BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of

Wesley A. Mahan
5183 Old Lake Rd. Apt. E
Geneva OH 44041

Respondent

Director's Final Findings
and Orders

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.

PREAMBLE

It is agreed by the Parties hereto as follows:

Date: 9-25-17

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Wesley A. Mahan ("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 ownership of the property or wastewater treatment plant ("WWTP"), both 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. Chapter 6111 and the rules adopted thereunder.

IV. FINDINGS

The Director of Ohio EPA has made the following findings:

1. Respondent, a "person" as defined in R.C. 6111.01(I) and R.C. 1.59(C), owns commercial property located at 6233 State Route 45, Bristol Township, Trumbull County, ("property"), upon which is situated the Bristol Inn, a tavern with food service, ("Tavern").

2. The Tavern contains a restroom for patrons and employee use, as well as a kitchen.

3. Above the tavern is a currently occupied apartment, with sewage service.
4. The property is served by a WWTP consisting of a septic tank.

5. The WWTP is located to the west of the structure and discharges to the storm sewer on the south side of Greenville Road (State Route 45), which in turn flows west to Center Creek and the Grand River, all of which are waters of the state.

6. An Ohio National Pollutant Discharge Elimination System ("NPDES") permit No. 3PR00559*AD was issued to Respondent on August 6, 2012, with an effective date of September 1, 2012, for the discharge from the WWTP.

7. The permit included a schedule of compliance requiring:

<table>
<thead>
<tr>
<th>Activity</th>
<th>Compliance Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Submit permit to install and detail plants for WWTP</td>
<td>March 1, 2013</td>
</tr>
<tr>
<td>improvements.</td>
<td></td>
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<tr>
<td>Commence constructions of WWTP improvements.</td>
<td>September 1, 2013</td>
</tr>
<tr>
<td>Complete construction of WWTP improvements.</td>
<td>December 1, 2013</td>
</tr>
<tr>
<td>Attain operational level and meet NPDES permit final</td>
<td>March 1, 2014</td>
</tr>
<tr>
<td>effluent limitations.</td>
<td></td>
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</tbody>
</table>

8. The NPDES permit requires that Respondent designate one or more operators of record to oversee the technical operational of the WWTP, that each operator has a valid certification of a class equal to or greater than a Class A operator, and that Ohio EPA be notified of the identity of the operator of record within the required time.


10. Respondent has not complied with the NPDES permits requirements set forth in Findings Nos. 7, 8 and 9.

11. R.C. 6111.07(A) prohibits any person from violating, or failing to perform, any duty imposed by R.C. 6111.01 to 6111.08, or violating any 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.

12. R.C. 6111.09 provides that any person who violates R.C. 6111.07(A) shall pay a civil penalty of not more than ten thousand dollars per day of violation.

13. Respondent violated and continues to violate R.C. 6111.07(A).
Director's Considerations

14. The Director has considered 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.

15. The following Orders do not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any disposal system. Any such construction or modification is subject to R.C. 6111.44 and R.C. 6111.45 and Ohio Admin.Code Chapter 3745-42.

V. ORDERS

1. Respondent shall achieve compliance with R.C. Chapter 6111 and the rules adopted thereunder and its NPDES permit in accordance with the following schedule:

   a. Within fourteen (14) days after the effective date of these Orders, Respondent shall submit a complete and approvable NPDES permit renewal application.

   b. Within ninety (90) days after the effective date of these Orders, Respondent shall submit a complete and approvable permit to install application with detail plans for the necessary improvements to the WWTP to enable compliance with the NPDES permit.

   c. Respondent shall submit and continue to submit electronic discharge monitoring reports in accordance with the requirements of the NPDES permit.

   d. Within seven (7) days after the effective date of these Orders, Respondent shall secure and continue to secure in accordance with the requirements of the NPDES permit, the services of an appropriate operator of record and shall provide notification to Ohio EPA in accordance with the requirements of the NPDES permit.

2. Respondent shall submit corrections/revisions to address any deficiencies identified by Ohio EPA in any documents, applications and/or plans required to be submitted under these Orders, within thirty (30) days of receipt of written notification from Ohio EPA of any correction/deficiencies, unless an earlier time is indicated or additional time is requested and allowed.

3. Respondent shall comply with any approved NPDES permit and permit to install and detail plans, and any such modifications or renewals thereof.
4. Respondent is assessed the amount of fifteen thousand dollars ($15,000.00) in settlement of Ohio EPA’s claim for civil penalties, which may be assessed pursuant to R.C. Chapter 6111, with ten thousand dollars ($10,000.00) of such amount suspended pending timely compliance with the Orders listed above. Pursuant to the schedule set forth below, payment of the non-suspended five thousand dollars ($5,000.00) shall be made by tendering official checks made payable to “Treasurer, State of Ohio” with letters identifying Respondent, to Carol Butler or her successor at:

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

Photocopies of the checks shall be sent to Ohio EPA in accordance with Section X. of these Orders and to Larry Reeder, Environmental Manager, Enforcement Section, or his successor, at the following address:

Ohio Environmental Protection Agency  
Division of Surface Water  
P.O. Box 1049  
Columbus, Ohio 43216-1049

5. Payment of the non-suspended five thousand dollars ($5,000.00) civil penalty shall be made in four equal installments, within a two-year period, pursuant to the following schedule:

- The first payment of one thousand two hundred fifty dollars ($1,250.00) shall be due within one hundred eighty-two (182) days after the effective date of these Orders.

- The second payment of one thousand two hundred fifty dollars ($1,250.00) shall be due within three hundred sixty-five (365) days after the effective date of these Orders.

- The third payment of one thousand two hundred fifty dollars ($1,250.00) shall be due within five hundred forty-seven (547) days after the effective date of these Orders.

- The fourth payment of one thousand two hundred fifty dollars ($1,250.00) shall be due within seven hundred thirty (730) days after the effective date of these Orders.

Should Respondent fail to make any of the civil penalty payments by the due dates specified in this Order for such payment, the total non-suspended civil penalty of five thousand dollars ($5,000.00), less any amount already paid under these Orders shall become immediately due and owning.
6. Should Respondent fail to implement Order No. 1 within the deadlines set forth therein, Respondent shall immediately pay to Ohio EPA the suspended amount of ten thousand dollars ($10,000.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to R.C. Chapter 6111. Payment shall be made by tendering an official check for that amount, 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 in accordance with Section X. of these Orders, and to Larry Reeder, Environmental Manager, at the address provided in Order 4.

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." The certification shall be signed by Respondent and submitted to Ohio EPA.

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.

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 Unit Supervisor
2110 E. Aurora Road
Twinsburg, Ohio 44087

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 Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he 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

9/22/17

IT IS SO AGREED:
Wesley A. Mahan

9/12/2017

Wesley A. Mahan

08/24/17

Date

Date