

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

JUN 11 2012

In the Matter of:

Mayor and Council
Village of Cadiz
128 Court Street
Cadiz, OH 43907

and

Board of Trustees of Public Affairs
Village of Cadiz
128 Court Street
Cadiz, OH 43907

ENTERED DIRECTOR'S JOURNAL

Director's Final Findings
and Orders

Standard Connection Ban



PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") and standard connection ban are issued to and imposed upon, Mayor and Council of the Village of Cadiz ("Respondent") and the Board of Trustees of Public Affairs of the Village of Cadiz ("Board"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 6111.03(H) and 3745.01 and Ohio Administrative Code ("OAC") Chapter 3745-11.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and Board, and their respective successors in interest liable under Ohio law. No change in the composition of Respondent or Board, or the ownership or operation of the disposal system defined below shall in any way alter Respondent's and Board'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 adopted thereunder. Terms used in association with the standard connection ban shall have the same meaning as defined in OAC Chapter 3745-11.

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.

John Cassiter
By: John Cassiter Date: 6-11-12

IV. FINDINGS
Background

The Director of Ohio EPA has determined the following findings:

1. The Village of Cadiz ("Village"), an incorporated municipality in Harrison County, is served by a wastewater treatment plant ("WWTP" or "treatment works"), upgraded in 1965 and 1988, located along United States Route 250, South.
2. The collection system ("collection system" or "sewerage system") is comprised of aged, gravity flow clay pipes, of which there are three trunk lines which convey wastewater to the WWTP, designated as North Trunk Line Sewerage System, Central Trunk Line Sewerage System and South Trunk Line Sewerage System.
3. The WWTP and associated collection system comprise the "disposal system."
4. The WWTP is designed to consist of an Imhoff tank, two trickling filters, secondary settling by two circular clarifiers, chlorine contact tank, dechlorination with sulfur dioxide, flow metering, sludge drying beds, and a 61,000 gallon sludge holding tank.
5. The WWTP has an average daily design hydraulic flow of 0.60 MGD.
- 5a. In 2009, 2010, 2011, and the first 60 days of 2012, the WWTP exceeded its average daily design hydraulic flow of 0.60 MGD as follow:

Year	Time Period	Days Exceeding 0.60 MGD
2009	01/01/2009 to 11/30/2009	30
2010	01/01/2010 to 11/30/2010	117
2011	01/01/2011 to 12/31/2011	222
2012	First 60 days of the year	47

6. The WWTP, pursuant to Ohio National Pollutant Discharge Elimination System permit number 0PB00009*DD, ("NPDES permit"), discharges to Sally Buffalo Creek, a tributary to the Middle Fork of Short Creek, with Sally Buffalo Creek and the Middle Fork of Short Creek constituting waters of the state.
7. The NPDES permit expired on July 31, 2006, with a renewal application submitted on January 27, 2006.

WWTP ~ Statutory Prohibitions

8. ORC § 6111.04 prohibits any person from causing pollution or causing any sewage, 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.

9. ORC § 6111.04(C) prohibits any person to whom a permit has been issued from placing or discharging, or causing 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 without first receiving a permit from the Director to do so.
10. 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. Each day of violation is a separate offense.
11. ORC § 6111.09(A) provides that in civil actions, any person who violates ORC § 6111.07 shall pay a civil penalty of not more than ten thousand dollars per day of violation.

Violations

12. In a letter dated February 25, 2008, Ohio EPA informed Respondent that:
 - a. The collection system is aging, in poor condition and exhibits high infiltration and inflow from clean water sources during heavy rain events, causing overflows and adversely affecting the ability of the WWTP to comply with its NPDES permit;
 - b. The trunk lines sewerage systems, especially the north trunk line sewerage system, overflow at manholes during heavy rain events and breaks occur, particularly in the north trunk line sewerage system, during heavy rain surges. Maintenance problems have occurred, with wastewater overflows discharging to the ground and area streams; and
 - c. The Imhoff tank, trickling filters and flow distribution box are aged and in need of replacement or upgrade.
13. On February 27, 2008, Ohio EPA conducted a Compliance Evaluation Inspection of the WWTP, the purpose of which was to determine the status of compliance with the NPDES permit. It was observed that the backup clarifier was not in operation and the trickling filter arms lacked splash plates at some ports. Also, the trickling filter reportedly freezes during extreme cold periods. While the effluent appeared satisfactory at the final outlet (weir), there were patches of sewage bacteria noted in the concrete outlet channel upstream of the flow meter and on the base of the stream along the plant side of the receiving stream, downstream of the outfall.
14. During the inspection it was again brought to Respondent's attention that the WWTP receives excessive amounts of infiltration/inflow of clean water sources during heavy rain events, which causes the treatment system to be overwhelmed,

which in turn causes violations of the NPDES permit effluent limits. Also noted was that the trunk lines sewerage systems, primarily the North Trunk Line Sewerage System, but also the South Trunk Line Sewerage System, receive excessive water during heavy rain events which result in overflows at manholes and breaks in the trunk lines sewerage systems, with wastewater being discharged to the ground and area streams. Numerous overflows have been reported from the collection system during periods of high flows.

15. The inspection was memorialized in an April 10, 2008 letter which stated that infiltration/inflow reduction and renovation of portions of the collection system must be undertaken soon, and that the WWTP must be upgraded so that the Imhoff tank, distribution box and trickling filters are refurbished, or replaced. Other units may also need to be upgraded. Also stated was that the WWTP was often out of compliance with the NPDES permit after heavy rain events.
16. The trickling filter dosing tank was repaired during summer 2008.
17. The April 10, 2008 letter required an evaluation of the disposal system and a brief report with preliminary options for upgrades (with cost estimates), to be submitted by June 1, 2008. Also to be included in the report were any necessary sludge management improvements, with estimated costs.
18. Respondent has not submitted the above mentioned evaluation and cost estimates.
19. On October 8, 2010, Ohio EPA was notified that the North Trunk Line Sewerage System was overflowing from a manhole, the cause of which was an obstruction in the line.
20. Respondent cleared the obstruction and was able to restore proper operation of the North Trunk Line Sewerage System by the evening of October 8, 2010.
21. Several times since the October 8, 2010 incident described above, the latest being March 27 and 28, 2012, Respondent informed Ohio EPA that the sewerage system was overflowing from a manhole, the cause of which was an obstruction in the line.¹

¹Regarding the March overflows, Respondent was able to remove the obstruction and end the episode on the same day as the overflow.

22. During the last quarter of 2011, the WWTP exceeded the following effluent limits:

Parameter	Limit Type	Limit	Reported Value	Violation Date
Nitrogen, Ammonia (NH3)	30D Qty	9.1	11.4410	9/1/2011
Nitrogen, Ammonia (NH3)	30D Conc	4	4.605	9/1/2011
Total Suspended Solids	30D Qty	27	27.5718	9/1/2011
Nitrogen, Ammonia (NH3)	7D Qty	14	14.9344	10/22/2011
Nitrogen, Ammonia (NH3)	7D Conc	6	7.565	10/8/2011
CBOD 5 day	7D Qty	34	104.129	10/8/2011
CBOD 5 day	7D Conc	15	48.5	10/8/2011
Nitrogen, Ammonia (NH3)	7D Qty	14	16.6355	10/8/2011
Nitrogen, Ammonia (NH3)	30D Conc	4	5.5325	10/1/2011
Total Suspended Solids	7D Qty	41	82.4891	10/1/2011
Total Suspended Solids	30D Qty	27	37.2049	10/1/2011
Total Suspended Solids	7D Conc	18	25.5	10/1/2011
Total Suspended Solids	30D Conc	12	13.125	10/1/2011
CBOD 5 day	7D Qty	34	49.6353	10/1/2011
CBOD 5 day	30D Qty	23	44.4219	10/1/2011
CBOD 5 day	7D Conc	15	15.5	10/1/2011
CBOD 5 day	30D Conc	10	18.25	10/1/2011
Nitrogen, Ammonia (NH3)	30D Qty	9.1	14.3184	10/1/2011
Total Suspended Solids	7D Qty	41	71.7482	11/22/2011
Total Suspended Solids	7D Conc	18	19.5	11/22/2011
Total Suspended Solids	30D Qty	27	32.9500	11/1/2011
CBOD 5 day	7D Qty	34	34.0468	12/15/2011

23. In January and February, 2012, the WWTP exceeded the following effluent limits:

Parameter	Limit Type	Limit	Reported Value	Violation Date
CBOD 5 day	7D Qty	34	48.6192	1/15/2012
Total Suspended Solids	7D Qty	41	41.1826	1/15/2012
CBOD 5 day	7D Qty	34	43.2175	1/8/2012
CBOD 5 day	7D Conc	15	18.5	1/8/2012
CBOD 5 day	30D Qty	23	37.5133	1/1/2012
CBOD 5 day	30D Conc	10	12.625	1/1/2012
Total Suspended Solids	30D Qty	27	28.0831	1/1/2012
CBOD 5 day	7D Conc	15	22.5	2/22/2012
Total Suspended Solids	7D Conc	18	21	2/22/2012
CBOD 5 day	7D Qty	34	67.3527	2/15/2012
CBOD 5 day	7D Conc	15	27	2/15/2012
Total Suspended Solids	7D Qty	41	79.2005	2/15/2012
Total Suspended Solids	7D Conc	18	32	2/15/2012
CBOD 5 day	7D Qty	34	36.9557	2/8/2012
CBOD 5 day	7D Conc	15	19.5	2/8/2012
CBOD 5 day	30D Qty	23	41.599	2/1/2012
CBOD 5 day	30D Conc	10	20.125	2/1/2012
Total Suspended Solids	30D Qty	27	40.9046	2/1/2012
Total Suspended Solids	30D Conc	12	19.375	2/1/2012

24. Respondent's failure to comply with the NPDES permit, at all times maintain in good working order and operate as efficiently as possible all treatment and control facilities or systems, and prevent overflows, violated, and is continuing to violate, ORC §§ 6111.04 and 6111.07, the rules adopted thereunder and the NPDES permit.

Infiltration/Inflow

25. Respondent has engaged in activities to alleviate the infiltration/inflow problem, such as smoke testing, installation of flow meters for data collection, purchases of sewer jetter/cameras, manhole mapping, conducting confined space classes for flow metering testing and the purchase of a laptop computer to compile and analyze sewer data.

Standard Connection Ban ~ Regulatory Requirements

26. OAC Rule 3745-11-02(A) provides that orders issued pursuant to ORC § 6111.03(H) may impose a standard connection ban which prohibits the person upon which it is imposed from causing or allowing the extension of or additional connections to, the sewerage system.
27. OAC Rules 3745-11-02(B) and (C), respectively, require that the Director specify in the order imposing the standard connection ban the geographical area to which the ban applies and that the ban be imposed upon both the person or persons responsible for the construction and operation of the treatment works and sewerage system in the geographical area specified; and the person or persons responsible for the issuance of permits to construct or install new connections or treatment works.
28. A standard connection ban prohibits the person(s) upon which it is imposed from causing or allowing the extension of or additional connections to the sewerage system.
29. OAC Rule 3745-11-02(E) provides that the Director may impose a standard connection ban whenever additional connections to or extensions of a sewerage system would result in:
- a. An increase in the quantity of pollutants in the discharges from a treatment works and/or sewerage system, to any waters of the state; and
 - b. The delivery of wastewater in excess of the capacity of the treatment works and/or sewerage system beyond its original design capabilities to treat/dispose of the waste stream; or

- c. Violations, or the contribution to a pattern of ongoing violations, of the limits and/or terms and conditions of an NPDES permit, an order issued by the Director or a court of law, or any other applicable control document; or
- d. The exceedence of water quality standards adopted pursuant to ORC § 6111.041.

For the purposes of the above, the installation of a new sewer line routed directly to the treatment works shall be considered an extension of the sewerage system.

30. Orders imposing a standard connection ban shall specify one of the following as the event upon which the ban will be revoked:
- a. Letting of construction contracts;
 - b. Approval of detail plans;
 - c. Approval of construction grant funding by the United States Environmental Protection Agency, or approval of state revolving loan funding by the Director; or
 - d. Such other date or act upon which the Director is reasonably assured that additional connection to, or extensions of, a sewerage system will not increase the polluting properties of an effluent when discharged to the waters of the state or further threaten public health and welfare or the environment.

Standard Connection Ban ~ Specific Findings

31. Respondent is responsible for the construction and operation of the treatment works and sewerage system in the geographical area to which the standard connection ban is to be imposed; the Board is responsible for the issuance of permits to construct or install new connections or treatment works in the geographical area.
32. The causing or allowing the extension of, or additional connections to, the sewerage system would result in
- a. An increase in the quantity of pollutants in the discharges from the treatment works and/or sewerage system to waters of the state; and
 - b. The delivery of wastewater in excess of the capacity of the treatment works and/or sewerage system beyond its original design capabilities to treat/dispose of the waste stream; and/or

- c. Violations, or the contribution to a pattern of ongoing violations, of the limits and/or terms and conditions of the NPDES permit.

Potential Businesses Locating Within The Village

- 33. Respondent has provided the following information regarding businesses locating within the Village and the amount of wastewater that would require treatment by the Village's disposal system:
 - a. Grocery Store: Two shifts per day, with three employees per shift.
 - b. School District Bus Garage: Thirty employees comprised of five employees on site and twenty-five drivers. In addition to individual men's' and ladies' restrooms, there will be one shower available to the employees.
 - c. Hotel: Fifty-six rooms.
 - d. Energy Processing Facility: The processing plant does not utilize water and will not generate wastewater. There will be an onsite office building, wherein more than forty full time, long term employees may be stationed. The greatest number of employees would be between 120 and 140, should optimum business conditions occur. The construction process will take at least eighteen months to complete.

34. Base on the information supplied in Finding No, 33 above, and the design flow specifications set forth in OAC Rule 3745-42-05, the wastewater generated is:

<i>Business</i>	<i>Employees / Rooms</i>	<i>GPD¹</i>	<i>Total GPD</i>
Grocery Store	6	20	120
Bus Garage ²	30	35	1050
Hotel	56	100	5600
Energy Facility	40	20	800
TOTAL			7570

Notes: ¹Gallons per day, per employee or room

²Factory determination of 35 gallons per day per employee with shower was used.

35. Respondent has demonstrated that sufficient wastewater has or will be removed from the disposal system as a result of the demolition or vacating of residences or the closing of businesses, calculated at the Order No. 8 ratio of 3.33:1, to allow for the acceptance into the collection system of the wastewater generated from the businesses identified Findings Nos. 33 and 34.

ORC § 6111.03(H) Provisions

36. ORC § 6111.03(H) provides in relevant part that the Director may:

Issue, modify, or revoke orders to prevent, control, or abate water pollution by such means as the following:

- (1) Prohibiting or abating discharges of sewage, industrial waste, or other wastes into the waters of the state;
- (2) Requiring the construction of new disposal systems or any parts thereof, or the modification, extension, or alteration of existing disposal systems or any parts thereof;
- (3) Prohibiting additional connections to or extensions of a sewerage system when the connections or extensions would result in an increase in the polluting properties of the effluent from the system when discharged into any waters of the state; and
- (4) Requiring compliance with any standard or rule adopted under sections 6111.01 to 6111.05 of the Revised Code or term or condition of a permit.

37. ORC § 6111.03(H) does not require that the Director inquire into the financial status of a particular party before issuing an order to that party.
38. ORC § 6111.03(H) does not provide that financial difficulties experienced by the party receiving an order will excuse compliance with Ohio's Water Pollution Control Laws, or that such difficulties bar the Director from issuing orders enforcing said laws.
39. Compliance with ORC Chapter 6111 is not contingent upon the availability of financial assurance.
40. ORC § 6111.03(H) provides that regarding the issuance of Orders, it is not Respondent alone that is to be considered, but also the benefits to the people of the entire state and also the conditions of any waters of the state.

41. The people of the state of Ohio and the waters of the state will benefit from the resolution of Respondent's noncompliance with Ohio's Water Pollution Control Laws, and rules adopted thereunder and the NPDES permit.
42. ORC § 6111.03(H) requires that the Director in the issuance of Orders under the Division give consideration to, and base the determination on, evidence relating to the technical feasibility and economic reasonableness of complying with those orders and to evidence relating to conditions calculated to result from compliance with those orders, and their relation to benefits to the people of the state to be derived from such compliance in accomplishing the purposes of the Chapter.
43. 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.
44. 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 permit to install and plan approval requirements of ORC §§ 6111.44(A) and 6111.45 and OAC Chapter 3745-42.

V. ORDERS

1. Respondent shall achieve and maintain compliance with ORC Chapter 6111, the rules adopted thereunder and the NPDES permit and any modification or renewal thereof, as soon as possible, but not later than the schedule set forth below. In accordance therewith, Respondent shall:
 - a. North Trunk Line Sewerage System:
 - i. Within six (6) months of the effective date of these Orders, submit to Ohio EPA for review and approval, a complete and approvable permit to install application, with detailed plans, for improvements to the North Trunk Line Sewerage System.
 - ii. Within six (6) months of the effective date of the permit to install and detail plans approval, commence construction of the improvements to the North Trunk Line Sewerage System in accordance with the approved permit to install and detailed plans.

- iii. Within eighteen (18) months of the effective date of the permit to install and detail plans approval, complete construction and obtain and maintain operational level of the North Trunk Line Sewerage System.
- b. Central and South Trunk Lines Sewerage Systems:
- i. Within eighteen (18) months of the effective date of these Orders, submit to Ohio EPA for review and approval, a complete and approvable permit to install application, with detailed plans, for improvements to the Central and South Trunk Lines Sewerage Systems.
 - ii. Within six (6) months of the effective date of the permit to install and detail plans approval, commence construction of the improvements to the Central and South Trunk Lines Sewerage Systems in accordance with the approved permit to install and detailed plans.
 - iii. Within eighteen (18) months of the effective date of the permit to install and detail plans approval, complete construction and obtain and maintain operational level of the Central and South Trunk Lines Sewerage Systems.
- c. Wastewater Treatment Plant:
- i. Within thirty-nine (39) months of the effective date of these Orders, eliminate the infiltration/inflow of clean water sources to the extent possible, as identified in the sewer system evaluation survey ("SSES").
 - ii. Within fifty-three (53) months of the effective date of these Orders, study the sewerage systems flow rates and submit a report evaluating the impacts of the SSES work.
 - iii. Within seventy-one (71) months of the effective date of these Orders, submit to Ohio EPA for review and approval, a complete and approvable permit to install application, with detailed plans, for improvements to the existing treatment works or construction of a new treatment works.
 - iv. Within six (6) months of the effective date of the permit to install and detail plans approval, commence construction of improvements to the existing treatment works or commence construction of a new treatment works in accordance with the approved permit to install and detailed plans.

- v. Within fifteen (15) months of the effective date of the permit to install and detail plans approval, complete construction and obtain and maintain operational level of the improved existing treatment works or the new treatment works.
 - d. North Trunk Line Sewerage System Inspection Plan: Until the North Trunk Line Sewerage System rehabilitation project is completed, Respondent shall implement and comply with the North Trunk Line Sewerage System Inspection Plan submitted by Respondent pursuant to Ohio EPA, Southeast District Office's October 18, 2010 letter, and as said plan may be modified and revised by the Southeast District Office.
2. Respondent shall submit corrections/revisions to address any deficiencies in the permit to install applications, detailed plans and/or plan referenced above, to Ohio EPA in accordance with Section X. of these Orders, within thirty (30) days of receipt of written notification from Ohio EPA of any deficiencies, unless additional time is requested and allowed.
3. Upon request by Respondent and good cause shown, the Director may, at his sole discretion, extend in writing any time periods established by these Orders.
4. Within thirty (30) days after the effective date of these Orders, Respondent shall submit to Ohio EPA for review and approval, a plan detailing how Respondent shall comply with the following:
 - a. At all times, Respondent shall maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by Respondent necessary to achieve compliance with the terms and conditions of the NPDES permit. Proper operation and maintenance includes but is not limited to, properly functioning of the two clarifiers, trickling filters, adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by Respondent only when the operation is necessary to achieve compliance with conditions of the NPDES permit.
 - b. Respondent shall effectively monitor the operation and efficiency of treatment and control facilities and the quantity and quality of the treated discharge.
5. Respondent shall submit corrections/revisions to address any deficiencies in the plan set forth in Order No. 4 to Ohio EPA in accordance with Section X. of these Orders, within thirty (30) days of receipt of written notification from Ohio EPA of any deficiencies, unless additional time is requested and allowed.

6. Respondent shall comply with the plan set forth in Order No. 4 as approved and/or modified by Ohio EPA.
7. Except as provided in Order No. 8, a standard connection ban is hereby imposed upon Respondent and the Board in accordance with the following:
 - a. The standard connection ban shall prohibit Respondent and Board from causing or allowing the extension of, or additional connections to, the sewerage system and treatment works. The geographic area to which the standard connection ban applies is the area served by the sewerage system and treatment works.
 - b. Applications for treatment works or sewerage systems, or both, and connections of new nonresidential sources of wastewater to existing treatment works or sewerage systems, or both, shall not be approved under ORC §§ 6111.44, 6111.45, or 6111.46 or OAC Chapter 3745-42, in the geographical area specified herein while a standard connection ban is in effect. This paragraph shall not apply to such facilities as are necessary to comply with orders or permit conditions issued by the Director or a court of law.
 - c. Nothing in these Orders shall prohibit connection to a sewerage system or construction and operation of a treatment works if:
 - i. The foundation of the facility proposed to be connected to the sewerage system or treatment works had been laid prior to issuance of these Orders; and
 - ii. Such connection or treatment works or the plans therefor have received the necessary permits and approvals from the Director and the local board of health or other licensing authority.
 - d. The Standard Connection Ban imposed by these Orders shall be revoked when, as determined by the Director:
 - i. Construction contracts are let for WWTP and sewerage systems upgrades; or
 - ii. Such other date or act upon which the Director is reasonably assured that additional connection to or extensions of a sewerage system will not increase the polluting properties of an effluent when discharged to the waters of the state or further threaten public health and welfare or the environment.

- e. Pursuant to the procedure and criteria established in OAC Rule 3745-11-03, variances may be granted from the standard connection ban imposed herein whenever, in judgment of the Director, compelling public need, extreme individual hardship, or other extraordinary circumstances require that the variance be granted. In deciding whether to grant a variance the Director may take into consideration the following factors:
 - i. The proposed facility will replace a facility in the area of the ban that has been condemned;
 - ii. The proposed facility will be used primarily as the dwelling place of a person whose physical or mental health requires that he live within the area of the ban;
 - iii. The variance will allow the construction of a school or hospital, or fire or police department facilities;
 - iv. The proposed facility will replace one or more existing facilities with a resulting decrease in the quantity of pollutants discharged into waters of the state; and
 - v. Other special facts indicate that the public interest will be served by the immediate availability of the proposed facility.

8. In order to cause or allow an extension of, or additional connections to, the sewerage systems and treatment works without invoking the standard connection ban variance provisions, Respondent shall demonstrate to the satisfaction of Ohio EPA all of the following:

- a. That the sewerage system and treatment works are being properly operated and maintained; and
- b. Documentation that Respondent has removed 3.33 gallons per day of clean water (e.g., inflow and infiltration or storm water) from the sanitary sewerage system for each gallon of sanitary sewage that is requested to be added based on average daily design flow estimates.

(For guidance, see Attachment A (as an example of a similar situation, a list of accepted removal projects and equivalent residential units for sanitary sewer extensions in combined sewer overflow communities) and Attachment B (infiltration / inflow tradeoff credit calculations).

9. Respondent shall pay the amount of forty-two thousand four hundred twenty-five dollars (\$42,425.00) 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 thirty-three thousand nine hundred forty dollars (\$33,940.00) of the total amount. The official check shall be submitted to Akia Smith, or her successor, together with a letter identifying the Respondent, 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, Southeast District Office, in accordance with Section X of these Orders.

10. In lieu of paying the remaining eight thousand four hundred eighty five dollars (\$8,485.00) 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 eight thousand four hundred eighty five dollars (\$8,485.00) 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 said amount. The official check shall be submitted to Akia Smith, or her successor, together with a letter identifying Respondent, at:

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

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

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

11. Should Respondent fail to fund the SEP within the required time set forth in Order No. 10, Respondent shall immediately pay to Ohio EPA the remaining eight thousand four hundred eighty five dollars (\$8,485.00) of the civil penalty in accordance with the procedures in Order No. 9.

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.

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 in or at the WWTP or sewerage 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

Unless otherwise specifically stated herein, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Southeast District Office
2195 Front Street
Logan, Ohio 43138
(ATTN: Enforcement Group Leader)

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



Scott J. Nally
Director



Date

IT IS SO AGREED:
Village of Cadiz

Ken Zitko
Signature

5-22-12
Date

Ken Zitko
Printed or Typed Name

Mayor
Title

IT IS SO AGREED:
Board of Trustees of Public Affairs

F. Dwight Cunningham
Signature

5-23-12
Date

F. Dwight Cunningham
Printed or Typed Name

Chairman
Title

Shirley Collier
Signature

5-22-12
Date

Shirley Collier
Printed or Typed Name

Board Member
Title

Rebecca Wilson
Signature

5-23-12
Date

Rebecca Wilson
Printed or Typed Name

Board Member
Title

ATTACHMENT A

Ohio EPA
Sanitary Sewer Extension

For Sanitary Sewer Extensions in CSO Communities

If you have combined sewer overflow, plant bypasses, primary or secondary bypasses, then all sewer extensions to your community may be subject to the Antidegradation Rule which requires a public notification process whenever an increase in pollutants to waters of the state are expected. In order to avoid this requirement, the entity must remove 3.33gpd of clean water from their sanitary sewerage system for every gallon of sanitary sewerage that you intend to add based on average daily design flow estimates. The following is a list of accepted removal projects and ERUs (Equivalent Residential Unit):

Ohio EPA approved Chimney Seal = 1,332gpd = One Equivalent Residential Unit (ERU), 2 ERUs for Separate Sanitary Sewer Systems (SSSS)

Ohio EPA approved Chimney Seal Plus Total Manhole Rehabilitation = 1.5 ERUs, 3 ERUs for SSSS

Ohio EPA approved Manhole Dish = 220gpd = 1/6 ERU, 1/3 ERU for SSSS

Removal of Sump Pump = 1,332gpd = 1 ERU, 2 ERUs for SSSS

Flex Seal Utility Sealant by SSI = 1,332gpd = 1 ERU, 2 ERUs for SSSS

Manhole Chimney Seal no. f-88 by Sauereisen = 1,332gpd = 1 ERU, 2 ERUs for SSSS

HDPE Manhole Adjustment Rings = 666gpd = 0.5 ERU, 1 ERU for SSSS

NPC Manhole FlexRib Seals = 1,332gpd = 1 ERU, 2 ERUs for SSSS

TUFF-N-DRY & WATCHDOG (new construction only) = 1,332gpd = 1 ERU, 2 ERUs for SSSS

Mar-Flex (new construction only) = 1,332gpd = 1 ERU, 2 ERUs for SSSS

Ohio EPA approved Manhole Rehab. (Sealing cracks & joints) = 666gpd = 0.5 ERU, 1 ERU for SSSS

Cured in Place Chimney Seals by Otis, Inc. = 1,332gpd = 1 ERU, 2 ERUs for SSSS

Flow Tradeoff Credits

INFILTRATION: (Calculations are based on 3.33:1 average flow ratio)

Step 1. Calculate the net reduction in clean water that results from the rehabilitation project:

Infiltration rates for manholes, sewer lines and other sewer infrastructure should be calculated using standard design documents. Two documents for manholes, for example, are the American Society of Civil Engineers (ASCE) Manual of Engineering Practice No. 92, entitled Manhole Inspection and Rehabilitation and Neenah Foundry Company's report on Inflow of Surface Water through Manhole Covers. Use these reports to calculate a gallon per minute (gpm) reduction that could be achieved by the rehabilitation work. For example, analysis of an existing manhole indicates that 5gpm 'clean water' is infiltrating into the manhole (when surrounded by high ground water) based on the analysis techniques in the referenced technical documents and field analysis of the condition of the manhole. After rehabilitation, the infiltration will reduce to 2gpm 'clean water'. The net reduction is 3gpm of 'clean water' (5 minus 2).

Step 2. Calculate the average daily design flow rate of new sanitary waste

Use standard design procedures for calculating average daily design flow, e.g. for a home, use 400 gallons per day which translates to 0.28gpm.

Step 3. Apply the Tradeoff Ratio of 3.33:1

Apply a tradeoff of 3.33gpm of clean water removal to allow 1gpm of new sanitary. For the above example, 3gpm of clean water has been removed thereby allowing 3.2 homes for each MH rehab ($3\text{gpm} / (0.28\text{gpm} * 3.33) = 3.2$).

INFLOW: (Calculations are based on a 3.33:1 peak flow ratio)

Step 1. Calculate the peak flow rate from a 10 yr. 1 hr. storm

As an example, a city will remove a storm sewer serving 1 acre of storm drainage area from the combined sewer. Using standard design methodology, e.g. TR55, calculate a peak flow rate from a 10 yr, 1-hr storm. Run TR55. For this example, assume, TR55 gives you a peak flow of 500gpm in the storm sewer [TR55 was not run, this number was made up based on: 1.8 inches of total rain (10 yr 1-hr from NWS) multiplied by 1 acre for volume multiplied by 61% actual runoff (estimate) divided by 1 hr].

Step 2. Calculate the peak sanitary flow

Calculate by multiplying the ADF by 3.33. In the above example, 400gpd times 3.33 equals 1332gpd peak flow from a home, which equals 0.92gpm.

Step 3. Apply a tradeoff ratio of 3.33:1

Divide the 'clean water' peak flow rate removed from the CSO by 3.33 times the new peak sanitary flow. In the above example, $500\text{gpm} / (3.33 * 0.92\text{gpm}) = 163$ new homes can be added for every acre of storm drainage removed.

