

JAN -2 2013

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY  
ENTERED DIRECTOR'S JOURNAL

In the matter of:

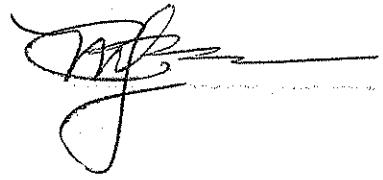
Village of Glendale  
30 Village Square  
Glendale, OH 45246

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.

Respondent

PREAMBLE



Date: 1.2.2013

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Finding and Orders ("Orders") are issued to the Village of Glendale ("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 its successors in interest liable under Ohio law.

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 there under.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operates a wastewater treatment plant ("WWTP") located at 528 East Sharon Road, Glendale, Ohio, 45246 in Hamilton County.
2. Respondent holds an unexpired National Pollutant Discharge Elimination System ("NPDES") Permit No. 1PB00012\*FD for the discharges from the WWTP.
3. Respondent's WWTP discharges to Town Run. Town Run constitutes "waters of the state" as defined by ORC Section 6111.01.

4. Respondent's NPDES permit contains a Schedule of Compliance that required Respondent to eliminate overflows and bypasses from its WWTP not later than 27 months from the effective date of the NPDES permit (September 2008).
5. Respondent initiated numerous improvements to the WWTP in 2006 but the improvements did not eliminate overflows or bypasses. In 2009, Respondent had 22 bypasses, totaling 4.4 million gallons. In 2010, Respondent reported 26 bypasses, totaling 12.3 million gallons. Bypasses continue to occur in 2011.
6. Respondent has also violated the effluent limitations of its NPDES permit as cited in Attachment I. Each violation cited in Attachment I constitutes a separate violation of ORC Sections 6111.04 and 6111.07. Attachment I is hereby incorporated into these Findings and Orders as if fully stated herein.
7. Ohio EPA has sent Respondent two Notice of Violation letters ("NOVs") on October 7, 2010 and May 18, 2011 in an effort to address the compliance issues at the WWTP.
8. This document does not modify NPDES Permit No. 1PB00012\*FD. The purpose of this document is to correct a condition of noncompliance with NPDES Permit No. 1PB00012\*FD and not to alter said permit.
9. 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.
10. 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.
11. 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 Ohio Administrative Code ("OAC") Chapter 3745-42.
12. Compliance with the ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.

13. 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 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

The Director hereby issues the following Orders:

1. Respondent shall not cause, permit or allow the installation or modification of a disposal system at any location in Ohio without first receiving a permit to install ("PTI") or plan approval from the Director as required by OAC Rule 3745-42-02 and ORC 6111.45.
2. Respondent shall achieve compliance with the final effluent limitations of its currently effective NPDES permit, and any successor permit, as expeditiously as practicable, but not later than the following schedule:
  - a) Within six (6) months of the effective date of these Orders, Respondent shall submit to Ohio EPA a complete and approvable PTI application and detail plans for treatment plant improvements.
  - b) Within twelve (12) months of the effective date of the PTI, Respondent shall complete construction of the proposed treatment plant improvements and achieve compliance with the final effluent limitations in its NPDES permit or any successor permit.
3. Until the date specified in the schedule listed in Order No. 2(b) in which Respondent's WWTP is able to attain compliance with final effluent limitations in its unexpired NPDES permit, No 1PB00012\*FD, or any successor permit, Respondent shall properly operate and maintain its existing WWTP to achieve the best quality effluent possible.
4. Respondent shall pay the amount of fifteen thousand dollars (\$15,000.00) 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" in the amount of \$12,000.00. The official check shall be submitted to Brenda Case, 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 43216-1049

A copy of the check shall be sent to Mark Mann, Environmental Manager, Storm Water and Enforcement Section, or his successor, at the following address:

Ohio EPA  
Division of Surface Water  
P.O. Box 1049  
Columbus, Ohio 43216-1049

5. In lieu of paying the remaining \$3,000.00 of the civil penalty, Respondent shall, within thirty (30) days of the effective date of these Orders, fund a supplemental environmental project ("SEP") by making a contribution in the amount of \$3,000.00 to Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for that amount. The official check and a cover letter identifying the Respondent shall be submitted to Carol Butler, or her successor at:

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

A copy of the check shall be sent to Mark Mann, Environmental Manager, Storm Water and Enforcement Section, or his successor, at the following address:

Ohio EPA  
Division of Surface Water  
P.O. Box 1049  
Columbus, OH 43216-1049

6. Should Respondent fail to fund the SEP within the required time frame set forth in Order No. 5, Respondent shall immediately pay to Ohio EPA the remaining \$3,000.00 of civil penalty in accordance with the procedures in Order No 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."

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 defined in OAC Rule 3745-33-03.

#### **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. RESERVATION OF RIGHTS**

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

#### **XI. 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.

**XII. EFFECTIVE DATE**

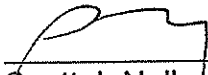
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XIII. 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:**

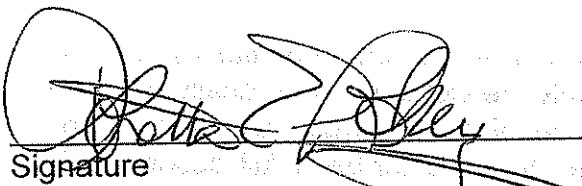
**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Scott J. Natty  
Director

12/27/12  
\_\_\_\_\_  
Date

**IT IS SO AGREED:**

**Village of Glendale**

  
\_\_\_\_\_  
Signature

December 18, 2012  
\_\_\_\_\_  
Date

Loretta E. Rokey  
\_\_\_\_\_  
Printed or Typed Name

Village Administrator  
\_\_\_\_\_  
Title

# Attachment I

Reporting Period	Parameter	Limit Type	Limit	Reported Value	Violation Date
		30D			
August 2010	Phosphorus, Total (P)	Conc	1.0	1.125	8/1/2010
October 2010	Phosphorus, Total (P)	30D Conc	1.0	1.865	10/1/2010
October 2010	Phosphorus, Total (P)	7D Conc	1.5	3.11	10/15/2010
November 2010	Phosphorus, Total (P)	30D Conc	1.0	2.16	11/1/2010
November 2010	Phosphorus, Total (P)	7D Conc	1.5	2.82	11/15/2010
February 2011	Total Suspended Solids	7D Qty	51.1	93.6938	2/1/2011
February 2011	Nitrite Plus Nitrate,	30D Qty	14.2	14.7751	2/1/2011
February 2011	Nitrite Plus Nitrate,	7D Qty	21.3	24.0165	2/22/2011
March 2011	Nitrite Plus Nitrate,	30D Qty	14.2	17.3871	3/1/2011
April 2011	Total Suspended Solids	30D Qty	34.1	52.5708	4/1/2011
April 2011	Nitrite Plus Nitrate,	30D Qty	14.2	23.4688	4/1/2011
April 2011	Nitrite Plus Nitrate,	7D Qty	21.3	23.8114	4/8/2011
April 2011	Total Suspended Solids	7D Qty	51.1	82.0701	4/15/2011
April 2011	Total Suspended Solids	7D Qty	51.1	98.4478	4/22/2011
April 2011	Nitrite Plus Nitrate,	7D Qty	21.3	23.1263	4/22/2011
May 2011	Nitrogen, Ammonia (NH3)	30D Conc	1.0	1.55	5/1/2011
May 2011	Nitrogen, Ammonia (NH3)	30D Qty	2.84	5.10152	5/1/2011
May 2011	Nitrite Plus Nitrate,	7D Qty	21.3	25.5790	5/1/2011
May 2011	Nitrogen, Ammonia (NH3)	7D Conc	1.5	1.95	5/8/2011
May 2011	Nitrogen, Ammonia (NH3)	7D Qty	4.26	5.04597	5/8/2011
May 2011	Nitrogen, Ammonia (NH3)	7D Conc	1.5	3.3	5/15/2011
May 2011	Nitrogen, Ammonia (NH3)	7D Qty	4.26	8.83476	5/15/2011
May 2011	Nitrogen, Ammonia (NH3)	7D Qty	4.26	6.11278	5/22/2011

THE UNIVERSITY OF CHICAGO

PH.D. THESIS

BY

THE AUTHOR

OF THE

SCHOOL OF THE DIVINITY

CHICAGO, ILL.

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