BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Village of Rock Creek
P.O. Box 92
Rock Creek, Ohio 44084

Respondent

Director's Final Findings and Orders

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: 3-18-18

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Village of Rock Creek ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Revised Code ("R.C.") 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 Chapters 6111 and 3745, and the rules promulgated thereunder.

IV. FINDINGS

1. Respondent owns and operates sanitary sewers located in the Village of Rock Creek, Ashtabula County, Ohio.

2. Respondent holds National Discharge Elimination System ("NPDES") permit 3PA00029*GD, effective August 1, 2017, which authorizes Respondent's WWTP to discharge to Rock Creek.

3. On June 4, 2018, Ohio EPA was notified via phone by, Ashtabula County Department of Environmental Services ("ACDES"), contracted operator of record for the Village of Rock Creek's waste water treatment plant ("WWTP"), that a sanitary sewer overflow ("SSO") began to occur on June 1, 2018 north of the
intersection of Route 45 and Water Street and was not repaired until June 4, 2018.

4. Respondent failed to notify Ohio EPA within 24 hours of discovery of the SSO, in violation of Part II, D.1a of Respondent’s Permit 3PA00029*GD. Respondent notified Ohio EPA three (3) days after discovery.

5. The SSO was discovered by the Respondent from a citizen complaint received on June 1, 2018. However, the exact location of the SSO was not known at the time. Respondent began investigating the location of the SSO on June 1, 2018 but did not finish the investigation until June 4, 2018. According to ACDES, approximately 3,000 gallons of raw sewage was discharged between June 1st and June 4th.

6. On June 5, 2018, Ohio EPA conducted a site visit. No discharge was present at the time of the site visit. However, a sewage smell was present in the area and little clean up appeared to have been done. Sediment and staining were observed from the SSO repair area south toward a storm water catch basin which discharges to Rock Creek. It could not be determined exactly how many gallons were discharged to Rock Creek.

7. Rock Creek constitutes “waters of the state”, as defined in R.C. 6111.01.

8. On June 6, 2018, ACDES submitted the SSO five-day Follow Up Report. According to the report, the SSO started at 1:30 p.m. on June 1st, ended at 2:00 p.m. on June 4th, and discharged 3,000 gallons to the ground. The report stated the cause of the overflow was line deterioration.

9. The SSO which began to occur on June 1, 2018 is a violation of the Respondent’s NPDES permit 3PA00029*GD and R.C. 6111.04(A) and 6111.07 (A).

10. R.C. Section 6111.04(A) prohibits any person from causing pollution or causing any sewage, 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 valid, unexpired NPDES permit issued by the Director or if an application for renewal of such permit is pending.

11. Pursuant to R.C. 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.
12. Pursuant to Ohio Administrative Code ("OAC") Section 3745-33-02(A), no person may discharge any pollutant or cause, permit, or allow a discharge of any pollutant without applying for and obtaining an Ohio NPDES permit in accordance with the requirements of this chapter.

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 purpose of ORC Chapter 6111.

V. ORDERS

1. Respondent shall implement measures to prevent SSOs to the extent possible. If an SSO should occur, Respondent shall notify Ohio EPA within 24 hours of discovery of the SSO pursuant to Part II, D.1a of your NPDES permit.

2. Respondent shall pay the amount of five thousand dollars ($5,000) 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". The official check shall be submitted to Carol Butler, 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 copy of the check shall be sent to Larry Reeder, Environmental Manager, Enforcement Section, or his successor, at the following address:

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

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...
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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).

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. NOTICE

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

Ohio Environmental Protection Agency
Northeast District Office
Division of Surface Water
ATTN: DSW Enforcement Unit Supervisor
2110 East Aurora Road
Twinsburg, Ohio 44087

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 XI 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 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.

XIII. EFFECTIVE DATE

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

Each undersigned representative or 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

Craig W. Butler, Director

September 17, 2018
Date

IT IS SO AGREED:

Village of Rock Creek

Signature

Kevin Justice

Printed or Typed Name

Village Administrator

Title

9/5/18
Date