OHIO E.P.A.
AUG 27 2013
ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

Village of Gates Mills	:	**Director's Expedited**
1470 Chagrin River Road	:	**Settlement Agreement and Orders**
Gates Mills, Ohio 44040	:	
	:	
Respondent	:	

I. JURISDICTION

This Expedited Settlement Agreement and Order (ESA) is issued to the Village of Gates Mills ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("R.C.") 6111.03 and 3745.01.

II. FINDINGS

1. Respondent has authorization to discharge storm water from its municipal separate storm sewer systems (MS4s) under Ohio EPA Facility Permit Number 3GQ00014*BG

2. Pursuant to Ohio Administrative Code (OAC) 3745-39-03 (C)(7)(c) and Part IV.C of Respondent Small MS4 General Permit, Respondent is required to submit Annual Reports to Ohio EPA by the first day of April each year.

3. To date, Ohio EPA has not received the Respondent's Annual Report for year 2011 activities.

4. To date, Ohio EPA has not received the Respondent's Annual Report for year 2012 activities. Attachment 1 is the Respondent's NOV letter for not submitting the required 2011 and 2012 Annual Reports, which is attached to these Orders and incorporated by reference as if fully rewritten within.

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: [signature] Date: 8-27-13

5. 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 R.C. Chapter 6111.

III. ORDERS

The Director hereby issues the following Orders:

1. Within sixty (60) days from the date of the letter inviting Respondent to sign this ESA, Respondent shall submit to Ohio EPA the 2011 and 2012 Annual Reports. These Annual Reports shall be submitted to Ohio EPA, Division of Surface Water, P.O. Box 1049, Columbus, Ohio 43216-1049 attention: Storm Water Supervisor.

2. In accordance with OAC 3745-39-03(C)(7)(c) and Part IV.C of Respondent's Small MS4 General Permit, Respondent shall submit future Annual Reports on or before the required due date.

3. Within sixty (60) days from the date of the letter inviting Respondent to sign this ESA, Respondent shall pay to the Ohio EPA the amount of one thousand ($1,000) dollars in settlement of the Ohio EPA's claim for civil penalties, which may be assessed pursuant to Chapter 6111.09 of the Ohio Revised Code. Payment shall be made by tendering an official check made payable to "Treasurer, State of Ohio" for the full amount of one thousand ($1,000) dollars. Payment shall be mailed to the following address: Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent and the location of the noncompliance detailed in the Findings of this ESA

   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, Ohio 43216-1049

IV. TERMINATION

Respondent's obligations under this ESA shall terminate upon Ohio EPA's receipt of the civil penalty payment required by this ESA and compliance with Order No. 1.

V. RESERVATION OF RIGHTS AND WAIVER

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived herein.

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 this ESA, Respondent consents to the issuance of this ESA and agrees to comply with this ESA. Compliance with this ESA shall be a full accord and satisfaction of Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of this ESA, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of this ESA either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if this ESA is 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 comply with this ESA notwithstanding such appeal and intervention unless this ESA is stayed, vacated, or modified.

VI. EFFECTIVE DATE

The effective date of this ESA is the date this ESA is entered into the Ohio EPA Director's journal.

VII. SIGNATORY AUTHORITY

Each undersigned representative or party to this ESA certifies that he or she is fully authorized to enter into this ESA and to legally bind such party to this ESA.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Scott J. Nally, Director

8/23/13
Date

IT IS SO AGREED:

Village of Gates Mills

Signature

AUGUST 12, 2013
Date

DAVID L. BIGGERT
Printed or Typed Name

SERVICE DIRECTOR
Title

ATTACHMENT 1

Ohio EPA
40 years and moving forward

John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

June 21, 2013

CERTIFIED MAIL

NOTICE OF VIOLATION
3GQ00014*BG

Village of Gates Mills
Dave Biggert
1470 Chagrin River Road
Gates Mills, Ohio 44040

Re: NPDES Storm Water Small MS4 Annual Reports Notice of Violation

Dear Mr. Biggert:

This correspondence serves as Notice of Violation for failure to submit your 2011 and 2012 Annual Reports. In accordance with requirements set forth by Part IV.C of your Small MS4 general permit and Ohio Administrative Code (OAC) 3745-39-03(C)(7)(c), you are required to submit Annual Reports to Ohio EPA. Your 2011 and 2012 Annual Reports were due on April 1, 2012 and April 1, 2013, respectively.

The Small MS4 Annual Report Form can be downloaded at the following web page http://epa.ohio.gov/dsw/storm/index.aspx. Within fourteen (14) days of receipt of this notice, please submit your reports which satisfy Annual Reporting requirements for years 2011 and 2012 or provide a correspondence proposing a schedule to complete. Mail the reports or proposed schedule to the following address:

Ohio Environmental Protection Agency
Division of Surface Water
Storm Water Program – Small MS4
P.O. Box 1049
Columbus, Ohio 43216-1049