

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY
OHIO E.P.A.

NOV 19 2009

07-064
Admin 2136
CP ✓
CP REVIEW ✓
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In the Matter of:

Ohio City, Village of
P.O. Box 248
Ohio City OH 45874

Respondent

ENTERED DIRECTOR'S JOURNAL

**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: H. Shapiro Date: 11/19/09

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Village of Ohio City ("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 or the ownership or operation of the wastewater treatment plant ("WWTP") and associated sewerage system ("collection system"), 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 Ohio EPA has determined the following findings:

1. Respondent is an incorporated municipality in Van Wert County, with a July, 2006 estimated population of 775.
2. Respondent owns and operates a WWTP, constructed in 1968 and located on the north side of Snyder Road, 0.3 miles east of Ball Road, Ohio City.
3. The WWTP, with a service area of 1220 acres, consists of a raw wastewater pump station, spiragester, trickling filter, final clarifier, disinfection and sludge drying beds, and has a design flow of 150,000 gpd, with an actual average daily flow over the past several years of 128,000 gpd. There are no significant industrial users discharging to the WWTP.

4. Respondent had an Ohio National Pollutant Discharge Elimination System permit ("NPDES permit"), No 2PB00030*GD, which authorized a discharge of pollutants to Prairie Ditch, a waters of the state, having the following use designations:
 - a. Aquatic Life Habitat: Modified warm water habitat;
 - b. Water Supply: Agricultural / industrial; and
 - c. Recreation: Secondary contact recreation.
5. The NPDES permit contained a compliance schedule which required Respondent to meet final effluent limits by April 1, 2006.
6. On August 1, 2005, the NPDES permit was modified (2PB00030*HD) to adjust the compliance schedule, while retaining the April 1, 2006 date for meeting final effluent limits. The modification also added sludge sampling stations to provide Respondent with additional sludge disposal options.
7. NPDES permit 2PB00030*HD expired March 31, 2007, with a renewal application received by Ohio EPA on December 18, 2006.
8. Ohio Administrative Code ("OAC") Rule 3745-33-04(C)(1) provides that an NPDES permit holder who wishes to continue to discharge after the expiration date of its permit must file for permit reissuance [renewal] at least one hundred eighty days prior to the permit's expiration.
9. Respondent did not make a timely application for a renewal of the NPDES permit, in violation of ORC § 6111.07.
10. NPDES permit 2PB00030*FD [effective from February 1, 1997, to January 28, 2002], provided authorization to discharge from the following combined sewer overflows during wet weather periods when the flow in the sewer system exceeded the capacity of the sewer system:
 - a. 2PB00030002 Diversion Manhole 1
 - b. 2PB00030003 Diversion Manhole 2
 - c. 2PB00030004 Diversion Manhole 3
 - d. 2PB00030005 Diversion Manhole 4
 - e. 2PB00030006 Diversion Manhole 5
11. When discharging from the CSOs, NPDES permit 2PB00030*FD required sampling and reporting of volume, occurrences and duration.
12. NPDES permit 2PB00030*HD provided authorization to discharge from 2PB00030003 and 2PB00030004 (diversion manholes 2 and 3, respectively).

13. In its renewal application, Respondent listed diversion manhole 1 ("manhole") as a direct bypass.
14. Respondent's combined sewers have been separated within the public rights of way, but not on private property, with storm water entering the collection system from sources on private property.
15. The manhole is located approximately 10 feet south of the raw wastewater pump station.
16. During precipitation events, when the collection system is inundated with inflow and infiltration, an overload of sewage could enter the WWTP. The sewage excess is discharged into Prairie Ditch via the manhole and does not enter the WWTP. The discharge from the manhole was eliminated in 1988 by insertion a rubber inflatable air ball.
17. The rubber inflatable air ball was removed (exact time unknown), resulting in the manhole being activated and monitored during heavy precipitation events. Respondent stated that if the overflow at the manhole was eliminated, during the precipitation events the WWTP would flood and surcharge the raw wastewater pump station. When the flow rises in the wetwell, the raw wastewater pump station's control panel floods and stops functioning, shutting down the pump station.
18. The capacity of the WWTP is fully utilized prior to overflow activation, to maximize the amount of wastewater that receives treatment. The raw wastewater pump station has a maximum pump rate of 250 gpm. When flows exceed that rate, the manhole, if the water level therein rises to the height of the 8-inch overflow line, surcharges and discharges into Prairie Ditch. The overflow (discharge) allows the raw water pump station to operate two pumps and maximize flows through the WWTP.
19. The operation of the manhole is passive, in that no operator action is required.
20. Respondent has been informed by Ohio EPA that activation of the manhole as well as the volume discharged should be monitored to assess impacts of the inflow and infiltration removal efforts and the ability to eliminate the overflow.
21. The overflow from the manhole is classified by Ohio EPA as a Sanitary Sewer Overflow ("SSO"), with monitoring to be addressed in the NPDES permit renewal through Table 300 - System-wide SSO monitoring.
22. The above describe SSO is not authorized in NPDES permit 2PB00030*HD and is in violation of ORC §§ 6111.04 and 6111.07 and the NPDES permit.

23. On August 2, 2007, Ohio EPA conducted an inspection of the collection system and the degree of implementation of the Nine Minimum Control Measures ("Control Measures"), which are technology-based actions or measures designed to reduce combined sewer overflows and their effects on receiving water quality. The Control Measures were included in Part II, Item F of NPDES permit 2PB00030*HD.
24. Ohio EPA found that Respondent was in compliance with the Control Measures.
25. During the August 2, 2007 inspection, the operation and maintenance ("O&M") plan for the collection system was not available and that an ordinance prohibiting clean water connections to the collection system had not been adopted.
26. Respondent has informed Ohio EPA that there is an O&M manual for the WWTP and collection system, prepared in 1992 during the last major improvement project, and that Respondent has adopted Ordinance No. 2-9-07 prohibiting roof drains, foundation drains and all similar clean water connections to the collection system.
27. Respondent did not have proper documentation for inspections, maintenance and repair activities.
28. Respondent has informed Ohio EPA that documents for inspections, maintenance, and repair activities were recorded on a dedicated desk calendar and kept in a file. Since August 2, 2007, to comply with an Ohio EPA's request, the records have been kept in a bound book.
29. Respondent conducted collection system smoke testing on July 17 and 31, 2007. Multiple sources of inflow and infiltration (catch basin cross connections, missing cleanout caps, grate style manhole lids on the sanitary system) were identified and removed/corrected.
30. To plan and budget for procedures for operation and maintenance for the collection system and WWTP improvements, Respondent began to increase its sewer rate of \$25.25 every six months, with increases to continue until the rate equals the water rates of \$41.00 a month. The increases were completed in January 2009.
31. On October 2, 2007, Ohio EPA inspected the WWTP and observed significant deterioration of the plant, with the spiragester cone rusted through.
32. For the period of October - December 2008, a total of eleven effluent limit violations were reported, as set forth below:

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Violation Date	Parameter	Limit Type	Limit	Reported Value
10/01/08	Nitrogen, Ammonia (NH3)	30D Conc	1.5	2.51
10/01/08	CBOD 5 Day	30D Conc	10	15.1331
10/01/08	CBOD 5 Day	7d Conc	15	16.4485
10/22/08	Nitrogen, Ammonia (NH3)	7d Conc	2.3	3.77
10/22/08	CBOD 5 Day	7d Conc	15	17.6
11/15/08	pH	1d Conc	6.5	6.29
12/01/08	Nitrogen, Ammonia (NH3)	30D Conc	4.0	5.625
12/01/08	Nitrogen, Ammonia (NH3)	7d Conc	6.0	6.1
12/01/08	Nitrogen, Ammonia (NH3)	30D Conc	2.3	3.40499
12/22/08	Nitrogen, Ammonia (NH3)	7d Qty	3.4	5.26304
12/22/08	CBOD 5 Day	7d Conc	15	16.1975

33. Effluent limit violations for the period of January, 2009 to July, 2009 are set forth in Appendix A, which is attached and incorporated by reference herein.
34. Non compliance with effluent limits violate ORC §§ 6111.04 and 6111.07 and the NPDES permit.
35. On September 21, 2007, a *Preliminary Engineering Report for Wastewater Treatment Improvements* was received from Respondent, which report recommended replacement of the raw wastewater pump station and screening equipment and the pump station in the collection system, a new activated sludge treatment process and new aerobic sludge digesters. The report, which included a construction completion date of June 1, 2011, estimated the project costs at \$2,000,000.
36. On October 24, 2007, Ohio EPA informed Respondent that the report and compliance schedule were acceptable.
37. Respondent has not achieved compliance with its NPDES permit, nor ORC Chapter 6111. and the rules adopted thereunder.
38. ORC § 6111.04 prohibits any person from causing pollution or causing any sewerage, industrial waste or other waste to be placed in any location where they cause pollution to waters of the state, except if such discharges occur in accordance with an NPDES permit issued by the Director.

39. ORC § 6111.07(A) prohibits any person from violating, or failing to perform, any duty imposed by ORC §§ 6111.01 to 6111.08, or violating any order, rule, or term or condition of a permit issued by the Director pursuant to those sections. Each day of violation represents a separate violation.
40. 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 Chapter 6111.

V. ORDERS

1. Respondent shall achieve compliance with ORC Chapter 6111. and the rules adopted thereunder as soon as possible, but not later than the following schedule:
 - a. Within nine (9) months after the effective date of these Orders, submit a complete and approvable permit to install application package to Ohio EPA, Northwest District Office, in accordance with Section X of these Orders, for WWTP improvements;
 - b. By January 2, 2011, start construction of WWTP improvements; and
 - c. By April 1, 2012, complete construction of WWTP improvements, eliminate any bypass and SSOs and attain compliance with final effluent limits.
2. Respondent shall reduce inflow and infiltration in the collection system. Respondent shall submit for approval an inflow and infiltration reduction plan to Ohio EPA, Northwest District Office, in accordance with Section X of these Orders, by December 1, 2009, which plan shall include the following:
 - a. A map indicating locations of all sanitary and storm sewers in the service area, with manholes and catch basins clearly marked;
 - b. A description of the existing sanitary sewer system;
 - c. A description of local geology and its relationship to inflow and infiltration;
 - d. A detailed historical summary of all inflow and infiltration work (investigation and removal) that has been done to date;
 - e. A plan, with implementation schedule, for determining sources of excessive inflow and infiltration including illegal connections. The plan should include flow monitoring at strategic points in the collection system; and

- f. An implementation schedule for future inflow and infiltration work, including televising sewer lines, dye or smoke testing, individual home inspections for sump pump connections, etc. with a completion date for all projects to be not later than July 1, 2014.
3. Respondent shall implement the inflow and infiltration reduction plan as approved.
4. An annual report summarizing the results of the effort to reduce inflow and infiltration into the sewerage system shall be submitted to the Ohio EPA, Northwest District Office, in accordance with Section X of these Orders, no later than January 31st of each year, until all work is completed.
5. Respondent shall within ninety (90) days of attaining operational level of the new WWTP submit for approval to Ohio EPA, Northwest District Office, in accordance with Section X of these Orders, an up-to-date O&M plan which shall include, but not be limited to, the following:
 - a. Documentation of organizations and individuals responsible for all aspects of the O&M plan;
 - b. A list of resources allocated to implementation of the O&M plan;
 - c. Planning and budget procedures for the O&M plan;
 - d. a list of critical facilities, including but not limited to backflow prevention devices, overflow weirs, combined sewer overflow treatment facilities, and pump stations;
 - e. Written procedures and schedules for routine maintenance and repair activities and the procedure to ensure that maintenance and repair are provided;
 - f. Written procedures for responding to emergency situations;
 - g. Policies and procedures for training O&M personnel; and
 - h. A process for periodic reviews and revisions of the O&M plan and its implementation.
6. Respondent shall implement the O&M plan immediately after Ohio EPA approval of the plan.
7. Respondent shall fully respond to any comments from Ohio EPA on documents submitted pursuant to these Orders, within thirty (30) days (or such longer period as agreed upon by the parties), from the date Respondent receives such comments.

8. Respondent shall pay the amount of five thousand one hundred six dollars (\$5,106.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and the facility, at:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

A photocopy of the check shall be sent to the Ohio EPA, Northwest District Office, in accordance with Section X of these Orders, and to Mark Mann, Environmental Manager, Storm Water and Enforcement Section, Division of Surface Water, or his successor, at the following address:

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

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).

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 Facility.

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
Northwest District Office
347 North Dunbridge Road
P.O. Box 466
Bowling Green, Ohio 43402
Attn: Enforcement Supervisor, Division of Surface Water

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.

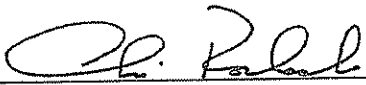
XIII. EFFECTIVE DATE

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

11/18/09
Date

**IT IS SO AGREED:
Village of Ohio City**


Signature
DALE BOROFT
Printed or Typed Name
MAYOR
Title

10/30/09
Date