

OHIO E.P.A.
MAR 23 2009
FILED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

Ross County Board of Commissioners : Director's Final Findings
2 North Paint Street, Suite H, Courthouse : and Orders
Chillicothe, Ohio 45601 :
:

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Ross County Board of Commissioners ("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.

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.

By:  Date: 3-23-09

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is the Ross County Board of Commissioners. Respondent owns and operates a wastewater treatment plant (WWTP) and associated sewer system that serves the Union Heights Subdivision located along State Route 104, Chillicothe, Ohio. The subdivision consists of 150 homes.
2. Respondent holds a valid, unexpired National Pollutant Discharge Elimination System (NPDES) permit, number OPG00034*HD (effective date June 1, 2008), for the discharge of pollutants to an unnamed tributary of the Scioto River.
3. The Scioto River and its unnamed tributaries constitute "waters of the state" as defined by ORC Section 6111.01.
4. The current treatment capacity of the WWTP is 60,000 gallons/day. The treatment plant consists of a headworks with a bar screen for large solids screenings and parallel return activated sludge basins followed by settling tanks with weirs that discharge to the dosing tank. The wastewater is pumped to the two western most filter beds with the south pump and the two filter beds nearest the treatment plant with the north pump. The filtered wastewater from the filter beds is then disinfected with chlorination and dechlorination in the chlorine contact tank prior to discharging into the unnamed tributary to the Scioto River.
5. NPDES permit, number OPG00034*HD contains effluent limits to assure treated wastewater is not a public health threat or causes water quality impairment to the receiving stream. In order to maintain compliance with the discharge permit the permittee is responsible to maintain and operate the facility according to the terms and conditions of the permit.
6. 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.
7. 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.
8. Due to the age of the collection system a significant volume of Infiltration and Inflow (I&I) into the system is common following a rain event. The significant I&I

flows often cause the wastewater flows to exceed the treatment plant's capacity of 60,000 gpd and wash solids from the plant. The additional solids washed from the plant to the sand filters causes plugging of the filter beds. Failure to clean and maintain the filter beds has periodically resulted in a thick solids blanket on the filter beds which compromises the treatment efficiency of the system.

9. On March 19, 2003, Ohio EPA conducted a compliance inspection of Respondent's WWTP. Ohio EPA observed that the sand filters were being bypassed thereby compromising the treatment efficiency of the plant in violation of Respondent's NPDES permit. The bypassing is a direct violation of Part III Item 3, which states at all times, the permittee shall maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems used to achieve compliance to their permit. In a June 13, 2003 letter, Respondent's operator indicated that the filters received a solids wash out from I&I and were waiting to dry so they could be cleaned by the County. A review of the Monthly Operating Report (MOR) and the correspondence files revealed no notification for the bypass in violation of Part III (Item 12) of the NPDES permit.
10. On June 23, 2003, Ohio EPA conducted a compliance inspection of Respondent's WWTP. The inspection revealed that the sand filters were bypassed and visible quantities of sludge was discharged into the stream in violation of Part III Item 2 (A). Ohio EPA asked for a written response as to why the filters were not in use. A response letter was not received by either the Respondent or the Respondent's operator. A review of the Monthly Operating Report (MOR) and the correspondence files revealed no notification for the bypass in violation of Part III (Item 12) of the NPDES permit.
11. On November 3, 2003, Ohio EPA conducted a compliance inspection of Respondent's WWTP. The inspection revealed a bypass pipe connected and the filter beds bypassed as well as heavy sludge deposits in the receiving stream which violate Part III Item 2 and 3 of the NPDES permit. A follow up letter dated January 16, 2004 to the Respondent asked Respondent to explain what measures would be taken to ensure the bypass is stopped and does not occur in the future. The letter also stated that failure to comply with the effluent limits or to satisfy the monitoring or reporting requirements of its NPDES permit may be cause for enforcement action.
12. In response to Ohio EPA's January 16, 2004 letter, Respondent's operator explained that the plant receives I&I flows which wash solids onto the sand filters making it impossible to maintain the sand filter operation. The operator also stated that two of the three beds that were noted as being serviceable by the inspector were waiting to be weeded and leveled and the third bed was simply in standby to accept flows from a rain event. The operator also said until the I&I is corrected he did not know of any way to completely eliminate the bypassing.

Review of the MOR and files found no notification of this bypass in violation of Part III (Item 12) although review of the December 2003 MOR showed the operator reported a bypass from 12/17- 12/31/03 due to high flows.

13. A review of the 2004 MORs revealed that bypasses were reported on the MORs in January, February, March and April. The bypasses were reported for the entire month of January and February due to solids washout from heavy rains. The March and April MORs did not report specific days the bypasses occurred.
14. Respondent violated terms and conditions of its NPDES permit 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 & Orders as if fully stated herein.
15. On May 10, 2004 Ohio EPA staff met with Respondent and its operator at the WWTP to conduct a compliance inspection. At the time of the inspection the facility was found to be in satisfactory condition and the filter beds in use although the bypass pipe was still available for use.
16. A follow up inspection letter dated June 11, 2004 asked Respondent for the status of the I&I investigation and whether the bypass was still being used. Respondent's operator responded that a bypass did occur on May 28, 2004 which he said was reported although no written documentation was found. The Respondent indicated that they were getting a price quote from AAA Pipe Cleaning to address some infiltration problems but did not mention the Sanitary Sewer Evaluation Survey (SSES) completed on October 2000 by Burgess and Niple which discovered four primary sources of I&I flows.
17. A review of daily hourly pump records submitted by the operator for the period of January 1, 2005 through March 27, 2005 revealed the bypass was in use during this period but there was no documented notification of the bypass in violation of Part III (Item 12) of the NPDES permit.
18. A review of daily hourly pump records submitted by the operator revealed a sewage overflow from the dosing tank to the ground from December 25, 2005 to December 26, 2005 as the north pump (Bypass Pump) failed. At the time of the pump failure a zero flow rate was reported on the MOR and the bypass was noted.
19. A review of daily pump records revealed that the south pump failed on January 8, 2006 and the north pump was still out for repairs so a sewage overflow to the ground occurred from January 8, 2006 through January 12, 2006. The south pump was repaired and used until January 17, 2006 at which time sand beds 3 and 4 became full. Due to the fact that the south pump only discharges to beds 3

and 4 and the north pump was still out of service another sewage overflow to the ground occurred from January 17, 2006 through January 25, 2006. A zero flow rate was reported during the overflow although actual discharge still occurred and samples were even collected on January 18, 2006 and January 25, 2006 to comply with the permit monitoring schedule. No notification of the bypass was reported in violation of Part III (Item 12) of the NPDES permit.

20. Ohio EPA conducted an inspection on August 22, 2006 and found two sand beds were choked with vegetation and had a foot of water with duckweed and some cattails. At the time of the inspection, the bypass pipe was still present although not actively in use. In a follow-up letter to Respondent dated August 28, 2006, Ohio EPA asked that sand beds be cleaned and the bypass pipe be eliminated. No response to the CEI letter was received.
21. A review of the daily pump records revealed a bypass from October 20, 2006 through October 31, 2006 as the operator stated the beds were full and needed cleaned. The operator provided no notification of this bypass in violation of Part III (Item 12) of the NPDES permit.
22. Ohio EPA conducted an unannounced inspection on November 21, 2006 at which time two of the four beds were ponded with several feet of water and there was evidence of one recently overtopping. The condition of the plant was found to be in significant non-compliance as scum and solids were overtopping the weir. Two county workers were present cleaning beds 3 and 4 and bed 4 was ready for new sand. The bypass pipe was observed in use and no prior notification was given in violation of Part III (Item 12) of the NPDES permit.
23. On December 5, 2006, Ohio EPA sent a follow up letter to Respondent informing them to immediately replenish beds 3 and 4 with new sand and place them back on-line. The Respondent was told if the bypass continues enforcement actions will be taken.
24. Ohio EPA received a response letter from Respondent's operator on December 20, 2006, explaining the two sand filters were awaiting new sand so they were not in use and bypassing was the only option. The operator also stated in his letter that he was under the impression that reporting bypasses on the MOR would be sufficient notification according to Part III of the permit. Upon reading Part III the operator realized he was not properly reporting the bypass. The operator provided notification that the bypass was in use from November 21, 2006 and would continue until the beds receive new sand. The bypass continued until January 4, 2007 at which time the sand filter was clean.

25. On January 9, 2007, Ohio EPA sent Respondent a letter informing them of the multiple unreported bypasses and continued use of the bypass will result in enforcement actions.
26. On January 15, 2007 an e-mail was received from Respondent's operator stating due to heavy rains the bypass was used as no beds were available for use. A follow up phone conversation was conducted with Respondent's operator on January 16, 2007 at which time the agency discovered one bed was dry awaiting removal of solids and two beds were still damp although not ponded. A phone call was made to Respondent instructing them to immediately clean the beds and put them in use and to permanently remove the bypass. An e-mail was received on 1/17/07 by the operator stating the beds were cleaned and back in use.
27. An e-mail dated January 18, 2007 was received from Respondent's operator stating the bypass pipe was permanently removed.
28. A meeting was conducted on January 29, 2007 with Respondent and its operator at the site to discuss past noncompliance and prohibited use of the bypass. At the time of the meeting the plant was found to be in good condition and the bypass eliminated.
29. 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.
30. This document does not modify NPDES Permit No. 0PG00034*HD. The purpose of this document is to correct a condition of noncompliance with NPDES Permit No. 0PG00034*HD and not to alter said permit. These Orders do not authorize discharges of pollutants in excess of the permissive discharges specified under Respondent's NPDES permit.
31. Compliance with the ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
32. 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. Except as set forth in Order 2, Respondent shall, as soon as possible but not later than two (2) months from the effective date of these Findings and Orders, make necessary plant repairs and complete I&I reduction measures according to the October 2000 SSES to prevent unauthorized discharges from its WWTP and collection system.
2. To the extent that any repairs necessary to eliminate any unauthorized discharge would be considered a "modification" under OAC Rule 3745-42-01(Q), Respondent shall eliminate unauthorized discharges in accordance with the following schedule:
 - a. Within 60 days of the effective date of these Orders, submit an application for a Permit to Install for said modification(s);
 - b. Within 4 months of the effective date of these Orders, initiate construction for the necessary modifications; and
 - c. Complete construction of plant modifications within 6 months of the effective date of these Orders.
3. Until the compliance dates set forth in Orders 1 and 2, 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 this permit NPDES permit No OPG00034*HD.
4. Within 7 days of the milestones specified in Orders No. 1 and 2, Respondent shall submit to Ohio EPA, written notification of the status of compliance with such Order.
5. Respondent shall report any noncompliance with these Orders in accordance with Part III, Paragraph 12, of its NPDES permit.
6. Respondent shall pay the amount of \$15,000.00 in settlement of Ohio EPA's claims 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 \$12,000.00 of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identify 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 Southeast District Office
at:

Ohio Environmental Protection Agency
2195 Front Street
Logan, OH 43138

7. In lieu of paying the remaining \$3,000.00 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 \$3,000.00 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 and a cover letter identifying the Respondent shall be submitted to Brenda Case, or her successor at:

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

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

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

8. Should Respondent fail to fund the SEP within the required time frame set forth in Order No. 7, Respondent shall immediately pay to Ohio EPA the remaining \$3,000.00 of the civil penalty in accordance with the procedures in Order No. 6.

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(D)(1) for a corporation, OAC Rule 3745-33-03(D)(2) for a partnership, OAC Rule 3745-33-03(D)(3) for a sole proprietorship, and OAC Rule 3745-33-03(D)(4) for a municipal, state, or other public facility.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to activities occurring on or at 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

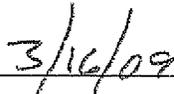
Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency



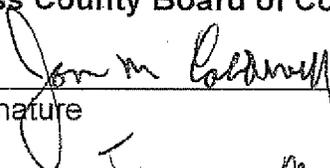
Chris Korleski
Director

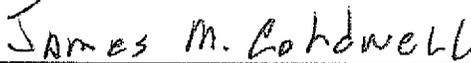


Date

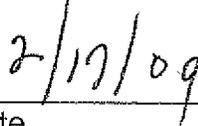
IT IS SO AGREED:

Ross County Board of Commissioners



Signature


Printed or Typed Name



Date



Title

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Attachment I

Permit No	Reporting Period	Station	Reporting Code	Parameter	Limit Type	Limit	Reported Value	Violation Date
OPG00034*GD	January 2004	001	00530	Total Suspended Solids	30D Conc	12	27.85	1/1/2004
OPG00034*GD	January 2004	001	00530	Total Suspended Solids	7D Conc	18	23.	1/8/2004
OPG00034*GD	January 2004	001	00530	Total Suspended Solids	7D Conc	18	22.	1/15/2004
OPG00034*GD	January 2004	001	00530	Total Suspended Solids	7D Conc	18	62.	1/22/2004
OPG00034*GD	January 2004	001	00530	Total Suspended Solids	30D Qty	2.7	3.16388	1/1/2004
OPG00034*GD	January 2004	001	00530	Total Suspended Solids	7D Qty	4.1	4.70097	1/8/2004
OPG00034*GD	January 2004	001	00530	Total Suspended Solids	7D Qty	4.1	4.22406	1/22/2004
OPG00034*GD	January 2004	001	80082	CBOD 5 day	7D Conc	15	17.	1/8/2004
OPG00034*GD	January 2004	001	80082	CBOD 5 day	7D Conc	15	27.	1/22/2004
OPG00034*GD	January 2004	001	80082	CBOD 5 day	7D Qty	3.4	3.47463	1/8/2004
OPG00034*GD	October 2004	001	31616	Fecal Coliform	30D Conc	1000	1344.	10/1/2004
OPG00034*GD	October 2004	001	00300	Dissolved Oxygen	1D Conc	5.0	4.5	10/27/2004
OPG00034*GD	December 2004	001	00530	Total Suspended Solids	30D Conc	12	14.75	12/1/2004
OPG00034*GD	December 2004	001	00530	Total Suspended Solids	7D Conc	18	22.	12/1/2004
OPG00034*GD	December 2004	001	00530	Total Suspended Solids	7D Conc	18	19.	12/22/2004
OPG00034*GD	December 2004	001	00530	Total Suspended Solids	30D Qty	2.7	3.96006	12/1/2004
OPG00034*GD	December 2004	001	00530	Total Suspended Solids	7D Qty	4.1	8.99316	12/1/2004
OPG00034*GD	December 2004	001	80082	CBOD 5 day	7D Qty	3.4	4.90536	12/1/2004
OPG00034*GD	May 2004	001	00530	Total Suspended Solids	7D Conc	18	25.	5/15/2004
OPG00034*GD	May 2004	001	80082	CBOD 5 day	7D Conc	15	16.	5/15/2004
OPG00034*GD	March 2005	001	00530	Total Suspended Solids	7D Qty	4.1	4.2657	3/1/2005
OPG00034*GD	January 2005	001	00530	Total Suspended Solids	30D Qty	2.7	4.74355	1/1/2005
OPG00034*GD	January 2005	001	00530	Total Suspended Solids	7D Qty	4.1	14.3073	1/1/2005
OPG00034*GD	January 2005	001	80082	CBOD 5 day	30D Qty	2.3	2.34878	1/1/2005
OPG00034*GD	January 2005	001	80082	CBOD 5 day	7D Qty	3.4	6.67674	1/1/2005
OPG00034*GD	August 2005	001	31616	Fecal Coliform			AK	8/24/2005
OPG00034*GD	September 2005	001	31616	Fecal Coliform	30D Conc	1000	1100.	9/1/2005
OPG00034*GD	March 2007	001	00300	Dissolved Oxygen	1D Conc	5.0	4.	3/22/2007
OPG00034*GD	March 2006	001	00530	Total Suspended Solids	30D Conc	12	16.8	3/1/2006
OPG00034*GD	March 2006	001	00530	Total Suspended Solids	7D Conc	18	20.	3/8/2006
OPG00034*GD	March 2006	001	00530	Total Suspended Solids	7D Conc	18	20.	3/15/2006
OPG00034*GD	March 2006	001	00530	Total Suspended Solids	7D Qty	4.1	5.4504	3/15/2006
OPG00034*GD	August 2007	001	31616	Fecal Coliform	30D Conc	1000	1900.	8/1/2007

OPG00034*GD	June 2007	001	50060	Chlorine, Total Residu	1D Conc	0.038	.074	6/14/2007
OPG00034*GD	May 2007	001	31616	Fecal Coliform	30D Conc	1000	4800.	5/1/2007
OPG00034*GD	May 2007	001	31616	Fecal Coliform	7D Conc	2000	4800.	5/8/2007

