

OHIO E.P.A.

JAN 18 2012

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

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ENTERED DIRECTOR'S JOURNAL

OHIO EPA NEDC

In the Matter of

Mathews Local School District
Board of Education
4434-B Warren-Sharon Road
Vienna, OH 44473

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 Mathews 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 ("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 the ownership of Respondent or the Sites (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:

1. Respondent manages both Mathews High School and Neal Middle School in Trumbull County. Mathews High School is located at 4429 Warren-Sharon Road, Vienna, Ohio. Neal Elementary School is located at 3385 Youngstown-Kingsville Road, Vienna, Ohio ("the Sites").
2. In June 2000, Respondent was issued National Pollutant Discharge Elimination System ("NPDES") permits for both the Mathews High School and Neal Middle

School Sites. These permits contained schedules of compliance to make upgrades to their respective wastewater treatment systems. To date, no upgrades have been initiated at either of the Sites and both permits expired on May 31, 2005.

3. Mathews High School has a treatment plant estimated to treat and discharge 10,000 gallons per day ("GPD") of wastewater flow. The plant discharges to a roadside storm drain line and ultimately, into an unnamed tributary of Squaw Creek. The high school was required by its NPDES permit to upgrade and comply with the final effluent limitations by December 2001. In 1996, a permit to install ("PTI") (No. 02-9966) was issued to Respondent for improvements, but no construction has ever occurred, and the PTI has since expired.
4. The Mathews High School has been in violation of its NPDES permit effluent limits every month since at least December 2001. From February 2006 through June 2008 the Mathews High School Site has compiled at least 246 violations of its NPDES permit.
5. Neal Middle School has a septic tank estimated to treat and discharge 10,000 GPD. The discharge from this tank runs to an unnamed tributary of the South Branch of Yankee Creek. The middle school was required by its NPDES permit to upgrade its wastewater treatment system and comply with the final effluent limitations by June 2003.
6. Neal Middle School has been in violation of its NPDES permit since at least June 1, 2003. The school has accumulated at least 313 violations of its NPDES permit from February 2006 through June 2008.
7. Multiple notice of violation ("NOV") letters have been sent to Respondent since November 17, 1999. The last violation letter sent on June 20, 2007, indicated that the schools' systems did not meet Ohio EPA standards and that legal enforcement action would be initiated.
8. Neal Middle School was permanently closed at the end of the 2011 school year.
9. Both Sites' wastewater discharge systems discharge "sewage" as defined in ORC § 6111.01. The unnamed tributaries of Squaw Creek and the South Branch of Yankee Creek constitute "waters of the state" as defined by ORC § 6111.01.
10. Pursuant to ORC § 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.

11. ORC § 6111.07(A), no person shall violate or fail to perform any duty imposed by ORC §§ 6111.01 to 6111.08 or violate any order, rule, term or condition of a permit issued or adopted by the Director of Ohio EPA pursuant to those sections, including OAC Rule 3745-33-08(C). Each day of violation constitutes a separate offense.
12. The following Orders to 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 3745-42-02.
13. Compliance with ORC § 6111 is not contingent upon the availability or receipt of financial assistance.
14. 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. As soon as possible, but no later than seven (7) days from the effective date of these Orders, Respondent shall submit a permit to install application ("PTI") to Ohio EPA to install a recirculating trickling filter or other equivalent technology into the current system. The PTI shall also include installation of chlorination and dechlorination into the current system.
2. Upon approval of the PTI by Ohio EPA, Respondent shall commence construction of the improvements to the current system by February 21, 2012.
3. Respondent shall complete construction of the improvements to the current system by March 31, 2012.
4. When sanitary sewers become available and accessible to Mathews High School, Respondent shall connect the high school to the sanitary sewers. Within 30 days of connecting, Respondent shall properly abandon the current septic tank system.

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 Sites.

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 E. Aurora Road
Twinsburg, Ohio 44087

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 all violations referenced herein through December 1, 2011.

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.

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XIV. SIGNATORY AUTHORITY OHIO EPA NEDC

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. Nally
Director

1/17/12

Date

IT IS SO AGREED:

Mathews Local School District Board of Education

Kenneth R. Wallace II

By


Print Name
Bd. President

Title

12-21-11

Date