

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

FEB -3 2011

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

City of Harrison
300 George Street
Harrison, Ohio 45030

Director's Final Findings
and Orders

Respondent.

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.

PREAMBLE

It is agreed by the parties hereto as follows:

By: Tom Lassiter Date: 2-3-11

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the City of Harrison ("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 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 ORC Chapter 6111 and the rules promulgated thereunder.

IV. FINDINGS

The Director of the Ohio EPA has determined the following findings:

1. Respondent is the owner and operator of a wastewater treatment plan ("WWTP") and associated collection system.
2. Respondent holds a valid unexpired National Pollutant Discharge Elimination System ("NPDES") permit, Number 1PC00002 (effective August 1, 2008), for the discharge from its WWTP, via WWTP outfall (station no. 1PC00002001) to the Whitewater River.

3. Whitewater River constitutes "waters of the state" as defined by ORC § 6111.01(H).
4. Pursuant to ORC § 6111.07(A), no person shall violate or fail to perform any duty imposed by §§ 6111.01 to 6111.08 of the Revised Code or violate 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.
5. ORC § 6111.04(A), in pertinent part, provides that no person shall cause pollution or place or caused 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, unless that person holds a valid, unexpired permit or renewal of a permit.
6. ORC § 6111.04(C) provides that 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 stat, any sewage, sludge, sludge materials, industrial waste, or other wastes in excess of the permissive discharges specified under an existing permit.
7. Respondent is an approved publicly owned treatment works ("POTW") pretreatment program as defined in Ohio Administrative Code ("OAC") Chapter 3745-3.
8. JTM Food Group, Inc. owns a food processing facility, located at 200 Sales Drive, and is a significant industrial user as that term is defined in OAC Chapter 3745-3.
9. Respondent has imposed a pretreatment standard on its industrial users, as that term is defined in OAC Chapter 3745-3, of 75 mg/l for Oil and Grease.
10. From at least May, 2005 to May 2009, JTM Food Group, Inc. has, on numerous occasions, violated Respondent's pretreatment standard for Oil and Grease and other parameters. JTM Food Group, Inc.'s failure to comply with these pretreatment standards is a violation of its indirect discharge permit.
11. On August 24, 2006, Ohio EPA performed a Pretreatment Compliance Inspection of the WWTP and observed, a large volume of Oil and Grease was received at the WWTP. Ohio EPA identified this as a possible pass-

- through violation as defined in OAC 3745-3-03(C)(2)(g)(iii) and directed Respondent to take action to address this violation.
12. On August 22, 2007, Ohio EPA performed another Pretreatment Compliance Inspection of the WWTP. White grease balls were noted throughout the treatment plant and there was a build up of grease in the wet well. It was noted that during the past year grease had clogged the City's sampler and blocked a manhole, backing flow into the JTM line. Ohio EPA found that Respondent had failed to enforce pretreatment standards and reporting requirements in violation of Part II, Section Y, Requirement 8 of NPDES Permit No. 1PC00002*ID. Respondent was notified of this by Notice of Violation letter dated September 21, 2007.
 13. On March 24, 2008, Ohio EPA performed a follow-up inspection to the August, 2007 Pretreatment Compliance Inspection report. Ohio EPA observed that Respondent had not adequately enforced pretreatment standards. Respondent was notified of this by letter dated April 25, 2008.
 14. On April 2, 2008, Ohio EPA performed a Compliance Evaluation Inspection and observed that the effluent quality was marginal and floc particles were overflowing clarifier weirs. Respondent was notified of this by letter dated April 11, 2008.
 15. Respondent's "Enforcement Management Strategy" lists the possible enforcement responses as (a) notify IU, (b) show cause hearing, (c) fines (d) terminate services. In response to violations noted in paragraph 10 above, Respondent, in contravention to the "Enforcement Management Strategy" mostly sent Notices of Violations for repeated limit violations and demand sampling violations. Due to the number and time span under which these violations have occurred, Respondent's failure to take escalated enforcement action against JTM Food Group is a violation of Part II, Section Y, Requirement 8 of NPDES Permit No. 1PC00002*ID.
 16. As set forth in Attachment 1, since May 1, 2007, Respondent has violated the effluent limits in its NPDES permit on several occasions. Attachment 1 is incorporated herein as if fully rewritten.
 17. This document does not modify NPDES Permit No. 1PC00002*ID. The purpose of these Orders is to correct Respondent's noncompliance with Permit No. 1PC00002*ID and not to alter said permit.
 18. 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 Chapter 3745-42.

19. 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

1. Respondent shall achieve compliance with its currently-effective NPDES permit, No. 1PC00002*ID, and any successor permit, as expeditiously as practicable including Part II, Section Y pretreatment program requirements, but not later than the following schedule:
 - a. Within 120 days after the effective date of these orders, Respondent shall issue effective court-enforcement compliance orders, or shall initiate administrative or judicial enforcement action which addresses non-compliance with Respondent's pretreatment standard for Oil and Grease against JTM Food Group, Inc. and other appropriate entities involved in the operation of that facility.
 - i. If Respondent issues administrative compliance orders, the orders shall include: a requirement that JTM Food Group, Inc. comply with all applicable federal, state, and local pretreatment standards and requirements, the payment of an appropriate and significant penalty, and a mechanism to escalate enforcement of the orders should JTM Food Group, Inc. fail maintain compliance, or to make timely payments. The orders shall include a mechanism for stipulated penalties for any non compliance that occurs through December 31, 2011.
 - ii. If Respondent initiates an administrative or judicial enforcement action, Respondent shall seek, through the administrative body or court, the imposition of: a requirement that JTM Food Group, Inc. comply with all applicable federal, state, and local pretreatment standards and requirements, the payment of an appropriate and significant penalty, and a mechanism to escalate enforcement of the orders should JTM Food Group, Inc. fail to maintain compliance, or to make timely payments. The

orders shall include a mechanism for stipulated penalties for any non compliance that occurs through December 31, 2011.

- b. Within 30 days of effective date of these Orders, Respondent shall submit to Ohio EPA its study of plant operations with a focus on oil and grease which identifies certain corrective action options, and further, shall submit a work plan that implements the Respondent's selected option(s) to address identified issues. The work plan shall focus on implementation of operational improvements designed to optimize the performance of the existing WWTP. The work plan shall contain an implementation schedule for the selected options which upon approval by the Director, shall become an enforceable schedule in these Findings and Orders.
 - c. Within 30 days of effective date of these Orders, Respondent shall hire and retain a wastewater certified operator that holds a Class III wastewater license. Respondent shall meet the minimum staffing requirements set forth in OAC Rule 3745-7-04 which, for a Class III plant, means the certified operator shall be physically present 5 days a week for a minimum of 40 hours per week.
 - d. Within 60 days of the date of these Orders, Respondent shall develop and begin implementation of an information campaign for business and residential customers concerning the effects of oil and grease on the sewer collection system and wastewater treatment plan.
2. Respondent shall pay to the Ohio EPA the amount of thirteen thousand five hundred dollars (\$13,500.00) in settlement of the Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC §6111.09. Payment shall be made by tendering an official check made payable to "Treasurer, State of Ohio" for ten thousand eight hundred dollars (\$10,800.00) within thirty (30) days of the effective date of these Orders, to the following address: Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent to:

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

- A photocopy of the check shall be sent to Ohio EPA, Southwest District Office, in accordance with Section X of these orders.
3. In lieu of paying the remaining two thousand seven hundred dollars (\$2,700.00) of the civil penalty, Respondent shall, within thirty (30) days of the effective date of these Orders, fund a supplemental environmental project ("SEP") by making a contribution in the amount of two thousand seven hundred dollars (\$2,700.00) to Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for that amount. The official check and a cover letter identifying the Respondent shall be submitted to Brenda Case, or her successor at:

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

A copy of the check shall be sent to Mark Mann, Environmental Manager, Storm Water and Enforcement Section, or his successor, at the following address:

Office EPA
Division of Surface Water
P.O. Box 1049
Columbus, Ohio 43216-1049

4. Should Respondent fail to fund the SEP within the required time frame set forth in Order No. 3, Respondent shall immediately pay to Ohio EPA the remaining two thousand seven hundred dollars (\$2,700.00) of the civil penalty in accordance with the procedures in order No. 2.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies, in writing, and demonstrates to the satisfaction of the 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.

This 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 Respondent. For purposes of these Orders, a responsible official is as defined in 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, the Respondent's WWTP and sewer 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 the Respondent.

IX. MODIFICATIONS

These Orders may be modified by the 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 the Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these orders shall be addressed to:

Ohio EPA, Southwest District Office
Attn: DSW Enforcement Supervisor
401 East Fifth Street
Dayton, Ohio 45402

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 those 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

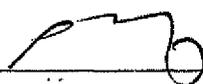
The effective date of these orders is the date these orders are entered into the Ohio EPA Director's journal.

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



SCOTT J. NALLY
DIRECTOR

FEB 03 2011

Date

IT IS SO AGREED:

City of Harrison



By

Mayor Joel McBride

Print Name

Mayor

Title

Date

1/18/11

Attachment 1 Effluent Limitation Violations
 NPDES Permit No. 1PC00002*HD

Parameter	Limit	Result	Date
Nitrogen, Ammonia (NH3)	1.5 mg/L	1.56 mg/L	5/1/2007
Total Suspended Solids	12 mg/L	13.7692 mg/L	6/1/2007
Total Suspended Solids	18mg/L	21 mg/L	6/15/2007
Nitrogen, Ammonia (NH3)	1.5 mg/L	1.735 mg/L	7/1/2007
Total Suspended Solids	18 mg/L	24.5 mg/L	3/15/2008
Total Suspended Solids	195.8 mg/L	328.563 kg/d	3/15/2008
Total Suspended Solids	18 mg/L	24.6666 mg/L	Week of 12/22/08
Total Suspended Solids	12 mg/L	12.0833 mg/L	Month of 12/2008
Total Suspended Solids	18 mg/L	18.66 mg/L	Week of 1/1/2009
Total Suspended Solids	18 mg/L	36.0 mg/L	Week of 1/8/2009
Total Suspended Solids	18 mg/L	36.33 mg/L	Week of 1/15/2009
Total Suspended Solids	195.8 mg/L	710.75 kg/d	Week of 1/15/2009
cBOD5	174.1 mg/L	229.27 kg/d	Week of 1/15/2009
Total Suspended Solids	18 mg/L	28.33 mg/L	Week of 1/22/2009
cBOD5	15 mg/L	19.33 mg/L	Week of 1/22/2009
Total Suspended Solids	12 mg/L	30.31 mg/L	Month of 1/2009
Total Suspended Solids	130.5 mg/L	261.04 kg/d	Month of 1/2009
cBOD5	10 mg/L	12.25 mg/L	Month of 1/2009
Oil & Grease	10 mg/L	37.6 mg/L	3/4/2009