

OHIO E.P.A.

BEFORE THE

MAY 25 2011

OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

City of Vermilion
5511 Liberty Ave
Vermilion, OH 44089

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Director's Final Findings
and Orders

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

J. A. Shagin Date 5/25/2011

It is agreed by the Parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the City of Vermilion ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 6111.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in the composition of Respondent shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 6111 and the rules promulgated thereunder.

IV. FINDINGS

By consenting to the entry of these Orders, Respondent does not admit to the Findings of Fact, nor does Respondent admit to any legal liability associated with such Findings of Fact. The Director of Ohio EPA has determined the following findings:

1. Respondent is the permit holder of Ohio EPA National Pollutant Discharge Elimination System Permit No. 2PD00032*KD. The NPDES permit authorizes discharges from the wastewater treatment works located at 799 West River Rd Vermilion, OH 44089 in Erie County. The NPDES permit expired on Jan 31, 2010. Prior to expiration, Respondent

timely submitted a renewal application, such that the terms of the NPDES permit remain in effect.

Sanitary Sewer Overflow Violations

2. Respondent has experienced separate sanitary overflows ("SSO's") from three pump stations: Vermilion on the Lake ("VOL"), Romps and Elberta. A schedule of compliance for the elimination of such overflows was included in Respondent's NPDES permit. The VOL SSO was required to be eliminated within 36 months of the effective permit date or August 1, 2008, and the Romps and Elberta SSOs by the permit expiration date, January 31, 2010. The VOL SSO discharges to Lake Erie. The Romps SSO discharges to the Vermilion River. The Elberta SSO discharges to Lake Erie.
3. SSOs from the VOL pump station were not eliminated by the August 1, 2008 deadline and a NPDES Notice of Violation ("NOV") was sent to Respondent dated August 8, 2008. The overflow was eliminated on October 9, 2009.
4. SSOs from the Romps and Elberta pump stations have not been eliminated by the January 31, 2010 deadline and a NPDES NOV was sent to Respondent dated February 1, 2010.
5. NPDES Permit No. 2PD00032*KD prohibits SSOs except under emergency conditions.
6. Respondent has also had several NPDES permit effluent violations from its wastewater treatment plant ("WWTP"), dating from January 2007 to present for multiple parameters, including Total Suspended Solids, pH, and Low Level Mercury, in violation of its NPDES permit. Respondent's outstanding effluent violations are set forth in Exhibit A to these Orders.
7. Respondent retained an outside consultant to conduct flow monitoring during 2010, with such work concentrating on the East side of the City of Vermilion for greatest applicability to the Romps and Elberta pump stations. Respondent provided a copy of the flow monitoring report to Ohio EPA on December 7, 2010.

Sewage Sludge Issues

8. As of May, 2007 Respondent had suspended its sewage sludge land application program. Respondent instead took its sludge to the City of North Ridgeville French Creek WWTP for treatment.
9. During a June 1, 2010 inspection, Ohio EPA was informed that the City of North Ridgeville terminated the agreement to treat and dispose of Respondent's sewage sludge in the fall of 2009. Respondent resumed land application of sewage sludge on farm fields in November, 2009.

10. An Ohio EPA inspection letter dated July 3, 2007 instructed the City of Vermillion to submit a written report 90 days prior to resuming land application stating how compliance with sludge treatment and land application requirements of OAC Chapter 3745-40 would be met.
11. An NOV was sent to the City of Vermillion for failing to notify and/or seek authorization from Ohio EPA prior to resuming land application of sewage sludge, and for violations of the sludge treatment and land application requirements of OAC Chapter 3745-40.

Wastewater Treatment Plant Maintenance Issues

12. As of June 22, 2009 one of the three primary clarifiers had been taken off-line to increase operational efficiencies at the WWTP in response to low flows. While off-line, the clarifier has not been maintained in good working order as required by the NPDES permit.
13. Respondent made a complete application for 2011 funding from the Ohio Water Pollution Control Loan Fund ("WPCLF") for Respondent's planned sludge dewatering facility, which implements centrifuge technology.
14. Respondent received notice from Ohio EPA that the City of Vermillion will be awarded the full amount of its \$750,000 request for funding from the WPCLF.
15. Pursuant to ORC Section 6111.07(A), no person shall violate or fail to perform any duty imposed by sections 6111.01 to 6111.08 of the Revised Code or violate any order, rule, or term or condition of a permit issued or adopted by the director of environmental protection pursuant to those sections. Each day of violation is a separate offense.
16. 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 ORC §§ 6111.44 and 6111.45 and OAC Chapter 3745-42.
17. This document does not modify NPDES permit No. 2PD00032*KD. The purpose of these Orders is to correct Respondent's noncompliance with permit No. 2PD00032*KD and not to alter said permit.
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

Sanitary Sewer Overflows

1. Respondent shall diligently complete the following requirements in order to eliminate raw sewage overflows and bypasses at the Romps and Elberta pump stations in compliance with NPDES Permit No. 2PD00032*KD:

Financial Assessment

2. As soon as possible, but not later than one (1) month from the effective date of these Orders, Respondent shall provide Ohio EPA with a copy of the 2010 sewer rate report and recommendations that were completed by an outside consultant retained by the City of Vermilion, and on which the City's 2010 and 2011 sewer rate increases were based.
3. For the duration of these Orders, Respondent shall continue to perform annual sewer rate reviews concluding with a report and recommendation regarding the need for appropriate sewer rate adjustments.
4. Within one (1) month of Respondent's receipt of a final copy of each annual sewer rate report and recommendation, Respondent shall present any recommended sewer rate adjustments to City Council.
5. Within one (1) month of Respondent's presentation of any recommended sewer rate adjustments to City Council, Respondent shall provide a copy of each report and recommendation to Ohio EPA.

Schedule of Construction

6. As soon as possible, but not later than nine (9) months from the effective date of these Orders, Respondent shall submit for Ohio EPA's review and approval a schedule of construction for the elimination of SSO's at the Romps and Elberta pump stations.
7. Once Ohio EPA has approved the schedule of construction, Respondent shall complete each construction task within the scheduled timeframe.

Quarterly Reporting

8. Until such time as a schedule of construction is submitted for Ohio EPA's review and approval, Respondent shall submit a quarterly report to Ohio EPA that will summarize the status of Respondent's progress toward the elimination of the Romps and Elberta SSOs. Quarterly reporting will occur during the months of January, April, July, and October. The first quarterly report shall be submitted in the month of July, 2011.

Sludge Capacity and Wastewater Treatment Plant Maintenance

9. As soon as possible but no later than January 1, 2012, complete construction on the sludge dewatering facility in accordance with any approved PTIs by Ohio EPA that will result in necessary improvements to sewage sludge treatment units and increase sewage sludge storage capacity to a minimum of 120 days in order to comply with all applicable treatment and land application of sewage sludge requirements contained in OAC Chapter 3745-40. Respondent shall not engage in land application of sewage sludge prior to obtaining the approval of Ohio EPA.
10. Respondent shall maintain in good working order and operate as efficiently as possible the WWTP to achieve compliance with the terms and conditions of NPDES permit No. 2PD00032*KD.
11. As soon as possible but no later than July 2012, Respondent shall bring all six (6) primary clarifiers back into working condition.
12. As soon as possible but no later than thirty (30) days from the effective date of these Orders, Respondent shall provide Ohio EPA with a copy of the October 2009 WWTP Study prepared by outside consultants who were retained by Respondent to perform a comprehensive analysis of the WWTP and identify other needed capital improvements.

Civil Penalty

13. Respondent shall pay to the Ohio EPA the amount of fifteen thousand dollars (\$15,000.00) in settlement of the Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC § 6111.09. Payment shall be made by tendering an official check made payable to "Treasurer, State of Ohio" for \$12,000.00 within thirty (30) days of the effective date of these Orders, to the following address: Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent, to:

Office of Fiscal Administration
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, OH 43216-1049

14. A photocopy of the check shall be sent to Ohio EPA, Northwest District Office, in accordance with Section X of these Orders.
15. 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 that amount 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 that amount. The official check and a cover letter identifying the Respondent shall be submitted to Brenda Case, or her successor at:

Ohio Environmental Protection Agency
Office of Fiscal Administration
P.O. Box 1049
Columbus, OH 43216-1049

16. A copy of the 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

17. Should Respondent fail to fund the SEP within thirty (30) days of the effective date of these Orders, Respondent shall immediately pay to Ohio EPA the remaining \$3,000.00 of the civil penalty in accordance with paragraphs 13 and 14 of these Orders.

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.

This 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 Respondent. For purposes of these Orders, a responsible official is as defined in OAC Rule 3745-33-03 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, the Respondent's WWTP and sewer 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 the Respondent.

IX. MODIFICATIONS

These Orders may be modified by the agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio EPA, Northwest District Office
Attn: DSW Enforcement Unit Supervisor
347 N. Dunbridge Rd
Bowling Green, OH 43402

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

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 those 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

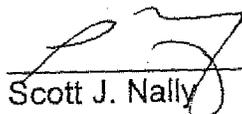
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

5/24/11

Date

IT IS SO AGREED:

City of Vermillion



Signature
Eileen Bulan

Print Name
MAYOR

Title

5/9/11

Date

EXHIBIT A

Get New Data									
Permit No	Reporting Period	Station	Reporting Code	Parameter	Limit Type	Limit	Reported Value	Violation Date	
2PD00032*KD	January 2007	001	00530	Total Suspended Solids	7D Qty	426	558.842	1/15/2007	
2PD00032*KD	February 2007	001	00530	Total Suspended Solids	7D Conc	45	47.3333	2/1/2007	
2PD00032*KD	June 2007	001	61942	pH, Minimum	1D Conc	6.5	6.4	6/18/2007	
2PD00032*KD	July 2007	001	61942	pH, Minimum	1D Conc	6.5	6.4	7/8/2007	
2PD00032*KD	July 2007	001	61942	pH, Minimum	1D Conc	6.5	6.4	7/10/2007	
2PD00032*KD	July 2007	001	61942	pH, Minimum	1D Conc	6.5	6.3	7/11/2007	
2PD00032*KD	July 2007	001	61942	pH, Minimum	1D Conc	6.5	6.4	7/12/2007	
2PD00032*KD	July 2007	001	61942	pH, Minimum	1D Conc	6.5	6.2	7/13/2007	
2PD00032*KD	July 2007	001	61942	pH, Minimum	1D Conc	6.5	6.3	7/16/2007	
2PD00032*KD	July 2007	001	61942	pH, Minimum	1D Conc	6.5	6.4	7/17/2007	
2PD00032*KD	July 2007	001	61942	pH, Minimum	1D Conc	6.5	6.4	7/18/2007	
2PD00032*KD	July 2007	001	61942	pH, Minimum	1D Conc	6.5	6.4	7/19/2007	
2PD00032*KD	July 2007	001	61942	pH, Minimum	1D Conc	6.5	6.4	7/23/2007	
2PD00032*KD	July 2007	001	61942	pH, Minimum	1D Conc	6.5	6.3	7/24/2007	
2PD00032*KD	July 2007	001	61942	pH, Minimum	1D Conc	6.5	6.4	7/27/2007	
2PD00032*KD	August 2007	001	61942	pH, Minimum	1D Conc	6.5	6.4	8/5/2007	
2PD00032*KD	October 2007	001	61942	pH, Minimum	1D Conc	6.5	6.2	10/10/2007	
2PD00032*KD	October 2007	001	61942	pH, Minimum	1D Conc	6.5	6.2	10/12/2007	
2PD00032*KD	November 2007	001	61942	pH, Minimum	1D Conc	6.5	6.4	11/11/2007	
2PD00032*KD	January 2008	001	00530	Total Suspended Solids	7D Qty	426	548.426	1/8/2008	
2PD00032*KD	February 2008	001	00530	Total Suspended Solids	30D Qty	284	284.409	2/1/2008	
2PD00032*KD	February 2008	001	00530	Total Suspended Solids	7D Qty	426	921.100	2/1/2008	
2PD00032*KD	March 2008	001	50092	Mercury, Total (Low Le	30D Conc	3.2	3.45	3/1/2008	
2PD00032*KD	December 2008	001	61942	pH, Minimum	1D Conc	6.5	5.8	12/18/2008	
2PD00032*KD	March 2009	001	50092	Mercury, Total (Low Le	30D Conc	3.2	6.51	3/1/2009	
2PD00032*KD	March 2009	001	50092	Mercury, Total (Low Le	30D Qty	0.0000	.00014	3/1/2009	
2PD00032*KD	June 2010	001	00610	Nitrogen, Ammonia (NH3	30D Conc	5.8	6.4075	6/1/2010	
2PD00032*KD	June 2010	001	00610	Nitrogen, Ammonia (NH3	7D Conc	8.7	9.08333	6/22/2010	
2PD00032*KD	July 2010	001	50092	Mercury, Total (Low Le	30D Conc	3.2	8.02	7/1/2010	
2PD00032*KD	March 2011	001	00530	Total Suspended Solids	7D Conc	45	50.	3/1/2011	
2PD00032*KD	March 2011	001	00530	Total Suspended Solids	7D Qty	426	629.571	3/1/2011	