

OHIO E.P.A.

DEC -9 2010

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

Village of Sabina : Director's Final Findings
101 North Howard Street : and Orders
Sabina, OH 45169 :

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: Don Lasser Date: 12-9-10

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Village of Sabina ("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 thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is the Village of Sabina. Respondent owns and operates a wastewater treatment works and associated sewage collection system.
2. Respondent holds a valid, unexpired National Pollutant Discharge Elimination System (NPDES) permit, number 1PB00038*GD/OH00221281 (effective date February 1, 2008), for the discharges from Sabina's wastewater treatment works.
3. Wilson Creek and its unnamed tributaries constitute "waters of the state" as defined by ORC Section 6111.01.
4. 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.
5. 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.
6. Pursuant to ORC Section 6111.04(A)(1), no person shall cause pollution or place or cause 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.
7. Respondent has violated effluent limits of its NPDES permit and on numerous occasions as cited in Attachment I. Each violation cited in Attachment I constitutes a separate violation of ORC Sections 6111.04 and 6111.07. Attachment I is hereby incorporated into these Findings and Orders as if fully stated herein.
8. Beginning in the spring of 2006, Respondent began using geotextile bags for sludge dewatering which has assisted Respondent in wasting sludge in a timely manner thereby improving compliance with the final effluent limits in the NPDES permit.
9. Since 1996, Ohio EPA has documented wet weather sanitary overflows within Respondent's system. Respondent has performed work within the sanitary and storm sewer system such as limited residential downspout removal projects, isolated dye and smoke testing, creek clearing and storm sewer cleaning.
10. In a 2001 Phase II strategic Flow Monitoring Study, URS Engineering identified the Village's storm sewer system as the main problem for wet weather issues within the collection system. URS recommended the Village have the storm sewers mapped, which was completed in 2004.

11. Since June, 2004, there have been forty-four (44) sanitary sewer overflows (SSOs) from Respondent's collection system. This results in raw sewage being discharged from the system prior to receiving treatment at Respondent's wastewater treatment plant. These SSOs are unauthorized discharges in violation of ORC Sections 6111.04(A)(1) and 6111.07. Each SSO constitutes a separate violation of ORC Sections 6111.04 and 6111.07.
12. By a Notice of Violation letter dated January 31, 2007, Ohio EPA directed Respondent to hire an engineering firm develop a plan to address unpermitted SSOs from the waste water collection system. The NOV directed Respondent to submit the plan by September 30, 2007 and stated that the agreed to schedule for remedial action would be memorialized in an administrative enforcement action.
13. The Ohio EPA reviewed a draft plan on July 17, 2007 but it was incomplete because data collection would continue until late Fall of 2007.
14. The Village of Sabina submitted an "SSO Plan of Action" in July of 2008 and a "Wastewater Treatment Plant Study" in January of 2009 (prepared by URS engineers). Both of these documents prescribed projects for the elimination of sanitary sewer overflows in Sabina and wastewater treatment works violations. These improvements consisted of three phases: sewer system rehabilitation and addition of wastewater treatment works flow meter; Rose Avenue relief sewer and wastewater treatment works improvements; schoolhouse pump station and force main. Phase 1 of the work has been completed as of the date of these Findings and Orders.
15. 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 OAC Chapter 3745-42.
16. This document does not modify NPDES Permit No. 1PB00038*GD/OH00221281. The purpose of this document is to correct a condition of noncompliance with NPDES Permit No. 1PB00038*GD/OH00221281 and with ORC section 6111 and not to alter said permit.
17. Compliance with ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
18. 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. The Village shall complete the infrastructure improvement phases, shown in the "SSO Plan of Action" and the "Wastewater Treatment Plant Study" in accordance with the schedules specified below:
 - a. Phase 2-Park Avenue/Rose Avenue Relief Sewer
 - i. Submit a Permit to Install (PTI) application by no later than March 31, 2011;
 - ii. Initiate Construction no later than August 30, 2011;
 - iii. Complete Construction shall be completed by no later than December 31, 2012.
 - b. Phase 3 WWTP Improvements/School Pump Station and Force Main.
 - i. Submit a Permit to Install (PTI) application by no later than January 2, 2012;
 - ii. Initiate Construction no later than May 31, 2012;
 - iii. Complete Construction shall be completed by no later than May 31, 2013.
 - c. Eliminate all sanitary sewer overflows in the collection system and achieve full compliance with NPDES permit # 1PB00038*GD by no later than June 1, 2013.
2. Within 7 days of the milestones specified in Orders No. 1.a through 1.c, Respondent shall submit to Ohio EPA written notification of the status of compliance with such Order.
3. Until the compliance dates set forth in Order 1, Respondent shall maintain in good working order and operate as efficiently as possible the treatment works and sewerage system as defined in ORC 6111.01 to achieve compliance with the terms and conditions of NPDES permit No. 1PB00038*GD/OH00221281.
4. Respondent shall report any noncompliance with these Orders in accordance with Part III, Paragraph 12, of its NPDES permit.
5. Respondent shall pay the amount of fourteen thousand (\$14,000.00) in settlement of Ohio EPA's claims for civil penalties, which may be assessed

pursuant to ORC Chapter 6111. Satisfaction of the civil penalty will be made in accordance with the following:

- (i) Within 3 months of the effective date of these Orders, Respondent shall pay 1,750.00;
- (ii) Within 6 months of the effective date of these Orders, Respondent shall pay 1,750.00;
- (iii) Within 9 months of the effective date of these Orders, Respondent shall pay 1,750.00;
- (iv) Within 12 months of the effective date of these Orders, Respondent shall pay 1,750.00;
- (v) Within 15 months of the effective date of these Orders, Respondent shall pay 1,750.00;
- (vi) Within 18 months of the effective date of these Orders, Respondent shall pay 1,750.00;
- (vii) Within 21 months of the effective date of these Orders, Respondent shall pay 1,750.00; and
- (viii) Within 24 months of the effective date of these Orders, Respondent shall pay 1,750.00

Payments made pursuant to Order 5 shall be made by an official check made payable to "Treasurer, State of Ohio". The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the 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's Southwest District Office at:

Ohio Environmental Protection Agency
401 East Fifth Street, Dayton, OH 45402

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(E)(1) for a corporation, OAC Rule 3745-33-03(E)(2) for a partnership, OAC Rule 3745-33-03(E)(3) for a sole proprietorship, and OAC Rule 3745-33-03(E)(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.

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



Chris Korleski
Director

Date

12/2/10

IT IS SO AGREED:

Village of Sabina



Signature

Date

11-29-10

Dean Carnahan

Printed or Typed Name

Mayor

Title

Get New Data

Attachment 1

Permit No	Reporting Period	Station	Reporting Code	Parameter	Limit Type	Limit	Reported Value	Violation Date
1PB00038*FD	March 2006	001	00530	Total Suspended Solids	30D Qty	17.3	22.9278	3/1/2006
1PB00038*FD	March 2006	001	00530	Total Suspended Solids	7D Qty	25.9	69.7556	3/8/2006
1PB00038*FD	March 2006	001	80082	CBOD 5 day	7D Qty	21.6	27.2747	3/8/2006
1PB00038*FD	March 2006	001	00530	Total Suspended Solids	7D Qty	25.9	29.1274	3/15/2006
1PB00038*FD	May 2006	001	00610	Nitrogen, Ammonia (NH3)	30D Conc	1.5	3.25	5/1/2006
1PB00038*FD	May 2006	001	00610	Nitrogen, Ammonia (NH3)	7D Conc	2.3	2.45	5/1/2006
1PB00038*FD	May 2006	001	00610	Nitrogen, Ammonia (NH3)	30D Qty	2.2	2.89538	5/1/2006
1PB00038*FD	May 2006	001	00610	Nitrogen, Ammonia (NH3)	7D Conc	2.3	3.75	5/8/2006
1PB00038*FD	May 2006	001	00530	Total Suspended Solids	7D Qty	25.9	30.2251	5/15/2006
1PB00038*FD	May 2006	001	00610	Nitrogen, Ammonia (NH3)	7D Conc	2.3	4.65	5/15/2006
1PB00038*FD	May 2006	001	00610	Nitrogen, Ammonia (NH3)	7D Qty	3.3	6.50131	5/15/2006
1PB00038*FD	May 2006	001	00610	Nitrogen, Ammonia (NH3)	7D Conc	2.3	4.3	5/22/2006
1PB00038*FD	May 2006	001	80082	CBOD 5 day	7D Conc	15	16.	5/22/2006
1PB00038*FD	June 2006	001	50060	Chlorine, Total Residu	1D Conc	0.022	.08	6/14/2006
1PB00038*FD	September 2006	001	00530	Total Suspended Solids	7D Qty	25.9	39.1066	9/8/2006
1PB00038*FD	February 2007	001	80082	CBOD 5 day	7D Qty	21.6	27.8424	2/15/2007
1PB00038*FD	May 2007	001	00530	Total Suspended Solids	30D Qty	17.3	48.0327	5/1/2007