

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.  
MAY 31 2005

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Allen County Board of Commissioners  
301 North Main Street  
P.O. Box 1243  
Lima, Ohio 45802

Director's Final Findings  
and Orders

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 Allen County Board of 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 § 6111 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

- Respondent owns and operates the Shawnee II Wastewater Treatment Plant ("Shawnee WWTP"), a 2.0 million gallon per day wastewater treatment facility located at 3640 Spencerville Road, Shawnee Township, Ohio, and the associated collection system. Collectively, the Shawnee WWTP and its collection system are hereinafter referred to as the Shawnee II Publicly Owned Treatment Works ("Shawnee POTW" or "Shawnee Facility").

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

*[Signature]* 5-31-05

2. Respondent also owns and operates the American Bath Wastewater Treatment Plant ("American Bath WWTP"), a 1.5 million gallon per day wastewater treatment facility located at 3226 North Cole Street, American Township, Ohio, and the associated collection system. Collectively, the American Bath WWTP and its collection system are hereinafter referred to as the American Bath Publicly Owned Treatment Works ("American Bath POTW" or "American Bath Facility").
3. The Shawnee and American Bath Facilities discharge "sewage", "industrial waste", and/or "other wastes", as those terms are defined in ORC § 6111.01. The Shawnee WWTP discharges to the Ottawa River and the American Bath WWTP discharges to Pike Run. The Ottawa River and Pike Run constitute "waters of the state" as defined by ORC § 6111.01.
4. Respondent holds a valid, unexpired National Pollutant Discharge Elimination System (NPDES) permit for the American Bath WWTP, No. 2PH00007\*HD (effective December 1, 2004) for its discharge to Pike Run. Respondent's NPDES permit, No. 2PK00002\*GD, expired for the Shawnee WWTP on March 31, 2004. On September 26, 2003, Respondent submitted an NPDES renewal application for the Shawnee WWTP for its discharge to the Ottawa River.
5. Respondent operates separate sanitary and storm water collection systems. Respondent's sanitary collection system is designed to carry sewage, industrial waste and other wastes to the Shawnee WWTP and the American Bath WWTP, and are not designed to carry storm water or significant amounts of infiltration and inflow (I/I). During wet weather, I/I in the sanitary collection system causes overflows of untreated sewage, industrial waste, and other wastes from the sewer system through six Shawnee POTW sanitary sewer overflows (SSOs) to the Ottawa River and through one American Bath POTW SSO to Pike Run.
6. NPDES permit No 2PK00002\*GD (effective December 1, 1999 through March 31, 2004) authorized one outfall (Outfall 001). Respondent has documented several unauthorized overflow events within the Shawnee POTW. The following list indicates the number of documented days that overflow events occurred at each of the SSOs between January, 2001 and December, 2003:

| SSO Location         | # Overflows | Receiving Water                   |
|----------------------|-------------|-----------------------------------|
| Cam Court            | 52          | Ottawa River                      |
| Elmview Drive        | 28          | Unnamed Tributary to Ottawa River |
| Riverview Drive      | 44          | Ottawa River                      |
| Seriff Road          | 2           | Unnamed Tributary to Ottawa River |
| Shawnee Country Club | 60          | Ottawa River                      |

|                              |    |                                   |
|------------------------------|----|-----------------------------------|
| Shawnee Country Club<br>Main | 15 | Ottawa River                      |
| Shawnee Road                 | 4  | Ottawa River                      |
| Zurmehly Road                | 58 | Unnamed Tributary to Ottawa River |

7. On May 1, 1997, Respondent submitted to Ohio EPA a General Plan and Schedule of Implementation to eliminate all SSOs within the Shawnee POTW by May 1, 2003. The Schedule of Implementation was incorporated into the Schedule of Compliance within NPDES permit No. 2PK00002\*GD.
8. Respondent has violated the Schedule of Compliance within NPDES permit No. 2PK00002\*GD by failing to meet specific date of completion requirements. The violations of the Schedule of Compliance include:
  - A. Failure to submit detailed plans for sewer system improvements as soon as possible, but not later than December 7, 1999. As of the effective date of these Orders, Respondent has not yet submitted the detailed plans for sewer system improvements.
  - B. Failure to advertise for bids, receive bids, and award contracts for sewer system improvements as soon as possible, but not later than 10 months from the effective date of the NPDES permit or by October 31, 2000.
  - C. Failure to commence construction of the sewer system improvements project as soon as possible, but not later than 11 months from the effective date of the NPDES permit or by November 3, 2000.
  - D. Failure to complete construction of the sewer system improvements project and eliminate all collection system overflows as soon as possible, but not later than 41 months from the effective date of the NPDES permit, or by May 1, 2003. As of the effective date of these Orders, Respondent has not completed the sewer system improvements project.
9. Respondent has addressed and permanently closed the Seriff Road SSO on September 24, 2001 and the Shawnee Road SSO on September 10, 2001, both within the Shawnee POTW.
10. NPDES permit No 2PH00007\*HD (effective December 1, 2003 through January 31, 2008) authorized one outfall (Outfall 001). Respondent has documented several unauthorized overflow events within the American Bath POTW. The following list indicates the number of documented days that overflow events occurred at each of the SSOs between May, 2002 and March, 2003:

| SSO Location                  | # Overflows | Receiving Water |
|-------------------------------|-------------|-----------------|
| Manhole T-45                  | 1           | Pike Run        |
| Meadow Apartments (AB-03-020) | 14          | Pike Run        |

11. ORC Section 6111.04 prohibits the discharge of sewage, industrial waste, or other wastes to waters of the state except in accordance with a valid, unexpired permit from Ohio EPA, or any discharge of pollutants in excess of the permissive discharges specified under a valid unexpired NPDES permit. ORC Section 6111.07 prohibits any violation of any duty imposed by Sections 6111.01 through 6111.08; it also prohibits any violation of any order, rule or term or condition of any permit issued by the Director of Ohio EPA pursuant to such sections. Respondent is in violation of its NPDES permits and ORC Sections 6111.04 and 6111.07.
12. On April 7, 2004, Respondent submitted a revised implementation schedule that will complete all repairs needed on the the American Bath POTW by December 2011 and on the Shawnee POTW by June 2013.
13. It is anticipated that Respondent will continue to discharge from the remaining SSOs listed in Findings 6 and 10, excluding the two SSOs already addressed in Finding 9. Therefore, these Orders are necessary to bring Respondent into compliance with its NPDES permits in accordance with the schedule contained herein.
14. 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 ORC §§ 6111.44 and 6111.45 and OAC Rule 3745-42-02.
15. Compliance with ORC § 6111 is not contingent upon the availability or receipt of financial assistance.
16. 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 purpose of ORC § 6111.

## V. ORDERS

1. Respondent shall do the following as expeditiously as practicable, but not later than the milestone dates of the following compliance schedule for the Shawnee POTW:
  - A. Advertise for bids, receive bids, and award contracts to complete the mainline and manhole replacement and/or rehabilitation in the Seriff Sub-basin Pilot I/I Remediation Project Area as soon as possible, but not later than January 31, 2005;
  - B. Begin investigation and remediation of private property issues as soon as possible, but not later than December 31, 2006;
  - C. Complete mainline and manhole replacement and/or rehabilitation for the remaining portion of the Shawnee POTW as soon as possible, but not later than August 31, 2011;
  - D. Complete investigation and remediation for the remaining portion of the Shawnee POTW private property issues as soon as possible, but not later than June 30, 2013;
  - E. Submit a System Evaluation Capacity Assurance Plan ("SECAP") by July 1, 2009. The SECAP must include a description of:
    - i. Evaluation -Steps to evaluate the collection system and treatment plant. The evaluation must provide estimates of peak flows (including flows from SSOs that escape from the system) associated with conditions similar to those causing overflow events, provide estimates of the capacity of key system components, identify hydraulic deficiencies, including components of the system with limiting capacity and identify the major sources that contribute to the peak flows associated with the overflow events;
    - ii. Capacity Enhancement Measures -Short term and long term actions to address each hydraulic deficiency, including:
      - a. The process used for prioritizing deficiencies and actions taken to address deficiencies;
      - b. A systematic evaluation of a comprehensive set of feasible alternatives for addressing each deficiency, including estimated costs and performances of various alternatives;

- c. A demonstration that selected alternatives are implementable from legal, institutional, financial and management standpoints; and
      - d. A schedule of key milestones, including proposed start and completion dates, for specific recommended measures.
    - iii. Plan Updates -The plan must be updated to describe any significant change in proposed actions and/or the implementation schedule. The plan must also be updated to reflect available information on the performance of measures that have been implemented.
  - F. Implement the SECAP and eliminate all SSOs as soon as possible, but not later than December 31, 2015.
- 2. Respondent shall do the following as expeditiously as practicable, but not later than the milestone dates of the following compliance schedule for the American Bath POTW:
  - A. Complete American Bath POTW flow monitoring as soon as possible, but not later than December 31, 2006;
  - B. Complete mainline and manhole replacement and/or rehabilitation for the American Bath POTW as soon as possible, but not later than December 31, 2009;
  - C. Complete investigation and remediation of the American Bath POTW private property issues as soon as possible, but not later than December 31, 2011;
  - D. Submit a System Evaluation Capacity Assurance Plan ("SECAP") by July 1, 2009. The SECAP must include a description of:
    - i. Evaluation -Steps to evaluate the collection system and treatment plant. The evaluation must provide estimates of peak flows (including flows from SSOs that escape from the system) associated with conditions similar to those causing overflow events, provide estimates of the capacity of key system components, identify hydraulic deficiencies, including components of the system with limiting capacity and identify the major sources that contribute to the peak flows associated with the overflow events;
    - ii. Capacity Enhancement Measures -Short term and long term actions to address each hydraulic deficiency, including:

- a. The process used for prioritizing deficiencies and actions taken to address deficiencies;
      - b. A systematic evaluation of a comprehensive set of feasible alternatives for addressing each deficiency, including estimated costs and performances of various alternatives;
      - c. A demonstration that selected alternatives are implementable from legal, institutional, financial and management standpoints; and
      - d. A schedule of key milestones, including proposed start and completion dates, for specific recommended measures.
    - iii. Plan Updates -The plan must be updated to describe any significant change in proposed actions and/or the implementation schedule. The plan must also be updated to reflect available information on the performance of measures that have been implemented.
  - E. Implement the SECAP and eliminate all SSOs as soon as possible, but not later than December 31, 2015.
3. Beginning on the effective date of these Orders, Respondent shall comply with the monitoring and reporting requirements contained in Attachment A, which is hereby made a part of these Orders.
  4. As soon as possible but not later than 60 days from the effective date of these Orders, Respondent shall post warning signs at each SSO location displaying language substantively similar to that contained in Attachment B, which is hereby made a part of these Findings & Orders. The sign shall be no smaller than twelve by 18 inches (12" x 18") printed in at least one and on half inch (1 ½ ") letters.
  5. At all times, Respondent shall operate and maintain it's sewer systems in such a manner as necessary to minimize the frequency and occurrence of overflows and to minimize impacts to the receiving stream resulting from any overflow. At a minimum, Respondent shall utilize the following technology and activities to minimize such impacts:
    - A. Provide proper operation and maintenance programs for the sewer systems and overflow points;
    - B. Provide maximum use of the collection systems for storage prior to allowing overflows;

- C. Maximize flow to the WWTPs for treatment; and
  - D. Prohibit dry weather overflows.
6. Within fourteen (14) days of each deadline in Order 1, Order 2, and Order 4, Respondent shall submit written notification and documentation of compliance with said Orders to Ohio EPA Northwest District Office at the address listed below:

Ohio Environmental Protection Agency  
Division of Surface Water  
Northwest District Office  
347 North Dunbridge Road  
P.O. Box 466  
Bowling Green, Ohio 43402

7. Within thirty (30) days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of Forty Nine Thousand Two Hundred Twenty Six Dollars (\$49,226.00) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$49,226.00. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent and the facility.

A photo copy of the check shall be sent to Ohio EPA's Northwest District Office at:

Ohio Environmental Protection Agency  
Northwest District Office  
347 Dunbridge Road  
Bowling Green, Ohio 43402

8. In lieu of payment of the \$49,226.00 civil penalty, Respondent shall complete the Findlay Road Phase II Sewer Improvement Area Project ("the Findlay Road Project"), estimated at a cost of \$557,000.00, as a Supplemental Environmental Project (SEP). The Findlay Road Project will alleviate septic waste in drainage ditches in the service area by replacing on-site residential/commercial wastewater treatment systems with a public sanitary sewer that will allow the elimination of a package wastewater treatment plant that is owned and operated by Allen County. The completion of the sewer improvement will help to improve the quality of storm water runoff from the watershed to the Sugar Creek Ditch through the construction of approximately 400 lineal feet of eighteen (18) inch sanitary sewer, 5600 lineal feet of twelve (12) inch sanitary sewer, and 470 lineal feet of eight (8) inch sanitary sewer to service property along Bluelick Road in Bath Township, Allen County,

Ohio. Upon completion of the sewer improvement, the wastewater will be treated by the City of Lima.

9. Should the Respondent fail to timely or fully complete the Findlay Road Project as outlined in Order No. 8 within two hundred and ten (210) days of the effective date of these Orders, Respondent shall immediately pay to Ohio EPA the Forty Nine Thousand Two Hundred Twenty Six Dollars (\$49,226.00) civil penalty by an official check as described in Order No. 7.

#### **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(D)(1).

#### **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 Facility.

#### **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 AGREED:**

Allen County Board of Commissioners

W. Dan Reiff  
By

4-22-05  
Date

W. DAN REIFF  
Print Name

Commissioner, President  
Title

Greg Sney  
By

4-22-05  
Date

GREG SNEY  
Print Name

COMMISSIONER, Vice President  
Title

[Signature]  
By

4-22-05  
Date

SAM D. BASSITT  
Print Name

COMMISSIONER  
Title

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

  
\_\_\_\_\_  
Joseph P. Koncelik  
Director

5/29/05  
\_\_\_\_\_  
Date

### ATTACHMENT A

1. The permittee shall report all Sanitary Sewer Overflows to Ohio EPA by telephone within twenty-four (24) hours of discovery at 1-800-282-9378.
2. The permittee shall monitor the system overflows at the following locations:

|                           |                   |                    |
|---------------------------|-------------------|--------------------|
| Cam Court                 | Lat: 40 N 42' 57" | Long: 84 W 09' 19" |
| Elmview Drive             | Lat: 40 N 41' 02" | Long: 84 W 08' 48" |
| Riverview Drive           | Lat: 40 N 43' 22" | Long: 84 W 10' 08" |
| Shawnee Country Club      | Lat: 40 N 42' 29" | Long: 84 W 09' 18" |
| Shawnee Country Club Main | Lat: 40 N 42' 27" | Long: 84 W 09' 16" |
| Zurmehly Road             | Lat: 40 N 42' 51" | Long: 84 W 09' 27" |

Meadows Apartments (MH AB-01-020) Lat: 40 N 42' 51" Long: 84 W 09' 27"

and report to Ohio EPA in accordance with the following table:

| CHARACTERISTIC |                 |                  | MONITORING REQUIREMENTS |                |
|----------------|-----------------|------------------|-------------------------|----------------|
| Reporting Code | Units           | Parameter        | Measurement Frequency   | Sample Type    |
| 00530          | mg/l            | Suspended Solids | When discharging        | Grab           |
| 50050          | Million Gallons | Volume           | When discharging        | Daily Estimate |
| 80082          | mg/l            | CBOD5            | When discharging        | Grab           |
| 80998          | Number/Month    | Occurrences      | When discharging        | Estimate       |
| 80999          | Hours           | Duration         | When discharging        | Daily Estimate |

Total suspended solids and CBOD shall be monitored and reported one time during the month on a day when a discharge occurs through this station.

Overflow Occurrence - The total number for the month shall be reported.

Monitoring data shall be submitted for each month when discharge occurs. When discharge occurs, the monthly monitoring report shall be attached to the normal monthly report form (EPA-4500).



**ATTACHMENT B**

**NOTICE**

UNTREATED SEWAGE MAY OVERFLOW HERE DURING WET WEATHER.  
REPORTS OF SEWAGE DEBRIS IN THIS AREA SHOULD BE SUBMITTED TO THE  
ALLEN COUNTY SANITARY ENGINEERING DEPARTMENT AT (419)331-6080.

