BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Jefferson County Commissioners  Director's Final Findings and Orders
596 State Route 53
Wintersville, Ohio
43953

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 Jefferson County Commissioners ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §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 ownership of Respondent or the Facilities (as hereinafter defined) 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 ORC Chapter 6111 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operates the wastewater treatment and collection system located in the Village of Smithfield.

2. The Village of Smithfield is located in Jefferson County, Ohio, and has a population of approximately 850 people.
3. The Village of Smithfield became unable to substantially comply with the water pollution control laws of the State of Ohio, and Respondent purchased and agreed to operate the village’s system to return the village’s treatment and collection system to compliance.

4. Respondent owns and operates the wastewater treatment plant (WWTP) and collection system. The WWTP is located at 378 Sherwood Avenue Extension, Smithfield Ohio.

5. The collection system consists of a septic tank effluent gravity system. Each home connected to the system has its own septic tank. Effluent from the septic tanks flows to the WWTP through a combination of gravity sanitary sewers and force mains. There are nine (9) sewage pumping stations within the collection system. The sewage is conveyed to an aerated lagoon WWTP.

6. The WWTP consists of two aerated lagoon cells in series and disinfection through chlorination with subsequent dechlorination. The WWTP has an average daily design flow of 0.110 million gallons per day (MGD).

7. The previous National Pollutant Discharge Elimination System (NPDES) permit held by the village was effective from September 1, 2008 and expired on August 31, 2013. A timely renewal was filed on February 28, 2013.

8. The NPDES permit was transferred to Respondent with an issued date of December 7, 2017 and Respondent now holds the unexpired NPDES permit number 0PA000953*FD with an effective date of January 1, 2018.

9. The NPDES permit authorizes Respondent to discharge effluent from its WWTP to Crow Hollow. Crow Hollow constitutes “waters of the state” as defined by ORC Section 6111.01.

10. As the Village of Smithfield’s collection and treatment system began to deteriorate, Ohio EPA and Respondent began correspondence which eventually led to Respondent taking over the village’s system to return it to compliance with the water pollution laws of the State of Ohio.

11. Respondent’s WWTP is past its useful design life primarily due to lack of system maintenance and an overall failure to operate the system as it was originally designed. This problem was noted in a 2015 report to the Jefferson County Commissioners from Arcadis US, Inc. (“Arcadis”).

12. The Ohio EPA and Arcadis have independently investigated issues with the
existing system. Design flaws in the plant include the small diameter of the sewers and manholes. Additionally, the hydrostatic pump stations were of poor design. Inflow and infiltration often causes exceedance of the design flow of the WWTP.

13. The Ohio EPA and Arcadis have noted maintenance failures with Respondent’s system. There had been an overall failure to maintain the system prior to Respondent taking control of the system. Manhole barrels show deterioration due to hydrogen sulfide exposure. Each of the nine (9) pump stations need mechanical, electrical, and maintenance upgrades. The lagoon system is in a state of disrepair showing evidence of liner tears, failure of aerators, no sludge removal, and muskrats in the lagoon.

14. Further maintenance needs include pumping of customer septic tanks, repair or replacement of the vacuum truck, repair or replacement of telescoping control valves, investigation of an alkalinity deficiency, and to repair or replace the lift stations.

15. The Village of Smithfield has been issued six (6) notice of violations ("NOVs") since January 14, 2015.

16. On January 14, 2015 the Village of Smithfield was issued an NOV for ammonia violations.

17. On February 13, 2015 the Village of Smithfield was issued an NOV for ammonia violations.

18. On June 15, 2015 the Village of Smithfield was issued an NOV for effluent limit violations from October 2014 to April 2015 citing thirty-seven (37) violations during this period.

19. On August 14, 2015 the Village of Smithfield was issued an NOV for ammonia and suspended solids violations.

20. On September 16, 2015 the Village of Smithfield was issued an NOV for site reconnaissance inspection from June 6, 2015.

21. On December 18, 2015 the Village of Smithfield was issued an NOV for effluent limit violations from June 2015 to September 2015 citing six (6) violations for ammonia and chlorine. The then current operator of the plant disputed the findings, indicating there was a data error.
22. A comprehensive list of effluent limitation violations from January 2015 through December 2015 is detailed in Attachment 1. Each violation cited in Attachment 1 constitutes a separate violation of ORC Sections 6111.04 and 6111.07. Attachment 1 is hereby incorporated into these Findings & Orders as if fully stated herein.

23. The WWTP is classified as a Class II treatment plant which requires staffing by a Class II operator 5 days/week for a minimum of 20 hours/week. As detailed in an NOV letter dated, 10/13/15, the Village of Smithfield failed to meet this requirement at all times. The date/times for arrival and departure where not being maintained in violation of OAC Rule 3745-7-09(A)(3)(b).

24. These Findings and Orders list the Jefferson County Commissioners as Respondent, although Jefferson County was not the owner of the system when the violations listed in these Orders occurred.

25. Respondent acquired the Village of Smithfield's system after Ohio EPA, the Village of Smithfield, and Respondent began to discuss solutions to repair or replace the Village's system.

26. Respondent decided to take over the village's system when it was determined that the Village was no longer financially capable of maintaining or repairing its system and risked dissolution.

27. Respondent has acquired the collection system and WWTP as well as assumed the responsibility for repairing or replacing the failing components of the system.

28. Had Respondent not taken possession of the system, it likely would have fallen into complete disrepair which would have caused substantial environmental harm to the waters of the state.

29. Due to the efforts of the county and the cooperativeness of its commissioners, as well as other factors, Ohio EPA will not be seeking a civil penalty for violations listed in these orders.

30. Pursuant to ORC Section 6111.04(C), no person to whom a permit has been issued shall place or discharge, or cause 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.

31. Pursuant to ORC Section 6111.07(A), no person shall violate or fail to perform any duty imposed by ORC Sections 6111.01 to 6111.08 or violate any order, rule, or
term or condition of a permit issued or adopted by the Director of Ohio EPA pursuant to those sections. Each day of violation is a separate offense.

32. 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 PTI requirements of OAC Chapter 3745-42.

33. This document does not modify NPDES Permit No. 0PA00053*ED. The purpose of this document is to correct a condition of noncompliance with NPDES Permit No. 0PA00053*ED or its predecessor and not to alter said permit.

34. Compliance with the ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.

35. The Director has given consideration to the factors set forth in ORC Sections 6111.03 and 6111.60, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

V. ORDERS

1. Respondent shall attain compliance with its NPDES permit in accordance with the following schedule:

   a. Within 6 months of the issuance of these orders, submit a plan with schedule to repair all lift stations giving priority to lift stations receiving larger flow, and within 18 months all lift stations must have two operable pumps and alarms;

   b. Within 9 months of the issuance of these orders, submit a plan for removal and disposal of excess sludge, and within 30 months remove excess sludge from lagoon number 1 with an accompanying report indicating amount of sludge removed and the method of disposal;

   c. Within 9 months of the issuance of these orders, submit a plan for repair or replacement of the lagoon aeration system, and within 3 years repair or replace lagoon aeration system;

   d. Within 15 months of the issuance of these orders, repair telescoping valves
at the wastewater treatment plant and submit notice to Ohio EPA Southeastern District Office upon completion of repair;

e. Within 3 months of the issuance of these orders, repair or replace the vacuum truck, or secure use of an alternate vacuum truck;

f. Within 9 months of the issuance of these orders, submit a plan with a schedule to pump all customer septic tanks, this plan should be formulated in accordance with the knowledge of the operators and prioritized based on which tanks are most overdue;

g. Within 9 months of the issuance of these orders, submit a plan instituting ongoing control of muskrat population within the lagoons; and,

h. Immediately after the issuance of these orders, begin investigation of inflow and infiltration in the collection system through the use of cameras, smoke testing, dye testing, and other available practices, within 5 years submit a report detailing results of the evaluation and a plan of action to address identified issues, repair all identified issues within 12 years.

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 Respondent. For purposes of these Orders, a responsible official is defined in OAC Rule 3745-33-03(F).

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 the site.

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
Division of Surface Water, SEDO
Attn: Enforcement Supervisor
2195 Front Street
Logan, Ohio 43138-8637

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 or 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

Craig W. Butler, Director

3/9/18

Date

IT IS SO AGREED:

[Signature]

Date

DR. THOMAS E. GRAHAM

Printed or Typed Name and Title