BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Cheryl Wright
35285 Center Ridge Road
North Ridgeville, Ohio

Respondent

Director's Final Findings
and Orders

PREAMBLE

It is agreed by the Parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Cheryl Wright ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 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

The Director has made the following findings:

1. Respondent is the owner of Chuck's Muffler & Brake, located at 35285 Center Ridge Road, North Ridgeville, Ohio, Lorain County ("the Site").

2. Chuck's Muffler & Brake consists of one building with one employee and one restroom. Wastewater treatment for the Site consists of a septic system with an aeration tank and subsurface filter bed which discharges effluent to a ditch at the rear of the property and ultimately to French Creek without coverage under a National Pollutant Discharge Elimination System ("NPDES") permit. The system is also lacking disinfection.
3. French Creek is considered a Waters of the State pursuant to ORC Section 6111.01.

4. ORC 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.

5. 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.

6. On January 24, 2017, Ohio EPA inspected the wastewater treatment plant ("WWTP") at the Site, along with the Lorain County General Health District ("LCGHD").

7. On January 27, 2017, Ohio EPA issued Respondent a Notice of Violation ("NOV") letter for the Site discharging pollutants to Waters of the State without coverage under an NPDES permit. The letter requested that Respondent submit a complete NPDES permit application.

8. On January 31, 2017, Ohio EPA spoke with Mr. Ed Maley, the representative for the Site, after which Ohio EPA emailed him contact information for the Office of Compliance Assistance and Pollution Prevention ("OCAPP"). NPDES permit application forms and language from ORC were also emailed at this time. Ohio EPA requested a compliance plan be submitted.

9. On March 16, 2017, Ohio EPA emailed the Site representative for an update, followed by additional emails to the consultant for the Site on April 11, 2017 and to the consultant and Site representative on May 16, 2017 requesting updates.

10. On June 6, 2017, Ohio EPA issued Respondent a Second NOV letter for the Site discharging pollutants to Waters of the State without coverage under an NPDES permit and requesting the submission of a complete NPDES permit application.

11. On June 14, 2017, Ohio EPA received an email from Respondent's consultant stating that Respondent wished to connect to the City of North Ridgeville's sanitary sewer system. Ohio EPA responded on June 15, 2017 requesting a schedule and stating that the Site will require coverage under an NPDES permit if the sewer would not be available for connection in the near future.
12. On July 7, 2017 Ohio EPA received an email from Respondent's consultant requesting a 60-day extension to resolve former issues with petroleum contaminated soils ("PCS") present at the Site.

13. During the months of September and October 2017, Ohio EPA exchanged email correspondence with Respondent's consultant requesting a connection timeline and updates. The consultant stated during this time that Respondent had applied for a sewer permit with the City of North Ridgeville.

14. On October 12, 2017, Ohio EPA corresponded with the City Engineer for North Ridgeville, confirming that a sewer permit was obtained for the Site on August 14, 2017. The City Engineer stated that the property has issues with PCS, but that a sewer is available at the edge of the property.

15. On October 17, 2017, Ohio EPA spoke with the Site representative and sent a follow-up email requesting a connection timeline, as well as a copy of the sewer permit from the City of North Ridgeville. Ohio EPA sent subsequent emails requesting updates on November 20, 2017 and December 7, 2017. Ohio EPA received a copy of the sewer permit on December 28, 2017.

16. On January 9, 2018, Ohio EPA exchanged email correspondence with the City Engineer, who stated that the property owner would have to install the sanitary sewer main across the entire frontage of their property, at their own expense, before the City of North Ridgeville would allow them to connect to the sanitary system.

17. On January 29, 2018, Ohio EPA spoke with the Site representative who agreed to submit a compliance plan detailing the milestones to connect to the sanitary sewer system.

18. On February 27, 2018, Ohio EPA emailed the Site representative, requesting the compliance plan be submitted by March 5, 2018. A voicemail was left by the Site representative on February 28, 2018, stating that the City would not allow the sewer connection.

19. On March 1, 2018, Ohio EPA spoke with the City Engineer who reiterated that in order for the Site to connect to the City's sewer system, the property owner would need to install the sanitary sewer main line across the entire frontage of the property before they would be able to connect to the sewer at the edge of the property.
20. On March 2, 2018, a high-level call was held between Ohio EPA Northeast District Office ("NEDO") Chief, Ohio EPA staff, and the Site representative who stated that he would obtain cost estimates and provide written response the Second NOV dated June 6, 2017.

21. On March 6, 2018, Ohio EPA received an email from the Site representative containing a letter from their consultant stating that the City would not allow connection to the sanitary sewer at this time, and that a meeting with the Mayor had been scheduled in an attempt to resolve the issues. On March 14, 2018, Ohio EPA emailed the Site representative offering to facilitate the meeting with the Mayor's office.

22. On April 6, 2018, Ohio EPA emailed the Site representative requesting an update to which he replied he was waiting on a meeting with the Mayor. Ohio EPA sent additional emails on April 27, 2018 and May 11, 2018 requesting updates.

23. On June 20, 2018, Ohio EPA received copies of the 2016 PCS lab report and soils report form from the City Engineer.

24. On August 27, 2018, Ohio EPA spoke with the City Engineer and agreed to have a meeting with Ohio Department of Transportation ("ODOT") to discuss options at the Site. Ohio EPA had a meeting with ODOT and the City of North Ridgeville on October 22, 2018.

25. On December 13, 2018, Ohio EPA NEDO Chief and Ohio EPA staff spoke with the Site representative, who agreed to either obtain permission from the City to connect to the sanitary sewer within thirty days (by January 14, 2019), or submit a PTI application to Ohio EPA for upgrades to the WWTP within ninety days.

26. On January 9, 2019, Ohio EPA emailed the Site representative for an update, who responded that he was still waiting on the Mayor of North Ridgeville.

27. On February 5, 2019, Ohio EPA spoke with the City Engineer who stated that Respondent had not made recent contact with the City regarding the sewer connection.

28. On February 11, 2019, Ohio EPA emailed the Site representative reminding him of his agreement on December 13, 2018 and providing OCAPP contact information. A PTI was requested to be submitted by April 11, 2019.

29. On March 20, 2019, Ohio EPA emailed the Site representative for an update.

30. On May 20, 2019, Ohio EPA NEDO Chief contacted the facility with notification of the referral for enforcement.
31. The Director has given consideration to, and based her 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. Within thirty (30) days after the effective date of these Orders, Respondent shall submit a complete and approvable NPDES permit application with all associated forms to the Ohio EPA pursuant to the requirements of Section X of these Orders.

2. Within sixty (60) days after the effective date of these Orders, Respondent shall submit a complete and approvable Permit-to-Install application for the upgrades to the existing wastewater treatment system. Please remit to Ohio EPA pursuant to the requirements in Section X of these Orders.

3. Respondent shall pay the amount of one thousand dollars ($1,000) 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 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 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 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 as defined in Ohio Administrative Code Rule 3745-33-03(D).

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

Unless otherwise provided, all documents required to be submitted by Respondent 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

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

[Signature]
Laurie A. Stevenson, Director

AUG 20 2019
Date

IT IS SO AGREED:

Cheryl Wright

[Signature]
CHERYL MALEY WRIGHT
Printed or Typed Name

Aug 14, 2019
Date

Title