

OHIO E.P.A.

DEC 31 2007

ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

City of Olmsted Falls  
26100 Bagley Road  
Olmsted Falls, Ohio 44138

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.

PREAMBLE

By:  Date: 12/31/07

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 Olmsted Falls ("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. 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 R.C. Chapters 6111 and 3745, and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent has authorization to discharge storm water from small municipal separate storm sewer systems (MS4s) under Ohio EPA Facility Permit Number 3GQ00074\*AG.
2. Pursuant to Ohio Administrative Code (OAC) 3745-39-03 (C)(7)(c) and Section 4.3 of Respondent's Small MS4 general permit, Respondent is required to submit Annual Reports to Ohio EPA starting one year after the date Ohio EPA has granted Respondent's general permit coverage. Respondent was granted coverage under the Small MS4 general permit on April 3, 2003. Therefore, Respondent's annual reports for a given year are due by April 3 of the following year.
3. Respondent failed to timely file annual reports for year 2003 and 2004 activities. Ohio EPA sent notice of violation letters to Respondent for its failure to timely file the reports.
4. On April 3, 2006 Respondent submitted Annual Reports for years' 2003 and 2004 activities.
5. Ohio EPA received Respondent's Annual Report for year 2006 activities, due April 3, 2007, on June 11, 2007.
6. 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.

#### V. ORDERS

1. In accordance with Ohio Administrative Code (OAC) 3745-39-03 (C)(7)(c) and Section 4.3 of Respondent's Small MS4 general permit, Respondent shall submit future Annual Reports on or before the required due date.
2. Within fourteen (14) days of the effective date of these Orders, Respondent shall pay the amount of One Thousand Five Hundred (\$1,500.00) Dollars in settlement of Ohio EPA's 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 Five Hundred (\$1,500.00) Dollars. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

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

### **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

and to:

Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Surface Water  
Attn: Manager, Stormwater and Enforcement Section  
50 West Town Street; Suite 700 [P.O. Box 1049]  
Columbus, Ohio 43215 [43216-1049]

[For mailings use the post office box number and zip code in brackets]

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.

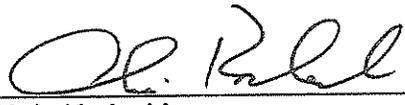
#### **XIII. EFFECTIVE DATE**

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

**XIV. SIGNATORY AUTHORITY**

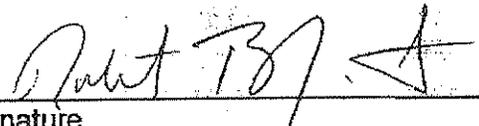
Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**IT IS SO ORDERED AND AGREED:  
Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Chris Korleski  
Director

12/31/07  
Date

**IT IS SO AGREED:  
City of Olmsted Falls**

  
\_\_\_\_\_  
Signature

December 27, 2007  
Date

Robert Blomquist  
Printed or Typed Name

MAYOR  
Title