

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of

**Village of Sherwood
200 N. Harrison Street
Sherwood, Ohio 43556**

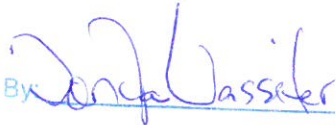
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: **Director's Final Findings and
: Orders**

Respondent

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:

By  Date: 9-17-19

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Village of Sherwood ("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 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. Chapter 6111 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has made the following findings:

1. Respondent is the Village of Sherwood, an Ohio municipality located in Defiance County Ohio.

2. Respondent owns a wastewater treatment plant located at Coy Road South of B&O Railroad and discharges treated effluent to Sulphur Creek under NPDES permit No. 2PA00017*ID.
3. In accordance with Part I.C.1 of its NPDES permit, Respondent is in the process of making upgrades to its wastewater treatment plant. In conjunction with that construction, Respondent determined that rather than move biosolids from one treatment lagoon to another, it wished to remove the biosolids from its system and sought Ohio EPA approval for land application of the material.
4. Respondent's current NPDES permit does not allow for land application of biosolids. Rather, the only option provided for in its current NPDES permit is to transfer the biosolids to another wastewater treatment plant.
5. On August 1, 2018, Respondent's engineer contacted Ohio EPA with biosolids sample results from Respondent's facility indicating that Respondent would like to land apply biosolids on approximately 500 acres of farm ground.
6. On August 3, 2018, Ohio EPA responded to the Village summarizing the requirements for NPDES permits and site authorization that the Village would need to obtain prior to land applying the biosolids from the lagoon.
7. On August 7, 2018, staff from Ohio EPA met with the Village's engineers at Ohio EPA's Bowling Green Office to discuss permitting requirements for land application, including the need to seek a modification of the NPDES permit. Guidance was also provided on filling out and submitting the beneficial use site authorization request forms.
8. On August 8, 2018, Ohio EPA received an application for the NPDES permit modification.
9. On August 15, 2018, Ohio EPA contacted Respondent concerning the need for an antidegradation addendum to the permit modification application and sent Respondent a copy of that part of the application.
10. On August 24, 2018, staff from Ohio EPA met with Respondent's engineer to do a preliminary site inspection for the farm fields that were proposed to be used for land application. Respondent's engineer completed the site authorization requests forms during the inspection.

11. On September 12, 2018, Ohio EPA staff requested information from Respondent's engineer on the amount of biosolids they were planning on removing from the Village of Sherwood's lagoons.
12. On September 19, 2018 Ohio EPA received a complaint through the Defiance County Health Department about biosolids being land applied on a farm field located at the intersection of Jericho Road and Williams Center-Cecil Road in Defiance County.
13. Ohio EPA conducted an inspection on the same day and confirmed that biosolids from the Village of Sherwood had been land applied on four different farm fields in Defiance County.
14. A Notice of Violation letter was sent to Respondent on September 28, 2018.
15. 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.
16. OAC Rule 3745-40-03(A)(1), provides that except as provided in paragraph (C) of this rule, the treatment, storage, transfer or disposal of biosolids shall be in compliance with this chapter, and, as applicable, the conditions of an NPDES permit.
17. In violation of R.C. § 6111.07(A) and OAC Rule 3745-40-03(A)(1), Respondent land applied biosolids in violation of its NPDES permit.
18. OAC Rule 3745-40-06(A) provides that prior to the beneficial use of class B biosolids, a permittee shall obtain written notice of authorization to beneficially use class B biosolids as a proposed beneficial use site from the director or an authorized representative pursuant to the permittee's NPDES permit or approved biosolids management plan.
19. In violation of OAC Rule 3745-40-06(A), Respondent land applied biosolids to three separate fields without receiving written approval from the Director of Ohio EPA.

20. OAC Rule 3745-40-11(A)(2) provides that unless deemed otherwise by the director, any authorized beneficial use site, where class B biosolids are beneficially used, shall have signs that adhere, at a minimum, to the following requirements:

(2) Face each road frontage, within twenty-five feet of the road.
21. In violation of OAC Rule 3745-40-11(A)(2), Respondent failed to post signs within 25 feet of road frontage.
22. OAC Rule 3745-40-08(C)(1) provides that Class B biosolids shall not be beneficially used within 300 feet of an occupied structure or 33 feet from surface waters of the state.
23. In violation of OAC Rule 3745-40-08(C)(1), Respondent land applied biosolids on the 93-acre field owned by Darwin Schroeder located southeast of the intersection of Jericho Road and Rosedale Road less than the required 300-foot isolation distance from a residential structure and that had been applied in areas less than the 33-foot set back from roadside drainage ditch on the west side of the field adjacent to Rosedale Road and the south side of the field adjacent to the South Fork Gordon Creek.
24. For Class B biosolids, OAC Rule 3745-40-04(C) requires vector attraction reduction be demonstrated with one of ten listed options set forth in the rule. For land application, vector attraction reduction can be demonstrated by injecting the biosolids below the surface of soil or by immediate incorporation which means incorporation into the soil within six hours of delivery to the site.
25. Based on observations by Ohio EPA staff, the biosolids land applied by Respondent were neither injected below surface or immediately incorporated in violation of OAC Rule 3745-40-04(C). Ohio EPA is unaware of any other method by which Respondent demonstrated compliance with the vector attraction reduction requirements.
26. Respondent submitted financial information for the Director's consideration relative to its financial condition and its ability to pay a civil penalty. The Director considered that information in determining the penalty in this matter.
27. This document does not modify NPDES Permit No. 2PA00017*ID. The purpose of this document is to correct a condition of noncompliance with NPDES Permit No. 2PA00017*ID and not to alter said permit.

28. Compliance with the ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
29. The Director has given consideration to the factors set forth in ORC Sections 6111.03 and 6111.60, 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 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 not land apply biosolids until its NPDES permit is modified or renewed to specifically allow for land application and that field authorizations are approved for each individual field where sewage sludge will be applied.
2. Respondent shall pay the amount of \$1,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio". The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying the Respondent, to:

Office of Fiscal Administration
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43215-1049

A copy of the check shall be sent to Larry Reeder, Environmental Manager, Enforcement Section, or his successor, at the following address:

Ohio EPA
Division of Surface Water
Attn: Larry Reeder
P.O. Box 1049
Columbus, Ohio 43215-1049

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 as defined in Ohio Administrative Code 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 described in these Findings and Orders.

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 the 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
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.

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.

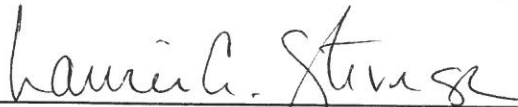
XIII. EFFECTIVE DATE

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.

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



Laurie A. Stevenson, Director

5/13/19

Date

**IT IS SO AGREED:
Village of Sherwood**



Signature

8/26/19

Date

Cary Mallett

Printed or Typed Name

Mayor

Title