

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
MAR 22 2007

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Beaver Local School District
Board of Education
13093 State Route 7
Lisbon, OH 44432

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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

It is agreed by the parties hereto as follows:

By:  Date: 3-22-07

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Beaver Local School District Board of Education ("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 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and 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 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 owner and operator of the wastewater treatment system for the Beaver Local High School, located on the west side of State Route 7 at Bell School Road in Madison Township, Columbiana County, Ohio ("the Site").
2. The wastewater treatment system consists of two septic tanks followed by dual sand filters, which discharge directly to West Fork Little Beaver Creek. West Fork

Little Beaver Creek constitutes "waters of the state" as defined in R.C. 6111.01. There is no disinfection prior to discharge.

3. Pursuant to R.C. § 6111.04(A), no person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state. Such an action is prohibited under R.C. § 6111.04(A) and is declared to be a public nuisance unless the person causing pollution or placing or causing to be placed wastes in a location in which they cause pollution of any waters of the state holds a valid, unexpired National Pollutant Discharge Elimination System ("NPDES") permit, or renewal of a permit, governing the causing or placement as provided in R.C. §§ 6111.01 to 6111.08 or if the person's application for renewal of such a permit is pending.
4. Ohio EPA conducted an inspection of the Site on January 26, 1999. During the inspection, Ohio EPA noted that the wastewater treatment system was discharging to waters of the state without an NPDES permit in violation of R.C. § 6111.04.
5. By letter dated February 12, 1999, to the Superintendent of Schools, Respondent was advised to apply for an NPDES permit, and also that it would be required to modify its existing wastewater treatment system or install a new treatment system in order to meet effluent limits in the NPDES permit.
6. Ohio EPA received an NPDES permit application from Respondent on July 17, 2001. Ohio EPA issued an NPDES permit to Respondent, number 3PT00096*AD, for the discharge from the Site to West Fork Little Beaver Creek, effective December 1, 2001.
7. Part I.C. of Respondent's NPDES permit sets forth a Schedule of Compliance by which Respondent was to attain compliance with the final effluent limitations in the permit. The compliance schedule required Respondent to submit detail plans for plant improvements as soon as possible, but not later than March 1, 2002.
8. On April 23, 2001, Ohio EPA received a permit to install ("PTI") application and detail plans from Respondent for installation of a wastewater treatment system to replace the existing system. The proposed system was to include an equalization tank, aeration, clarification, slow sand filtration, and disinfection. Respondent had purchased the system prior to submitting the PTI application. A PTI for the installation of this system, effective March 28, 2002, was issued to Respondent.
9. The compliance schedule in Respondent's NPDES permit required that construction of wastewater treatment plant improvements be completed by December 1, 2002, and that the treatment works attain operational level and meet final effluent

limitations by January 1, 2003.

10. By letter dated December 19, 2002, Respondent, by its engineer, requested a six month extension of the dates in the compliance schedule for commencing and completing construction and attaining compliance with final effluent limitations in the NPDES permit. Ohio EPA did not respond to this request.
11. Respondent never commenced installation of the new wastewater treatment system and, therefore, Respondent's PTI has expired.
12. Among other things, Respondent's NPDES permit requires Respondent to monitor the discharge from the wastewater treatment system and report the monitoring results monthly to Ohio EPA, beginning on the effective date of the permit and lasting until thirteen (13) months after the effective date, the date on which the new wastewater treatment system was required to attain operational level and meet final effluent limits under the permit.
13. Respondent failed to monitor the discharge and report monitoring results monthly to Ohio EPA. Notices that discharge monitoring reports had not been submitted as required by the NPDES permit were sent to Respondent on at least February 7, 2002, March 11, 2002, May 13, 2002, July 15, 2002, September 5, 2002, and December 15, 2002.
14. On December 5, 2005, Ohio EPA sent a notice of violation to Respondent for violating its NPDES permit and PTI by not installing the approved wastewater treatment system, and for failure to comply with other requirements of the NPDES permit.
15. The Columbiana County Engineer began sampling the discharge from Respondent's wastewater treatment system in December 2005. Results of the analyses of these samples establish that the discharge does not meet the final effluent limitations in Respondent's NPDES permit which have been in effect since January 1, 2003.
16. Respondent's NPDES permit expired on November 30, 2006. Pursuant to Ohio Administrative Code ("OAC") 3745-33-04(C), a permittee that intends to continue to discharge after the expiration date of its NPDES permit must submit to Ohio EPA an application for renewal of the permit at least 180 days prior to its expiration. Respondent's renewal application should have been filed by May 30, 2006.
17. Respondent submitted a renewal NPDES permit application to Ohio EPA on August 29, 2006.

18. Respondent has stated its intention to enter into an agreement with the Columbiana County Water and Sewer District #2 ("County Sewer District") and several other entities for the County Sewer District to construct and operate a sewage treatment plant and sewer service lines to provide sanitary sewage collection and treatment for the high school and middle school in Respondent's school district and the other entities. The parties to the agreement intend the sewage treatment plant to be constructed and operational before the beginning of the 2007-2008 school year.
19. Pursuant to R.C. § 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.
20. Pursuant to R.C. § 6111.07(A), no person shall violate or fail to perform any duty imposed by R.C. §§ 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.
21. 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 R.C. Chapter 6111.

V. ORDERS

1. Respondent shall comply with either Order 1.a. or 1.b. as expeditiously as practicable, but not later than the milestone dates of the following compliance schedules:
 - a. If Respondent, the County Sewer District, and the other entities reach an agreement for the County Sewer District to construct and operate a sewage treatment plant, and the sewage treatment plant and sewer service lines will be constructed and operational within twenty-four (24) months of the effective date of these Orders, Respondent shall do the following:
 - i. Within one hundred eighty (180) days of the effective date of these Orders, Respondent shall submit to Ohio EPA in accordance with Section X. of these Orders:
 - (a) A copy of the Agreement for Construction of Sewage Treatment Plant and Sewer Lines which provides for

- construction of a sewage treatment plant and sewer service lines to serve, among others, the high school and middle school in Respondent's school district, which has been executed by all parties thereto; and
- (b) Written documentation that the County Sewer District has commenced and is proceeding with construction of the sewage treatment plant and sewer service lines described in Order No. 1.a.i.(a) in accordance with a PTI from Ohio EPA.
 - (c) If required, a complete and approvable PTI application for installation of any necessary grinder pumps and sewer lines to connect the high school and middle school in Respondent's school district to the sewer service line.
- ii. Within sixty (60) days of completion of construction of the sewage treatment plant and sewer service lines described in Order No. 1.a.i.(a), Respondent shall install any necessary grinder pumps and sewer lines to connect the high school and middle school in Respondent's school district to the sewer service line and eliminate all discharges from the high school and middle school to waters of the state. Upon elimination of its wastewater discharges to waters of the state, Respondent shall surrender its NPDES permit to the Ohio EPA, in accordance with Section X. of these Orders.
 - iii. Within thirty (30) days of connection of the schools to the County Sewer District's sewer service line and sewage treatment plant, Respondent shall abandon the currently existing wastewater treatment system(s) at the high school and middle school in Respondent's school district. At a minimum, Respondent shall remove and properly dispose of any sludge and sand stored or contained at the wastewater treatment system(s), disconnect the piping between the wastewater treatment system(s) and the outfalls to waters of the state, break up the floor and collapse the walls of the wastewater treatment system(s), and backfill the wastewater treatment system(s) area with soil.
 - iv. Respondent shall submit written notification to Ohio EPA in accordance with Section X. of these Orders within fourteen (14) days of the following:
 - (a) The County Sewer District's completion of construction of the sewage treatment plant and sewer service lines.

- (b) Respondent's commencement of installation of any necessary grinder pumps and sewer lines to connect the high school and middle school to the County Sewer District's sewer service line.
 - (c) Respondent's connection to the County Sewer District's sewer service line and elimination of discharges to waters of the state.
 - (d) Respondent's abandonment of its currently existing wastewater treatment system(s) at the high school and middle schools in Respondent's school district, as required by Order 1.a.iii.
- b. If Respondent, the County Sewer District, and the other entities do not reach agreement for the County Sewer District to construct and operate a sewage treatment plant, Respondent shall do the following:
 - i. Within one hundred eighty (180) days of the effective date of these Orders, Respondent shall submit to Ohio EPA in accordance with Section X. of these Orders, a complete and approvable PTI application and detail plans for installation of a new wastewater treatment system to serve the high school and middle school in Respondent's school district, designed to meet the effluent limitations and design criteria in table 5-1 of OAC 3745-1-05.
 - ii. Within ninety (90) days after approval of the PTI by Ohio EPA, Respondent shall advertise for construction bids, receive bids, and award contracts.
 - iii. Within one hundred eighty (180) days after approval of the PTI by Ohio EPA, Respondent shall commence construction of the wastewater treatment system.
 - iv. Within twenty-four (24) months after approval of the PTI by Ohio EPA, Respondent shall complete construction of the wastewater treatment system.
 - v. Within twenty-seven (27) months after approval of the PTI by Ohio EPA, Respondent shall attain operational level of the wastewater treatment system and meet final effluent limitations.
 - vi. Within fourteen (14) days of each deadline in Order 1.b.ii., 1.b.iii., 1.b.iv., and 1.b.v., Respondent shall submit written notification and

documentation of compliance with that step of the compliance schedule to Ohio EPA in accordance with Section X. of these Orders.

- vii. Respondent shall comply with all terms and conditions in an effective NPDES permit and any renewed NPDES permits.
2. Within fourteen (14) days of receipt of notification from Ohio EPA, Respondent shall provide Ohio EPA with a response addressing any comments or deficiencies and/or submit any additional information requested with regard to any of the submittals required by Orders 1.a. and 1.b., in accordance with Section X. of these Orders.

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 as defined in Ohio Administrative Code Rule 3745-33-03(D).

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. 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 East Aurora Road
Twinsburg, Ohio 44087

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Surface Water
Attn: Manager, Stormwater and Enforcement Section
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



Director

3/21/07

Date

IT IS SO AGREED:

**Beaver Local School District
Board of Education**



Signature

Feb. 6, 2007

Date

WILLARD C. ADKINS

Printed or Typed Name

SUPERINTENDENT

Title