R.C. § 6111.07. Each day of violation is a separate offense.

12. R.C. § 6111.07(A) prohibits any person from violating, or failing to perform any duty imposed by sections 6111.01 to 6111.08 of the Revised Code or violating any order, rule, or term or condition of a permit issued or adopted by the Director of Environmental Protection pursuant to those sections. Each day of violation is a separate offense.

13. It is necessary that the sanitary sewerage system and WWTP improvements be constructed, maintained, and operated in order to consistently protect public health and welfare and waters of the state.

14. Compliance with R.C. Chapter 6111 is not contingent upon the availability or receipt of financial assistance.

15. 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 sanitary sewerage system. Any such construction or modification is subject to the permit to install (PTI) requirements of R.C. §§ 6111.44 and 6111.45 and Ohio Administrative Code (OAC) Chapter 3745-42.

16. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and their relation to the benefits to the people of the state to be derived from such compliance in accomplishing the purposes of R.C. Chapter 6111.
V. ORDERS

1. Respondent shall operate and maintain its sanitary sewerage system and WWTP in accordance with all requirements in its NPDES permit and in any modified or successor permit, and R.C. Chapter 6111.

2. Respondent shall eliminate all SSOs and achieve compliance with the final effluent limitations of NPDES permit No. 3PD00042*LD, and any modified or successor permit, as expeditiously as practicable, but not later than the following schedule:

   a. Submit an approvable permit to install by 01/07/2019;

   b. Begin construction by 09/01/2019;

   c. Complete construction by 10/03/2020.

5. During periods of elevated flow into the WWTP, Respondent shall operate its sanitary sewerage system and WWTP in the best practicable manner to minimize the detrimental impact of such flow on both the WWTP and waters of the state, including but not limited to Leslie Run.

6. Respondent shall report all unauthorized discharges in accordance with Respondent's NPDES permit.

7. Respondent is hereby assessed a penalty of $8,000 in settlement of Ohio EPA's claims for civil penalty for violation alleged in these Findings and Orders pursuant to ORC Chapter 6111. Payments of this civil penalty shall become due and owing in accordance with the following schedule and conditions:

   a. By January 1, 2019, Respondent shall pay $2,000 of the civil penalty assessed;

   b. By April 1, 2019, Respondent shall pay $2,000 of the civil penalty assessed;

   c. By July 1, 2019, Respondent shall pay $2,000 of the civil penalty assessed;

   d. By October 1, 2019, Respondent shall pay the remainder of the civil penalty assessed.
Payment shall be made by tendering an official check made payable to “Treasurer, State of Ohio.” The official check, together with a letter identifying Respondent, shall be submitted to Carol Butler or her successor at:

Ohio Environmental Protection Agency  
Office of Fiscal Administration  
P.O. Box 1049  
Columbus, Ohio 43216-1049

A photocopy of the check shall be sent to Ohio EPA, Central District Office, in accordance with Section X. of these Orders.

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(E)(4) for a municipal, state, or other public facility.

VII. OTHER CLAIMS

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

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

Ohio Environmental Protection Agency  
Northeast District Office  
Division of Surface Water  
Attn: DSW Enforcement Supervisor  
2110 East Aurora Road  
 Twinsburg, Ohio 44087  

and to:  

Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Surface Water  
Attn: DSW Enforcement Supervisor  
50 West Town Street, Suite 700  
[P.O. Box 1049]  
Columbus, Ohio 43215 [43216-1049]  

[For mailings use the post office box number and zip code in brackets]  

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.
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IT IS SO ORDERED AND AGREED:
Ohio Environmental Protection Agency

Craig W. Butler
Director

12-24-18
Date

IT IS SO AGREED:
Village of East Palestine

Signature

12-10-18
Date

PETER J. MONTELEONE
Printed or Typed Name

Title