REV_4

Phase 0 EdocMgt DAY FORWARD BARCODE (1-31-2013) Created on: Jun 14, 2013

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DSW
DSW

Subdepartment:
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DSW - NPDES

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13-028

Date:
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6/14/2013

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CITY_OF_MARTINS_FERRY
City of Martins Ferry
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35 Fifth Street
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Facility City:
*MARTINS_FERRY_*
Martins Ferry

Facility State:
OH
OH

Facility ZIP: (00000 or 00000-0000)
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OHIO E.P.A.

JUN 14 2013

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

City of Martins Ferry 35 Fifth Street Martins Ferry, Ohio 43935	:	Director's Final Findings and Orders

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Finding and Orders ("Orders") are issued to the City of Martins Ferry ("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 there under.

"Combined Sewer System" means a wastewater collection system designed to carry sanitary sewage (consisting of domestic, commercial, and industrial wastewater) and storm water in a single pipe to a treatment facility.

"Combined Sewer Overflow" or "CSO" means an overflow from a Combined Sewer System caused by flows that exceed the capacity of the sewer.

"Sanitary Sewer Overflow" or "SSO" means an overflow, spill or release of wastewater from a sanitary sewer system that occurs on a street or the ground such that it has reasonable potential to reach waters of the state without treatment. SSOs do not include WIBs unless the WIB is discharged or otherwise released to a stream or street or where it can enter a storm sewer system.

"Water in Basement" or "WIB" means wastewater that backups into buildings and that are caused by blockages or flow conditions in a sanitary sewer other than a building

lateral. WIBs do not include the backup of sewage caused by a blockage or other malfunction in a building's lateral sewer.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Eastern Ohio Regional Wastewater Authority (EORWA) owns and operates a sewer collection system and a wastewater treatment plant (WWTP) located at 6000 North Guernsey Street, Bellaire, Ohio in Belmont County.

2. Portions Of EORWA's sewer collection system are considered a "combined system" as it combines storm water and sanitary wastewater which is all conveyed to the WWTP. Within this system are combined sewer overflows (CSO) which, during certain rain events when the volume of storm water and sanitary wastewater overwhelm the capacity of the sewer, discharge sewage from the CSOs to waters of the state prior to the wastewater reaching the WWTP.

3. Only CSOs listed in EORWA's NPDES permit are authorized discharges. All other discharges in the collection system are unauthorized pursuant to ORC Section 6111.04.

4. Five political subdivisions are tributary to EORWA's collection system namely, the City of Martins Ferry, the Village of Bridgeport, the Village of Bellaire, the Village of Brookside, and the Belmont County Sanitary Sewer District (hereinafter referred to as Satellite Communities). EORWA has issued each Satellite Community a permit that sets forth various conditions on the Satellite Community's operation of its collection system (herein referred to as "the Permit").

5. Bridgeport, portions of Bellaire and Martins Ferry are Combined Sewer Systems. In other parts of Bellaire, Bridgeport and Martins Ferry as well as Brookside, and the Belmont County Sanitary Sewer District the storm sewers and sanitary sewers are separated.

6. In some of these areas, excessive inflow and infiltration (I/I) of storm water and ground water cause the sanitary sewer to become overwhelmed and results in sanitary sewer overflows (SSOs) and or provide excessive flow to EORWA's collection system which contribute to CSOs or SSOs. SSOs are not an authorized discharge under the Federal Water Pollution Control Act and ORC Chapter 6111.

7. CSOs and SSOs contain concentrations of bacteria from fecal contamination, pathogens and nutrients, all of which can be significant contributors to the impairment of lakes, rivers and streams and pose potential impacts to public

health from direct contact with pathogenic bacteria and viruses in the wastewater.

8. Excessive I/I from the Satellite Communities may adversely impact the operation of EORWA's collection system including worsening the number and volume of SSO and CSO discharges from EORWA's collection system.

9. EORWA has developed a Long Term Control Plan (LTCP) to minimize the frequency and severity of CSO discharges from its collection system. The LTCP was approved on June 21, 2011. The LTCP covers the entire system, including areas owned by the Satellite Communities.

10. In order for EORWA to meet the performance objectives required under its LTCP, the Satellite Communities will be required to operate and maintain their systems in coordination with the objectives of EORWA's LTCP.

11. 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 Ohio Administrative Code ("OAC") Chapter 3745-42.

12. Compliance with the ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.

13. 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 as well as applicable factors set forth in ORC Section 6111.60.

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall comply with all terms and conditions set forth in its Permit with EORWA or any renewal thereof.

2. Respondent shall obtain a Permit to Install in accordance with Ohio Administrative Code (OAC) Chapter 3745-42 for any new pump stations or sanitary sewers or modifications to existing systems.

3. Within six months of the effective date of these Orders, Respondent shall obtain a Class II Certified Wastewater Collections operator in accordance with OAC Rule 3745-7-04 and report the name of the certified operator to Ohio EPA. The certified operator shall spend time overseeing the sewer collection system at a level necessary to ensure compliance with these Orders, including but not limited to, fulfilling the reporting requirements of Order 8.

4. Respondent shall maintain its collection system in good working order and operate as efficiently as possible to achieve compliance with the terms and conditions of the Permit to prevent CSOs, SSOs, and WIBs.

5. Respondent shall cap services lines when a home is demolished. EORWA shall be notified and the caps shall not be covered until inspected by EORWA, unless waived by EORWA.

6. All new taps to the sewer system shall be requested in writing to EORWA. EORWA will authorize all new taps in writing and will provide standard details on proper connections to the sewer system. Some connections may require a Permit to Install by Ohio EPA. All new taps to the sewer system must be inspected by EORWA before connection is covered.

7. In areas where the sanitary and storm sewers are separate, Respondent shall pass an ordinance requiring downspouts and sump pumps not be connected to the sanitary sewers.

8. Respondent shall report to EORWA and Ohio EPA any SSO, WIB or any other unauthorized discharge on a form provided by EORWA. For SSOs, or other unauthorized discharges that imminently and substantially endanger human health and for all WIBs, Respondent must do the following:

   A. Immediate Notification. Respondent shall notify Ohio EPA, SEDO (740-385-8501, attention Jennifer Witte or successor) and EORWA (740 -676-5911) within one hour of learning of any SSOs or other unauthorized discharge from your sewers that may imminently and substantially endanger human health and all WIBs. The telephone report must identify the location, estimated volume and receiving water, if any, of the overflow. An SSO or unauthorized discharge that may imminently and substantially endanger human health includes dry weather overflows, major line breaks, overflow events that result in fish kills or other significant harm, and overflow events that occur in sensitive waters and high exposure areas such as protection areas for public drinking water intakes, public places and waters where primary contact recreation occurs.

   B. Follow-Up Written Report. Within 5 days of the time of becoming aware of an event triggering the notification requirements in Order 8.A, Respondent must provide the Ohio EPA, SEDO and EORWA a written report that includes:

(i) the estimated date and time when the overflow began and stopped or will be stopped (if known);

(ii) the location of the SSO, unauthorized discharge or WIB including an identification number or designation if one exists;

(iii) the receiving water (if there is one);

(iv) an estimate of the volume of the SSO, unauthorized discharge or WIB (if known);

(v) a description of the sewer system component from which the release occurred (e.g., manhole, constructed overflow pipe, crack in pipe);

(vi) the cause or suspected cause of the overflow or WIB;

(vii) steps taken or planned to reduce, eliminate, and prevent reoccurrence of the overflow or WIB and a schedule of major milestones for those steps; and

(viii) steps taken or planned to mitigate the impact(s) of the overflow and or WIB a schedule of major milestones for those steps.

C. All complaints regarding sewage or the sewer system in the community must be reported within 24 hour to Ohio EPA and EORWA and investigated within 48 hours of receipt. A final written report of the complaint and investigation shall be submitted to Ohio EPA and EORWA within 7 days of receipt of the complaint.

9. In coordination with EORWA, Respondent shall:

A. Develop and implement a detailed written plan to evaluate the current condition of the collection system serving its community to reduce I/I in the system, to prevent unauthorized discharges of wastewater, including WIBs, SSOs and bypasses, and to assist EORWA's efforts towards implementing its Long Term Control Plan requirements/objectives including minimizing CSO events.

i. The detailed written work plan shall investigate, identify and locate sources of I/I entering into the separate sanitary sewer and areas in need of repair or maintenance. For areas containing Combined Sewers, the work plan shall identify opportunities for storm water relocation. The work plan must include a program for sewer cleaning. The work plan shall utilize dye testing, smoke testing,

sewer televising, sewer cleaning, flow monitoring, precipitation monitoring, stream flow monitoring, and shall include the creation of accurate sewer maps of the system. The work plan shall be submitted to the Ohio EPA, SEDO and EORWA for review no later than 6 months after the effective date of these Findings and Orders.

ii. In coordination with EORWA, prepare and submit a detailed written report summarizing the defects, cross connections, etc. and a plan of action including a schedule of implementation to resolve the issues located in the sewer system to Ohio EPA, SEDO and EORWA no later than 36 months after the effective date of these Findings and Orders.

B. Implement a sewer maintenance program in coordination with EORWA; and

C. Create and maintain adequate capital improvement funds for the repair and/or replacement of the collection system.

10. By January 31st of each year, Respondent shall provide a written report to Ohio EPA and EORWA detailing the following information for the previous calendar year:

A. All sanitary sewer overflows, including manhole overflows and sewage backing up into basements (WIBs); and

B. A summary report of all actions taken to repair the sewer system and to minimize I/I during the previous 12 months. The summary report shall, at a minimum, include:

i. A map and a description of inspection and maintenance activities conducted and corrective actions taken during the previous year;

ii. Expenditures for any infiltration/inflow related maintenance activities and corrective actions taken during the previous year; and

iii. A map with areas identified for I/I-related investigation/action in the coming year.

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

Scott J. Nally
Director

6/7/13
Date

City of Martins Ferry

IT IS SO AGREED:

Signature

6-5-13
Date

PAUL RIETHMILLER
Printed or Typed Name

MAYOR
Title