

OHIO E.P.A.  
AUG 20 2008

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

-DIRECTOR'S JOURNAL

In the Matter of:

Walnut Creek Sewer District :  
102 East Columbus Street :  
Pleasantville, Ohio 43148 :  
Respondent :

Modified 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.

PREAMBLE

It is agreed by the Parties hereto as follows:

By: Jon Lassiter Date: 8-20-08

I. JURISDICTION

These Modified Director's Final Findings and Orders ("Orders") are issued to the Walnut Creek Sewer District ("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 a sewer district established under R.C. Chapter 6119 to provide for the collection, treatment, and disposal of sewage generated primarily in the

Villages of Thurston and Pleasantville in Walnut and Pleasant Townships, Fairfield County, Ohio.

2. Respondent entered into Director's Final Findings and Orders with Ohio EPA, effective January 30, 2008 ("January 30, 2008 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 January 30, 2008 Findings and Orders are incorporated herein by reference.
3. The January 30, 2008 Findings and Orders included Order No. 2 which contained a schedule for Respondent to install an equalization ("EQ") basin and a new updated headworks for the wastewater treatment plant ("WWTP") as expeditiously as practicable, but not later than February 27, 2009.
4. Respondent's consulting engineers have determined that a better and more affordable long-term option for improving operation of Respondent's WWTP would be the installation of new secondary clarifiers and sludge management system instead of the EQ basin.
5. Respondent has requested that Order No. 2 in the January 30, 2008 Findings and Orders be modified to incorporate these proposed WWTP improvements in place of the EQ basin.
6. The Director has agreed to modify Order No. 2 in the January 30, 2008 Findings and Orders. None of the other orders in the January 30, 2008 Findings and Orders are modified or changed in any way by these Orders.
7. Compliance with R.C. Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
8. 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 sewer collection 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.
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 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. Order No. 2 in the January 30, 2008 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 install new WWTP improvements as expeditiously as practicable, but not later than the following schedule:
    - a. By no later than September 1, 2008, Respondent shall submit a complete and approvable revised PTI application and detailed plans for the updated headworks, new secondary clarifiers and sludge management system.
    - b. Respondent shall submit corrections to address any deficiencies in the PTI application referenced in Order No. 2.a. of these Orders to Ohio EPA, in accordance with Section X. of these Orders, within (30) days of notification by letter from Ohio EPA of any deficiencies.
    - c. By no later than January 1, 2009, Respondent shall commence construction of the updated headworks in accordance with the approved PTI.
    - d. By no later than June 30, 2009 Respondent shall complete construction of the updated headworks in accordance with the approved PTI and place it into service.
    - e. Respondent shall notify the Central District Office of the Ohio EPA, in accordance with Section X. of these Orders, within (7) days of commencing construction of the updated headworks.
    - f. Respondent shall notify the Central District Office of the Ohio EPA, in accordance with Section X. of these Orders, within (7) days of completion of construction of the updated headworks.
    - g. By no later than August 15, 2009, Respondent shall commence construction of the new secondary clarifiers and sludge

management system in accordance with the approved PTI.

- h. By no later than June 1, 2010 Respondent shall complete construction of the new secondary clarifiers and sludge management system in accordance with the approved PTI and place them into service.
- i. Respondent shall notify the Central District Office of the Ohio EPA, in accordance with Section X. of these Orders, within (7) days of commencing construction of the new secondary clarifiers and sludge management system.
- j. Respondent shall notify the Central District Office of the Ohio EPA, in accordance with Section X. of these Orders, within (7) days of completion of construction of the new secondary clarifiers and sludge management 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 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 activities occurring on or at Respondent's WWTP or sanitary sewer collection 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 addressed to:

Ohio Environmental Protection Agency  
Central District Office  
Division of Surface Water  
Attn: DSW Enforcement Unit Supervisor  
122 South Front Street  
Columbus, Ohio 43215

and to:

Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Surface Water  
Attn: Manager, Storm water 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.

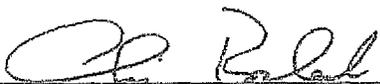
#### **XIII. EFFECTIVE DATE**

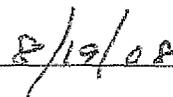
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XIV. SIGNATORY AUTHORITY**

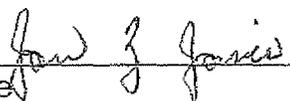
Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

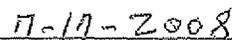
**IT IS SO ORDERED AND AGREED:  
Ohio Environmental Protection Agency**

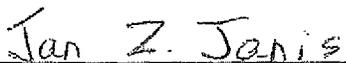
  
\_\_\_\_\_  
Chris Korleski  
Director

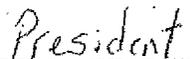
  
\_\_\_\_\_  
Date

**IT IS SO AGREED:  
Walnut Creek Sewer District.**

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Date

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

  
\_\_\_\_\_  
Title

