

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the Matter of:**

<b>Village of Ashville</b>	:	<b>Modified Director's Final</b>
<b>200 E. Station Street</b>	:	<b>Findings and Orders</b>
<b>Ashville, Ohio 43103</b>	:	
	:	
<b>Respondent</b>	:	

**PREAMBLE**

It is agreed by the Parties hereto as follows:

**I. JURISDICTION**

These Modified Director's Final Findings and Orders ("Orders") are issued to the Village of Ashville ("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 successors in interest liable under Ohio law. No change in the composition of Respondent 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 3745, and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA has made the following findings:

1. Respondent is located in Pickaway County, Ohio, and has a population of approximately 4,150 people.
2. Respondent owned and operated a wastewater treatment plant (WWTP) located at 67 S. Scioto Street, Ashville, Ohio. The WWTP consisted of screening, primary

settling, oxidation ditches, secondary settling, chlorination, dechlorination, and post aeration. The WWTP was designed to treat 0.6 million gallons per day (MGD) of sewage. Median daily flow was 0.409 MGD. The new facility is designed to treat 0.9 million gallons per day (MGD) of sewage. As explained in Findings Nos. 18 and 19, Respondent now owns and operates a new wastewater treatment plant located at 3219 SR 752, Ashville, Ohio.

3. Respondent held a National Pollutant Discharge Elimination System (NPDES) permit, number 4PC00005\*LD, effective July 1, 2012, which authorized Respondent to discharge effluent from the WWTP to Walnut Creek. Walnut Creek is defined as "waters of the state" pursuant to R.C. § 6111.01. Respondent currently holds NPDES permit, number 4PC00103\*AD, effective December 1, 2015, that authorizes Respondent to discharge effluent from the new WWTP to Walnut Creek.
4. Respondent's previous NPDES permit, No. 4PC00005\*KD, effective from July 1, 2007 to June 30, 2012, contained two compliance schedules. The first required installation by no later than January 1, 2008, of a flow meter/totalizer capable of accurately recording the actual range of discharge flow rates from the WWTP. The second required elimination of sanitary sewer overflows at Manhole 1 adjacent to the WWTP and Manhole 6 located within the collection system by no later than July 1, 2010.
5. Respondent violated NPDES permit No. 4PC00005\*KD by not complying with the compliance schedules in a timely manner, in violation of R.C. § 6111.07. Respondent completed installation of the flow monitoring equipment on February 21, 2008, and permanently plugged and eliminated both SSOs on or about June 16, 2011.
6. Respondent also operates a separate sanitary sewerage system tributary to the WWTP.
7. Numerous sanitary sewer overflows have occurred from the manholes adjacent to the WWTP and within the collection system. These overflows consisted of untreated sanitary sewage which flowed into Walnut Creek. In addition, there is a bypass at the WWTP. When a bypass occurs, the sanitary sewage does not undergo full treatment at the WWTP as the clarifiers are bypassed. Untreated and partially treated sanitary sewage is "pollution," as that term is defined in R.C. § 6111.01.
8. Each day of discharge of sanitary sewage from the SSOs to waters of the state without a valid NPDES permit for the discharge is a separate violation of R.C. §§ 6111.04 and 6111.07. The dates of the overflows or bypasses known to Ohio EPA are July 15-16, 2003, August 3, 2003, December 16, 2003, January 3-9, 2004, April 22, 2004, May 1-4, 2004, May 17, 2004, May 18, 2004, May 21-25, 2004,

May 27, 2004, September 8, 2004, October 18, 2004, January 3-10, 2005, March 28, 2005, January 18, 2006, March 15, 2007, March 4, 2008, March 14, 2008, May 16, 2008, June 4, 2008, April 15, 2009, October 31, 2009, January 25, 2010, February 24, 2010, March 1, 2010, March 26, 2010, February 9, 2011, February 25, 2011, April 12, 2011, April 19-20, 2011, April 25, 2011, May 3-4, 2011, May 17-18, 2011, May 23, 2011, January 26, 2012, December 10, 2012, February 19-20, 2014, and May 12, 2014. In addition, sewage backed up into basements on at least August 19, 2010.

9. The discharge of pollutants into waters of the state in excess of the permissible limits of an NPDES permit is a violation of R.C. §§ 6111.04 and 6111.07.
10. Ohio EPA inspected Respondent's WWTP on October 15, 2003, March 1, 2005, March 15, 2007, February 6, 2008, June 18, 2008, June 3, 2009, March 15, 2010, March 17, 2011, February 17, 2012, and February 26, 2014. Following these inspections, letters or Notices of Violation ("NOVs") dated May 1, 2005, June 26, 2007, February 14, 2008, July 2, 2008, June 30, 2009, April 27, 2010, April 1, 2011, March 5, 2012, and March 7, 2014, along with inspection reports listing violations of Respondent's NPDES permit, were sent to Respondent. Notices of Violation listing violations of the effluent limitations in Respondent's NPDES permit were sent to Respondent on at least September 17, 2008, November 24, 2009, March 19, 2010, August 12, 2010, and October 18, 2013. In addition, a meeting was held on February 21, 2012, between Ohio EPA and Respondent to discuss Respondent's noncompliance.
11. Respondent has, on certain dates, and based on laboratory results reported by Respondent, although in part questioned by Respondent, exceeded final effluent limitations in its NPDES permit for total suspended solids, fecal coliform, dissolved oxygen, carbonaceous biochemical oxygen demand (CBOD5), pH, and metals in sludge from January 1, 2007 to March 31, 2014, and on certain dates, violated reporting and sampling frequency requirements from January 1, 2005 to March 31, 2014. These include occasions such as September 1, 2012, when WWTP staff forgot to take phosphorus and nitrate samples.
12. Respondent received dozens of complaints about odors from the former WWTP and/or the collection system since at least 2007.
13. Respondent failed to maintain and operate the WWTP and sanitary sewerage system in a fashion necessary to ensure compliance as required in Parts III.3.A. and III.B. of its NPDES permit on at least September 22, 2003, September 27, 2003, December 10, 2003, October 3, 2006, and December 10, 2012. Failure to maintain the WWTP and the sanitary sewerage system as required to ensure compliance is a violation of R.C. § 6111.07. Each day of violation is a separate offense.
14. Respondent failed to submit the annual report of SSOs for 2011 by March 31, 2012, as required by Part II, E.2.b)(iii) of Respondent's NPDES permit, in violation

of R.C. § 6111.07. The report was submitted on or about December 6, 2012.

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. Walnut Creek is heavily used for fishing and swimming. Due to elevated levels of indicator bacteria, to which Respondent's overflows and bypasses contribute, Walnut Creek is designated nonattainment for recreational uses. Based on the observed conditions and sampling results, it is necessary that sanitary sewerage system and WWTP improvements be constructed, maintained, and operated in order to consistently protect public health and welfare and waters of the state.
17. On May 14, 2012, Respondent submitted a facilities plan to Ohio EPA. The plan included a proposed schedule for construction of a new WWTP, and a flow monitoring and corrective action plan for the collection system to be implemented starting in 2014.
18. On June 16, 2014, Ohio EPA issued Director's Final Findings and Orders to Respondent ("2014 Orders"). Among other things, the 2014 Orders required Respondent to construct a new WWTP and to minimize inflow and infiltration of ground and surface water into Respondent's sanitary sewer collection system. The corrective actions for the sanitary sewer collection system were to be completed by June 16, 2019.
19. Respondent constructed the new WWTP and placed it into operation, but has failed to minimize inflow and infiltration into its sanitary sewer collection system in accordance with Order No. 3 in the 2014 Orders.
20. Inflow and infiltration into the sanitary sewer collection system is causing problems at both the WWTP and within the collection system and causes Respondent to violate effluent limitations in its NPDES permit during precipitation events.
21. Sanitary sewer overflows caused by inflow and infiltration occurred on April 3, 2018 and June 19, 2019. Each overflow constitutes a separate violation of R.C. §§ 6111.04 and 6111.07.
22. Respondent violated effluent limitations in its NPDES permit, number 4PC00103\*AD on the following dates. Each violation cited constitutes a separate violation of R.C. §§ 6111.04 and 6111.07.

Permit No	Reporting Period	Station	Reporting Code	Parameter	Limit Type	Limit	Reported Value	Violation Date
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4PC00103*AD	November 2018	001	00300	Dissolved Oxygen	1D Conc	6.0	5.4	11/1/2018
4PC00103*AD	February 2019	001	00610	Nitrogen, Ammonia (NH3)	7D Qty	13.7	14.3008	2/8/2019
4PC00103*AD	February 2019	001	80082	CBOD 5 day	7D Qty	45.5	58.1754	2/8/2019
4PC00103*AD	June 2019	001	00610	Nitrogen, Ammonia (NH3)	7D Qty	4.55	5.1177	6/15/2019
4PC00103*AD	June 2019	001	80082	CBOD 5 day	7D Qty	45.5	54.2769	6/15/2019
4PC00103*AD	October 2019	001	00610	Nitrogen, Ammonia (NH3)	7D Qty	1.5	1.85	10/8/2019
4PC00103*AD	December 2019	001	00530	Total Suspended Solids	30D Qty	36.4	57.5984	12/1/2019
4PC00103*AD	December 2019	001	00530	Total Suspended Solids	30D Conc	12	22.	12/1/2019
4PC00103*AD	December 2019	001	80082	CBOD 5 day	7D Conc	15	18.6666	12/15/2019
4PC00103*AD	December 2019	001	00530	Total Suspended Solids	7D Qty	54.6	159.598	12/15/2019
4PC00103*AD	December 2019	001	80082	CBOD 5 day	7D Qty	45.5	50.3379	12/15/2019
4PC00103*AD	December 2019	001	00530	Total Suspended Solids	7D Conc	18	58.6666	12/15/2019

23. Respondent violated reporting and sampling frequency requirements in its NPDES permit, number 4PC00103\*AD, on certain dates from November 2017 through December 2019. Each violation constitutes a separate violation of R.C. §§ 6111.04 and 6111.07.
24. The Director has proposed to modify Order No. 3 in the 2014 Orders. Any Orders in the 2014 Orders that are not modified or changed in any way by these Modified Orders remain applicable to Respondent as written.
25. Respondent has provided detailed information regarding proposed projects in a September 24, 2020 letter with enclosures to Ohio EPA. Information in that letter and subsequent submissions by Respondent on November 9, 2020 and January 8, 2021 form the basis for items included in the Schedule of Compliance in these Orders.
26. Respondent implemented Project Dry Basement and made it available to citizens of Ashville during late 2020.
27. Compliance with R.C. Chapter 6111 is not contingent upon the availability or receipt of financial assistance.

28. 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 sanitary sewerage system. Any such construction or modification is subject to the permit to install (PTI) requirements of R.C. §§ 6111.44 and 6111.45 and Ohio Administrative Code (OAC) Chapter 3745-42.
29. 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. Respondent shall reduce or eliminate the excessive flows experienced at the wastewater treatment plant due to inflow and infiltration into the sanitary sewer collection system as expeditiously as practicable using the framework outlined below:
  - a. Respondent shall complete the following projects identified in Attachment 1 to these Orders in accordance with the timeline attached as Attachment 2 to these Orders and the schedule below:
    - i. As expeditiously as practicable, but no later than July 2, 2021, Respondent shall complete the permanent flow metering project by installing permanent flow meters in the metersheds indicated on Attachment 3 to these Orders. Respondent shall use the information gathered from the permanent flow meters to gauge the effectiveness of Respondent's infiltration and inflow reduction projects and to prioritize future projects.
    - ii. As expeditiously as practicable, but no later than July 1, 2021, Respondent shall complete the State Route 316 Ohio Public Works Commission (OPWC), Ohio Department of Transportation (ODOT), and Ashville Project described in the letter dated January 8, 2021. This project is managed by ODOT with OPWC and Ashville as partners to this Stormwater, ADA Sidewalk and Stormwater Improvement Project.
    - iii. As expeditiously as practicable, but no later than December 31, 2021, Respondent shall complete the Railroad Storm Sewer Outlet

improvement described in Attachment 1.

- iv. As expeditiously as practicable, but no later than June 19, 2023, Respondent shall complete the South Metershed improvements – Phase 1 described in Attachment 1 to these Orders.
  - v. As expeditiously as practicable, but no later than July 24, 2024, Respondent shall complete the South Metershed Improvements – Phase 2 described in Attachment 1 to these Orders.
  - vi. As expeditiously as practicable, but no later than August 25, 2025, Respondent shall complete the Southeast Metershed improvements described in Attachment 1 to these Orders.
  - vii. As expeditiously as practicable, but no later than April 2, 2023/26, Respondent shall complete the South Metershed Cromley Improvements described in Attachment 1 to these Orders. As a Priority Two OPWC application the timeline would be delayed by one year.
- b. In the semi-annual progress reports required by Order No. 6, below, Respondent shall report on the number of citizens availing themselves of the opportunity provided by Project Dry Basement.
  - c. Within six (6) months of completion of the projects described in orders 1.a., but no later than December 31, 2025, Respondent shall submit a report to the Ohio EPA's Central District Office in accordance with Section X. of these Orders. The report shall evaluate the impact of completion of the projects described above on Infiltration and Inflow in Respondent's collection system.
2. Not later than six months following completion of the projects in Order 1.a, Respondent shall complete a further study of the collection system and the flows therein, and as the second phase of its Infiltration/Inflow Reduction Plan, propose a minimum of five (5) additional projects, explaining the reasons for the choice of those projects, along with a schedule for completion of those projects. The study and list of additional projects shall be submitted to Ohio EPA for approval, in accordance with Section X. of these Orders, using the plan approval process in Ohio Administrative Code Chapter 3745-42. Upon approval by Ohio EPA, Respondent shall implement the projects on the approved schedule.
  3. Respondent shall repeat the above process, as set forth in Orders Nos. 1.c and 2, of submission of a report, an application for approval of the next phase of Respondent's Infiltration/Inflow Reduction Plan, a minimum of five proposed

projects, and a schedule for implementation of the projects, until peak flows at the wastewater treatment plant are reduced by at least half and infiltration and inflow is sufficiently abated in Respondent's collection system to ensure that Respondent's wastewater treatment plant is able to maintain consistent compliance with the effluent limitations in its NPDES permit.

4. Respondent shall submit corrections to address any deficiencies in the plan applications referenced in Orders Nos. 1 through 3 to Ohio EPA, in accordance with Section X. of these Orders, within thirty (30) days of notification by letter from Ohio EPA of any deficiencies.
5. Respondent shall notify the Ohio EPA's Central District Office ("CDO"), in accordance with Section X. of these Modified Orders, within seven (7) days of beginning each of the projects required by Orders Nos. 1 through 3.
6. Respondent shall submit semi-annual progress reports on the work every year on June 1 and December 1 to the CDO at the address in Section X. of these Modified Orders.
7. Respondent shall notify the CDO, in accordance with Section X. of these Modified Orders, within seven (7) days of completion of each of the projects required by Orders Nos. 1 through 3. The notification shall include a final report detailing all the work that has been completed.
8. Respondent shall operate and maintain its sanitary sewer collection system and WWTP in accordance with all requirements in its NPDES permit and in any modified or successor permits, and R.C. Chapter 6111, including but not limited to all reporting and sampling requirements.
9. If Respondents fail to meet any of the dates in these Modified Orders, Respondents are liable for and shall immediately pay stipulated penalties in accordance with the following schedule for each failure to comply.
  - a. For each day of each failure to meet a deadline from one (1) day to thirty (30) days, one hundred dollars (\$100.00) per day not met;
  - b. For each day of each failure to meet a deadline from thirty-one (31) days to sixty (60) days, two hundred dollars (\$200.00) per day not met;
  - c. For each day of each failure to meet a deadline over sixty (60) days, five hundred dollars (\$500.00) per day not met.
10. If Respondents documents a good faith attempt to comply with these Modified Orders, the fines indicated in V. 9. will be abated for one (1) to three (3) years. A good faith attempt will be characterized as completing all aspects of project



development but being unable to secure funding during a first and second application for funding. This must be reported to the Ohio EPA as indicated in V. 2-7.

11. Stipulated penalties due under Order No. 9 shall be paid within thirty (30) days after the date the milestone for which stipulated penalties have been accruing is completed. The penalties shall be paid by tendering an official check made payable to "Treasurer, State of Ohio" for the total amount of the accrued stipulated penalties. The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying the Respondents to:

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

A photocopy of the check shall be sent to Larry Reeder, Enforcement Manager, at the following address [larry.reeder@epa.ohio.gov](mailto:larry.reeder@epa.ohio.gov) or his successor at an address to be provided in writing by Ohio EPA.

## **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 OAC Rule 3745-33-03(E)(4) for a municipal, state, or other public facility.

## **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 Respondent's WWTP or sanitary sewerage system.

### **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 submitted electronically to [michael.gallaway@epa.ohio.gov](mailto:michael.gallaway@epa.ohio.gov) 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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed or Typed Name

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Title