

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY DIRECTOR'S JOURNAL

In the matter of:

Village of Stockport  
P.O. Box 158  
Stockport, Ohio 43787

: Modified Director's Final Findings  
: and Orders

Respondent :

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Modified Director's Final Findings and Orders ("Orders") are issued to Village of Stockport ("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 830 East River Road, Stockport, Morgan County, 43787.
2. Respondent entered into Director's Final Findings and Orders with Ohio EPA, effective December 22, 2011 ("December 22, 2011 Findings and Orders") to address violations of R.C. Chapter 6111 that occurred as a result of Respondent's noncompliance with the conditions of its National Pollutant Discharge Elimination System ("NPDES") permit. The Findings set forth in the December 22, 2011 Findings and Orders are incorporated herein by reference.

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3. Respondent has determined that a better and more affordable long term option for improving the Respondent's WWTP would be to replace the existing system with a new system.
4. The Director has agreed to modify Order No. 2 in the December 22, 2011 Findings and Orders. None of the other orders in the December 22, 2011 Findings and Orders are modified or changed in any way by these Orders.
5. 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.
6. 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.
7. 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.
8. Compliance with the ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
9. 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. Order No. 2 in the December 22, 2011 Findings and Orders entered into by Respondent and Ohio EPA is deleted and is replaced with a revised Order No. 2 as follows:
  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 one hundred twenty (120) days of the effective date of these Orders, Respondent shall submit to Ohio EPA a complete and approvable PTI application and detail plans for the construction of a new WWTP.
    - b. Within twelve (12) months of the effective date of these Orders, Respondent shall commence construction of a new WWTP.
    - c. With twenty four (24) months of the effective date of these Orders, Respondent shall have the new WWTP installed and in operation.
    - d. Within two hundred seventy (270) days of completing construction of the WWTP, Respondent shall properly abandon the previous WWTP in accordance with the approved PTI.

## **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) for a corporation, OAC Rule 3745-33-03(D)(2) for a partnership, OAC Rule 3745-33-03(D)(3) for a sole proprietorship, and OAC Rule 3745-33-03(D)(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 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.

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**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:**

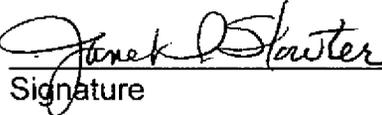
**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Scott J. Nally, Director

9/26/12  
\_\_\_\_\_  
Date

**IT IS SO AGREED:**

**Village of Stockport**

  
\_\_\_\_\_  
Signature

9-17-12  
\_\_\_\_\_  
Date

JANET I SLOWTER  
\_\_\_\_\_  
Printed or Typed Name

MAYOR  
\_\_\_\_\_  
Title