

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.  
JUN -6 2012  
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

City of Ontario  
555 Stumbo Road  
Ontario, OH 44862

:  
:  
:

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

It is agreed by the Parties hereto as follows:

*Donna Hassler* Date: *6-6-12*

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the City of Ontario ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 6111.03, 6111.46 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent, its assigns and successors in interest liable under Ohio law. No change in the composition of Respondent or the ownership of Respondent's sewerage system which are the subject of these Orders 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

The Director of Ohio EPA has made the following findings:

1. Respondent is an incorporated municipality located in Richland County, Ohio.
2. Respondent owns and operates a sanitary sewerage system which collects sanitary flow from the City of Ontario, Ohio and transports it to the City of Mansfield's sanitary sewerage system for treatment at a wastewater treatment

plant owned and operated by the City of Mansfield. Respondent is a satellite sewer community to the City of Mansfield.

3. Respondent's sanitary sewer system contains several lift stations that pump sewage from lower elevations to gravity sewers.
4. The Rock Road lift station has a constructed sanitary sewer overflow ("SSO") which diverts sewage to an unnamed tributary of Clear Fork Reservoir, an impoundment of the Clear Fork of the Mohican River, during periods when the gravity sewer tributary to the Rock Road lift station receives excessive flows due to infiltration and inflow ("I & I"). Untreated sanitary sewage is "pollution," as that term is defined in ORC § 6111.01. The unnamed tributary of Clear Fork Reservoir, the Clear Fork of the Mohican River and the Mohican River constitute "waters of the state" as defined in ORC § 6111.01.
5. SSOs of raw or diluted sewage pose a risk to public health and the environment.
6. SSO discharges to waters of the state are prohibited under ORC § 6111.04, except in accordance with a valid, unexpired permit. Respondent does not hold a valid, unexpired permit for SSO discharges to waters of the state.
7. SSOs at the Rock Road lift station occurred nine times in 2008, eight times in 2009, eight times in 2010, and thirteen times in 2011. Each day of discharge of sewage from each SSO to waters of the state without a valid NPDES permit for the discharge is a separate violation of ORC §§ 6111.04 and 6111.07. The dates of SSOs from 2008 through 2011 from the Rock Road lift station known to Ohio EPA are listed in Attachment I. Attachment I is hereby incorporated into these Findings and Orders as if fully stated herein.
8. SSOs from Respondent's sewage collection system have been reported to the Ohio EPA. I & I in Respondent's collection system contribute to SSOs.
9. Respondent has been working to eliminate I & I from its sanitary sewers since prior to 2005, and since 2005 has spent about two million dollars on I & I removal so far. Overflows from two lift stations were eliminated. Nevertheless, SSOs still occur at the Rock Road lift station.
10. On August 12, 2010, Respondent submitted its Comprehensive SSO Management Plan 2010 ("Plan") which sets out a schedule for partial elimination of the Rock Road lift station SSO by 2013 and final elimination by 2016. The schedule proposed by Respondent is acceptable to Ohio EPA.

11. Respondent has completed the following work in accordance with the schedule in the Plan:
  - a. Install metered SSO pipe at Rock Road lift station;
  - b. Continuation of the manhole sealing program, 10% of system total per year;
  - c. Flow monitor areas of the system designated for high priority;
  - d. TV areas of recent previous construction and eliminate the cleanouts, 50% complete by year end;
  - e. Evaluate design professionals to aid in the design build process of upcoming projects;
  - f. Right-of-way acquisition process started.
  - g. Submit preliminary design for equalization basin ("EQ basin").
12. Pursuant to ORC § 6111.03(H), the Director may issue, modify or revoke orders to prevent, control, or abate water pollution by prohibiting or abating discharges of sewage, industrial waste, or other wastes into the waters of the state.
13. Pursuant to ORC § 6111.46, the Ohio EPA is required to exercise general supervision of the construction, operation and maintenance of sewage collection, treatment and disposal systems, and may adopt and enforce orders governing such systems and requiring submission of records of construction, operation and maintenance, including plans and descriptions of existing sewage treatment and disposal systems.
14. ORC § 6111.04 prohibits any person from causing pollution or causing any sewerage, industrial waste or other waste to be placed in any location where they cause pollution to waters of the state, except if such discharges occur in accordance with a National Pollutant Discharge Elimination System ("NPDES") permit issued by the Director.
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. Compliance with ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
17. 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 Ohio Administrative Code ("OAC") Chapter 3745-42.
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**

1. Respondent shall eliminate the SSOs from its sanitary sewer collection system as described in the Plan in accordance with the schedule in Orders 2 through 8, below.
2. By no later than December 31, 2012, Respondent shall complete the following work:
  - a. Flow monitor areas of the system designated for high priority.
  - b. Complete design of EQ basin.
  - c. TV areas of recent previous construction and eliminate the cleanouts, 100% complete by year end.
  - d. Complete development of a rehab program for sanitary mains of the system.
  - e. Continue manhole sealing program, 10% of system total per year.
3. By no later than December 31, 2012, Respondent shall submit to Ohio EPA, in accordance with Section X. of these Orders, a complete and approvable Permit to Install ("PTI") application and detailed plans for the EQ basin for the Rock Road lift station.

4. Respondent shall submit revisions to the PTI application and detailed plans within twenty-one (21) days of receipt of notification of deficiencies. Revisions shall be submitted to Ohio EPA in accordance with Section X. of these Orders.
5. By no later than December 31, 2013, Respondent shall complete the following work:
  - a. Complete right-of-way acquisition if necessary, receive bids and construct an expandable EQ basin for the Rock Road lift station in accordance with the approved PTI.
  - b. Continue manhole sealing program, 10% of system total per year.
  - c. Initiate sanitary main rehab/replacement program.
  - d. Flow monitor areas of the system designated for high priority.
  - e. Replace the Rock Road force main connection point.
6. By no later than December 31, 2014, Respondent shall complete the following work:
  - a. Continue sanitary main rehab/replacement program.
  - b. Flow monitor areas of the system designated for high priority.
  - c. Continue manhole sealing program, 10% of system total per year.
  - d. Commence hydraulic analysis of Rock Road lift station for final sizing of expandable EQ basin.
7. By no later than December 31, 2015, Respondent shall complete the following work:
  - a. Elizabeth Road lift station rehab/replacement.
  - b. Complete hydraulic analysis of Rock Road lift station.
  - c. Continue sanitary main rehab/replacement program.
  - d. Flow monitor areas of the system designated for high priority.
  - e. Inspect Rock Road lift station force main.

- f. Rock Road lift station wet well rehab.
  - g. Continue manhole sealing program, 10% of system total per year.
8. By no later than December 31, 2016, Respondent shall complete the following work:
- a. Construct final size of expanded EQ basin.
  - b. Continue sanitary main rehab/replacement program.
  - c. Flow monitor areas of the system designated for high priority.
  - d. Continue manhole sealing program, 10% of system total per year.
9. Respondent shall continue manhole sealing program, 10% of system total per year, until the entire system has been completed.
10. Respondent shall not install or modify a sewage "disposal system", as defined in ORC § 6111.01, including but not limited to the sanitary sewer collection system, at any location without first obtaining a PTI from the Director in accordance with Ohio Administrative Code ("OAC") Chapter 3745-42. If a PTI is required under OAC 3734-42-02, Respondent shall submit a complete and approvable PTI application and detailed plans at least six (6) months prior to the intended date of construction or installation of any new or modified disposal system.
11. Respondent shall submit progress reports to Ohio EPA in accordance with Section X. of these Orders every six (6) months on January 31 and July 31 of each year until all the work to eliminate SSOs is completed and the SSOs are eliminated. The progress reports shall describe the work completed during the previous six months, the work expected to be performed in the following six months, and any unexpected difficulties or delays encountered during the reporting period and how they were resolved. A report shall be submitted to Ohio EPA upon completion of all the scheduled work.

## **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(E) 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 sanitary sewerage 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  
Division of Surface Water  
Attn: DSW Enforcement Unit Supervisor  
347 North Dunbridge Road  
Bowling Green, Ohio 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.

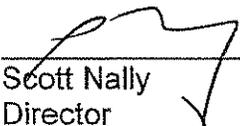
### **XIII. EFFECTIVE DATE**

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 Nally  
Director

6/1/12  
\_\_\_\_\_  
Date

**IT IS SO AGREED:**  
**City of Ontario**

  
\_\_\_\_\_  
Signature

5-18-12  
\_\_\_\_\_  
Date

LARRY C. COLLINS  
\_\_\_\_\_  
Print Name

MAYOR  
\_\_\_\_\_  
Title

ity of Ontario Rock Road SSO events

2008

Date	Volume (gallons)
1/8/08 - 1/9/08	210,000
2/5/08 - 2/7/08	675,000
2/18/2008	52,500
3/3/08 - 3/5/08	645,000
3/13/08 - 3/15/08	465,000
3/18/08 - 3/20/08	450,000
3/28/2008	60,000
5/11/08 - 5/12/08	270,000
12/19/2008	105,000
12/24/2008	165,000

2010

Date	Volume (gallons)
1/24/2010	30,000
3/10/10 - 3/11/10	150,000
3/13/10 - 3/14/10	240,000
6/7/2010	15,000
6/10/2010	30,000
6/28/2010	60,000
11/24/2010	384,351
11/29/2010	274,537
12/31/2010	73,250

2009

Date	Volume (gallons)
2/7/09 - 2/8/09	285,000
2/11/09 - 2/12/09	360,000
3/8/09 - 3/9/09	315,000
4/14/2009	52,500
4/20/2009	30,000
9/7/09 - 9/8/09	120,000
10/2/2009	60,000
10/31/2009	37,500

2011

Date	Volume (gallons)
2/16/11 - 2/17/11	498,801
2/26/11 - 2/28/11	248,743
3/3/11 - 3/5/11	523,210
3/8/11 - 3/9/11	444,702
4/4/11 - 4/5/11	233,883
4/20/2011	162,267
4/24/11 - 4/25/11	481,720
5/2/11 - 5/3/11	379,038
5/25/11 - 5/27/11	403,678
11/14/11 - 11/15/11	247,284
11/27/11 - 11/30/11	805,562
12/5/11 - 12/6/11	358,965
12/15/2011	116,854
12/21/2011	227,440