

OHIO E.P.A.
BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY 2011

ENTERED DIRECTOR'S JOURNAL

In the matter of:

City of Carlisle
760 W. Central Avenue
Carlisle, OH 45005

 **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



2011 SEP 23 AM 9:50

OHIO EPA TSW

10/6/2011

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 Carlisle ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("RC") §§ 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 there under.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent has authorization to discharge storm water from its municipal separate storm sewer systems (MS4s) under Ohio EPA Facility Permit Number 1GQ00049*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 Respondents Annual Report for year 2009 activities. Attachment 1 is the Respondents Notice of Violation (NOV) letter for not submitting the required 2009 Annual Report, which is attached to these Orders and incorporated by reference as if fully rewritten within.

4. To date, Ohio EPA has not received the Respondents Annual Report for year 2010 activities. Attachment 2 is the Respondents NOV letter for not submitting the required 2010 Annual Report, which is attached to these Orders and incorporated by reference as if fully rewritten within.
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 RC Chapter 6111.

V. ORDERS

The Director hereby issues the following Orders:

1. Within thirty (30) days after the effective date of these Orders, Respondent shall submit to Ohio EPA the 2009 and 2010 Annual Reports. These Annual Reports shall be submitted in accordance with Section X of these Orders.
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 fourteen (14) days of the effective date of these Orders, Respondent shall pay the amount of one thousand (\$1,000) dollars in settlement of Ohio EPA claim for civil penalties, which may be assessed pursuant to R.C. Chapter 6111. Payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for one thousand (\$1,000) dollars of the total civil penalty amount. The official check shall be submitted to Brenda Case, or her successor together with a letter identifying 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 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

X. NOTICE

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

Ohio EPA
Division of Surface Water
Attn: Storm Water Supervisor
P.O. Box 1049
Columbus, Ohio 43216-1049

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 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 they are entered into the Ohio EPA Director's journal.

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

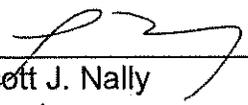
These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

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



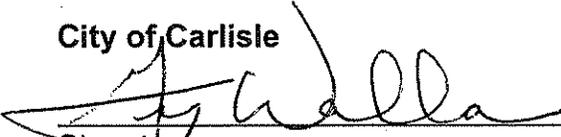
Scott J. Nally
Director

10/4/11

Date

IT IS SO AGREED:

City of Carlisle



Signature

9/8/2011

Date

Greg Wallace

Printed or Typed Name

Zoning/Planning Administrator

Title



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lebanus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

June 3, 2010

CERTIFIED MAIL

CITY OF CARLISLE
GREG WALLACE
760 W CENTRAL AVE
CARLISLE OH 45005

NOTICE OF VIOLATION
1GQ00049*BG

91 7108 2133 3732 0809 5826

This correspondence serves as Notice of Violation for not submitting your 2009 Annual Report. 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. Our records indicate that we have not received your Annual Report for year 2009 activities.

MS4 Operator Name: CITY OF CARLISLE
Ohio EPA Facility Permit No.: 1GQ00049*BG
2009 Annual Report Due Date: April 1, 2010

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 2009 Annual Report 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

If you have any questions or feel our records are incorrect, please don't hesitate to contact Jason Fyffe at (614) 728-1793 or via email at jason.fyffe@epa.state.oh.us.

Sincerely,

Mark Mann, Manager
Storm Water and Enforcement
Division of Surface Water

cc: Chris Cotton, Southwest District Storm Water Coordinator
Martyn Burt, Southwest District Enforcement Coordinator
File

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korteski, Director

Ohio EPA is an Equal Opportunity Employer





Environmental
Protection Agency

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

91 7108 2133 3932 1841 1045

June 10, 2011

CERTIFIED MAIL

NOTICE OF VIOLATION
1GQ00049*BG

City of Carlisle
Greg Wallace
760 W. Central Avenue
Carlisle, Ohio 45005

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

Dear Mr. Wallace:

This correspondence serves as Notice of Violation for failure to submit neither 2009 nor 2010 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 2009 and 2010 Annual Reports were due on April 1, 2010 and April 1, 2011, respectively.

The Small MS4 Annual Report Form can be downloaded at the following web page <http://www.epa.state.oh.us/dsw/storm/stormform.aspx>. Within fourteen (14) days of receipt of this notice, please submit your reports which satisfy Annual Reporting requirements for years 2009 and 2010 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

Failure to address the violations by this date will result in an enforcement action through issuance of Director's Final Findings and Orders (DFFOs). If you have any questions, please contact Anthony Robinson at (614) 728-3392 or via email at anthony.robinson@epa.state.oh.us.

Sincerely,

Jason R. Fyffe, Supervisor
Storm Water Unit
Division of Surface Water

cc: Chris Cotton, Southwest District Office
Martyn Burt, Southwest District Office
Bill Fischbein, Ohio EPA Legal
Larry Reeder, Division of Surface Water
File

50 West Town Street, Suite 700
P.O. Box 1049
Columbus, OH 43216-1049

614 | 644 3020
614 | 644 3184 (fax)
www.epa.ohio.gov