BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

City of Wapakoneta
701 Parlette Court
Wapakoneta, Ohio 45895

Respondent

: Director’s Final Findings and Orders

PREAMBLE

It is agreed by the Parties hereto as follows:

I. JURISDICTION

These Director’s Final Findings and Orders (“Orders”) are issued to the City of Wapakoneta (“Respondent”) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (“EPA”) under Ohio Revised Code (R.C.) §§ 6111.03, 6109.04 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and its assigns and successors in interest liable under Ohio law. No change in ownership of Respondent or its Facilities as defined in these Orders 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 6109 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has made the following findings:
1. Respondent is the owner of a Community Public Water System that includes a drinking water treatment plant with a treatment capacity of 2.5 million gallons/day (MGD). In 2017, Respondent's max daily production was 2.32 MGD with an average day of 1.583 MGD.

2. Respondent's drinking water treatment plant employs ion exchange technology which produces a dissolved solids wastestream which is discharged to Respondent's wastewater treatment plant (WWTP) for treatment and then is discharged to the Auglaize River under Respondent's NPDES permit No. 2PD000019*ND.

3. Respondent's WWTP has a hydraulic capacity of 4.0 million gallons/day and consists of wet weather process of flow equalization, bar screens, comminution, pre-aeration/grit removal, primary clarification, activated sludge aeration, biological and chemical phosphorus removal, ultraviolet disinfection and post aeration.

4. Respondent's NPDES permit contains effluent limits for Total Filterable Residue (TFR) with a monthly average concentration of 1,523 mg/l. This limit is intended to be protective of Ohio's water quality standard for Total Dissolved Solids of 1,500 mg/l. Since the limit came into effect in 2017, Respondent has periodically exceeded this limit. In 2018, Respondent implemented operational changes at its drinking water treatment plant which lowered the loadings of TFR discharged to the WWTP. As such, there were no monthly exceedances reported in 2018.

5. Because of expected increases in water demand, Respondent intends to take both short-term and long-term actions to increase its production of water from its public water system. This, in combination with potential business growth within the City of Wapakoneta could lead to increased levels of TFR being sent to and discharged by the City's wastewater treatment plant and potential concentration and loading limit violations of its NPDES permit.

6. Respondent intends to work with local industries, where necessary, to address TFR levels being sent to Respondent's WWTP.

7. Respondent intends to take long-term actions as further detailed in these Orders to ensure its ability to meet TFR levels in its NPDES permit.

8. The Director has given consideration to, and based her 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. Within 90 days of the effective date of these Orders, Respondent shall submit a general plan for ensuring compliance with TFR taking into consideration expected increases in water production and industry expansion that may result in increases in TFR levels sent to Respondent’s WWTP. All actions required to be implemented under the general plan for Respondent’s public water system (PWS) shall be completed no later than December 31, 2022. All actions required to be implemented under the general plan for Respondent’s WWTP shall be completed no later than September 1, 2024. The general plan shall include the following milestones:
   a. Date for submitting plan approval or permits to install, if applicable, for any changes at Respondent’s PWS;
   b. Date for initiating construction at the PWS;
   c. Date for completing construction at the PWS;
   d. Date for submitting a Permit to Install for modifications to Respondent’s WWTP;
   e. Date for initiating construction at the WWTP; and
   f. Date for completing construction at the WWTP.

2. Upon approval of the general plan by Ohio EPA, it shall become an enforceable part of these Orders.

3. From the effective date of these Orders and lasting until production operations at Pratt Industries commence (Pre-Production Operations), Respondent shall comply with the effluent limits for TFR in its NPDES permit.

4. After production operations at Pratt Industries commence (Post-Production Operations) and lasting until the upgrades required by Orders 1 & 2 are completed, Respondent shall monitor specific conductance of the influent to the WWTP using an in-line meter system designed with a measuring frequency accepted by Ohio EPA to detect slug concentrations that are likely to result in exceedance of the specific conductance levels specified in Order 5. If monitoring detects a significantly elevated level of specific conductance concentration in the influent that may cause WWTP upset, interference, or acute toxicity, Respondent shall immediately seek to identify the source to reduce future slug loads and take reasonable steps to minimize the impacts on the WWTP and receiving stream.

5. After production operations at Pratt Industries commence (Post-Production Operations) and lasting until the upgrades required by Orders 1 & 2 are completed Respondent shall monitor specific conductance of the WWTP effluent with an in-line meter system designed with a measuring frequency accepted by
Ohio EPA and report the daily average via eDMR submittal. Any exceedance of 3886 micromhos/cm shall be reported to designated Ohio EPA NWDO personnel by phone or email by the next business day.

6. During Post-Production Operations and lasting until the upgrades required by Orders 1 & 2 are completed but not beyond September 1, 2024, Respondent shall ensure that its discharge does not exceed a monthly average specific conductance of 3051 micromhos/cm and does not exceed a daily average of specific conductance of 3886 micromhos/cm.

7. After March 1, 2020, in the event Respondent exceeds the pollutant levels set forth in Orders 3 or 6, Respondent shall pay a mitigation fee as follows:
   a. For the first exceedance through the tenth exceedance of the monthly average, Respondent shall pay $1,000.00 per exceedance;
   b. For exceedances beyond ten of the monthly average, Respondent shall pay $2,000.00 per exceedance;
   c. For any exceedance, either a daily average at or above a specific conductance of 4,800 micromhos/cm or a daily value (using a 24 hour composite) at or above 3,000 mg/l TFR, Respondent shall pay an additional $2,000.00 beyond what may be required in Order 7.a through 7.b

8. For purposes of these Orders, a conversion factor of 0.625 was used to convert TFR levels from mg/l to micromhos/cm. Respondent or Ohio EPA may, based on data collected, request or seek to modify the conversion factor used in these Orders.

9. Any payment required to be made under Order 7 shall be made within thirty days of submittal of the eDMR evidencing the exceedance by tendering an official check made payable to “Treasurer, State of Ohio” for deposit in the Surface Water Improvement Fund (Fund FY30). The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying the Respondent, at the following address:

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

   A copy of the check shall be sent to Larry Reeder, Environmental Manager, Enforcement Section, or his successor, at the following address:
10. Within 30 days of these Orders, Respondent shall develop a biological sampling plan for fish and macroinvertebrates that is designed to assess the biological health of the Auglaize River upstream and downstream of the Wapakoneta WWTP outfall for Ohio EPA's review and approval. The plan shall ensure that sampling is conducted annually during the pendency of these Orders to determine the biological impacts, if any, due to increasing TRF levels in Respondent's discharge.

11. If it is determined by Ohio EPA that biological performance of the stream has declined as measured by a significant localized decline in either IBI or ICI scores due to increasing levels of TFR in Respondent's wastewater discharge and/or exceedances of Respondent's acute toxicity limits, Respondent shall within 90 days of being directed by Ohio EPA, submit a restoration plan to address the biological impacts. Upon Ohio EPA's approval of the restoration plan, Respondent shall implement the plan after completion of upgrades required by Orders 1 and 2. The plan may include habitat improvement or mitigation fees paid to the Ohio EPA's Surface Water Improvement Fund. A component of the proposed plan may include monitoring to determine natural recovery. If it is determined that the stream has recovered naturally, the restoration activities shall be limited to accounting for the temporal decline in biological health.

**VI. UNAVOIDABLE DELAYS**

The Respondent shall cause all work to be performed in accordance with applicable schedules and time frames unless any such performance is prevented or delayed by an event which constitutes an unavoidable delay. For purposes of these Orders, an "unavoidable delay" shall mean an event beyond the control of the Respondent which prevents or delays performance of any obligation required by these Orders and which could not be overcome by due diligence on the part of the Respondent. Increased cost of compliance shall not be considered an event beyond the control of the Respondent.

The Respondent shall notify Ohio EPA in writing within ten (10) days after the occurrence of an event which the Respondent contends is an unavoidable delay. Such written notification shall describe the anticipated length of the delay, the cause or causes of the delay, the measures taken and to be taken by the Respondent to minimize the delay, and the timetable under which these measures will be implemented. The Respondent shall have the burden of demonstrating that the event constitutes an unavoidable delay.
If Ohio EPA does not agree that the delay has been caused by an unavoidable delay, Ohio EPA will notify the Respondent in writing. If Ohio EPA agrees that the delay is attributable to an unavoidable delay, Ohio EPA will notify the Respondent in writing of the length of the extension for the performance of the obligations affected by the unavoidable delay.

**VII. 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 Chiefs of Ohio EPA's Division of Surface Water and Division of Drinking and Ground 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 as defined in Ohio Administrative Code Rule 3745-33-03(E).

Should the Director determine that Respondent's activities are adversely affecting public health or safety or the environment, the Director reserves the right to terminate these Orders.

**VIII. 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 at the PWS or WWTP.

**IX. 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.
X. 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.

XI. NOTICE

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

Ohio Environmental Protection Agency
Northwest District Office
Division of Surface Water/Division of Drinking and Ground Water
Attn: DSW Enforcement Supervisor
347 N. Dunbridge Road
Bowling Green, Ohio 43402

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Surface Water
Attn: Enforcement Manager
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.

XII. RESERVATION OF RIGHTS

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

XIII. 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.

XIV. EFFECTIVE DATE

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

XV. 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] [Signature]  
Laurie A. Stevenson  2/5/19  
Director  Date
IT IS SO AGREED:
City of Wapakoneta

[Signature]  [Date]

[Printed or Typed Name]

[Title]